

Inter University Centre for IPR Studies
Cochin University of Science and Technology

Syllabus for LLM (IPR) PhD Degree & LL.M (IP) Ph.D Degree

FACULTY OF LAW

Draft Program Outcome

After completing this program the students will be able to:

PO 1: Apply the jurisprudential aspects to Intellectual Property regimes.

PO 2: Analyse the practical and theoretical aspects of intellectual property including emerging technologies.

PO 3: Evaluate developmental aspects of Intellectual property.

PO 4: Develop skills for using Legal research methodologies and writing skills.

PO 5: Produce research outcomes in the area of Intellectual Property.

IUC 2102 Foundation Course – I on IPR - Intellectual Property – General Principles, Nature and Content

Introduction and Course Objective:

For any excellent beginning, basic understanding of the foundational aspects of the law is imperative. To this end, this course does the same. It aims at laying a strong foundation about the basic aspects of all the main intellectual property laws. The course is structured as to enable the scholar to further articulate the concepts with a complete understanding of property jurisprudence involved therein. The basic standards of intellectual property protection along with the differences that each system encompasses are also covered through this course.

Learning Outcome:

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

LO1: Understand the basic property justifications of intellectual property

LO2: Evaluate the foundational underpinnings of different forms of IP

LO3: Understand the international legal framework of various IP regimes.

LO4: Analyse the evolving new dimensions in the field applying the basic standards covered in the course.

LO5: Critically analyse the necessity in evolving an Independent Indian philosophy pertaining to IP.

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓				
LO 2	✓				
LO 3			✓		
LO 4		✓			
LO 5					✓

Course Content

Module 1: Theoretical Justification of Intellectual Property:

Theoretical justification for protection of IP – western theories on private property and IP – Marxian theory on private property and IP – Indian/Gandhian theories on private property and IP - constitutional values and protection of private property and IP

Module 2: Introduction to different forms of IP and Concept, Standards and Subject Matter of Copyright:

Introduction to different form of IP: The concept of copyright, patent and trademark, geographical indication of goods and traditional knowledge – the conceptual differences and the differences in the scope and extent of protection and in the standards required for protection for different forms of IP and its implications

Concept, Standards and Subject Matter of copyright: The test of originality – idea/expression dichotomy –the problems created by digitization in determining the standards – subject matter of copyright protection and term of protection – performers rights and neighboring rights scope and extent of protection including the term of protection

Module 3: Introduction to Patents: Concept, Standards, and Subject Matter of Patents:

Patentable inventions – patentability standards – test of novelty, inventive step and commercial utility and their significance – standards of patentability in the changing technological context – scope and extent of protection including the term of protection

Module 4: Introduction to Trademarks: Need for common law and statutory Protection of Trademarks

Trademark – the concept of distinctiveness – relevance of confusion and deception – common law and statutory requirements for protection – the changing scenario of marketing and the changing demands for trademark protection.

Module 5: Collective forms of Intellectual Property: An introduction to the concept of GI and Traditional Knowledge

The nature of property under geographical indications and traditional knowledge and its difference from other forms of IP – geographical indications – meaning – requirements for protection and the nature of property rights – difference from the western concept of exclusivity – traditional knowledge – types of TK – possibility of independent status as IP – difference from other forms of IP – the issue of defining the standards for protection and the nature of property right foundation

References:

1. R.S. Bhalla, *The Institution of Property: Legally, Historically and Philosophically Regarded*, Eastern Book Co., (1984)
2. Penner, *The Idea of Property in Law*, Clarendon Press, Oxford (1997)
3. John Locke, *Two Treatises on Government*, Industrial Systems Research, (1970)
4. G.W.F. Hegel, *The Philosophy of Rights*, Cosimo Inc., (2008)
5. Karl Marx – *Private Property and Communism*, Hackett Publishing Co., (1844); *Wage, Labour and Capital*, Kessinger Publications, (1847); *The Alienation of Labour*, (Nicholas Beams), University of Tasmania, (1844)
6. M.K.Gandhi, *Village Swaraj; Trusteeship*, Navajivan Publishing house
7. Copinger & Skone James on Copyright, Sweet & Maxwell, (latest edition)
8. Terrel on Patents, Sweet & Maxwell (latest edition)
9. Kerly's Law of Trademarks and Trade Names, Sweet & Maxwell, (latest edition)
10. Silke von Lewinski (ed.) *Indigenous Heritage and Intellectual Property: Genetic Resources, Traditional Knowledge and Folklore*, Kluwer International, (2008)
11. Latha R. Nair and Rajendra Kumar, *Geographical Indications: A Search for Identity*, Butterworths Wadhwa, (2005)
12. Prabuddha Ganguli, *Geographical Indicators, its Evolving Contours*, MVIRDC, World Trade Centre, Mumbai, (2009)
13. Robert P. Merges, *Justifying Intellectual Property* Harvard University Press, 2011.

IUC 2202 Foundation Course II on IPR - Intellectual Property Rights – The Social Relevance

Introduction and Course Objective:

This course is a follow up of the base laid in the first foundation course on IPR. This course deals with more practical aspects of IPR. The course aims to bring out the social relevance of IPR as the name itself suggests. The main objective of the course is to highlight the importance of IPR in the daily walks of life and how it is interlinked with various branches of law and other spheres. The course further aims to highlight the importance of IPR in developing the national as well as international economy.

Learning Outcome:

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

LO1: Understand the social relevance and the impact of IPR on the society

LO2: Discuss the importance of developing an Indian philosophical as well as economical foundation in IPR policy making

LO3: Analyse the politics that plays in the international negotiations and legal frameworks

LO4: Comprehend the loopholes in the current policy making in the international as well as national scale.

LO5: Analyse the factors which should influence in drafting a policy framework on IPR.

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓				
LO 2			✓		
LO 3		✓			
LO 4				✓	
LO 5					✓

Course Content

Module 1: Introduction to the International Framework on IP:

Internationalization of IP protection – TRIPS Agreement – basic principles and minimum standards – limits of one-size-fit for all – flexibilities under TRIPS – international politics in norm settings for IP protection - concerns of India

Module 2: Role of IP in Development:

Development and IP protection – lessons from the west – economic foundations of IP in the Western and Indian context- policy concerns in the Indian context – IP and transfer of technology – IP and competition – IP and foreign direct investment – Indian economy and IP protection

Module 3: IP Rights and Access to IP products:

Access to IP products – nature of exclusive rights and its impact on access – the significance of limitations and exceptions to IP rights and the concept of exhaustion of rights and parallel imports

Module 4: Changing Nature of IP in the context of Emerging Technologies:

Challenges to different forms of IP posed by emerging technologies and the possible solutions – digital technology, internet, Artificial Intelligence and biotechnology

Module 5: Limitations of IP: Alternatives to the IP system

Alternatives to IP – open source movement – general public licence – creative commons– open source drug discovery – limits

References:

1. Susan Sell et.al, *Who Governs the Globe?*, Cambridge University Press, (2010).
2. Odagiri et.al, *Intellectual Property Rights, Development, and Catch Up*, Oxford University Press, (2010)
3. Christopher May & Susan K. Sell, *Intellectual Property Rights: A Critical History*, Lynne Rienner Publications, (2005)
4. John Odell (ed.), *Negotiating Trade: Developing Countries in the WTO and NAFTA*, Cambridge University Press, (2006)
5. Gustavo Ghidini, *Intellectual Property and competition Law: The Innovation Nexus*, Edward Elgar, (2006)
6. David J. Teece, *The Transfer and Licensing of Know-how and Intellectual Property*, World Scientific (2008)
7. Susan K. Sell, *Private power, public law : The globalisation of IPR*, Cambridge University Press, (2006)

8. Kenneth L. Port, *Licensing Intellectual Property in the digital age*, Carolina Academic Press, (1999)
9. Merges, Lemley, et.al, (4th Ed.) *Intellectual Property in the new technological age* – Aspen Publishers, (2007)
10. Thomas Pogge, Mathew Rimmer, Kim Rubenstein (ed), *Incentives for global public health: Patent law and access to essential medicines*, Cambridge University Press (2010)
11. Daniel J. Gervais, *Exploring the Interfaces Between Big Data and Intellectual Property Law*, 10 *Journal of Intellectual Property, Information Technology and Electronic Commerce Law*. 3 (2019).
12. *Fair Use and Its Politics - At Home and Abroad Copyright Law in the Age of Exceptions and Limitations*, Ruth Okediji, editor, Cambridge University Press, 2015, Loyola-LA Legal Studies Paper No. 2015-18

IUC 2101 The Concept of Law and Justice

Introduction and Course Objective

To imbibe in students the importance of underlying principles of law from an analytic perspective. The evolution of jurisprudence theories are traced by referring to various schools of jurisprudence in a comparative manner. The fallible attempt for defining law is also attempted based on the theories of law. The reading on justice and its various manifestations is the other major aim of the course. Justice in its distributive as well as corrective form is covered together with its social and individual aspects. Serving of justice by utilizing the concept of protective discrimination achieved is also attempted. In what ways social and individual justice is included in Indian Constitution is also to be covered.

