



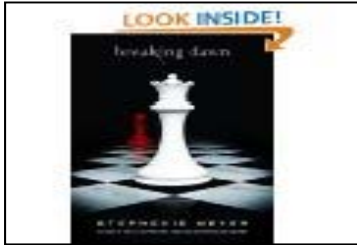
BUSINESS REGULATION



Course Outline		
Units	Topics to be covered	No. of Hours
4	<p>Module 4 – ECONOMIC LAWS</p> <p>Indian Patent Laws and WTO Patent Rules: Meaning of IPR, invention and non-invention, procedure to get patent, restoration and surrender of lapsed patent, infringement of patent, FEMA 1999: Objects of FEMA, salient features of FEMA, definition of important terms: authorized person, currency, foreign currency, foreign exchange, foreign security, offences and penalties.</p>	12 hours



Intellectual Property Rights



What is IPR?

- Intellectual Property is the **Property**, which has been created by exercise of intellectual faculty.
- It is the **result of persons' intellectual activities.**
- Thus Intellectual Property refers to creation of the mind such as inventions, designs for industrial articles, literary, artistic work, symbols which are ultimately used in commerce.



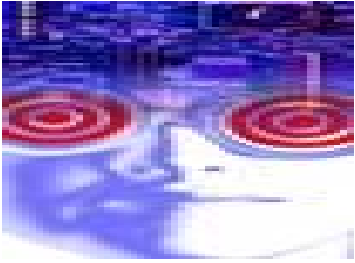


- Intellectual Property rights allows the creators or owners to have the benefits from their works when these are exploited commercially.
- These rights are statutory rights governed in accordance with the provisions of corresponding legislations.



Definition of Intellectual Property Rights (IPR)

- Intellectual Property (IP) is defined as any "original creative work manifested in a tangible form that can be legally protected"
- Right associated with intellectual property which gives legal protection is referred to as IPR.
- When we speak of IP rights, we refer to controlling the way IP is used, accessed or distributed.

