



Kull...



Datna Group

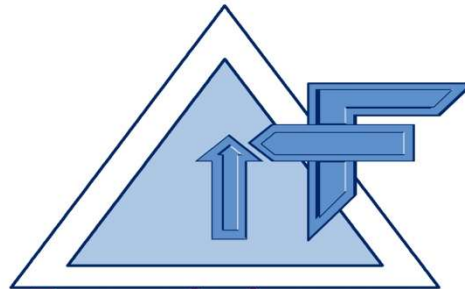
# PROFESSIONAL OPPORTUNITIES IN IPR



JKPL



Safe Drive



Fashions



flexibles



-BY CA PURUSHOTTAMLAL KHANDLWAL

# CONTENTS

- ▶ Introduction to Intellectual Property.
- ▶ Trademark
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# Intellectual Property Rights

- ▶ IPR refers to creation of mind i.e. inventions, industrial designs, literary and artistic work, symbols etc. used in commerce.
- ▶ There are two categories :- Industrial property & copyright.
- ▶ Industrial property : Trademark, Patents etc.
- ▶ Copyright covers Artistic works, Literary works etc.

# Continued.....

- ▶ Rights which can be used for protecting different aspects of an inventive work for multiple protection.
- ▶ Outlined in Article 27 of the Universal Declaration of Human Rights.
- ▶ IPR can be assigned, gifted, sold and licensed like any other property.

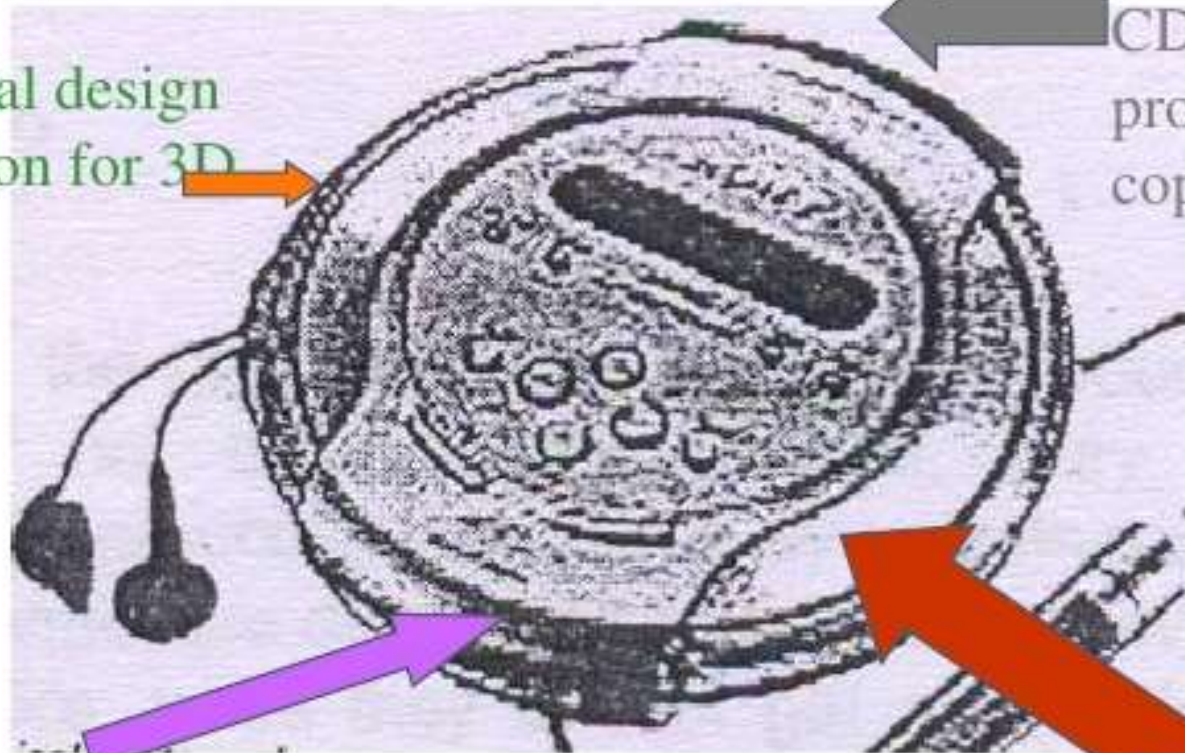


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- ▶ Intellectual Property Rights as a collective term includes the following independent IP rights :
  - a) Trademark
  - b) Geographical Indications
  - c) Patent
  - d) Copyright
  - e) Industrial Design