Learning Outcomes

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

LO1: Understand the relevance of jurisprudence

LO2: Knowledge about various schools of law

LO3: Analyse the elusive nature of law and justice

LO4: Know need for using analytical skill in reading of law

LO5: Analyse the jurisprudence in the basic document

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓				
LO 2	✓				
LO 3		✓			
LO 4				✓	
LO 5				✓	

Course Content

Module I - Theories of law – natural law – the concept of dharma – historical school – analytical positivism – sociological school – law and morality – role of public opinion, tradition and culture in the formation of Law

Module II - Economic foundations of law and justice - class society and the content of law - Marxist view on law and justice - feminist critique of law and justice - gender bias in law - racial critique of law and justice - law in a pluralistic society - economic interpretations of law – critical studies

Module III - Purpose of law – concept of justice – meaning and kinds – justice and law – approaches of different schools

Module IV - Concept of justice underlying Indian constitutional scheme - interrelationship of part III and IV of the Constitution

Module V - Social Justice – minority protection and the legal system - protective discrimination- compensatory jurisprudence.

References:

- 1.H. M Seervai, Constitutional Law of India, N.M Thirpathi/Sweet and Maxwell, (latest edition)
- 2.Amartya Sen, The Idea of Justice, Harvard University Press & London: Allen Lane, (2009).
- 3.Dennis Lloyd: Lloyd's Introduction to Jurisprudence, 6thEdition, Sweet and Maxwell, London, 1994.
- 4.Edgar Bodenheimer: Jurisprudence; The Philosophy and Method of the Law, Universal Book Traders, Delhi, 1996.
- 5.G.W.Paton: A Text book of Jurisprudence, 4thEdition; Clarendon Press, Oxford, 1972.
- 6.H.L.A. Hart , The Concept of Law, Oxford University Press, (2012) Reprint
- 7.John Rawls, A theory of Justice, Oxford University Press (1972)
- 8.Julius Stone: The Province and Function of Law; Associated General Publications Pvt. Ltd. Sydney.
- 9.Lon. L. Fuller, Anatomy of Law, Stanford University Press, California, (1984)
- 10.Lon. L. Fuller, The Morality of Law, The University of California, (1995) Reprint
- 11.R.W.M. Dias, Jurisprudence. 5thEdition; Aditya Books Private Ltd., New Delhi, 1994.
- 12.Rama Jois, Seeds of Modern Public Law in Ancient Jurisprudence , Eastern Book Company, Lucknow, 1990.
- 13.Rama Jois, Ancient Indian Law-Eternal Values in Manu Smriti, Universal Law Publishing Co., New Delhi, 2002.
14. Roscoe Pound, Jurisprudence, The Law Books Exchange, New Jersey, (1959) Vol. 1 Part I & II

15.S.N.Dhyani: Fundamentals of Jurisprudence: The Indian Approach, 2nd Edition, Central Law Agency, Allahabad, 1997.

16.W. Friedmann: Legal Theory, 5th Edition; Columbia University Press, New York

IUC 2201 Law and Social Change

Course Objective

The changes that law can make in society and the impact of societal changes upon law is the rationale behind the title of the paper. Thus, how law works in the system is the larger target of the paper. The same to a great extent is attempted from the perspective of judiciary or judicial process. The working of judicial process and the theoretical premises of the same is covered referring to the scholarship of the said area. The salient as well as peculiar features of Indian Judiciary is covered in critique by referring to judicial process in the realm of conflict of individual liberty and social justice. Influence of morality in law's functioning and the conflicts between law and science is another area that is covered. Towards end the discussion is on theories about ulterior aspects that are having an impact on law and justice.

Learning Outcomes

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

LO1: Understand working of law in the society

LO2: Learn the nature of judicial process and underlying theories

LO3: Apply the theoretical foundations of jurisprudence in general IP frameworks

LO4: Analyse the Functioning Indian judiciary

LO5: Analyse the politics behind legislating law.

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓				
LO 2		✓			
LO 3					✓
LO 4					✓

LO 5			✓		
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Course Content

Module I - Precedents – concept of stare decisis – ratio decidendi and obiter dicta - tests to determine ratio of a case - rules of interpretation of statutes

Module II - Social change through law – precedent and social change – mechanisms that infuses change into the legal system - factors that influences decision making process - methods of decision making - analogical reasoning and growth of law - juristic techniques and possibility of change within the apparently logical process in decision making

Module III - Judicial process in India – peculiar features – prospective overruling Indian Judiciary and social change – constitutional interpretation - interrelation between fundamental rights and directive principles of state policy - right to property as a fundamental right – role of judicial review.

Module IV - Change in the moral attitude of the society and its influence in judicial interpretation - attitude towards property - changing concept of property interference with life processes – biotechnology - concept of life and its relation to property - human body and the response of law - need for change in the no property rule - judicial attitude and statutory response.

Module V - Law as an instrument of social change - pluralism - control by elite, class domination and the law - pressure groups, lobbying and legal policies

References:

1. Friedmann, Law in a Changing Society, Penguin Books, (1972)
2. Friedmann (et.al.), Law and Social Change, Stevens & Sons, (1973)
3. Julius Stone, Social Dimensions of Law and Justice, Stanford University Press, (1996), Ch.14 (Part I &II)
4. Julius Stone, Precedent and the Law, Butterworth, (1985)
5. Julius Stone, Legal System and Lawyers Reasoning, Universal
6. Rupert Cross and J. W. Harris, Precedent in English Law, Clarendon Press, (1991)
7. Von Mehren, The Civil Law System, Little Brown, (1977) Ch. 16
8. Levi, Introduction to Legal Reasoning, The University of Chicago, (1970)

9. Cardozo, the Nature of Judicial Process, Yale University Press, (1922)

IUC 2305 IPR and Computer Programs.

Introduction and Learning Objective

The current world is run on the computer programs. The course aims to eliminate the scholar of the role of intellectual property in the field of computer programs. IP plays a major role in the innovations taking place in the field of computer programs resulting in overall development in various fields the recent being the development of artificial intelligence. The course helps the scholar to understand the shift of development of protection of computer programs from copyright to patent regime. The course also aims to analyse the Indian position on protection of computer programs.

Learning outcome:

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

LO1 Understand the role of intellectual property in the development of current technologies

LO2 Understand the current Indian position on the protection of computer programs

LO3 Comprehend the best intellectual property regime to protect in computer programs

LO4 Discuss the protection of computer programs in various countries.

LO5 Analyse whether IP is a necessary component for innovation in computer programs.

