

SUBJECT : IPR Litigation
SUBJECT CODE :HTH

Objectives of the Course :

This Course is intended to teach the students the transfer of rights and enforcement of rights in case of infringement. Civil, Criminal and Administration remedies provided under the Law will be examined. The obligations under TRIPS and the Dispute settlement mechanism Under TRIPS will also be examined in the light of the cases.

UNIT – I : Litigation Relating to Patent and Trade Secret

Infringement of patent - literal infringement – interpreting claims – Doctrine of equivalents – pith and marrow doctrine – Comparative test – Defences – Remedies – IPAB – infringement of trade secret - Remedies.

UNIT – II : Litigation Relating to Trade Marks and Geographical Indications

Infringement of trade mark – right to sue – Facts to be established by the plaintiff – test to determine deceptive similarity – difference between passing off action and infringement of trade mark – Defences – Remedies – Passing off action – reverse passing off action – IPAB – offences and penalties – Infringement of registered geographical indications – acts amount to an infringement – remedies.

UNIT – III : Litigation Relating to Copyright and Industrial Design

Copyright infringement – right to sue – acts constituting infringement – Defences – Remedies – Appeal Procedures – infringement of copyright on design – piracy of design what amounts to piracy – factors to be established – Remedies.

UNIT – IV : Enforcement of IPR under TRIPS

TRIPS Provisions Arts 41 to 61 – minimum standard of protection – civil, criminal, administrative remedies – Dispute settlement Mechanism – Establishment – Procedure – scope of DSB – DSB under WIPO.

UNIT – V : Future Development relating to IPR Litigations

Patent on Life forms – patent on nano technology – patent on software and issues relating to copyright – Domain Name Disputes – patent thickets and licensing issues – could computing in the Digital Era.

Statutory Materials :

1. Patent Act 1970.
2. Trade Mark Act 1999.
3. Copyright Act 1957.
4. Design Act 2000.
5. TRIPS Agreement.

Book Prescribed:

1. Patent Act - 1970
2. Copyright Act – 1957
3. T.M Act – 1999
4. Design Act -2000
5. TRIPS Agreement

Book for Reference :

1. Resource Book on TRIPS and Development (UNCTAO)
2. Terrell – “on the Law of patents” (sweet and max well) 1994
3. NARD, ‘The Law of patents’(Wolters kluwer) (Aspen Publication) 2007
4. Ginsburg, Trade Mark and Unfair Competition Law (Foundation Press) 2007
5. W.R. Cornish – Intellectual Property Patents, Copyright, Trademark and Allied Rights (1999) (Sweet and Maxwell London)