# CD PLAYER

Industrial design  
protection for 3D  
shape



Music played on the  
CD player is  
protected by  
copyright

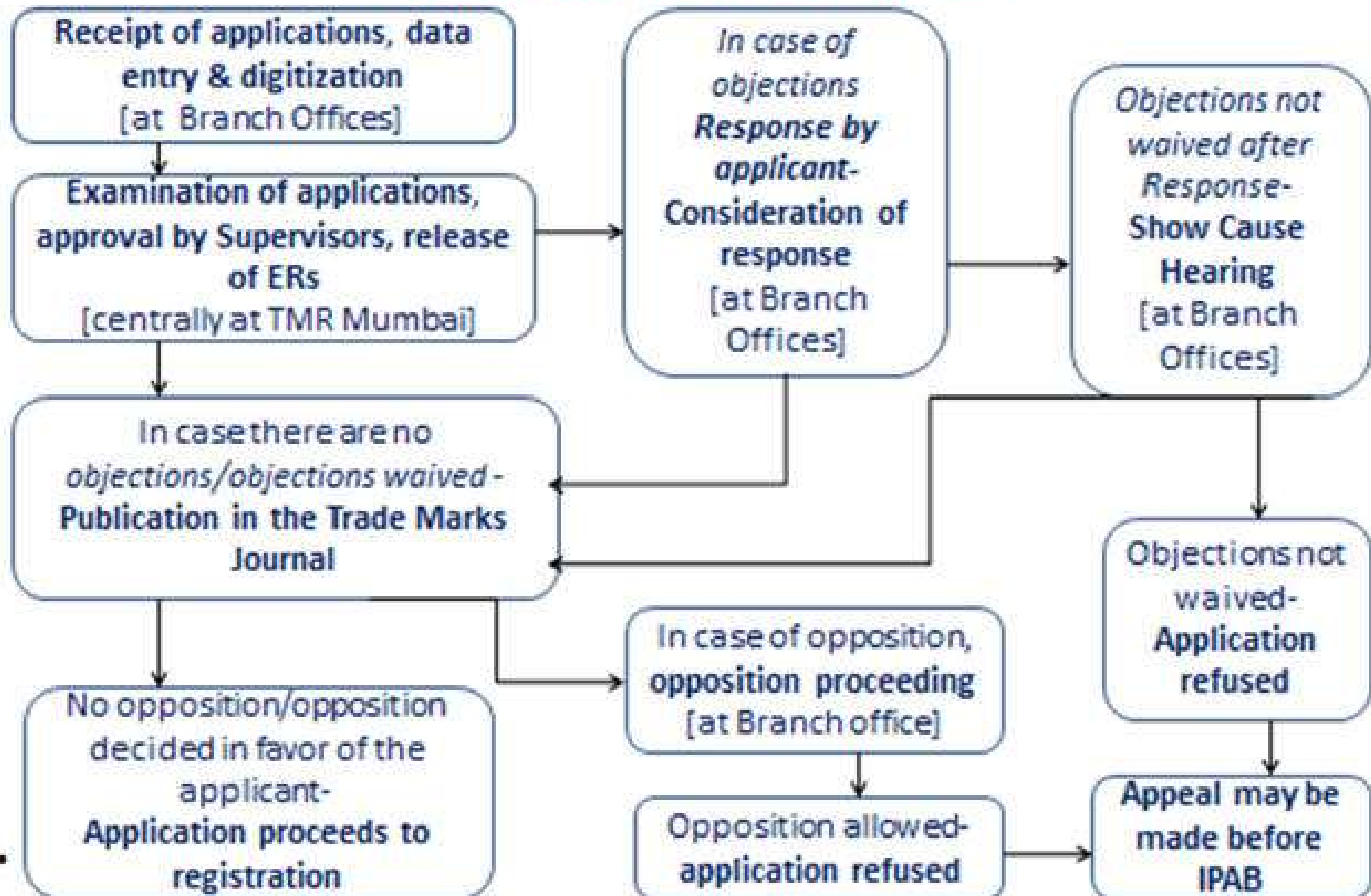
Various  
technical parts  
& mechanisms  
are subject  
mater of  
protection  
under Patents

Brand name-  
registered under  
trademark

# Trademark

- ▶ It is a distinctive sign that provides to the owner of the mark by ensuring the exclusive right to use it to identify goods and services.
- ▶ Well-known Trademark, Associated Trademarks, Service Marks, Certification Trademark, Collective Mark.
- ▶ Term of Registered Trademark : 10 years and Renewable.
- ▶ International classification of Goods and Services(Nice classification).