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1		✓			
LO 2	✓				
LO 3			✓		
LO 4				✓	
LO 5					✓

Course Content

Module 1: Introduction to Compute Programs:

Basic concepts of computer science – concepts, terminology and principles – distinction between computer program and software – elements of computer program – algorithm – computer languages – method of software development – materials used for software development – literal and functional elements of computer program

Module 2: Introduction to IP Protection for computer program :

historical development of IP protection for computer software – contractual agreements – role of IBM – cases on contractual violations

Module 3: Computer program and Copyright protection:

Historical development of copyright protection for computer program – concept of originality – idea-expression dichotomy – originality in computer program – look and feel – abstraction, filtration and comparison – protection of non-literal elements – the US and English case law development – fair use – TRIPS obligations – copyright protection of computer program in India – originality, rights, fair use, remedies- how copyright protection has withered away to pave path for patent protection

Module 4: Computer program and Patent protection:

Development of patent protection of computer program in the US – algorithm as patentable subject matter – patentability of computer related inventions – computer program as a ‘means to an end’ for patent protection – patenting of business methods – TRIPS obligations – patent protection for computer program in India – implications- development of artificial intelligence and role of computer program-Indian guidelines on computer program and artificial intelligence- Analysis of Indian judgments

Module 5: Alternatives to IP protection for Computer Programs:

IP protection of computer program – alternatives – free software movement – legal validity of general public licence agreements – patenting software and challenges to open source movement

References:

1. Pamela Samuelson *et.al*, “A Manifesto Concerning the Legal Protection of Computer Programmes”, 1994 Columbia Law Rev. 2308

2. Peter S. Menell, "Challenges of Reforming Intellectual Property Protection for Computer Programmes", 1994 Columbia Law Rev. 2644
3. Paul Goldstein, "Comments on Manifesto Concerning the Legal Protection of Computer Programmes", 1994 Columbia Law Rev. 2573
4. Leslie Melville, "Computer Software and the Relevance of Copyright", [1980] EIPR 354
5. Daniel J. Fetterman, "The Scope of Copyright Protection for Computer Programmes: Exploring the Idea/expression Dichotomy", 20 IPLR 399 (1988)
6. Julian Velasco, "The Copyrightability of Non-literal Elements of Computer Programmes" 27 IPLR 329 (1995)
7. Allen B. Wagner, "Patenting Computer Science: Are Computer Instruction Writings Patentable?", (1998) The John Marshall Journal Of Computer and Information Law
8. Jur. Strobos, "Stalling the Exclusive Patentable Software: Are there Still Diehsor Was it Just a Flock?" 6 Horr. J. Of Law & Tech. 363 (1992-93)
9. John Swinson, "Copyright or Patent or Both: An Algorithmic Appeal to Computer Software Protection", 5 Harv.J of Law & Tech. 145 (1991)
10. Allen B. Wagner, "Patenting Computer Science: Are Computer Instructions Writings Patentable?", 1998 The John Marshall Journal of Computer and Information Law, 5
11. Jur. Strobos, "Stalling the Exclusive Patentable Software: Are there Still Diehsor Was it Just a Flock?" 6 Horr. J. Of Law & Tech. 363 (1992-93)
12. John Swinson, "Copyright or Patent or Both: An Algorithmic Appeal to Computer Software Protection", 5 Harv. J of Law & Tech. 145 (1991)
13. Mark A. Lemley, The Limits of Claim Differentiation Stanford Law School , Public Law and Legal Theory Research Paper Series No. 1008885
14. Alice Corp. v. Cls Bank (134 S. Ct. 2347 (2014))
15. Artificial Intelligence, Big Data and Intellectual Property: Protecting Computer-Generated Works in the United Kingdom, Research Handbook on Intellectual Property and Digital Technologies (Tanya Aplin, ed), Edward Elgar Publishing Ltd, 2019.
16. Mark A. Lemley, Michael Risch, Ted Sichelman & R. Polk Wagner, Life After Bilski, LEMLEY-63 STAN. L. REV. 1315

IUC 2204 WTO Dispute Settlement and TRIPS Agreement

Introduction and Course Objective:

The objective of this course is to give the students a perception about the WTO Dispute settlement mechanism and the trend in its functioning. When compared to the International Court of Justice, the former mechanism available for implementing international treaties, the WTO Dispute Settlement mechanism is different in its nature, functioning and implementation capacity. Since it forms part of the WTO, a trade forum, its power equations are considerably different from that of the ICJ. Therefore, its administration, panel constitution, functioning and implementation mechanisms are of high significance. It is also relevant how effective it is in balancing the interests of the WTO member countries, especially, the developing and the least developed country members. The course will examine how the WIPO Dispute Settlement is used for the interpretation of TRIPS Agreement.

Learning Outcome:

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

LO1: Understand the international decision-making process especially in the IP context

LO2: Discuss the politics behind the decision-making process in the WTO platform

LO3: Analyse with clarity as to the relation between international trade and Intellectual Property regime.

LO4: Evolve a practical application of developmental perspectives of different nations learnt in previous courses.

LO5: Appreciate the importance of gaining expertise in international platforms for developing and underdeveloped nations.

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓				
LO 2	✓				
LO 3			✓		
LO 4					✓

LO 5					✓
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Course Content

Module 1: Historical Development of WTO Dispute Settlement Mechanism:

History of WTO dispute settlement mechanism – international dispute settlement before the WTO era – ICJ- enforcement mechanism under ICJ - GATT 1947, charter for an International Trade Organization (ITO)- Tokyo Round - reasons for Dispute Settlement Understanding (DSU) – IP forum shifting - TRIPS and DSB

Module 2: Dispute Settlement Mechanism: Objectives, Administration and Decision making:

DSU – objectives, coverage and administration – Panel – constitution – rules of composition – Appellate Review – Appellate Body – rules of composition – procedure – negative consensus.

Module 3: Procedure of Dispute Settlement under DSU:

Nullification or impairment – types of complaints – Part V of TRIPS Agreement – consultation – conciliation and mediation – Dispute before panel – mode of reaching final decision – procedure – adoption of panel reports – mode of implementation – surveillance by DSB – non-implementation – cross retaliation

Module 4: IP and DSB decisions

India Patent case – WT/DS 50/AB/R - Canada Pharmaceutical patent case WT/DS 114 – US – Section 110 (5) Copyright Act WT/DS 160 – Canada Patent term WT/DS 170 – WT/DS 290 GI – WT/DS 362/R China – Measures Affecting The Protection And Enforcement Of Intellectual Property Rights

Module 5: DSB and Developing Countries: Concerns

DSB and Developing country members – lack of expertise - trend in decision making in IP context – impact on developing countries.

References:

1. Chad P. Bown Joost Pauwelyn (ed.), *The Law, Economics and Politics of Retaliation in WTO Dispute Settlement*, Cambridge University Press 2010
2. J.G.Merrills, *International Dispute Settlement*, Cambridge University Press, 2011.
3. William J. Davey, “The WTO and Rules-Based Dispute Settlement: Historical Evolution, Operational Success, and Future Challenges” 17 *J Int Economic Law* (2014) 679-700
4. Ka Zeng, 'Legal Capacity and Developing Country Performance in the Panel Stage of the WTO Dispute Settlement System' (2013) 47 *Journal of World Trade*, Issue 1, pp. 187–213
5. Mervyn Martin, *WTO Dispute Settlement Understanding and Development*, Martinus Nijhoff Publishers, 2013
6. Gregory C. Shaffer and Ricardo Meléndez-Ortiz ed., *Dispute Settlement at the WTO: The Developing Country Experience*, Cambridge University Press, 2010
7. David Palmeter and Petros C. Mavroidis, *Dispute Settlement In The WTO Practice And Procedure*, Cambridge University Press 2004
8. India Patent case – WT/DS 50/AB/R
9. Canada Pharmaceutical patent case WT/DS 114
10. US – Section 110 (5) Copyright Act WT/DS 160
11. Canada Patent term WT/DS 170
12. WT/DS 290 GI
13. Measures Affecting The Protection And Enforcement Of Intellectual Property Rights – WT/DS 362/R China

IUC 2303 Copyright and Entertainment Industry

Introduction and Course Objectives:

Everyone has the right to scientific, social, political and cultural development. Entertainment industry plays a very significant role in this development. The term ‘entertainment industry’ is very wide and encompasses various industries like printing and publishing, film and video, music, gaming industry, etc. The peculiarity of these industries is the involvement of multiple players for the creation of the works and the investment that is needed to make these works available to the public. Consequently the issues involved are also highly complex. This paper tries to look into the industry, its significance and the different players involved. Then the paper tries to identify whether the notions within the industry are captured by the law or are they different. How the interest of the different players are tackled so as to ensure that neither the persona involved nor public is a casualty.

