

UNIT – 1

Introduction to Intellectual Property

Concept • Nature • Kinds of IP • Theories • International Framework • Indian Scenario

Intellectual Property Law – Expanded Edition

Unit Overview

This unit introduces the concept, nature and importance of Intellectual Property, the main kinds of IP rights (copyright, patent, trademark, design, GI, trade secret), the theoretical justifications for IP protection, the international framework, and the Indian legal landscape. It lays the foundation for the detailed study of specific IP rights in subsequent units.

What You Will Learn

01 Concept

Define intellectual property and its characteristics

02 Kinds

Identify the main categories of IP rights

03 Theories

Explain the justifications for IP protection

04 International

Outline the major international IP instruments

05 Indian Law

Know the principal Indian IP statutes

06 Importance

Appreciate the economic and cultural role of IP

CONCEPT

Concept and Nature of Intellectual Property

Meaning

Intellectual Property refers to creations of the mind – inventions, literary and artistic works, designs, symbols, names and images used in commerce

Intangible

Unlike physical property, IP is intangible and can be used simultaneously by many

Territorial

IP rights are territorial – protection is granted country by country (with international systems facilitating multi-country protection)

Time-limited

Most IP rights are granted for a limited period

KINDS

Main Kinds of Intellectual Property Rights

Copyright

Protects original literary, dramatic, musical and artistic works, and related rights

Patent

Protects inventions that are new, involve an inventive step and are capable of industrial application

Trademark

Protects distinctive signs that identify the source of goods or services

Design

Protects the aesthetic appearance of a product

Geographical Indication

Protects names that identify goods as originating from a specific place

Trade Secret

Protects confidential business information

THEORIES

Theories Justifying IP Protection

Utilitarian / Incentive

IP rights encourage creation and innovation by providing economic incentives

Labour / Natural Rights

Creators have a natural right over the fruits of their labour (Lockean theory)

Personality Theory

Creative works are an expression of the creator's personality (Hegelian)

Social Contract

Society grants temporary monopoly in exchange for disclosure and eventual public domain

International Framework – Overview

Paris Convention	Industrial property (patents, trademarks, designs)
Berne Convention	Copyright
TRIPS Agreement	Most comprehensive multilateral IP agreement under WTO
WIPO Treaties	PCT, Madrid, Hague, etc.
Role	Set minimum standards and facilitate international protection

Indian Intellectual Property Statutes

Copyright Act 1957	Governs copyright and related rights
Patents Act 1970	Governs patents (as amended, especially 2005)
Trade Marks Act 1999	Governs trademarks
Designs Act 2000	Governs industrial designs
GI Act 1999	Governs geographical indications
Other	Protection of Plant Varieties, Semiconductor Integrated Circuits, etc.

IMPORTANCE

Importance of Intellectual Property

Economic

Encourages investment in R&D and creative industries

Cultural

Protects cultural expressions and traditional knowledge

Consumer

Trademarks and GIs help consumers identify quality and origin

Development

Balanced IP system can support technology transfer and development

Balance between Protection and Public Interest

Monopoly vs Access

IP grants temporary exclusivity but must not unduly restrict access

Exceptions & Limitations

Fair use, compulsory licensing, research exceptions, etc.

Development Agenda

WIPO and TRIPS recognise the need for flexibility for developing countries

Current Debates

Access to medicines, traditional knowledge, digital copyright

Practical Points for Students

Identify the Right

First step in any IP problem is to identify which right is involved

Territoriality

Always check the relevant national law

International Filing

Use PCT, Madrid, etc. for multi-country protection

Enforcement

Registration (where required) strengthens enforcement

Exam Tip

Compare and contrast different IP rights on duration, subject-matter and requirements

SUMMARY POINTS

Must-Remember Points

- Intellectual Property protects creations of the mind and is intangible, territorial and generally time-limited.
- Main rights are copyright, patent, trademark, design, GI and trade secret.
- Justifications include incentive, labour, personality and social-contract theories.
- International framework is built on Paris, Berne, TRIPS and WIPO treaties.
- India has a complete set of modern IP statutes.
- A balanced IP system serves both creators and the public interest.