## Office actions in processing applications for registration of trademarks



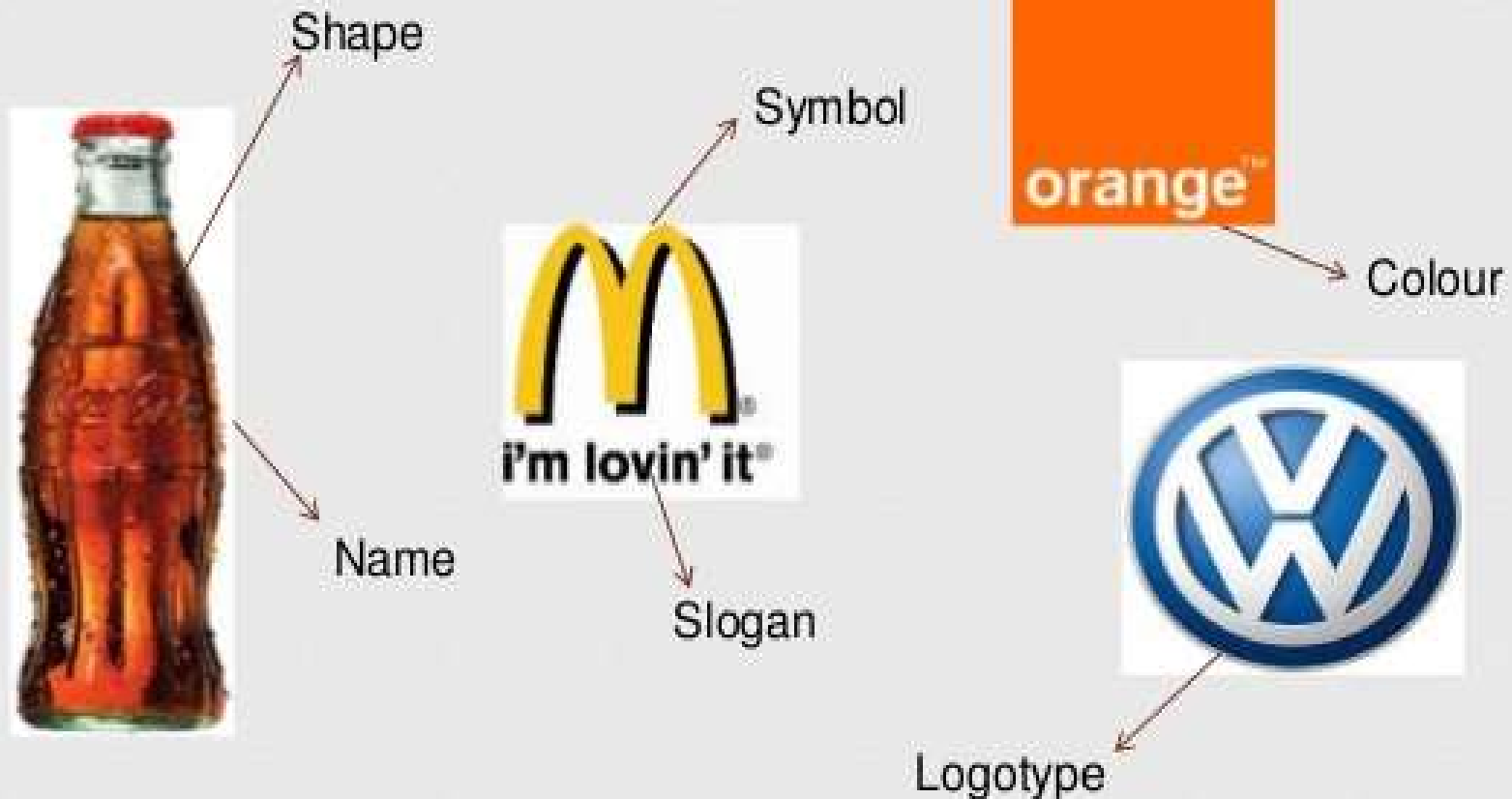


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- ▶ It is governed by Trademark Act, 1999 and Trademark Rules,2002.
- ▶ To be registrable, the mark must be distinctive, and capable of being represented graphically.
- ▶ The main purpose of trade mark law is to serve as an indicator of trade origin.
- ▶ Prohibiting use of someone else Trademark as a part of Corporate name or a name of business concern under Sec 16(1)(b) of Companies Act,2013.