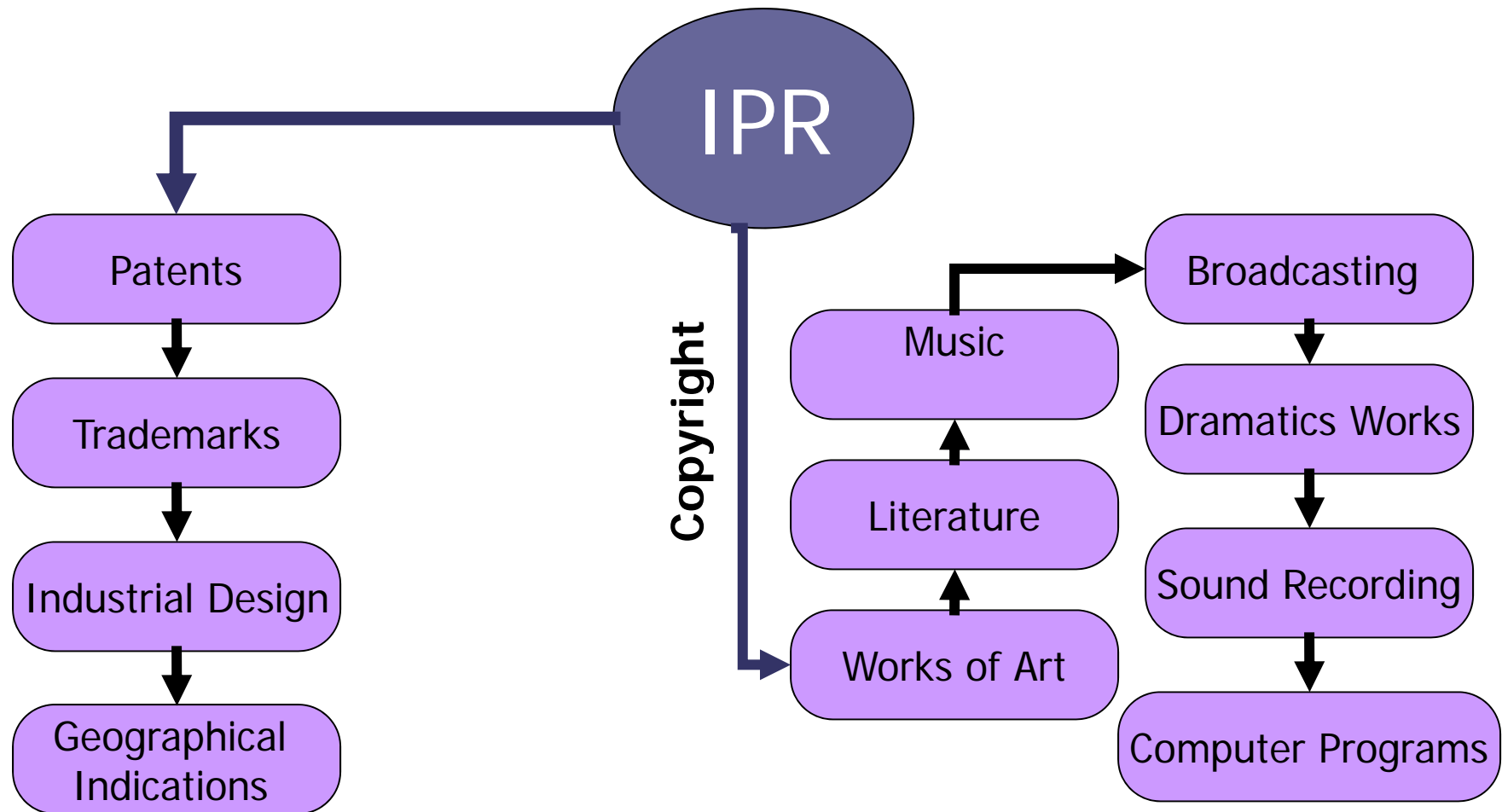


Intellectual Capital Rights



- They are basically private rights.
- Law confers this right with the sole purpose of stimulating innovations and creativity.
- IPR have become commercial commodities in the current scenario.
- The law not only conveys an exclusive right to the owner of the IP, but also grants the right to reproduce, distribute and gain commercial returns for their innovations and creation.

Classification of IPR

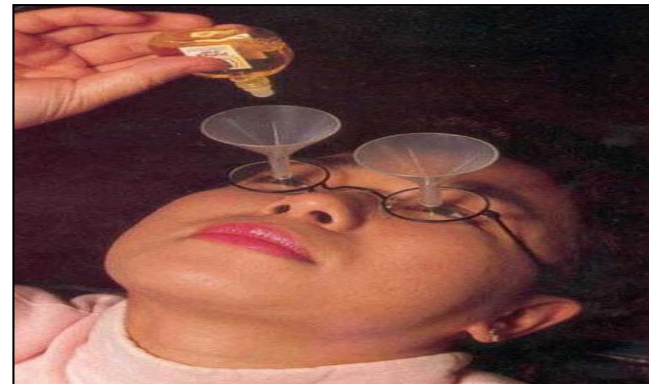




IP- Duration of Term of Protection

- **Patents** (20 years)
- **Trademarks** (10 years + renewals)
- **Copyrights** in published literary, dramatic, musical, and artistic works (Lifetime of author +60 years).
- **Copyright** in photographs ,cinematographic film, sound recordings -(60 years from year in which it was published)
- **Broadcast reproduction right**-(25 years from the beginning of the calendar year next following the year in which the broadcast is made.)
- **Industrial designs** (10 years+ renewal permitted once for 5 years)
- **Trade-secrets and know how** collectively “proprietary technology.







How to Protect Intellectual Property?

- Invention by a patent or as trade secret.
- Utility models by a certificate or secret.
- Industrial Design by a certificate.
- Trade and Service Mark by a certificate.
- Copyright by reducing to a fixed form.