Learning Outcome:

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

LO1: Understand the role of intellectual property in the entertainment industry

LO2: Understand the evolution of creative industry.

LO3: Appreciate the difference between the theory and practical level application of IP law in the entertainment industry

LO4: Analyse the economic structure within the entertainment industry.

LO5: Understand the exploitations in the creative industry and need for different policy.

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓				
LO 2	✓				
LO 3		✓			
LO 4			✓		
LO 5					✓

Course Content

Module 1: Concept and Different form of Entertainment Industry:

Notion of entertainment industry – publishing, audio-visual and music industry - impact of digital technology on the industry - its significance – social political and economic - justification for protecting the industry – difference - concept of creativity – publishing, audio-visual and music industry – extend of creative expressions – International position – Berne Convention, Rome Convention, TRIPS, WCT, WPPT - Indian copyright Act

Module 2: Notion of Creator under the Entertainment Industry vis-a-vis IP

Creator in the entertainment industry – industrial practice – publishing – special positions in the audio-visual and music industry – concept of author under copyright law – role of director and performer - international position – Berne Convention, TRIPS - Indian copyright law

Module 3: Rights of the Creators:

Enjoyment of rights – concept of co-existence of rights - rights sharing – relation between creator and owner - automatic transfer of ownership – employment – commissioned work - voluntary transfer – assignment – licence – industry practices – new changes in relationship.

Module 4: Mechanism of revenue sharing in the Entertainment Industry:

Revenue sharing – incentivizing the creator – royalty sharing – industry practices – Indian and foreign - new changes in the Indian law – collection and distribution – role of collecting societies – constitution and functions of copyright societies.

Module 5: Entertainment Industry and its role in Development

Consumers and entertainment industry – cultural development – freedom of speech and expression – fair use, parody, derivative works – enforcement – International position; Indian position; Other Jurisdiction – US – PIPA and SOPA

References:

- 1) Giuseppina D'Agostino, *Copyright, Contracts, Creators – New Media, New Rules*, EE (2010)
- 2) Ruth Towse, *Copyright in the Cultural Industries*, EE (2002)
- 3) Jessica Reyman, *The Rhetoric of Intellectual Property: Copyright Law and the Regulation of Digital Culture*, Routledge (2009)
- 4) Hendrik van der Pol, “Key Role of Cultural and Creative Industries in the Economy”, UNESCO
- 5) Ruth Towse, “Cultural Economics, Copyright and the Cultural Industries”, *Society and Economy in Central and Eastern Europe*, Vol. 22, No. 4 (2000), pp. 107-134
- 6) Hye-Kyung Lee, “Between Fan Culture And Copyright Infringement: Manga Scanlation”, *Media, Culture & Society*, 36(6): 1011-1022.
- 7) David Hesmondhalgh & Andy C. Pratt, “Cultural Industries and Cultural Policy”, *International journal of cultural policy*, 11 (1). pp. 1-14.
- 8) Jon M Garon, “The Heart of the Deal: Intellectual Property Aspects in the Law and Business of Entertainment”, *JIPR*, Vol.17, Sept. 2012, pp. 443-453
- 9) C. Paul Sellors, “Collective Authorship in Film”, *The Journal of Aesthetics and Art Criticism* 65:3 Summer 2007

10) Anna Notaro, “Technology in Search of an Artist: Questions of Auteurship/ Authorship and the Contemporary Cinematic Experience”, The Velvet Light Trap, Number 57, Spring 2006, pp. 86-97

11) Prof (Dr.) Manish Verma, Dr.Tanushri Mukherjee Mr. Vijish G. Kurup, “ Intellectual Property Rights and Indian Entertainment Industry: An Overview”, ISSN 0975-217X.

IUC 2205 TRIPS Agreement and Access to Medicine

Introduction and Course objectives

The TRIPS Agreement is aimed at strengthening intellectual property world over, especially in developing countries. However, critics argue its implementation could lead to the widening of the north-south gap, especially its potential impact on access to medicines in developing countries due to obligation for providing patent protection to pharmaceutical products. The objective of the paper is to understand the history and evolution of multilateral agreements such as Paris Convention and TRIPS Agreement. The paper further aims to understand the evolution of the Indian patent law after implementation of TRIPS, especially with regards to pharmaceutical inventions. The paper also examines the impact of TRIPS flexibilities in India on access to medicines after its implementation.

Learning Outcome:

After completing this paper the students will be able to:

LO1 : Discuss the underlying principle of Paris Convention and TRIPS Agreement.

LO2 : Appreciate the challenges to patenting of pharmaceutical inventions.

LO3 : Explain the TRIPS agreement and evolution of Indian Patent Law.

LO4: Discuss the implementation of TRIPS flexibilities in the Indian Patent law.

LO5: Analyse the impact on access to medicine post implementation of TRIPS flexibilities in India.

Mapping of Learning Outcomes (LO) with Program Outcomes (PO)

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓		✓		
LO 2			✓		

LO 3		✓			
LO 4			✓		✓
LO 5			✓		✓

Course Content

Module I - Development of international patent system

Historical development of Paris Convention – basic principles of Paris Convention – minimum standards – revision of Paris Convention.

Module II - TRIPS Agreement and patent system

Historical development of TRIPS – general principles of TRIPS - patentable subject matter - term of protection - rights and limitations - transitional arrangements.

Module III - Patenting of pharmaceutical inventions

New challenges to patent system – inventing new drugs – the process and challenges – issues on patenting – patenting improvements – ever greening of pharmaceutical patents – TRIPS flexibilities – patenting of pharmaceutical inventions under the Indian Patent Act – definition of new chemical entities – exclusions – limiting the scope of patentable subject matter and facilitating access to medicine.

Module IV - Facilitating access to medicine

Indian patent system and international obligations – limitations and exceptions – educational and research exceptions – bolar exceptions – parallel importation – protection of test data – alternative to patents, Delinking.

Module V - Compulsory licences under the Indian Patent Act and TRIPS flexibilities

Doha Declaration and its implementation structure of the Indian pharmaceutical industries - limits of the patent law in facilitating access to new medicines at affordable cost.

References

1. Phoebe Li, Health Technologies and International Intellectual Property Law: A Precautionary Approach, Routledge Research in Intellectual Property, 2014. See Part I, Chapter 1.2 and Chapter 5.

2. Joo-Young Lee, *A Human Rights Framework for Intellectual Property, Innovation and Access to Medicines*, Routledge Publishers, 2015, see Chapters 2 to 4 and 7.
3. Jakkrit Kuanpoth, *Patent Rights in Pharmaceuticals in Developing Countries: Major Challenges for the Future*, Edward Elgar Publishing Ltd, 2011.
4. Thomas Pogge, Matthew Rimmer, Kim Rubenstein (Eds), *Incentives for Global Public Health: Patent Law and Access to Essential Medicines*, Cambridge University Press, 2010.
5. Susan K. Sell, "TRIPS and the Access to Medicines Campaign" 20 *Wisconsin International Law Journal* 491 (2001-2002)
6. Aaron Xavier Fellmeth, "Secrecy, Monopoly, and Access to Pharmaceuticals in International Trade Law: Protection of Marketing Approval Data Under the TRIPS Agreement" 45 *Harvard International Law Journal* 443 (2004)
7. Amy Kapczynski, "Harmonization and Its Discontents: A Case Study of TRIPS Implementation in India's Pharmaceutical Sector" 97 *California Law Review* 1571 (2009)
8. Frederick M. Abbott, "The Doha Declaration on the TRIPS Agreement and Public Health: Lighting a Dark Corner at the WTO" 5 *Journal of International Economic Law* 469 (2002).
9. Frederick M. Abbott and Jerome H. Reichman, "The Doha Round's Public Health Legacy: Strategies for the Production and Diffusion of Patented Medicines under the Amended TRIPS Provisions" 10 *Journal of International Economic Law* 921 (2007).
10. Biswajith Dhar and K.M.Gopakumar, *Post-2005 TRIPS scenario in patent protection in the pharmaceutical sector: The case of the generic pharmaceutical industry in India*, ICTSD and UNCTAD, November 2006
11. Canada – patent protection of pharmaceutical Products WT/DS 114/R 8.
12. Graham Dutfield, "Delivering Drugs to the Poor: Will the TRIPS Amendment Help?" *American Journal of Law and Medicine* 1, (2008)
13. Frederick M. Abbott, "The WTO Medicines Decision: World Pharmaceutical Trade and the Protection of Public Health" 99 *American Journal of International Law* 317 (2005)
14. Janice M. Mueller, "The Tiger Awakens: The Tumultuous Transformation of India's Patent System and the Rise of Indian Pharmaceutical Innovation" 68 *University of Pittsburgh Law Review*, 491 (2007).
15. Sudip Chaudhuri, Chan Park and K. M. Gopakumar "Five Years into the Product Patent Regime: India's Response", UNDP report (2010).
16. Correa, Carlos. "Protection of Data Submitted for the Registration of Pharmaceuticals: Implementing the Standards of the TRIPS Agreement", South Centre (2002).