# Trademark

## Different types of Trademarks -



# Geographical Indications

- ▶ A sign used on goods that have a specific geographical origin and possess qualities or a reputation due to that place of origin.
- ▶ Registration of a Geographical Indications is for 10 years and is renewable.
- ▶ It is correctly said “Every region has its claim to fame.”

# Continued...

- ▶ The Act would be administered by the Geographical Indications of Goods (Registration and Protection) Act, 1999.
- ▶ The Geographical Indications Registry is located at Chennai.
- ▶ Examples of possible Indian Geographical Indications.
  - ∅ Darjeeling Tea
  - ∅ Kanchipuram Silk Saree
  - ∅ Alphanso Mango



AGRA KA PETHA



BANARASI SAREE



BIKANERI SEV

# PATENT

- ▶ An exclusive right granted by a country to the owner of an invention to make, use, manufacture and market the invention.
- ▶ The patent right is territorial in nature.
- ▶ Separate patents should be obtained in each country where the applicant requires protection of his invention in those countries. There is no patent valid worldwide.

# Continued..

- ▶ It is possible to file an international application known as PCT(Patent Cooperation Treaty) application in India in the Patent Offices located at Kolkata, Chennai, Mumbai and Delhi.
- ▶ Patent can be renewed up to total of 20 years.
- ▶ It is governed by Patent Act 1970.

