



Semester : II

LL.M.

Patent Law, Trade Secret and Plant Varieties

Paper Code: LM-218

Credit - 02

Introduction:

The subject Intellectual Property Rights serve as a crucial mechanism for promoting innovation, creativity, and cultural heritage while striking a balance between protecting creators' rights and fostering the dissemination of knowledge for the collective benefit of society. The course will provide a foundational understanding of the various types of intellectual property rights, including patents, trade secrets and Law on Plant Varieties and Farmer's Right. Patent Law provides inventors with exclusive rights to their inventions, incentivizing technological advancement and economic growth by rewarding innovation and investment in research and development. In this course we will also explore the complex landscape of Trade secrets through analyzing case studies, engaging in discussions, and exploring contemporary issues in IPR, for we aim to develop a comprehensive understanding of the challenges and opportunities inherent in intellectual property law and its role in shaping our global society. Students will examine the evolution of IP laws in India, tracing the legislative and judicial milestones that have shaped the current legal framework for Patents Protection, Trade secrets and Plant Varieties. The course also includes an exploration of India's obligations under international agreements such as the TRIPS Agreement, Paris Convention, UPOV Convention, Convention on Biological Diversity, and their impact on domestic IP laws.

Course Objectives:

1. To Develop a comprehensive understanding of the legal frameworks governing intellectual property rights in India, with a specific focus on patents, trade secrets, and plant variety protection, including the relevant statutes, regulations, and case law.
2. To Enhance analytical skills to critically evaluate the criteria for patentability, the scope of trade secret protection, and the requirements for registration and enforcement of plant variety rights, considering the socio-economic implications and policy considerations.

3. To Conduct a comparative analysis of the legal regimes governing patents, trade secrets, and plant variety protection, both within India and in comparison, to international standards and best practices, identifying similarities, differences, and areas for harmonization.
4. To Apply theoretical knowledge to practical scenarios, including drafting patent claims, conducting freedom-to-operate searches, developing trade secret protection strategies, and advising clients on plant variety registration and enforcement issues.

Learning Outcomes:

On the successful completion of course, students will be able to:

1. Understand the background of the development of the law of sea through various international conventions.
2. Understand the concepts of baselines, territorial sea, exclusive economic zone, continental shelf, and high seas.
3. Understand the rights pertaining to innocent passage and of rights of Coastal States.
4. Understand the role of International Sea Bed Authority, Parallel System of International Seabed Mining and Pioneer Investors.

Module - I

Patent Law

- 1.1. Origin and History of Patent Law, Justice Ayyanagar's Report;
- 1.2. International law on Patents; Patent cooperation treaty (PCT) and International patent applications;
- 1.3. Meaning and essentials of Patent; Product Patent, Process Patent;
- 1.4. Patentable and non-patentable inventions; Evergreening of Patents;
- 1.5. Application of Patent and patent prosecution.

Module - II

Patent Law in Contemporary Era

- 2.1. Licensing of Patents: Compulsory & Voluntary license;
- 2.2. Parallel imports and implications for innovation, public health, and access to technology;
- 2.3. Infringement of Patents;
- 2.4. Civil and Criminal Remedies; Authorities for Adjudication;
- 2.5. Concepts of Bio piracy; Patentability of software and business methods.

Module - III

Trade Secret & Protective Framework

- 3.1. Concept of Trade Secrets; Theory of Protection and Conflict with Patent Law;
- 3.2. International Legal Protection NAFTA, GATT, TRIPS;
- 3.3. Trade Secret Misappropriation, Insider Trading, Industrial Espionage and Duty of Confidentiality;
- 3.4. Licensing, Non-Disclosure Agreements and Third-Party Liability;
- 3.5. Protective framework for Trade Secrets under Unfair Competition Law, Contract Law, Civil Law, Criminal Law.

Module - IV

Law for Plant Varieties, Farmers' Rights and Breeders

- 4.1. Origin and Evolution of laws relating to Plant Patents and Plant Varieties;
- 4.2. TRIPs Agreement; Intergovernmental Convention for the Protection of New Varieties of Plants (UPOV), International Treaty on Plant Genetic Resources for Food and Agriculture;
- 4.3. Farmers' Rights; Rights of Breeder, researchers and Community interests;
- 4.4. Enforcement mechanisms and disputes resolution;
- 4.5. Impact of IP rights on access to seeds, agricultural innovation, technology transfer.

Prescribed Legislations:

1. The Design Act, 2000.
2. The Patents (Amendment) Act, 1999.
3. The Patents (Amendment) Act, 2005.
4. The Patents Act, 1957.
5. The Plant Variety Protection and Farmers' Rights Act, 2001.

