# HIDAYATULLAH NATIONAL LAW UNIVERSITY, NAVA RAIPUR

## Intellectual Property Rights Specialization

## LL.M (Semester II)

## ( Jan-June 2025)

## Syllabus Index


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## HIDAYATULLAH NATIONAL LAW UNIVERSITY, NAVA RAIPUR

**LLM Batch of 2024-2025**

# [LAW RELATING TO GEOGRAPHICAL INDICATION AND PROTECTION OF PLANT VARIETIES & FARMERS' RIGHTS]

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| **Course Code** | LLM-IPR-201 | **Faculty** | Dr. Debmita Mondal |
| **Class Hours** | 60 hours | **Credits** | 6 |
| **Programme**<br><br>**(select one)** | LL.M. | **Year** | LL.M. |
| **Session Duration** | 55 Minutes | **Semester** | LL.M. IP Specialization |

### COURSE SUMMARY

*The law relating to geographical indication and farmers' rights deals with the legal structure that lays down the basic rules for trade in goods with GI protection. The course introduces geographical indications (GIs), explaining their basic features, use, and protection as intellectual property rights. The course focuses primarily on protecting GIs as an intellectual property right; it also addresses the economic and social dimensions of Geographical Indications and introduces a comparative look at GI law for a better perspective. For the same, the course will concentrate on relevant international conventions and national legislation on GIs.*

*Lastly, the course will provide insights into protecting Plant Varieties and Farmers' rights in India and internationally with the help of the UPOV Convention and Indian national legislation. It will highlight the recent case studies and challenges from India.*

### COURSE OBJECTIVES

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| CO 01 | To understand the conceptualization of geographical indication as IP right; |
| CO 02 | To learn about the concepts of and relating to geographical indications and similar terms; |
| CO 03 | To explore various international legal instruments for the protection of geographical indications. |
| CO 04 | To delve into the object, process, rules and challenges of protecting geographical indication in India. |
| CO 05 | To introduce the laws relating to plant variety and farmers' rights protection in India. |

### TEACHING PEDAGOGY

The course employs diverse teaching methods, including classroom lectures, PowerPoint presentations, case law studies, and short documentaries. It will foster critical thinking and understanding of the sui generis nature of law relating to geographical indications, the protection of plant varieties, and their interface with other legal domains.

Students are encouraged to actively engage in discussions, share opinions, and offer critical insights to enhance the teaching-learning process. Situational case law analysis will be encouraged to hone practical skills and promote a deeper grasp of legal concepts and their applications.

## COURSE PLAN

### MODULE I: INTRODUCTION OF GEOGRAPHICAL INDICATION [15 Sessions]

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| Unit I | Concept of GI and Different Terminologies Relating to GI |
| Unit II | Rationale of protection of GI- Whether GI is a private property? |
| Unit III | Various Forms of Protection for GI: |

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| | - Sui-Generis Legislations.<br>- Trademark Approach.<br>- Competition and Unfair Trade Policies. |
| Unit IV | Distinction of GI and Trademark:<br>- "First in time, first in right" Test.<br>- "Source distinctiveness" and "differential distinctiveness"<br>- "Geographically descriptive" as fair use defence in TM and its limitations.<br>- Comparative study of USA and EU framework. |

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| Landmark Case laws | 1. Panel Report, European Communities-Protection of Trademarks and Geographical Indications for Agricultural Products and Foodstuffs, WT/DS 174/R (Mar. 15, 2005).<br>2. American Waltham Watch Co. v. U.S. Watch Co., 53 N.E. 141 (1899).<br>3. The Kingdom of Denmark, Federal Republic of Germany & French Republic v. Comm'n, 1999 E.C.R. 1-1541.<br>4.Grupo Gigante S.A. de C.V. v. Dallo & Co., 391 F.3d 1088, 1093 (9th Cir. 2004).<br>5.Consorzio del Prosciutto di Parma v. Parma Sausage Products Inc., 23 U.S.P.Q.2d (BNA) 1894, 1992 WL 233379 (T.T.A.B. 1992).<br>6. Consorzio del Prosciutto di Parma v. Maple Leaf Meats Inc., (2002] F.C.A. 169.<br>7. Canal Co. v. Clark, 80 U.S. (13 Wall.) 311 (1871).<br>8. KP Permanent Make-Up, Inc. v. Lasting Impression 1, Inc., 543 U.S. 111 (2004).<br>9. Anheuser-Busch Inc. v. Budejovicky Budvar, Narodni Podnik, [2006] E.T.M.R. 77, 1089 (Swed.)<br>10. Vine Products, Ltd. v. Mackenzie & Co, Ltd. (No.3), [1967] F.S.R. 402, 423 (Ch.D.). |

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| | 11. A. Bailey & Co. Ltd. v. Clark, Son & Morland Ltd., (1938) 55 RPC 253. |

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| Relevant Laws / Statutes / International Treaties | 1. Council Regulation 2081/92 of 14 July 1992, on the protection of GIs and designations of origin for agricultural products and foodstuffs, 1992.<br><br>2. The Lanham Act, 15 U.S.C. (2000).<br><br>3. REGULATION (EU) No 1151/2012 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 21 November 2012 on quality schemes for agricultural products and foodstuff.<br><br>4. Regulation (EU) No. 664/2014 supplementing Regulation (EU) No. 1151/2012 of the European Parliament |

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| Essential Readings | 1.WIPO, explained: How to Protect Geographical Indications. https://youtu.be/CfI4oQu5PY0<br><br>2. DUTFIELD, GRAHAM. "GEOGRAPHICAL INDICATIONS AND THEIR FEASIBILITY." *INTELLECTUAL PROPERTY TOOLS FOR PRODUCTS BASED ON BIOCULTURAL HERITAGE: A Legal Review of Geographical Indications, Trademarks and Protection from Unfair Competition*, International Institute for Environment and Development, 2011, pp. 14–21. *JSTOR*, http://www.jstor.org/stable/resrep01380.7. Accessed 6 Dec. 2024.<br><br>3. Dev Gangjee, Quibbling Siblings: Conflicts between Trademarks and Geographical Indications, 82 Chi.-Kent L. Rev. 1253 (2007). Available at:<br><br>https://scholarship.kentlaw.iit.edu/cklawreview/vol82/iss3/6.<br><br>4. Robertson, Carol. "The Sparkling Wine War: Pitting Trademark Rights Against Geographic Indications." *Business Law Today*, vol. 18, no. 5, 2009, pp. 18–22. *JSTOR*, http://www.jstor.org/stable/23297184. |