Patents

- A patent is a **legal monopoly** granted for a limited time to the owner of an invention.
- It empowers the owner of an invention to **prevent others from manufacturing, using, importing or selling the patented invention.**
- The patent can relate to a **product patent or the process patent**





- In order to get a registration ,the product or the process of invention must be something that is
- **new, useful and non-obvious.**
- The person who has been granted this right is a patentee, who has the **exclusive right to use the invention.**

-A patent is granted for 20 years



NON-PATENTABLE ITEMS

- Things obviously contrary to established natural laws.
- Mere discovery of scientific principle, new property, new use of a known substance.
- Which causes serious prejudice to human , animal , plant life or environment.
- Discovery of micro organism , mineral or natural gas.
- A method of agriculture or horticulture.
- Any process for the medical treatment of human beings , animals or plants to make them disease free.



WHO CAN BE A PATENTEE ?

- Persons entitled to apply for patents-
 - True and first inventor.
 - His / Her Assignee.
 - Legal Representative of deceased inventor assignee.
 - Any Partnership , Company.

PROCEDURE TO GET PATENT

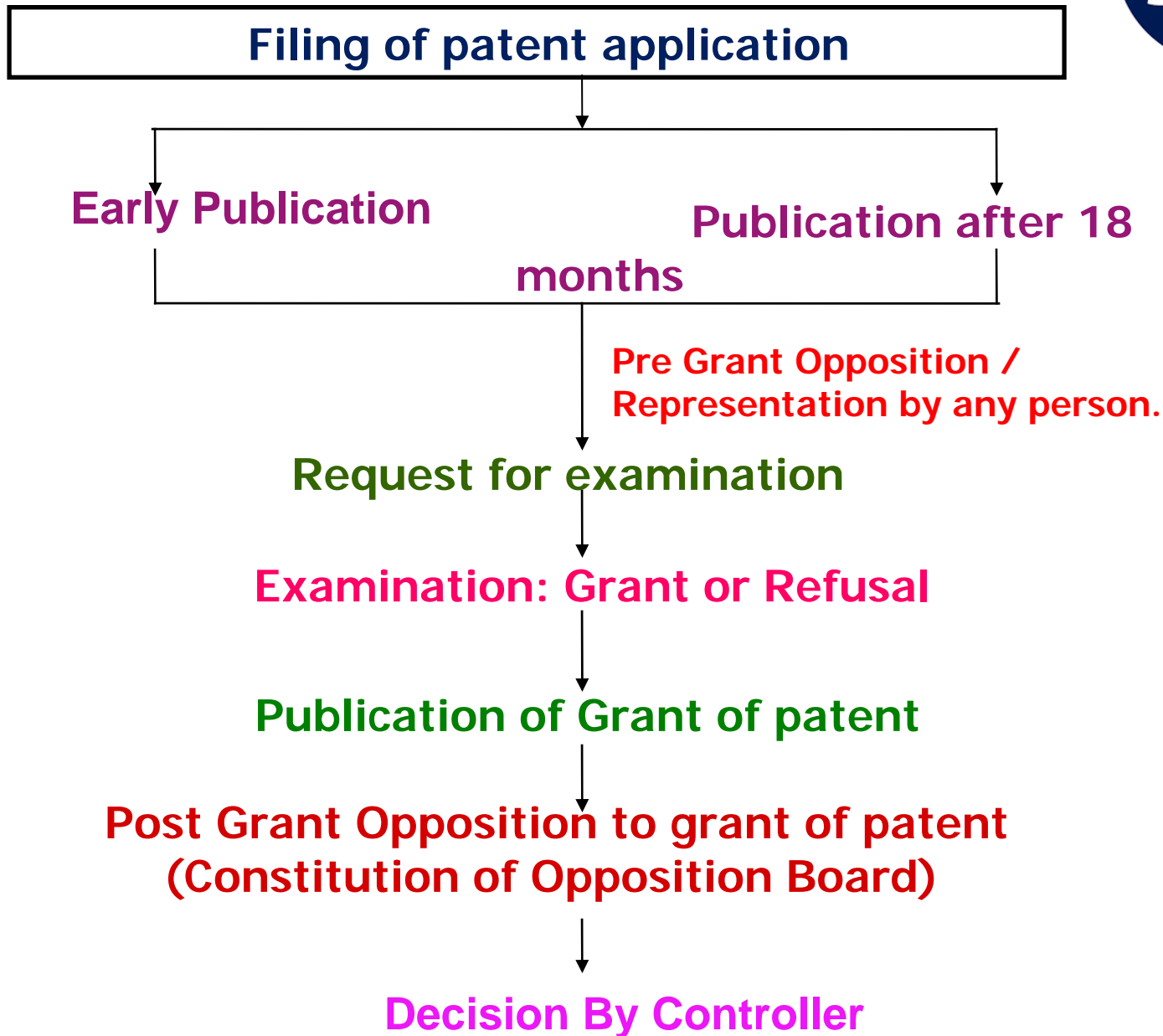


A patent application can be filed at any of the four patent offices in India (Kolkata, Delhi, Mumbai and Chennai).

The patent application passes through the following stages:

- A. Filing
- B. Publication
- C. Examination
- D. Opposition
- E. Grant

Patent Grant Procedure



FOREIGN *EXCHANGE* MANAGEMENT



ACT 1999

BACKGROUND



- Replaced FERA – Foreign Exchange Regulation Act 1974
- FERA had become incompatible with the pro-liberalisation policies of the Govt. of India
- This was done in order to relax the controls on foreign exchange in India, as a result of economic liberalization.



FEMA 1999



- ⊖ The Foreign Exchange Management Act (1999) or in short FEMA has been introduced as a replacement for earlier Foreign Exchange Regulation Act (FERA). FEMA came into force on the 1st day of June, 2000.
- ⊖ FEMA
 - consolidate and amend the law relating to foreign exchange facilitating external trade and payments
 - promoting the orderly development and maintenance of foreign exchange market in India
 - 49 sections in the Act

FEATURES OF THE ACT



- Non compliance with the regulation is diluted. Its only of civil & no criminal consequences.
- Nature of current account & capital account transactions have been clearly defined.
- All the current account transactions can be freely carried out.
- Definitions of residents & non residents taken into account.



TO WHOM ACT IS APPLICABLE