Figure 1

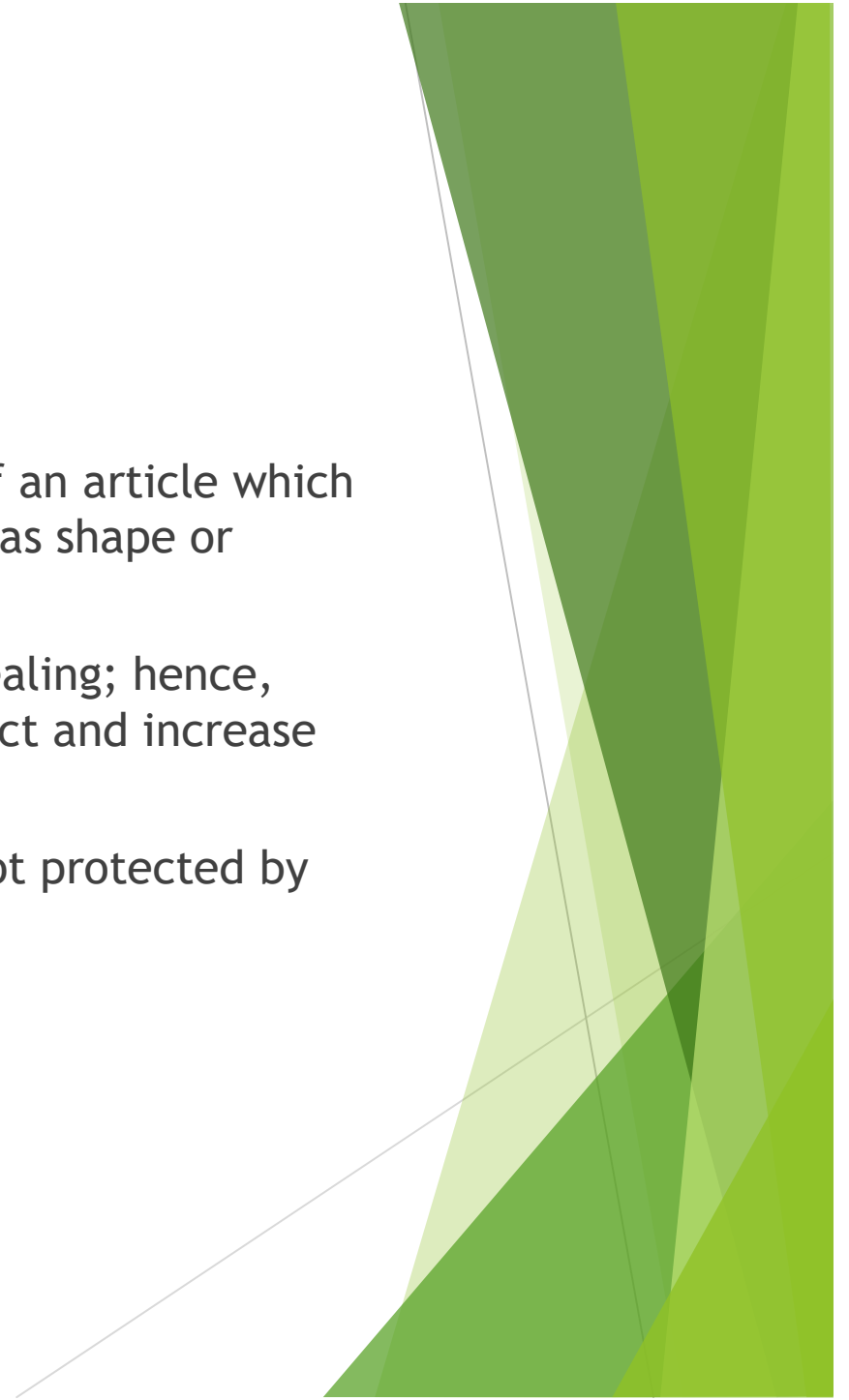
# PATENTABILITY CRITERIA





# Industrial Designs

- ▶ The ornamental or Aesthetic aspects of an article which may consist of 3D or 2D features, such as shape or surface, patterns, lines or color.
- ▶ It makes an article attractive and appealing; hence, they add to commercial value of product and increase its marketability.
- ▶ Any technical features of the article not protected by it.



# Continued.....

- ▶ Applicant can file a single international application either with WIPO or the national or the regional office of the country party of the treaty.
- ▶ The design should be new or original, not previously published or used on any country before Registration.
- ▶ Total term of a registered design is 10 years + 5 years Extended period.



# Copyright

- ▶ A right, which is available for creating an original literary or dramatic or musical or artistic work.
- ▶ It is governed by Copyright Act, 1957 and Copyright Rules, 2013.
- ▶ Registration can be done at the office of the Registrar of copyright in New Delhi.

# Continued...

- ▶ Protection of an Expression of an idea and not for the idea it self.
- ▶ The owner may assign to any person the copyright.
- ▶ The work is open for public inspection once the copyright is registered.
- ▶ A provision of 'fair Use' in the law, which allows copyrighted work to be use for teaching and research and development.

# What is covered by copyright?

**Literary**



**Films**



**Dramatic**



**Musical**



**Artistic**



**Sound Recording**



# INFRINGEMENT

- ▶ Any reproduction, use, distribution, performance, etc. of the work without the permission of the owner.
- ▶ An identical or substantial similar reproduction is also covered.
- ▶ Infringement- damages- Injunction.

# WIPO

- ▶ WIPO is the global forum for intellectual property (IP) services, policy, information and cooperation. They are self-funding agency of the United Nations, with 193 member states.
- ▶ Their mission is to lead the development of a balanced and effective international IP system that enables innovation and creativity for the benefit of all member states.
- ▶ The Madrid Protocol is a treaty providing for the international registration of trade marks. It is administered by the International Bureau (IB) of the World Intellectual Property Organization (WIPO) in Geneva.
- ▶ The Madrid System is a convenient and cost-effective solution for registering and managing trademarks worldwide. File a single application and pay one set of fees to apply for protection in up to 122 countries. Modify, renew or expand your global trademark portfolio through one centralized system.



# How the Madrid System Works

## The International Trademark Registration Process



# Professional Opportunities

- ▶ Brand Management.
- ▶ Professional Services in relation to IPR application Filing, Renewals.
- ▶ Brand Development.
- ▶ Start up in IPR.
- ▶ IPR Valuations. (South Korea's Lotte Confectionery to buy Havmor's ice cream business for Rs 1,020 crore)
- ▶ IPR Assignments.
- ▶ Assist in IPR Litigation Matters.
- ▶ Advice to client on IPR Matters.
- ▶ Rectification of Name of Company u/s 16 of Companies Act, 2013.
- ▶ GST and Brand Registration.
- ▶ Registered Trademark and Name approval at ROC.

# CASE STUDIES

- ▶ **M/s Bikanervala v. M/s Aggarwal Bikanerwala.**
- ▶ **Rasiklal Manickchand Dhariwal & V/s M/S M.S.S.Food Products.**
- ▶ **Rasna Hotel's Pvt. Ltd. V/S Rasna Industries Ltd.**
- ▶ **Shrinath Cargo Pvt Ltd. V/S ShrinathExpress Cargo Pvt. Ltd.**

# CONCLUSION

- ▶ Intellectual Property Rights rewards creativity and human Endeavour, which fuel the progress of human kind.
- ▶ Understanding the Country's IP rights and following the best practices can drastically reduce the risk of losing the company's intellectual property.
- ▶ Indian Government has initiated various steps towards Intellectual property rights Association.



THANK

YOU