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| Suggested Readings | 1. Shepherd, Ben. *Costs and Benefits of Protecting Geographical Indications: Some Lessons from the French Wine Sector*. European Centre for International Political Economy, 2006. *JSTOR*, http://www.jstor.org/stable/resrep00128. Accessed 6 Dec. 2024. |

**MODULE II: GLOBAL EFFORTS FOR PROTECTION OF GI [10 Sessions]**

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|---|---|
| Unit I | Paris Convention for Protection of Industrial Property, 1883. |
| Unit II | Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods, 1891. |
| Unit III | Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration, 1958 and the Geneva Act of 2015. |
| Unit IV | Agreement on Trade-Related Aspects of Intellectual Property<br>(TRIPs), 1995. |
| Unit V | Role of Free Trade Agreements in the Protection of GI.<br>- EU-India Free Trade Agreement, Investment Protection Agreement and Geographical Indications Agreement, 2022.<br>- 23/12/2020 – Regional Comprehensive Economic Partnership (RCEP)-FTA for ASEAN countries |

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| Landmark Case laws | 1. Black Hills Jewelery Mfg. Co. v. Gold Rush Inc. , 633 F2d 746 (8th Cir. 1980).<br>2. J. Bollinger v. Costa Brava Wine Co. Ltd. 1960 Ch 263 (1959). |

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| Relevant Laws / Statutes / International Treaties | 1. Paris Convention for the Protection of Industrial Property, 20 March 1883.<br>2. Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods,<br>1891.<br>3. Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994.<br>4. Lisbon Agreement for the Protection of Appellations of Origin and Their International Registration, October 31, 1958, as revised, July 14, 1967, 923 U.N.T.S. 205, www.wipo.int/treaties/en/text.jsp?file_id=285856/.<br>5. World Intellectual Prop. Org. [WIPO], Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications and Regulations under the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, WIPO Document LI/DC/19 (May |

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| | 20, 2015), [he www.wipo.int/meetings/en/details.jsp?meeting_id=35202. |

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| Essential Readings | 1. Echols, Marsha A. "Geographical Indications for Foods, Trips and the Doha Development Agenda." Journal of African Law, vol. 47, no. 2, 2003, pp. 199–220. JSTOR, http://www.jstor.org/stable/30038563. Accessed 6 Dec. 2024.<br><br>2. Awad, Bassem, and Marsha S. Cadogan. "The Development of Legal Protection for GIs around the World." *CETA and the Future of Geographical Indications Protection in Canada*, Centre for International Governance Innovation, 2017, pp. 4–7. *JSTOR*, http://www.jstor.org/stable/resrep15528.9.<br><br>3. Ahuja, V. K. "PROTECTION OF GEOGRAPHICAL INDICATIONS: NATIONAL AND INTERNATIONAL PERSPECTIVE." *Journal of the Indian Law Institute*, vol. 46, no. 2, 2004, pp. 269–87. *JSTOR*, http://www.jstor.org/stable/43951907. |

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| Suggested Readings | 1. Nieuwveld, Lisa Bench. "Is This Really About What We Call Our Food or Something Else? The WTO Food Name Case over the Protection of Geographical Indications." *The International Lawyer*, vol. 41, no. 3, 2007, pp. 891–922. *JSTOR*, http://www.jstor.org/stable/40708034. |

## MODULE III: PROTECTION FOR GEOGRAPHICAL INDICATIONS IN INDIA [15 Sessions]

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|---|---|
| Unit I | Terminological Understanding of basic concepts. |
| Unit II | Registration of GI, Duration of protection, Renewal, Restoration and Cancellation of GI. |
| Unit III | Rights conferred by registration and its assignment and licensing. |
| Unit IV | Conflict with prior mark. |
| Unit V | Infringement of GI and Remedies. |
| Unit VI | India's Experience with GI Protection: Challenges, Regulatory<br><br>Loopholes through Case Studies.<br><br>- One district One product Project |

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| | - Made in India Project<br>- Challenges of 'Vanity GI'<br>- Experiences with neighbouring States |

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| Landmark Case laws | 1. Subhash Jewellery, Represented by C.V. Dayanandan Sole Proprietor v. Payyannur Pavithra Ring Artisans and Development Society and OthersIntellectual Property Appellate Board IPAB OA/2/2010/GI/CH.<br><br>2. Dyer Meakin Breweries v. Scotch whisky Association AIR 1980 Del 125.<br><br>3. Khoday Distilleries Ltd v. Scotch Whisky Association and Anor AIR 1999 Mad 274.<br><br>4. Scotch Whisky Association v. Pravara Sahakar Karkhana Ltd, AIR 1992 Bom 294.<br><br>5. Scotch Whiskey Assn. v. Golden Bottling Ltd. (2006) 32 PTC 656.<br><br>6. Comite Interprofessional Du Vine De Champagne v. Chinar Agro Fruit Products, 2017 SCC Online Del 10704.<br><br>7. Tea Board India v. ITC Ltd. (2011) 48 PTC 169 (Cal.). |

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| Relevant Laws / Statutes / International Treaties | 1. The Geographical Indications of Goods (Registration and Protection) Act, 1999 No.48 of 1999. |

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| Essential Readings | 1.Pai Y, Singla T. 'Vanity GIs': India's Legislation on Geographical Indications and the Missing Regulatory Framework. In: Calboli I, Ng-Loy WL, eds. *Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific*. Cambridge University Press; 2017:333-358.<br><br>2. Soumya Vinayan, Geographical Indications in India: Issues and Challenges - An Overview, 20 J. WORLD INTELL. PROP. 119 (2017).<br><br>3. Gautami Govindrajan & Madhav Kapoor, Why the Protection of Geographical Indications in India Needs an Overhaul, 8 NLIU L. REV. 22 (2018).<br><br>4. Tania Singla, Post-Registration Quality Control Measures for Geographical Indications in India: The Way Forward, 7 INDIAN J. INTELL. |