⊘ The FEMA, is applicable-

- To the whole of India.

- Any Branch, office and agency, which is situated outside India, but is owned or controlled by a person resident in India.

⊘ Broadly speaking FEMA, covers, three different types of categories, and deals differently with them. These categories are:

- Person

- Person Resident In India

- Person Resident Outside India

Person



⊖ For the purpose of provisions, a person shall include any of the following:

1. An individual
2. A Hindu Undivided family
3. A company
4. A Firm
5. An association of persons or a body of individuals, whether incorporated or not,
6. Every artificial judicial person, not falling within any of the preceding sub clauses, and
7. Any agency, office or branch owned or controlled by such person.

Person resident in India



1. A person who has been residing in India for more than 182 days, in the last financial year. This means if a person has to be assessed, as to whether he is person resident in India, then he should be residing in India for more than 182 days during April 2012 to March 2013.
2. Any person or body corporate registered or incorporated in India, or
3. An office, branch or agency in India owned or controlled by a person resident outside India, or
4. An office, branch or agency outside India owned or controlled by a person resident in India.

Person resident outside India



"a person resident outside India" means "a person who is not resident in India"



Case under FeMa



The Rajasthan Royals team's proud owner has been slapped with a penalty notice for allegedly violating forex laws in their business operations





- The Indian Premier League will start in two months time, but looks like the action has already begun – off field! It's learnt that the agency, which is investigating irregularities under the Foreign Exchange Management Act (FEMA), has sent out three separate notices to the Rajasthan Royals franchisee, the total of which sums up to Rs 98.5 crores.





While Rs 50 crores penalty has been slapped on Jaipur IPL Cricket Private Limited (JIPL) and its directors, Rs 34 crores notice for evasion of forex duties has been issued against EM Sporting Holding, Mauritius and its directors.

A fresh notice of Rs 14.5 crores has been issued against M/S ND Investments, United Kingdom and its directors.

All the three parties can appeal against this penalty in the appellate authority of FEMA. The order requires the IPL team to pay the money in 45 days.

The Enforcement Directorate has been investigating financial and foreign exchange irregularities against all the IPL franchisees for almost two years now and the first big notice against any team comes just a day after the auctions concluded in Chennai.