17. Gopakumar K M. "Product Patents and Access to Medicines in India: A Critical Review of the Implementation of TRIPS Patent Regime," *The Law and Development Review*, De Gruyter, vol. 3(2), pages 326-368 (2010).
18. K M Gopakumar, "Twenty Years of TRIPS Agreement and Access to Medicine : A Development Perspective", *Indian Journal of International Law* , 55(3), 367-404 (2015).
19. James Packard Love, "Alternatives to the patent system that are used to support R&D efforts, including both push and pull mechanisms, with a special focus on innovation-inducement prizes and open source development models", *Committee on Development and Intellectual Property (CDIP), WIPO* (2014).

IUC 2301 - Research Methodology

Introduction and Course Objective

The course objective is to familiarize the research methods used in legal research. Research methodology includes the philosophy and practice of the entire research process and use of the legal source material. The course also includes different types of research methods and different legal research and legal writing techniques in order to equip students for further legal research. In addition, the course covers the processing and presentation techniques of primary and secondary data in socio-legal research and the development of research topics for LL.M. Masters thesis.

Learning Outcomes

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

LO1 Present and understand various legal research methods

LO2 Conduct effective doctrinal as well as empirical legal research by using fundamental tools of legal research.

LO3 Understand and create accurate research methods for a legal IP issue.

LO4 Structure a research proposal to write a dissertation and to design research process

LO5 Write research papers/notes and case comments

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1				✓	✓
LO 2				✓	✓
LO 3				✓	✓
LO 4				✓	✓
LO 5				✓	✓

Course Content

Module: I Research as a social science and scientific research

Qualities of scientific research, meaning of research – nature and utility of research - pure and applied research - value of research – problems of objectivity in research – the research process – multidisciplinary approach to research - Notion of Research and knowledge -Specific Characteristics of Research - Types of Research -Doctrinal, Non-Doctrinal -Exploratory, Descriptive, Experimental -Qualitative, Quantitative -Longitudinal-Impact -Case Study -Attitude Measurement - Projective

Module: II Formulation of problem in research -

Research problem identification- validation of research problem - formulation of research question - hypothesis, their nature and role – concepts and their role in investigation - research design- Hypothesis difference between proposition, hypotheses and theory. Types of hypotheses. Testing of hypothesis, and Operationalisation of the Hypotheses-Objectives of Study

Module – III Doctrinal research - data collection –

Doctrinal sources – primary and secondary sources — case study method – observation and interview - case books – writings – international documents – judgments of international bodies and superior courts of different countries—legislation – statutory instruments and judicial decisions.

Module– IV Non-doctrinal research -

Empirical research – census method of data collection – Methodology -Sampling, Estimation: Types of sampling; Sampling distribution; Estimation; Confidence intervals for means;

Confidence intervals for proportions.– optimum sampling – different methods for collection of data – interview, preparation of questionnaires – classification of data

Module – V Statistical analysis of data and reporting

Tabulation and graphical presentation of data –Use of Statistics in Social Sciences - Drawing of Inferences -Analysis/Interpretations –Jurimetrics - What is Impact? -Measuring of Impact— standard deviation – elements of probability study and its use in research – presentation of research reports – style of presentation - practical experience in collection of data and analysis of data using computer and internet.

References

1. Pauline V. Young, Scientific Social Survey and Research, Prentice Hall,(1966)
2. William J. Grade and Paul K. Hatt, Methods in Social Research, Mc Graw-HillBook Company, London (1952)
3. H.M.Hyman, Interviewing in Social Research, University of Chicago, (1965)
4. Payne, The Art of Asking Questions, Princeton Univrsity Press (1980)
5. Erwin C. Surrency, B.Felf and J. Crea, A Guide to Legal Research, Oceanea, Publications, (1966)
6. Morris L. Cohan, Legal Research in Nutshell, West Publishing Co., (1996)
7. The Blue Book: A Uniform System of Citations, Havard Law Review Association,(2000)
8. Legal Research and Methodology, ILI Publication, (2001)
9. Manheim, Sociological Research: Philosophy and Methods, Doresy Press, (1997) Chs.6-17
10. Morris L. Cohen, How to Find the Law, University of Michigan, (1989) Chs.1,13,17 &18
11. Peter Goodrich, Reading the Law, B. Blackwell, (1986) Ch.2
12. John A Yogis, Michalelosipeaea, Philip. W. Whitehead, Legal Writing andResearch Manual, Lexis Nexis Butterworths, (2004)
13. A.K. Phophalia, Modern Research Methodology, Paradise Publishers, 2010.
14. "Action Research in Crime Prevention", Report on an International Seminar on Use of Research as a Basis for Social Defency Policy and Planning, Denmark 20-23 Aug. 1973, pp. 28-37, 59-62, United Nations (1975).
15. AnwarulYaqin, Legal Research and Writing Methods, LexisNexis Butterworths Wadhwa,Nagpur, 2008
16. Bailey, Methods of Social Research, pp. 18, 31-66 (1978)

17. Bakshi, P.M. "Legal research of Law Reform" in *Legal Research and Methodology*, 121, 217 (1983).
18. Baxi, U., "The Travails of Stare Decisis in India in" *Legal Change: Essay in Honor of Professor Julius Stone* (1983, A.R. Blackshield Edn.) Butterworths, Sydney Australia.
19. Baxi, U., *Crisis of Indian Legal System*, 244-288 (1982).
20. Baxi, U., *Socio-Legal Research in India: A program schrift*, Occasional Monograph (1975). Department of Law, University of Delhi
21. Baxi, U., *Towards Sociology of Indian Law* (1986).
22. *Blue Book the Uniform System of Citation*, (17th Ed. 2000).
23. C.R. Kothari, *Research Methodology: Methods & Techniques*, New Age International Publishers, 2006.
24. Eherlich, Ugen, *Fundamental Principles of the Sociology of Law*, 1-36.
25. Frederic Schauer, *Thinking like a Lawyer*, Harvard University Press, 2009
26. Friedman and Macaulay, *Law and the Behavioral Sciences*, pp. 308 -315, 372 -399(1969)
27. George, Gadbois Jr, (ii) "Indian Supreme Court Judges: A Portrait", 3 *Law and Society Review*, 317-335 (1963).
28. George, Gadbois Jr, (iv) "The Supreme Court of India: A Preliminary Report of an Empirical Study" 4 *Jr. of Constitutional and Parliamentary Studies*, 53-54 (1970).
29. George, Gadbois Jr, (i) "Participation in Supreme Court Decision Making" 24 *JILI* p. 1 (1982).
30. Gerald D .Berreman, "Ethnography: Method and Product" in V .K. Srivastava, *Methodology and Fieldwork* (Edit) 2004 Oxford.
31. Gibson, Colin S., "Legal Impact Analyses: The Ideal and the Practicable" in *Legal Research and methodology*, ILI, at 663.
32. Gupta and Deepa Gupta, *Research Methodology*, PHI, 2013
33. Jain, S.N., "Doctrinal and Non-doctrinal Research" in *Legal Research and Methodology*, ILI, 167 (1983)
34. Jain, S.N., "Legal Research and Methodology" in 14 *JILI* 487 (1972)
35. Jones, Ernest M., "Some Current Trends in Legal Research" in 15 *Our Leg. Edn.* 21 (1962-63)
36. Lindsay Prior, *Using Documents in Social Research*, Sage Publication, 2003
37. M.N. Borse, *Handbook of Research Methodology, Modern Methods And New Techniques*, Srinivas Publication, 2005.