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| | PROP. L. 103 (2014-2015).<br><br>5. Protection of Indian GI in foreign land: Case study Basmati, https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:52020XC0911(02)<br><br>6. Srivastava, Suresh C. "Geographical Indications and Legal Framework in India." *Economic and Political Weekly*, vol. 38, no. 38, 2003, pp. 4022–33. *JSTOR*, http://www.jstor.org/stable/4414050. |

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| Suggested Readings | 1. Srivastava, Suresh C.. "Geographical Indications under TRIPS Agreement and Legal Framework in India: Part II."JIPR, Vol 9, March (2004).<br><br>2. GI registration for 'Payyannur Pavithra' ring revoked https://www.thehindu.com/news/national/tamil-nadu/gi-registration-for-payyannur-pavithra-ring-revoked/article4106474.ece |

**MODULE IV: GEOGRAPHICAL INDICATIONS, TRADE AND DEVELOPMENT [10 Sessions]**

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| Unit I | GI: Old and New World. |
| Unit II | GI and Cross-border trade challenges. |
| Unit III | GI and local/ rural development. |
| Unit IV | GI and protection of cultural heritage & TK. |

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| Landmark Case laws | 1. Comité Interprofessionnel des Vins des Côtes de Provence v. Stuart Alexander Bryce ('La Provence') (1996) 35 IPR 170.<br><br>2. Comité Interprofessionnel Di Vin De Champagne & Anor v N.L. Burton Pty Ltd - [1982] FCA 124.<br><br>3. Institut National Des Appellations v. Brown-Forman Corp, 47 USPQ2d 1875, 1884(TTAB 199).<br><br>4. |

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| Relevant Laws / Statutes / | 1. The Geographical Indications of Goods (Registration and Protection) Act, |

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| International Treaties | 1999 No.48 of 1999. |

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| Essential Readings | 1.Calboli, I., & Ng-Loy, W. (Eds.). (2017). Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific. Cambridge: Cambridge University Press. doi:10.1017/9781316711002.<br><br>https://www.cambridge.org/core/books/geographical-indications-at-the-crossroads-of-trade-development-and-culture/3E2DD2994578FC243041D3EEFFEC39B3.<br><br>2. Pradyot Ranjan Jena et al., Geographical Indication Protection and Rural Livelihoods: Insights from India and Thailand, 29 Asian-Pac. Econ. Literature 174 (2015).<br><br>3..GIs for Food Stuffs: IP or RecIPe? https://spicyip.com/2018/04/gis-for-food-stuffs-ip-or-recipe.html.<br><br>4. Parasecoli, Fabio, and Aya Tasaki. "Shared Meals and Food Fights: Geographical Indications, Rural Development, and the Environment." *Environment & Society Environment & Society*, vol. 2, 2011, pp. 106–23. *JSTOR*, http://www.jstor.org/stable/43296989. |

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| Suggested Readings | 1. Wood, Harold A. "Toward a Geographical Concept of Development." *Geographical Review*, vol. 67, no. 4, 1977, pp. 462–68. *JSTOR*, https://doi.org/10.2307/213628. |

## MODULE V: PROTECTION OF PLANT VARIETY AND FARMERS' RIGHTS [10 Sessions]

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| Unit I | Concept of Plant Breeding and need for protection |
| Unit II | Patent v. Plant Variety Protection (PVP) as IPs<br><br>- Conflicts and Coexistence. |
| Unit III | International Legal Framework on PVP<br><br>- UPOV Convention.<br><br>- PGFRA Treaty. |

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| Unit IV | Overview of PVP and FR Act in India.<br>- Types of Varieties protected<br>- Conditions for protection<br>- Registration Procedure and Rights for breeders<br>- Farmers' Rights and Research Exemption.<br>- Concepts of Gene Funding, Benefit Sharing and<br>Compulsory License<br>- Infringement and Remedies. |
| Unit V | Relationship between the Doha Declaration on TRIPS Agreement<br>and the UN Convention on Biological Diversity (CBD). |

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| Landmark Case laws | 1. Yoder Bros. Inc. v. California-Florida Plant Corporation, 537 Fd 1347: 193 USPQ 264.<br>2.Astee Flowers B. V. v. Danziger Flower farm, UPOV Gazette No. 99 (2005).<br>3. Zee Sweet (Pty.) Ltd. V. Magnom Orchards (Pty.) Ltd. 2—3 VSC 486.<br>4. Buchanan Turf Supplies Pty. Ltd. V. Premier Turf Supplies Pty. Ltd. 2003 FCA 230.<br>5. Cultivaust Pty. Ltd. V. Grain Pool Pty. Ltd. 2005 FACFC 223.<br>6. Hoffman v. Monsanto Canada Inc. 2005 SKQB 225.<br>7. Maharashtra Hybrid Seeds Co. Ltd. V. UOI 2013 SCC Online Del 1201.<br>8. Emergent Genetics India (p) Ltd. V. Shailendra Shivam (2011) 125 DRJ 173. |

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| Relevant Laws / Statutes / International Treaties | 1. The Union for the Protection of New Varieties of Plants (UPOV), 1961, 1991.<br>2. The International Treaty on Plant Genetic Resources for Food and Agriculture, 1983. |

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|---|---|
| | 3. The Protection of Plant Varieties and Farmers Rights Act, 2001.<br><br>4. UN Convention on Biological Diversity (CBD). |

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| Essential Readings | 1.Prashant Reddy Thikkavarapu, The Overlap between the Patents Acts and the Plant Variety Protection & Farmers' Rights Act in India: A Seed of Doubt, 21 J. WORLD INTELL. PROP. 243 (2018).<br><br>2. Rohit Mooka & Silky Mukherjee, TRIPS Flexibilites and India & Plant Variety Projection Regime: The Way Forward, 5 BRICS L.J. 117 (2018).<br><br>3. N. S. Gopalakrishnan, An Effective Sui Generis Law to Protect Plant Varieties and Farmers & Rights in India: a Critique, 4 J. WORLD INTELL. PROP. 157 (2001).<br><br>4. Shiva, Vandana. "Biodiversity Totalitarianism: IPRs as Seed Monopolies." *Economic and Political Weekly*, vol. 32, no. 41, 1997, pp. 2582–85. *JSTOR*, http://www.jstor.org/stable/4405943. |

