

**Department of Intellectual Property Law**  
**3<sup>rd</sup> Semester (Optional V)**  
**Intellectual Property Law and International Perspectives**

**Objectives:**

The new trends in International Trade ushered in the WTO and the TRIPS Agreement demands a serious rethought on teaching intellectual property laws. The rapid change towards liberalization and globalization is assumed to facilitate free movement of capital, technology and goods based on new technology across the border to promote global trade. The new technologies promise industrial and economic development in India, hence more investment on Research and Development to keep pace with the International competition is expected. This necessitates India to provide more broader protection for Intellectual properties based on TRIPS Agreement. A critical look at the developmental model reflected in TRIPS and its feasibility to solve the domestic problems in the International context warrants attention. The merits and demerits of the TRIPS Agreement has to be analyzed and has to be renegotiated when a periodical review takes place.

With the changing technologies, the understanding of the acquisition, maintenance, and protection of intellectual properties at the International level is essential. In the area of digitalization and genetic engineering special skills are required to prepare the documents for registration both at national and international forum. To meet the challenges posed, a good understanding of science, technology and law is essential. The following core is designed to equip the students to tackle the challenges in the Intellectual Property field at International Level.

**Syllabus**

**UNIT – I: International Intellectual Property Treaties and Convention**

1. The Nature and scope of International Law
2. International Intellectual Property Instruments
3. Leading International Institutions and Actors: -- W.I.P.O, W.T.O. European Union
4. The Negotiation of Intellectual Property Treaties
5. National Treatment, unconditional MFN Treatment,
6. Principles of Territoriality, Exceptions: 'Famous Marks': exceptional if any  
Basis for Acquiring rights
7. Territoriality, Use in Commerce and other standards.

**UNIT – II International trade Mark Agreements:**

1. Paris convention
2. Implementation in National Law
3. Mechanisms facilitating multinational Rights
4. Principle of Independence of rights, Tellequelle principle;
5. Well-known marks.  
Art 6 bis Paris convention, TRIPS Agreement, Article 16, WIPO joint Recommendation?
6. TRIPS Agreement Trademark Provisions.
7. Trademark Law Treaty:
8. IPO standing committee Report on Trademarks, 2003
9. European union: Subject Matter of Trademark, distinctiveness, Exception to the grant of protection.
10. Geographical Indications: global Agreements (Madrid & Libson) EU Regulations

TRIPS Agreement and mandated Negotiations.

11. Mechanism for acquisition of Rights: Madrid Agreement, Madrid Protocol, Community Trademark
12. International Domain Litigation, The conflict between D.N & TM, UDRP.

### **UNIT – III: International Patent Agreements:**

1. The Paris Convention  
Exploitation of the patented invention
2. TRIPS Agreement  
Exceptions to patent rights
3. Canada Pharmaceuticals Patents case  
Access to essential Medicines, Doha declarations
4. Mechanism for acquisition of Rights: Community Patent, Patent Cooperation Treaty

### **UNIT – IV : International Copyright Agreements:**

1. Basic Principles: Berne Convention  
National Treatment and connection factors, TRIPS Agreement, Rome Conventions.
2. EU Copyright Law; The Interaction of copyright and common Market Policies,  
Secondary Legislations:-
3. Software Directive
4. Term Directive
5. Database Directive
6. E-Commerce directive – Service Provider Liability.
7. WIPO Internet Treaties: The Diplomatic Conventions and Treaty Provisions, Treaty Implementation Laws: Digital Millennium Copyright Act, Article 6 of EUcopyright Directive.

### **UNIT – V : Basic Issues and Principles:**

1. Institutional Challenges Post TRIPS
2. Traditional Knowledge, Genetic Resources and Protection of Folklore, Database protection.
3. Dispute Settlement: State to State dispute settlement. Unilateral Trade measures (Special 301)
4. The role of Special 301 after TRIPS WTO Dispute settlement; Enforcement Mechanisms  
Cross Sectoral Retaliation
5. WIPO & TRIPS Council developments in DSB Proceedings.

### **Reference:**

- (1) Cornish and Llewelyn , “Intellectual Property”, 6<sup>th</sup> Edition(2007) Sweet and Maxwell, London
- (2) Resource Book on TRIPS and Development,(2005) Cambridge, University Press USA
- (3) Samuelson and Others, Software and Internet Law 3<sup>rd</sup> Edition (2006) Aspen Publishers US
- (4) Ginsburg and Others, Trademark and unfair Competition Law, 4<sup>th</sup> Edition(2007) Foundation Press US.
- (5) TRIPS Agreement 1995
- (6) IP Bare Act.

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