38. Manual of Style for authors, Editors and Copy Writers, University of Chicago (13th ed. 1982).
39. Mark Abrahamson, Social Research Methods pp 197-331 (1983)
40. Michael G. Maxfield and Earl Babbie, Research Methods for Criminal Justice and Criminology, Thompson Learning, 2001
41. Nanlin, Foundations of Social Research, pp. 15-4 (1976)
42. Pedekar, V.H. How to Write Assignments Research Paper, Dissertations and Thesis,(1982).
43. Peter Clough and Cathy, But Brown, A Students' Guide For Research Methodology, Sage Publication, 2002
44. Price and Bitner, Effective Legal Research, 311-380.
45. Ram Ahuja, Research Methods, pp 52-91 (2001).
46. Robert Watt, Concise Legal Research, (4th Edt.) 2001.
47. Sadhu and Singh, Research Methodology in Social Sciences, (1983).
48. Sadhu and Singh, Research Methodology in Social Sciences, pp 1-34 (1983).
49. Stone, J., Social Dimensions of Law and Justice, 91-93.
50. Ullaman, W., The Medieval Idea of Law, 1-6 (1946).
51. Winston Jackson, Research Methods: Rules for Survey Design and Analysis, PHI, 1988

IUC 2104 Patent Law and TRIPS Agreement

Introduction and Course Objectives

Every country make laws based on their social, political and economic conditions and patent law was no different until TRIPS. However, TRIPS Agreement tried to create a uniform patent environment throughout the world. Member countries were forced to amend their patent laws in order to make them compatible with TRIPS Agreement. The course tries to analyse the changes brought by TRIPS Agreement on the Indian Patent Act, 1970 and its impact on various sectors in India including public health. The course also looks into the historical and political factors that contributed to the signing of TRIPS within WTO.

Learning Outcomes

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

LO 1 - understand the evolution of patent system historically in different countries

LO 2 - understand the evolution of the international patent system

LO 3 - understand the importance of TRIPS Agreement in relation to patents

LO 4 - Examine the changes brought in the domestic law pursuant to TRIPS

LO 5 - To understand how India has used the TRIPS flexibilities in its patent system

LO 6 - Evaluate the TRIPS plus Agreements

LO 7 - To look at the patent system through the lens of transformation occurring in the changing technological, economic and social contexts.

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓				
LO 2		✓			
LO 3			✓		
LO 4			✓		
LO 5				✓	
LO 6		✓			

Module I – Origin and Development of Patent law - Introduction to patent law – historical development – purpose and form of early patents – Statute of monopolies – transformation to the modern patent law - general principles – test of patentability – novelty, inventive step and commercial utility – theoretical justification for patent protection

Module II – International Patent system - Development of international patent system and its necessity – historical development of Paris Convention – basic principles of Paris Convention – minimum standards – revision of Paris Convention.

Module III - TRIPS Agreement and patent system - GATT, WIPO and the need for TRIPS – lobbying Changes from Paris convention - patentable subject matter – Impact of TRIPS on pharmaceuticals including modern biologics and agriculture.

Module IV - New international challenges to patent system - SPLT - FTA - TPP - its comparison with TRIPS

Module V - Impact of TRIPS on Indian patent system - History of Indian patent law – Earlier approach to patents - Impact of TRIPS on Pharmaceuticals Agriculture, and Computer Related Inventions.

References:

1. E. Wyndham Hulms, “The History of Patent System under the Prerogative and at Common Law, 12 L.Q. R.141, 13 L.Q.R. 313 & 16 L.Q.R. 44
2. Hughes J. “Philosophy of Intellectual Property” 77 The George Town Law Journal 285
3. Peter Drahos, A Philosophy of Intellectual Property, Dartmoth, (1996)
4. Terrel on Patent, Sweet & Maxwell (latest edition)
5. The Paris Convention 1883
6. Bodenhausen, Guide to the Application of Paris Convention for the Protection of Industrial Property, WIPO (2004)
7. Rajiv Dhavan et.al, “Paris Convention Revisited” 31, JILI (1991)
8. Terence P. Stewart, GATT Uruguay Round : Negotiating History, Kluwer Law International (1999)
9. Reichman, Jerome, Of Green Tulips and Legal Kudzu: Repackaging Rights in Subpatentable Innovations, 2003
10. Rajagopal Iyyengar, Report on the Revision of the Patent Law, Government of India 1959
11. Rajiv Dhavan et.al, “Whose Interest? Independent India’s Patent Law and Policy”, 32 J.I.L.I 429 (1990)
12. Ellen FM ‘t Hoen, Jacquelyn Veraldi, Brigit Toebes& Hans V Hogerzeila, Medicine procurement and the use of flexibilities in the Agreement on Trade-Related Aspects of Intellectual Property Rights, 2001–2016, Bull World Health Organ 2018
13. S. Mani, Richard R. Nelson (ed’), TRIPS Compliance, National Patent Regimes and Innovation: Evidence and Experience from Developing Countries (2013).
14. Correa, Carlos, 2007. "Trade Related Aspects of Intellectual Property Rights: A Commentary on the TRIPS Agreement, Oxford University Press.
15. Duncan Matthews, Intellectual Property, Human Rights and Development: The Role of NGOs and Social Movements, Edgar Elgar Publication (2011)

IUC 2404 Protection of Broadcasting Organisations

Introduction and Course Objectives:

Watching TV is one of the most leisurely activities and this is made possible by broadcasting organisations. These organisations play a very significant role in making the copyright works available to the public for enjoyment and also the owner of copyright to receive economic benefit from the communication to the public of their works. They also have an important role in the social, cultural and political development of the society as they are the medium through which information is disseminated to the common man. These activities involve considerable investment and creative activity. Consequently, the protection given to these organisations is of utmost importance to every society. At the same time it is necessary to ensure that they are not vested with too many rights that they defeat the purpose for which these rights are given by overriding the interest of the copyright owner and that of common man. This paper tries to look into how the copyright law acts as a mechanism to provide this balance by looking into the cultural and socio-political significance of these organisations and at the same time balance the interest of the persons who create the work and the general public.

Learning Outcomes

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

LO 1 - Understand what is broadcast and the different technological means through which broadcasting is made possible.

LO 2 - Understand why the broadcast organisations need protection even if they are not the owners of the works broadcasted

LO 3 - Understand the rights and limitations of Broadcasting organisations under the Copyright Act, 1957

LO 4 - Make comparative analysis of the protection conferred by international conventions and Indian Copyright Act, 1957

LO 5 – Analyse the effectiveness of the enforcement procedures available in the The Copyright Act, 1957

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1		✓			
LO 2		✓			

LO 3			✓		
LO 4			✓		
LO 5				✓	

Module I - Nature and functions of Broadcasting Organisation :

Technical meaning of broadcast – display, diffusion and transmission of broadcast – technological change - from wireless to wire - ‘free to air’ to ‘pay per view’ – technological difference in transmission through internet – functions of the organisation – historical development – significance in the socio-political context,

Module II - Rationale for independent protection :

Theoretical justifications - relationship with the works – elements of creativity in broadcasting – investment in broadcasting - cultural and economical – broadcasting in traditional sense and through computer networks – nature of technology and economic investment.

Module III - Concept of broadcast :

Concept of signal – difference between broadcast and broadcasting – simulcast and webcast – difference from broadcast – need for separate protection – protection of signal and not the work - International position – Rome Convention, TRIPS, WIPO negotiations – concept of broadcast in Indian Copyright Act.