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| Suggested Readings | 1. Seshia, Shaila. "Plant Variety Protection and Farmers' Rights: Law-Making and Cultivation of Varietal Control." *Economic and Political Weekly*, vol. 37, no. 27, 2002, pp. 2741–47. *JSTOR*, http://www.jstor.org/stable/4412328.<br><br>2. Brahmi, Pratibha, et al. "The Protection of Plant Varieties and Farmers' Rights Act of India." Current Science, vol. 86, no. 3, 2004, pp. 392–98. JSTOR, http://www.jstor.org/stable/24108733. |

## READING LIST

- **Essential Reading List**
  1. Elizabeth Verkey & Jithin Saji Isaac, Intellectual Property (2nd Edition, 2021)EBC.
  2. Calboli, I., & Ng-Loy, W. (Eds.). (2017). Geographical Indications at the Crossroads of Trade, Development, and Culture: Focus on Asia-Pacific. Cambridge: Cambridge University Press. doi:10.1017/9781316711002.

https://www.cambridge.org/core/books/geographical-indications-at-the-crossroads-of-trade-development-and-culture/3E2DD2994578FC243041D3EEFFEC39B3.

- **Suggested Reading List**
    1. Nidhi Busch and Hetvi Trivesi, Geographical Indications of India Handlooms, Between Legal Right and Real Right, Routledge (2022).
    2. The Protection of Geographical Indications in India A News Perspective on French and European Experiences, Sage Law (2015).

Note: The topics, legislations and cases mentioned are not exhaustive. The instructor of the course shall be at liberty to add new topics/legislations/cases.

# HIDAYATULLAH NATIONAL LAW UNIVERSITY, NAVA RAIPUR

**LL.M. (SPECIALIZATION- IPR) (SESSION: JAN-JUNE 2025)**

## [IPR ISSUES IN CYBERSPACE AND THE INFORMATION TECHNOLOGY ACT]

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|---|---|---|---|
| **Course Code** | LLM-IPR-202 | **Faculty** | Dr. Atul Jaybhaye |
| **Class Hours** | 60 hours | **Credits** | 4 |
| **Programme** | LL.M. | **Year** | I Year |
| **Session Duration** | 55 Minutes | **Semester** | II Semester |

### COURSE SUMMARY

The interaction between **Intellectual Property Rights (IPR)** and the **internet** is a dynamic and evolving relationship that has reshaped the way intellectual property is created, shared, protected, and infringed. The internet has provided unprecedented opportunities for innovation, creativity, and global reach while posing significant challenges to the enforcement and regulation of IPR.

This course explores the intersection of **Intellectual Property Rights (IPR)** and cyberspace, focusing on how emerging technologies and the digital environment challenge traditional legal frameworks. It provides an in-depth analysis of the **Information Technology Act, 2000**, which governs the legal aspects of digital transactions and online interactions. Key topics include **Jurisdiction in Cyberspace**, addressing issues related to cross-border disputes, enforcement, and applicability of laws in the virtual world. The course examines **Trademark Issues in Cyberspace**, such as domain name disputes, cybersquatting, and the misuse of trademarks in online platforms. It also covers **Internet Patents**, discussing the challenges of patenting software, algorithms, and internet-based innovations.

The issue of **Copyright Piracy in the Digital Age** is explored, focusing on unauthorized reproduction, distribution, and access to copyrighted content on digital platforms. Through case studies, students will analyze real-world scenarios to understand the application of laws and emerging trends in cyberspace. This course equips students with the knowledge to address IPR challenges in the digital era and fosters a critical understanding of the evolving legal landscape in technology and intellectual property.

## COURSE OBJECTIVES

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| **CO 01** | To understand the emergence of the Internet and its influence on traditional concepts of jurisdiction, crime, and laws. |
| **CO 02** | To study the different prevalent laws governing cybercrimes and cyber wrongs in digital age. |
| **CO 03** | To examine the conventional and emerging challenges posed to trademark law by technology and cyberspace. |
| **CO 04** | To analyse the exclusive rights under Copyright Law and its Challenges/ limitations in Digital Space. |
| **CO 05** | To recognize the role of patents in supporting technology facilitating internet or digital activities. |

## TEACHING PEDAGOGY

The course employs diverse teaching methods, including classroom lectures, PowerPoint presentations, case law studies, tutorials, and short documentaries, with continuous evaluation. Emphasis is placed on fostering critical thinking and understanding the interplay of IPR Issues in cyberspace with other legal domains. Students are encouraged to actively engage in discussions, share opinions, and offer critical insights to enhance the teaching-learning process. Practical skills are honed through situational case law analysis, promoting a deeper grasp of legal concepts and their applications.

# COURSE PLAN

### MODULE I: [INTRODUCTION] [10 Sessions]

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| Unit I | History and Evolution of the Internet |
| Unit II | Definition and Characteristics of Cyberspace |
| Unit III | Types of Computer Networks |
| Unit IV | Interaction between IPR and Internet |
| Unit V | Cyber security and its principles |

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| Relevant Laws | Information Technology Act, 2000, UNICITRAL model law on e-commerce |

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| Essential Readings | • Dr. Lulin Gao, *Intellectual Property Rights in the Internet Era: the New Frontier*, 5 J. MARSHALL REV. INTELL. PROP. L. 589 (2006). https://repository.law.uic.edu/cgi/viewcontent.cgi?article=1105&context=ripl<br>• Montagnani, Maria Lillà, *'The Interface Between Intellectual Property and Information Technology Law'*, in Irene Calboli, and Maria Lillà |

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| | Montagnani (eds), *Handbook of Intellectual Property Research: Lenses, Methods, and Perspectives* (Oxford, 2021; online edn, Oxford Academic, 23 Sept. 2021), https://doi.org/10.1093/oso/9780198826743.003.0011 |

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| Suggested Readings | • Naughton, J. (2016). The evolution of the Internet: from military experiment to General Purpose Technology. *Journal of Cyber Policy*, *1*(1), 5–28. https://doi.org/10.1080/23738871.2016.1157619 |

## MODULE II: CHALLENGES OF JURISDICTION IN CYBERSPACE [10 Sessions]

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| Unit I | Concept of Jurisdiction and its types |
| Unit II | Issues of jurisdiction in cyberspace |
| Unit III | The Test evolved<br>a) Minimum Contacts Theory<br>b) Sliding Scale Theory<br>c) Effects Test and International targeting |
| Unit IV | Jurisdiction under IT Act, 2000 |