Prescribed Books:

1. Fisher, Matthew, FUNDAMENTALS OF PATENT LAW: INTERPRETATION AND SCOPE OF PROTECTION, (2010).
2. Joseph Scott Miller, PATENTS, (UK, Edward Elgar, 2010).
3. Kalyan C. Kankanala, INDIAN PATENT LAW AND PRACTICE, (2010).
4. Raman Mittal, LICENCING INTELLECTUAL PROPERTY LAW AND MANAGEMENT, (2011).

5. Simon Klopschinski, *et.al.*, THE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS UNDER INTERNATIONAL INVESTMENT LAW, (2020).
6. V. K. Ahuja, LAW OF COPYRIGHT AND NEIGHBOURING RIGHTS: NATIONAL AND INTERNATIONAL PERSPECTIVES, (2015).
7. W. R. Cornish and David Liewelyn, INTELLECTUAL PROPERTY: PATENTS, COPYRIGHT, TRADEMARKS AND ALLIED RIGHTS, (2023).

Prescribed Readings:

1. Graham Dutfield and Uma Suthersanen, GLOBAL INTELLECTUAL PROPERTY LAW, (2008).
2. Neil Wilkof and Shamnad Basheer, OVERLAPPING INTELLECTUAL PROPERTY RIGHTS, (2013).
3. THE INTERGOVERNMENTAL CONVENTION FOR THE PROTECTION OF NEW VARIETIES OF PLANTS, (UPOV), (1991).
4. The TRIPS Agreement, (1995).

Suggested Readings:

1. Adarsh Ramanujan, PATENT LAW CASES AND MATERIALS: A SYNTHESIS FOR INDIA, (Wolters Kluwer India Pvt. Ltd, 2020).
2. Bibek Debroy, INTELLECTUAL PROPERTY RIGHTS, (B. R. Publishing Corporation, 1998).
3. CEERA, A PRIMER ON BIOLOGICAL DIVERSITY AND ACCESS AND BENEFIT SHARING (CEERA and UNDP Publications, 2019).
4. CEERA, HANDBOOK ON BIODIVERSITY LAW, ACCESS, AND BENEFIT SHARING (CEERA Publications, 2019).
5. Elizabeth Verkey, LAW OF PLANT VARIETIES PROTECTION, (2007).
6. F. H. Erbisich and K. M. Maredia, INTELLECTUAL PROPERTY RIGHTS IN AGRICULTURAL BIOTECHNOLOGY, (1998).
7. Lester Nelson, DIGEST OF INTELLECTUAL PROPERTY LAWS OF THE WORLD, (1999).
8. Lionel Bently and Brad Sherman, INTELLECTUAL PROPERTY LAW, (Oxford University Press, 2008).
9. N. S. Gopalakrishnan & T. G. Ajitha, PRINCIPLES OF INTELLECTUAL PROPERTY, (Eastern Book Company, 2014).

10. Philippe Cullet, INTELLECTUAL PROPERTY PROTECTION AND SUSTAINABLE DEVELOPMENT, (Lexis Nexis, 2005).
11. R. R. Hanchinal and Raj Ganesh, PROTECTION OF PLANT VARIETIES AND FARMERS RIGHTS: LAW PRACTICE AND PROCEDURE, (Eastern Law House, 2018).
12. Ranabhir Singh, LAW RELATING TO INTELLECTUAL PROPERTY, (Universal Law Publishing, 2008).
13. S. K. Verma and Raman Mittal, INTELLECTUAL PROPERTY RIGHTS A GLOBAL VISION, (Indian Law Institute, 2004).
14. Shiv Sahai Singh, THE LAW OF INTELLECTUAL PROPERTY RIGHTS, (Deep and Deep Publications, 2005).
15. Suman Sahai, BIODIVERSITY ACT FALLS SHORT OF NATIONAL NEEDS IN KANCHI KOHLI (ED.) UNDERSTANDING THE BIOLOGICAL DIVERSITY ACT 2002: A DOSSIER, (Kalpavriksh, GRAIN and IIED publication, 2006).
16. Vandana Shiva, BIOPIRACY: THE PLUNDER OF NATURE AND KNOWLEDGE, (1997).
17. Vandana Shiva, PROTECT OR PLUNDER: UNDERSTANDING INTELLECTUAL PROPERTY RIGHTS, (2001).
18. Watal Jayashree, INTELLECTUAL PROPERTY RIGHTS IN THE WORLD DEVELOPING COUNTRIES, (Oxford University Press, 2001).

15/11/20
H.P. Narula Law University, Shimla