Module IV - Rights of broadcasting Organisations:

Concept of related rights or neighboring right - International law – Rome and TRIPS – right of fixation – rebroadcast –post fixation rights – distribution – communication to public - protection of pre-broadcast signals – right of re-transmission – deferred transmission - WIPO negotiations – relation with owner of copyright in works and performers’ right – provisions in the Indian Copyright Act.

Module V – Enforcement :

Infringement of rights - defenses available – fair use and protection of freedom of speech and expression - use of TPMs and its consequences - civil and criminal remedies – provisions in the Indian Copyright Act.

References:

1. Megumi Ogawa, *Protection of Broadcaster's Right*, Martinus Nijhoff (2006)
2. Tome Rivers, 'A Broadcasters' Treaty' in Paul Torremans, *Copyright Law: A Handbook of Contemporary Research*, EE (2007)
3. Natali Helberger, *Controlling Access to Content – Regulating Conditional Access in Digital Broadcasting*, Kluwer (2005)
4. Jackie Harrison & Loma Woods, *European Broadcasting Law and Policy*, Cambridge University Press (2007)
5. Eric M. Barendt & Alison Firth, *the Year Book of Copyright and Media Law*, OUP (1999)
6. Patricia Akester, "The Draft WIPO Broadcasting Treaty and its impact on Freedom of Expression", UNESCO, e-Copyright Bulletin, April – June 2006
7. M Sakthivel, "Is it Broadcast or Broadcasting?", JIPR Vol. 16, Jan 2011, pp. 23-26.
8. Adam r. Tarosky, "The Constitutionality Of WIPO'S Broadcasting Treaty: The Originality And Limited Times Requirements Of The Copyright Clause", Duke Law & Technology Review, No.16, 2006.
9. Ted Shapiro, The territoriality of copyright in the digital single market: A closer look at the proposed broadcaster regulation, Intellectual Property Forum: Journal of the Intellectual and Industrial Property Society of Australia and New Zealand, Issue 113 (Sep 2018).
10. Matt Jackson, From Broadcast to Webcast: Copyright Law and Streaming Media 11 Tex. Intell. Prop. L.J. 447 (2002-2003).
11. Kanchana Kariyawasam & Matthew Tsai (2017) Copyright and live streaming of sports broadcasting, International Review of Law, Computers & Technology

IUC 2405 Acquisition of Intellectual Property Rights: International Aspects (4 Credits)

Introduction and Course Objectives

The international filing/registration procedure through various international agreements facilitates IP protection simultaneously in a large number of countries. Rather than filing

national applications in many languages, the system of international protection enable you to file a single application in one language and to pay one application fee. Thus reduces the time and cost for obtaining international protection. Once parties to the international agreement, the individual countries are required to incorporate those provisions into the domestic law thereby make possible to take advantage of those agreements by the nationals and foreigners. The course is intended to look into the need and justifications for an international protection for different forms of Intellectual Property. How the procedure is envisaged in these agreements to achieve the intended purposes and how Indian Law has included those benefits or advantages to our law.

Learning outcome:

LO 1 Classify the underlying principle followed in International procedure and international registration of IPRs

LO 2 Discuss the International patent application filing mechanism under PCT.

LO 3 Explain the national phase requirements for PCT applications in India.

LO 4 Discuss the international registration procedure for Trademarks envisaged in Madrid agreement and Madrid protocol and its extension to India.

LO 5 Discuss the procedure for international protection of design under Hague agreement and its extension to India.

Mapping of Learning Outcomes (LO) with Program Outcomes (PO)

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1		✓	✓		
LO 2		✓			
LO 3		✓			
LO 4		✓			
LO 5		✓			

Course Content

Module I - International procedure and international registration

Need for international norms – justifications – difference between international procedure and international registration – implications - principles followed in international conventions - international filing – international registration – Merits and demerits.

Module II - Patent Co-Operation Treaty (PCT)

Objectives - procedure –International Phase – application – international search – publication – international preliminary examination - National Phase – time limit – acts to be performed – special requirements – Merits and demerits.

Module III - National Phase application in India - Requirement and procedure

Indian Patents Act - PCT application and Indian application – additional requirements for PCT applications - procedure – who can apply – examination – significance of international search and examination reports - pre and post grant oppositions – advantages for India.

Module IV - Acquisition of Trade Marks - requirement and procedure

Madrid Agreement and Madrid Protocol – purposes – differences - procedure - international application – basic application and basic registration – examination – dependency provisions – advantages and disadvantages – Indian Trade Marks Act –procedure – application - advertisement – opposition - registration – incorporation of Madrid System into Indian TM Act – benefits.

Module V - Acquisition of Designs - Requirements and Procedure

International protection of design – Hague Agreement concerning the international registration of industrial design – Locarno classification of Designs - procedure – application and registration - benefits - Indian Designs Act 2000 – procedure for registration.

References:

1. *Introduction to Intellectual Property: Theory and Practice*, WIPO, Second edition, Kluwer Law International 2017.
2. *The first twenty five years of the Patent Co-operation Treaty (PCT) 1970-1995-* WIPO, Geneva 1995.
3. The PCT Applicant's Guide available at <https://www.wipo.int/pct/en/guide/index.html>

4. *Manual of Patent Office Practice and Procedure* Version 3 (26th November, 2019, published by the Office of Controller General of Patents, Design and Trade Marks).
5. The Indian Patent Acts 1970 (2020) and the Indian Patent Rules 2003 (2020).
6. *Guide to the international registration of marks under the Madrid Agreement and the Madrid Protocol*, WIPO 2019 available at <https://www.wipo.int/publications/en/details.jsp?id=4440&plang=EN>.
7. *Guidelines for functioning under the Madrid Protocol* issued by Trade Marks Registry, Mumbai 2013 http://www.ipindia.nic.in/writereaddata/Portal/IPOGuidelinesManuals/1_40_1_guidelines_MadridProtocol_17December2013.pdf
8. Denis Cohen, *The International Protection of Designs*, Kluwer Law International, 2000.
9. The Trade Marks Act 1999 (2020) and the Trade Marks Rules 2003 (2020).
10. The Designs Act 2000 (2020) and the Design Rules 2001 (2020).
11. Jay Erstling, “The Patent Cooperation Treaty: At the Center of the International Patent System”, 32 William Mitchell Law Review 1583 available at <http://open.wmitchell.edu/facsch/12>.
12. Chartered Institute of Patent Attorneys (C.I.P.A.); Philip Walters, *Patent Cooperation Treaty Handbook*, Sweet & Maxwell, 1997.
13. Rajeev Ranjan, “PCT System and its impact on developing countries”, JIPR Vol.8, January 2003.
14. Shivnath Tripathi, “The Relevance of Pre Grant Opposition under Indian Patent Law”, available at http://papers.ssrn.com/sol3/papers.cfm?abstract_id=2365463.
15. Kalyan C. Kankanala, Arun K. Narasani, Vinita Radhakrishnan, *Indian Patent Law and Practise*, Oxford University Press, 2010.
16. D P Mittal, *Supplement to Indian Patent Law and Procedure*, Taxmann Allied Services, 2003.
17. N. K. Gupta, “Information for filing international applications for patent under Patent Co-operation Treaty by Indian Applicants”, JIPR, Vol. 5, January 2000.
18. Busso Bartels, “PCT and its importance to India”, JIPR, Vol. 4 May, 1999.
19. Adarsh Ramanujan, “Reflections of the Indian accession to the Madrid Protocol”, JIPR Vol. 13, March 2008.
20. Niloy Kumar Gupta, “Overview of the Indian Industrial Law and Practices”, JIPR Vol. 4, January 1999.

IUC 2305 PROTECTION OF TRADITIONAL KNOWLEDGE

Introduction and Course Objectives

Traditional knowledge being of high value is often misappropriated to be utilized in the creation of new inventions. Same is the case with traditional cultural expressions. The need for protection of traditional knowledge and traditional cultural expressions came to the fore front in the developing countries in the wake of the several cases of misappropriation which have taken place in the past few decades. The different forms of protection and the mechanisms devised for preserving the traditional knowledge will be analysed in this paper. The paper while focussing on the need to respect and preserve traditional knowledge and traditional cultural expressions, delves into the Indian and international initiatives for the protection of the same.