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| Landmark Case laws | a) *International Shoe Co. v. Washington*, 326 U.S. 310 (1945).<br>b) *Calder v. Jones*, 465 U.S. 783 (1984)<br>c) *Zippo Manufacturing Co. v. Zippo Dot Com, Inc.,* 952 F. Supp. 1119<br>d) *Casio India Co. Limited v. Ashita Tele Systems pvt. Ltd.* 2003 (27) PTC 265 (Del)<br>e) *Banyan Tree Holding (P) Limited v. A. Murali Krishna Reddy and Anr.* CS (OS) No. 894/2008 |

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| Relevant Law | Information Technology Act, 2000 |

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| Essential Readings | • Justice S. Muralidhar, Jurisdictional Issues in Cyberspace, *The Indian Journal of Law and Technology* Volume 6, 2010. https://www.lkouniv.ac.in/site/writereaddata/siteContent/20200413150518205 0sanjana_mittal_law_JURISDICTIONAl_ISSUES_IN_CYBERSPACE.pdf |

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| Suggested Readings | • Natalia, Semenova, Jurisdiction in Cyberspace (April 5, 2021). Available atSSRN: https://ssrn.com/abstract=3912006 or http://dx.doi.org/10.2139/ssrn.3912006 |

## MODULE III: OVERVIEW OF THE INFORMATION TECHNOLOGY ACT, 2000 [10 Sessions]

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| Unit I | Object, scope, and applicability of the Act |
| Unit II | Use of Digital Signature |
| Unit III | E-commerce and E-governance |
| Unit IV | Cyber Contraventions |
| Unit V | Cyber Crimes against Individuals, Government and Property |
| Unit VI | Right to privacy vis a vis Right of Interception |
| Unit VII | Recent trends in cybercrimes and cases |
| Unit VIII | Appropriate bodies for redressing civil and criminal offence |

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| Landmark Case laws | a) *Shreya Singhal v. UOI* (2013) 12 SCC 73<br>b) *State of Tamil Nadu v. Suhas Katti* CC No. 4680 of 2004<br>c) *Avnish Bajaj v. State (NCT) of Delhi* (2008) 150 DLT 769<br>d) *Syed Asifuddin and Ors. v. State of Andhra Pradesh and Anr* 2005 CriLJ |

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| Relevant Laws | Information Technology Act, 2000, Digital Personal Data Protection Act, 2023 |

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| Essential Readings | • Singh, Yatindra. "Cyber Laws." *Journal of the Indian Law Institute*, vol. 44, no. 2, Indian Law Institute, 2002, pp. 190–204, http://www.jstor.org/stable/43951808. |

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| Suggested Readings | • Kolekar, Yogesh, A Review of Information Technology Act, 2000 (May 28, 2015). Available at SSRN: https://ssrn.com/abstract=2611827 or http://dx.doi.org/10.2139/ssrn.2611827 |

## MODULE IV UNDERSTANDING TRADEMARKS IN CYBERSPACE [10 Sessions]

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| Unit I | Concept of domain name and its types |
| Unit II | Domain names and related disputes |
| Unit III | Sale of Counterfeit and Grey market Goods through cyberspace |
| Unit IV | E-commerce and Trademark infringement |
| Unit V | Google Adwords and Trademark Infringement |
| Unit VI | Linking, Framing, Meta tagging and related Trademark Implications |
| Unit VII | Role of ICAAN and UDRP/ INDRP |

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|---|---|
| Landmark Case laws | a) *Yahoo!, Inc. v. Akash Arora & Anr.*, 78 (1999) DLT 285<br>b) *Satyam Infoway Ltd v. Siffynet Solutions Pvt. Ltd* Appeal (civil) 3028 of 2004<br>c) *Tata Sons vs. Arno Palmon and Othrs.* AIR 2013 (NOC) 232 (DEL.)<br>*d) Rediff communications vs. Cyber tooth AIR 2000 BOMBAY 27* |

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| Relevant Law | The Trademark Act, 1999, Uniform Domain Name Dispute Resolution |

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| | Policy |

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| Essential Readings | • Dr. Atul Jaybhaye, Cyber Law and IPR Issues: The Indian Perspective, *Bharati Law Review*, 2016, pp.166-179, http://docs.manupatra.in/newsline/articles/Upload/19A86CE4-2FBD-432B-B166-AFBA9087A834.pdf |

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|---|---|
| Suggested Readings | • Ahmad, Tabrez, Issues of Trademark Infringement in E-Commerce: A Comparative Study of India, China and USA (June 7, 2016). IIPLA 2nd Global IP Summit London, UK, 2016" June 6th & 7th, 2016 at Law Society of England & Wales, London, UK., Available at SSRN: https://ssrn.com/abstract=3177389 |

## MODULE V COPYRIGHT IN THE DIGITAL AGE [10 Sessions]

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|---|---|
| Unit I | Concept of Digital Copyright |
| Unit II | Challenge to Distribution and Reproduction Rights in Cyberspace<br>a) Digital Piracy of Software, Films, Books, and other copyrighted material<br>b) Search Engines and Copyright Challenges in Cyberspace<br>c) Social media and Copyright infringement |
| Unit III | Digital Rights Management and the role of Blockchain and Smart contracts |
| Unit IV | DMCA and Indian developments |

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| Landmark Case laws | *a) My Space Inc. v. Super Cassettes Industries Ltd., FAO(OS) 540/2011*<br>*b) Eastern Book Company & Ors v. D.B. Modak & Anr, Appeal (civil) 6472 of 2004*<br>*c) A&M Records, Inc. v. Napster, Inc., 239 F.3d 1004* |

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|---|---|
| Relevant Law | The Copyright Act, 1957, The Digital Millennium Copyright Act (DMCA), 1998 |

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| Essential Readings | • Asim Vehbi, Core Issues of Copyright Law in the Digital Environment: The Promise of Blockchain, *International Journal of Applied Engineering Research* ISSN 0973-4562 Volume 13, Number 20 (2018) pp. 14510-14516. https://www.ripublication.com/ijaer18/ijaerv13n20_07.pdf<br>• Dr. Atul Jaybhaye and Ms. Barkha Dodai, Copyright Piracy in the Digital Age with Special Reference to Napster's Case, *International Journal of Law Management and Humanities*, Volume 4, Issue 5, Page 2137 – 2148, https://www.ijlmh.com/paper/copyright-piracy-in-the-digital-age-with-special-reference-to-napsters-case/ |

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|---|---|
| Suggested Readings | • Tripti Bhushan, "*Software Piracy and Online Data Protection in a Digital World*" International Journal of Mechanical Engineering, Vol. 7 No. 2 February, 2022, https://pure.jgu.edu.in/id/eprint/4494/1/Software%20Piracy%20and%20Online%20Data%20Protection%20in%20a.pdf |

## MODULE VI INTERNET PATENTS [10 Sessions]

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|---|---|
| Unit I | Concept of Internet Patents |
| Unit II | Patenting technology facilitating online transactions |
| Unit III | Business Method Patents & Legal Requirements |
| Unit IV | Misuse and Monopoly of Patents in Cyberspace |

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|---|---|
| Landmark Case laws | a) *Apple Inc. v. Samsung Electronic Co., Ltd., 137 S. Ct. 429;*<br>b) *Alice Corp. v. CLS Bank International 573 U.S. 208 (2014)*<br>c) *Diamond v. Diehr, 450 U.S. 175 (1981)*<br>d) *State Street Bank & Trust Co. v. Signature Financial Group, Inc., (US Court of Appeals for the Federal Circuit 1998)* |

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|---|---|
| Relevant Law | The Patent Act, 1970 |

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| Essential Readings | • Eugene R. Quinn, Jr., Abusing Intellectual Property Rights in Cyberspace: Patent Misuse Revisited, *William Mitchell Law Review*, Vol. 28:3 https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1691&context=wmlr |

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| Suggested Readings | • Subhasis Saha, *Patenting of Internet and e-commerce : An International view*, Journal of IPR, Vol.14, 2009 https://nopr.niscpr.res.in/bitstream/123456789/3391/1/JIPR%2014(2)%20131-141.pdf |

## READING LIST

### Essential Reading List


1. Dr. Karnika Seth, *Cyber Laws in the Information Technology Age*, Lexis Nexis, 1st Ed.
2. Dr. Karnika Seth, *Computers, Internet and New Technology Laws*, Lexis Nexis, 3rd Ed.
3. Nandan Kamath, *Law relating to Computers, Internet and E-commerce*, Universal Law Publication Co., 5th Ed.
4. Elizabeth Verky and Jitihin Saji Issac, *Intellectual Property Law*, EBC, 2nd Ed.


### Suggested Reading List

1. G. Peter Albert, *Intellectual Property Law in Cybers*pace, Bloomberg BNA; 2nd Ed.
2. Dr. Pavan Duggal, *Exploring Intellectual Property Rights in Cyberspace,* Saakshar Law Publications, (Kindle Edition).
3. Dr. Manoj Kumar Sinha and Vandana Mahalwar, *Copyright Law in the Digital World: Challenges and Opportunities,* Springer; 1st ed. 2017.

**Note:** The topics, legislations and cases mentioned are not exhaustive. The instructor of the course shall be at liberty to add new topics/legislations/cases.

**HIDAYATULLAH NATIONAL LAW UNIVERSITY, NAVA RAIPUR**

**LL.M. – Batch of 2024-25**

**LAW OF PATENTS**

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|---|---|---|---|
| **Course Code** | LLM-IPR-203 | **Faculty** | Dr. Ankit Singh |
| **Class Hours** | 60 hours | **Credits** | 4 |
| **Programme (select one)** | LL.M. | **Year** | 1st |
| **Session Duration** | 55 Minutes | **Semester** | II |

## COURSE SUMMARY

A Patent is a monopoly provided by the sovereign for a limited period. A Patent aims to protect and promote innovation in various scientific fields. As part of legal process, a patent application needs to undergo a rigorous examination process before it is granted to the inventor/applicant. Patents are statutorily designed real life legal instruments aimed at protecting inventions. It acts as economic incentives to inventors who put in intellectual labor to develop new and useful inventions and foster research and development by providing limited term exclusivity to patentees to commercially make use of the inventions they own. Patents are granted by national governments in consideration for disclosing to the public the scientific and technological information subsisting in the inventions by the inventors/or the subsequent owners of the inventions for a limited period. Hence, they are enforceable only within the territorial limits of the nation granting it.

Generally, novelty, non-obviousness and industrial application are the three key conditions to be considered before a patent is granted. Though all jurisdictions across the world seek these conditions, the degree of each of these conditions varies with jurisdictions. This has led to a situation where some inventions are patentable in some jurisdictions and not in others. The rapid developments of technology leading to a boom in bio technology, nano-technology and pharmaceutical industry have also created much flux in the standard of conditions for patent. This program is structured to give a profound insight into the conditions of patenting and how it has responded to technological advancements.

## COURSE OBJECTIVES

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| **CO 01** | Providing an understanding of the concept of patent law, historical development, and justification of patent as an intellectual property. |
| **CO 02** | Developing skills of analyzing various concepts and principles relating to patents. |

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| **CO 03** | Improving the learners' level of comprehension and interest in engaging with patent paw and debating the same from the viewpoint of personal rights as well as sovereign requirements. |
| **CO 04** | Providing a comprehensive understanding of patent law and procedures in diverse IP conventions. |

## TEACHING PEDAGOGY

The course adopts an interdisciplinary approach, integrating lectures, case study analysis, and group discussions to explore key legal principles and emerging trends in patent law. Practical exercises such as drafting patent claims and analyzing judgments, will be incorporated to enhance analytical skills. Learners will engage in research-based assignments and presentations to foster critical thinking and a deeper understanding of complex patent issues.