Learning Outcomes

After the completion of the paper, the student will be able to:

LO1 Understand the need to respect, preserve and protect traditional knowledge and traditional cultural expressions

LO2 Analyse the Indian and international efforts to bring out policy measures for the protection of traditional knowledge and traditional cultural expressions

LO3 Examine the adequacy of the mechanisms in practice for protection of traditional knowledge and traditional cultural expressions

LO4 Analyse the feasibility of protecting traditional knowledge and traditional cultural expressions through the IP regime

LO5 Compare the laws in different jurisdictions on the protection of traditional knowledge and traditional cultural expressions

Mapping of Learning Outcomes with program outcomes

	PO 1	PO 2	PO 3	PO 4	PO 5
LO 1	✓		✓		
LO 2			✓		
LO 3			✓		
LO 4	✓		✓		
LO 5	--		✓		

Course Content

Module I-Introduction to traditional Knowledge and Issues with IP - Intellectual Property – general – brief overview of different forms of IP – difference between intellectual property and traditional knowledge

Module II-Conceptual Analysis of Traditional Knowledge and Traditional Cultural Expressions - Detailed analysis of traditional knowledge and traditional cultural expressions - folklore - difference – conceptual analysis – international and national perspectives

Module III-International Protection of Traditional Knowledge and Traditional Cultural Expressions - International development of traditional knowledge protection – CBD – FAO International Treaty on Plant Genetic Resources – protection of folklore/cultural expressions by UNESCO - developments in WIPO on traditional knowledge and traditional cultural expressions

Module IV-Defensive Protection of Traditional Knowledge - Defensive protection of TK – TKDL – databases – ayurveda – biodiversity registers

Module V-Protection of traditional Knowledge under Indian laws and Comparison with other Jurisdictions - Positive protection of TK under Indian laws – patents – plant variety and biodiversity – geographical indications – trade secrets – test data protection – comparative analysis of protection in Philippines, Thailand and China

References

1. Christoph Belman and Graham Dutfield, *Trading in Knowledge: Development Perspectives on TRIPS, Trade and Sustainability*, Earthscan Publications Ltd. (2003)
2. Dr. N. S. Gopalakrishnan and Benoy K. Kadavan, *Study on Test data Protection in India*, Eastern Book Company, Lucknow (2005)
3. Patricia Lucia Marin, *Providing Protection for Plant Genetic Resources: Patents, Sui Generis Systems and Bio-Partnerships*, Kluwer Law International (2001)
4. W.R. Cornish, *Intellectual Property: Patents, Copyrights, Trademarks and Allied Rights*, Sweet and Maxwell (latest edition).
5. Convention on Biological Diversity, 1992 and International Treaty on Plant Genetic Resources for food and Agriculture (2002)
6. Documents of Inter Governmental Committee, WIPO on TK& TCE protection, WIPO. Geneva
7. FAO, *The State of World's Plant Genetic Resources for Food and Agriculture*

8. Graham Dutfield, Protecting Traditional Knowledge: Pathways to the Future, <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/docs/100907ictsd.pdf>
9. UNESCO/WIPO Model Provisions for Protection of Folklore/ Cultural Expressions
10. WIPO Reading Material on Intellectual Property, WIPO, Geneva

IUC 2205 GENETIC RESOURCES AND ASSOCIATED TRADITIONAL KNOWLEDGE

Introduction and Course Objectives

Genetic resources have the potential to contribute to the economy of a nation in a wide variety of ways, including that of the medical sector. India being a mega diverse nation in genetic resources and traditional knowledge, it is imperative for us to appreciate and preserve the value of the same. It is also high time to reach a policy on the protection of the genetic resources and traditional knowledge. This paper focuses on the issues arising in the protection of genetic resources and associated traditional knowledge, in the context of biotechnology and IP inventions. Whether the need is to protect genetic resources and associated traditional knowledge from IP regime or to carve out a suitable benefit sharing regime to the real custodians will be analysed in this paper. The paper will be looked at from the perspective of both developing and developed countries.

Learning Outcomes

After the completion of the course, the student will be able to:

LO1 Understand the concept of property in genetic resources and associated knowledge

LO2 Understand the relevance of the concept of collective property

LO3 Examine the issues posed by the IP regime to the ownership of genetic resources and associated traditional knowledge

LO4 Analyse the Indian laws and international laws on protection of genetic resources and associated traditional knowledge

LO5 Analyse the tension between IPRs and genetic resources and associated traditional knowledge

	PO1	PO2	PO3	PO4	PO5
LO1	✓		✓		

LO2	✓		✓		
LO3	✓		✓		
LO4	✓		✓		
LO5	✓		✓		

Course Content

Module I-Nature of Property in Genetic Resources and Associated Traditional Knowledge - Genetic Resources and associated TK as property – nature of property in GR and associated TK – common heritage of mankind – CBD – permanent sovereignty

Module II-Ownership Issues in Genetic Resources and Associated Traditional Knowledge - Ownership in GR & TK – elements of ownership – exclusivity and possession – nature of ownership of GR and TK in CBD, and Nagoya Protocol (PIC & BS)

Module III- Access and Benefit Sharing of Genetic Resources and Associated Traditional Knowledge under International and Indian laws - Benefit sharing – different types of benefits and benefit sharing – beneficiaries – CBD, Nagoya Protocol and Indian law

Module IV-Bilateral and Multilateral Benefit Sharing Systems of Genetic Resources and Associated Traditional Knowledge - Bilateral vs. Multilateral Benefit Sharing – CBD, Nagoya Protocol and ITPGRFA

Module V- Interface between IPR and GR and TK - Interface between IPR and GR and TK – TRIPS-CBD conflict and proposed solutions-developments in WIPO on genetic resources

References

1. Chidi Oguamanam, Intellectual Property in Global Governance: A Development Question, Routledge, (2012)
2. Christoph Antons (ed.) Traditional Knowledge, Traditional Cultural Expressions and Intellectual Property Law in the Asia Pacific Region, Kluwer Max Planck Series, (2009)
3. Daniel F. Robinson Confronting Biopiracy: Challenges, Cases and International Debates, Earthscan, (2010)
4. Geoff Tansey and Tasmine Rojotte (Eds.), The Future Control of Food: A Guide to International Negotiations and Rules on Intellectual Property, Earth Scan, London (2008)

5. Gerald Moore and Witold Timousky, Explanatory Guide to the International Treaty on Plant Genetic Resources for Food and Agriculture, IUCN, Gland, Switzerland and Cambridge, (2005)
6. Graham Dutfield, Intellectual Property Rights, Trade and Biodiversity, Earthscan Publications Ltd, London (2000)
7. Jonathan Curci, Protection of Biodiversity and Traditional Knowledge in the International Law of Intellectual Property, Cambridge University Press, (2010)
8. Silke von Lewinski (ed.) Indigenous Heritage and Intellectual Property: Genetic Resources, Traditional Knowledge and Folklore, Kluwer Law International, (2008).
9. Gurdial Singh Nijar, The Nagoya Protocol on Access and Benefit Sharing of Genetic Resources: An Analysis, <https://biogov.uclouvain.be/multistakeholder/presentations/Gurdial-Nijar-NagoyaProtocolAnalysis-CEBLAW-Brief.pdf>
10. Kanchi Kohli and Shalini Bhutani, Chasing Benefits, Issues on Access to Genetic Resources and Traditional Knowledge with reference to India's Biodiversity Regime - A Post-Nagoya Protocol View on Access and Benefit Sharing, http://awsassets.wwfindia.org/downloads/chasing_benefits.pdf
11. Michael I. Jeffery et.al (Eds.), Biodiversity Convention, Law and Livelihood, Bridging the North South Divide, IUCN Academy of Environmental Law Research Studies, IUCN, (2002)