## COURSE PLAN

### MODULE I: INTRODUCTION [No. of Sessions – 08 Sessions]

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| Unit I | Origin of Patent: History, Nature and Scope |
| Unit II | Evolution of Indian Patent Law |
| Unit III | Rationale behind Patenting |
| Unit IV | International Instruments related to Patents |

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| Landmark Case laws | *Darcy v. Allen, (1602) is 74 ER 1131*<br>*Bishwanath Prasad Radhe Shyam v. Hindustan Metal Industries*, (1979) 2 SCC 511 |

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| Relevant Laws / Statutes / International Treaties | • Patents Act, 1970<br>• Paris Convention, 1883<br>• Patent Cooperation Treaty, 1970<br>• Budapest Treaty, 1977<br>• Patent Law Treaty, 2000 |

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| Essential Readings | • *Intellectual Property: Patents, Copyright, Trademarks and allied rights*; Cornish, W.R.; Universal Law Publishing<br>• *Law relating to patents, trademarks, copyright designs, geographical indications*, Wadehra, B.L.; Universal Law Publishing<br>• *Patent law (along with supplement)*, Narayanan, P.; Eastern Law House |

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| Suggested | • https://articles.manupatra.com/article-details/PATENT-LAWS-AND- |

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| Readings | THEIR-SERVICE-FOR-IP-RIGHTS |

## MODULE II: THE CONCEPT OF PATENTABILITY [No. of Sessions – 12 Sessions]

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| Unit I | Patentable Subject-Matter (NUNS Test) – Evergreening of Patents |
| Unit II | Novelty (Prior Art, State of the Art, New Manufacture) |
| Unit III | Non-Obviousness and Inventive Step (Hotchkiss Requirement, Graham Test, TSM Principle, Commercial Success) |
| Unit IV | Industrial Application |

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| Landmark Case laws | • *Novartis AG v. Union of India, (2013) 6 SCC 1*<br>• *L.C. Jariwala v. Samaldas Sankalchand Shah*, AIR 1934 Bom 407<br>• *Ram Narain Kher v. Ambassador Industries New Delhi*, AIR 1976 Delhi 87<br>• *Bristol-Myers Squibb Co. v. Ben Venue Laboratories Inc., 90 F. Supp. 2d 522 (D.N.J. 2000)*<br>• *Smith v. Snow, 294 U.S. 1 (1935)*<br>• *Lallubhai Chakubhai Jariwala v. Chimanlal & Co, AIR 1936 BOMBAY 99*<br>• *Philips Electronic and Pharmaceutical Industries Corporation v. Thermal and Electronics Industries Inc., 311 F.Supp. 17*<br>• *Novartis AG v. Johnson and Johnson Medical Ltd, [2009] EWHC 2029 (Pat).*<br>• *F. Hoffman-La Roche Ltd. v. Cipla Limited, 148 (2008) DLT 598*<br>•<br>• *CTR Manufacturing Industries Limited v. Sergi Transformer Explosion Prevention Technologies Pvt. Ltd.*, 2016 (65) PTC 262 (Bom)<br>• *Graham v. John Deere Co. of Kansas City, 383 U.S. 1 (1966)*<br>• *Pozzoli v. BDMO, (2007). EWCA Civ 588*<br>• *Hotchkiss v. Greenwood, 52 U.S. 248, 267 (1850)*<br>• *KSR International Co. v. Teleflex, 167 L. Ed. 2d 705; 2007 U.S. LEXIS 4745*<br>• *Wellcome Foundation Ltd. v. V.R. Laboratories (Aust) Pty. Ltd., [1981] HCA 12*<br>• *Parks-Cramer Co. v. G.W. Thornton and Sons Ltd., 1968] UKHL J0508-3. Date, 08 May 1968*<br>• *General Electric Co. v. Jewel Incandescent Lamp Co., 326 U.S. 242 (1945)*<br>• *Indian Vacuum Brake Co. Ltd. v. E.S. Luard, AIR 1926 CALCUTTA 152*<br>• *Young and Neilson v. Rosenthal & Co., (1884) 1 Pat. C* |

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| Relevant Laws / Statutes / International Treaties | • 35 U.S. Code § 101<br>• European Patent Convention<br>• Patents Act, 1970<br>• TRIPS |

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| Essential Readings | • *Intellectual Property: Patents, Copyright, Trademarks and allied rights*; Cornish, W.R.; Universal Law Publishing<br>• *Law relating to patents, trademarks, copyright designs, geographical indications*, Wadehra, B.L.; Universal Law Publishing<br>• *Patent law (along with supplement)*, Narayanan, P.; Eastern Law House |

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| Suggested Readings | • https://patentattorneyworldwide.com/in/what-inventions-are-patentable-in-india/<br>• https://www.mondaq.com/india/patent/526406/what-can-be-patented-in-india |

**MODULE III: PROCEDURE OF OBTAINING PATENT [No. of Sessions – 12 Sessions]**

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| Unit I | Patent Search |
| Unit II | Filing of a Patent Application/PCT Application (Provisional and Complete Specifications – Contents) |
| Unit III | Examination of Application |
| Unit IV | Patent Opposition and Grant of Patent |

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| Landmark Case laws | • *CTR Manufacturing Industries Limited v. Sergi Transformer Explosion Prevention Technologies Pvt. Ltd.,* 2016 (65) PTC 262 (Bom)<br>• *Graham v. John Deere Co. of Kansas City, 383 U.S. 1 (1966)*<br>• *F. Hoffman-La Roche Ltd. v. Cipla Limited, 148 (2008) DLT 598* |

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| Relevant Laws / Statutes / International Treaties | • Patents Act, 1970<br>• Patent Cooperation Treaty, 1970 |

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| Essential Readings | • *Law relating to patents, trademarks, copyright designs, geographical indications*, Wadehra, B.L.; Universal Law Publishing |

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| Suggested Readings | • https://www.setindiabiz.com/blog/step-by-step-procedure-for-patent-registration-in-india |

**MODULE IV: RIGHTS OF PATENTEE [No. of Sessions – 10 Sessions]**

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|---|---|
| Unit I | Rights of a Patent Holder |
| Unit II | Use of Patent and Exemptions/Exceptions |
| Unit III | Patents of Addition |
| Unit IV | Surrender and Revocation of a Patent |
| Unit V | Patent Register – Registration of Assignments, Transmissions, etc. |
| Unit VI | Controller of Patents |

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| Landmark Case laws | • *CTR Manufacturing Industries Limited v. Sergi Transformer Explosion Prevention Technologies Pvt. Ltd.,* 2016 (65) PTC 262 (Bom)<br>• *Graham v. John Deere Co. of Kansas City, 383 U.S. 1 (1966)*<br>• *F. Hoffman-La Roche Ltd. v. Cipla Limited, 148 (2008) DLT 598* |

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| Relevant Laws / Statutes / International Treaties | Sections 47-56, Patents Act, 1970 |

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|---|---|
| Essential Readings | • *Law relating to patents, trademarks, copyright designs, geographical indications*, Wadehra, B.L.; Universal Law Publishing<br>• *Law relating to Intellectual Property*, Ahuja, V.K., Lexis Nexis |

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| Suggested Readings | • https://www.lawyersclubindia.com/articles/revocation-and-surrender-of-patents-under-the-patents-act-15898.asp |

**MODULE V: PATENT LICENSING [No. of Sessions – 10 Sessions]**

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|---|---|
| Unit I | Principle of Working of Patents |
| Unit II | Voluntary Licensing and Exclusive Licensing |
| Unit III | Compulsory Licensing (CL): Grounds, Conditions and Limitations |
| Unit IV | Patent Acquisition by Government and Bolar Provisions in the Patents Act, 1970 |
| Unit V | Cross-Licensing and Transfer of Technology |
| Unit VI | SEPs and FRAND Licensing |

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| Landmark Case laws | • *Bayer Corporation v. Natco Pharma Ltd.,* 2014(60) PTC 277 (BOM)<br>• *Lee Pharma v. AstraZeneca, MANU/DE/1756/2009*<br>• *BDR Pharmaceuticals v. Bristol-Myers Squibb, C.A.(COMM.IPD-PAT) 460/2022* |

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|---|---|
| Relevant Laws / Statutes / International Treaties | • Section 83-90, Patents Act, 1970<br>• Art. 31, TRIPS |

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| Essential Readings | • *Intellectual Property: Patents, Copyright, Trademarks and allied rights*; Cornish, W.R.; Universal Law Publishing<br>• *Intellectual Property,* Verkey, Elizabeth and Isaac, Jithin Saji*, EBC* |

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| Suggested Readings | • https://articles.manupatra.com/article-details/Compulsory-License-The-Exception-to-the-Patent-Rights<br>• *Compulsory Licensing in India and changes brought to it by the TRIPS Agreement*, Hana Onderkova, Head of IP - European Business & Technology Centre (published in 2021), available at https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/compulsory-licensing-india-and-changes-brought-it-trips-agreement-2021-10-12_en |

**MODULE VI: INFRINGEMENT AND REMEDIES [No. of Sessions – 08 Sessions]**

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| Unit I | Infringement of Patent Rights |
| Unit II | Jurisdiction and Burden of Proof in an Infringement Suit |
| Unit III | Reliefs in an Infringement Suit – Right of Exclusive Licensee & CL Holder |
| Unit IV | Defence to Infringement Suit: Bolar Provisions in the Patents Act, 1970 |

| Unit V | Penalties |
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| Landmark Case laws | • *Hindusthan Lever Limited v. Godrej Soaps Limited and others*<br>• *F. Hoffmann-La Roche Ltd. and Anr. v. Cipla Limited*<br>• *Shilpa Medicare Limited v. Bristol-Myers Squibb Company*<br>• *Novartis AG & Anr. vs Cipla Ltd.* |
|---|---|

| Relevant Laws / Statutes / International Treaties | • Patents Act, 1970<br>• Code of Civil Procedure, 1908 |
|---|---|

| Essential Readings | • *Intellectual Property: Patents, Copyright, Trademarks and allied rights*; Cornish, W.R.; Universal Law Publishing<br>• *Intellectual Property,* Verkey, Elizabeth and Isaac, Jithin Saji*, EBC* |
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| Suggested Readings | • https://depenning.com/blog/patent-infringement-in-india-recent-case-studies-and-legal-updates/<br>• *Bolar Provision in India*, RK Dewan & Co. (published in 2022), available at https://www.lexology.com/library/detail.aspx?g=2030e864-e0d0-4033-b7c7-aedfefbf755b |
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**READING LIST**

### Essential Reading List

- *Intellectual Property: Patents, Copyright, Trademarks and allied rights*; Cornish, W.R.; Universal Law Publishing
- *Law relating to patents, trademarks, copyright designs, geographical indications*, Wadehra, B.L.; Universal Law Publishing
- *Patent law (along with supplement)*, Narayanan, P.; Eastern Law House

### Suggested Reading List

- *Patents for future: future for mankind future for inventor & owner future for science & technology*, Zaveri, N.B., Vakils, Feffer & Simons
- *Licensing: the international sale of patents and technical knowhow*, Brooke, Michael Z., Gower Publishing
- *Patent law essentials: a concise guide*, Durham, Alan L, Quorum Books
- *Bolar Provision in India*, RK Dewan & Co. (published in 2022), available at https://www.lexology.com/library/detail.aspx?g=2030e864-e0d0-4033-b7c7-aedfefbf755b
- *Non Patentable Inventions Under The Indian Patent Act*, De Penning & De Penning (published in 2023), available at https://www.mondaq.com/india/patent/1403916/non-patentable-inventions-under-the-indian-patent-act
- *Compulsory Licensing in India and changes brought to it by the TRIPS Agreement*, Hana Onderkova, Head of IP - European Business & Technology Centre (published in 2021), available at

https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/compulsory-licensing-india-and-changes-brought-it-trips-agreement-2021-10-12_en

- *Cross-Licensing Of Patents*, SaiSruthi B. (Khurana and Khurana, published in 2018), available at https://www.mondaq.com/india/patent/741158/cross-licensing-of-patents#:~:text=Cross%2Dlicensing%20agreements%20serve%20the,of%20the%20parties%20are%20protected.
- *Voluntary licensing and technology transfer deemed critical to support manufacturing capacity at UN General Assembly* (published in 2023), available at https://medicinespatentpool.org/news-publications-post/voluntary-licensing-and-technology-transfer-deemed-critical-to-support-manufacturing-capacity-at-un-general-assembly
- *How to File a Patent in India?*, Ahlawat & Associates (published in 2022), available at https://www.lexology.com/library/detail.aspx?g=a9fcbb69-0b2a-44c2-96b2-c901c892793d

Note: *The topics, legislations and cases mentioned are not exhaustive. The instructor of the course shall be at liberty to add new topics/legislations/cases.*