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## INTELLECTUAL PROPERTY RIGHTS (IPR)

- By Chirag Tanna


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## IPR ECOSYSTEM

TRADEMARK
DESIGN
COPYRIGHT



PATENT

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TRADEMARKS	PATENTS	COPYRIGHTS	DESIGNS
Protects brand name, product name, company name, website name application name and all related logos	-Set of rights granted to an inventor -Essentially relates to inventions in field of science and technology Granted on 3 counts: novelty, inventive step, industrial applicability	-Protects works of art and any other artistic expression of ideas or concepts -Automatic right -Does not need registration	-Protects the visual aesthetics or the aesthetics of any Product -Does not cover mechanical working of the article.
Letters, Words, Names, Signatures, Labels, Shapes, Colours, Sounds	Innovation which could be product, services, business processes	Literary, Dramatic works, Musical works, Artistic works, published editions, presentations, sound recordings, films, TV & radio programs, performances	Shape, Aesthetic features, Configuration, Surface pattern of any product
Term : 10 years	Term : 20 years from date of filing	Term: 60 years either from the death of the author or 60 years from the date of publication.	Term: 15 years right
TM – trade mark is applied for ® – trade mark is applied for	Patent Applied For Patent Pending Patent Application No. Patent No	©	Design Registration No.

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## INVENTOR

- Inventor is a person who is dissatisfied with the existing reality.
- He uses this dissatisfaction to create a unique product/process.

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## IPR for START-UPS!

Steps and Resources

*Identify...*

- Tech vs Non-Tech
- Idea vs Products
- Brand name/logo vs website, GUI, Function
- Content vs Source code

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## IPR for START-UPS!

DO NOT GLOAT- *Everybody wants to be Mark!!*

DO YOUR IPR SEARCH – *People are smarter and faster than you!!*

SEEK PROFESSIONAL HELP – *You can not and should not do everything by yourself!*

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### BASIC CRITERIA FOR A PATENT

- **NOVELTY**  
should be global
- **INVENTIVE STEP**  
invention should not be obvious to those skilled in the art
- **UTILITY**  
industrial application

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### Destruction of - NOVELTY (X - document)

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### Destruction of - INVENTIVE STEP (Y - documents)

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### PRIOR ART SEARCH

FIELD WITH HIDDEN INTELLECTUAL PROPERTY RIGHTS

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### PRIOR ART SEARCH

WORKING IN THE FIELD WITHOUT INTELLECTUAL PROPERTY SEARCHING AND MAPPING

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### PRIOR ART SEARCH

WORKING IN THE FIELD WITH INTELLECTUAL PROPERTY SEARCHING AND MAPPING

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### LEVELS OF INVENTION (I)

- **ALTSHULLER** studied 200,000 patent abstracts and classified inventions into levels of 'inventiveness'.
- LEVEL 1: Routine design problems solved by well known within the speciality. Usually, no invention needed.  
*e.g. use of coal for writing.*

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### LEVELS OF INVENTION (II)

- LEVEL 2: Minor improvements to an existing system using methods known within the industry.  
*E.g. graphite pencil (wrapped coal stick).*
- LEVEL 3: Fundamental improvement to an existing system using methods known outside the industry.  
*E.g. ink pen (ink instead of coal).*

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### LEVELS OF INVENTION (III)

- LEVEL 4: A new generation of a system that entails a new principle for performing the system's primary functions. Solutions are found more often in science than technology.  
*E.g. printer.*
- LEVEL 5: A rare scientific discovery or pioneering invention of an essentially new system.  
*E.g. electronic pen and paper.*

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### FOREIGN JURISDICTIONS (I)

- EUROPE  
Nomenclature: INVENTIVE STEP  
TESTS OF INVENTIVE STEP  
- **Problem Solution Approach**
- 1) identifying the **closest prior art**, the most relevant prior art;
- 2) determining the **objective technical problem**, that is, determining, in the view of the closest prior art, the technical problem which the claimed invention addresses and successfully solves; and
- 3) examining **whether** or **not the claimed solution** to the objective technical problem **is obvious** for the skilled person in view of the state of the art in general.

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### FOREIGN JURISDICTIONS (II)

- EUROPE  
Nomenclature: INVENTIVE STEP  
TESTS OF INVENTIVE STEP  
- **Could – Would approach**
- 1) Is there any teaching in the prior art, as a whole, that **would, not simply could**, have prompted the skilled person, faced with the objective technical problem formulated when considering the technical features not disclosed by the closest prior art, to modify or adapt said closest prior art while taking account of that teaching [the teaching of the prior art, not just the teaching of the closest prior art], thereby arriving at something falling within the terms of the claims, and thus achieving what the invention achieves?

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### FOREIGN JURISDICTIONS (III)

- UK  
Nomenclature: INVENTIVE STEP  
TESTS OF INVENTIVE STEP
- 1) Identifying the inventive concept embodied in the patent;
- 2) Imputing to a normally skilled but unimaginative addressee what was common general knowledge in the art at the priority date;
- 3) Identifying the differences if any between the matter cited and the alleged invention; and
- 4) Deciding whether those differences, viewed without any knowledge of the alleged invention, constituted steps which would have been obvious to the skilled man or whether they required any degree of invention.

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## FOREIGN JURISDICTIONS (IV)

- UK

Nomenclature: INVENTIVE STEP

TESTS OF INVENTIVE STEP

- 1) (a) Identify the notional "person skilled in the art",
- 1) (b) Identify the relevant common general knowledge of that person;
- 2) Identify the inventive concept of the claim in question or if that cannot readily be done, construe it;
- 3) Identify what, if any, differences exist between the matter cited as forming part of the "state of the art" and the inventive concept of the claim or the claim as construed;
- 4) Viewed without any knowledge of the alleged invention as claimed, do those differences constitute steps which would have been obvious to the person skilled in the art or do they require any degree of invention?

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## FOREIGN JURISDICTIONS (V)

- USA

Nomenclature: NON-OBVIOUSNESS

Non-obviousness was first introduced in 1850 with reference to a United States Supreme Court case

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## FOREIGN JURISDICTIONS (VI)

- USA

Nomenclature: NON-OBVIOUSNESS

TESTS OF INVENTIVE STEP

**FLASH OF A GENIUS**

- Used from 1941 to 1952
- *"the new device, however useful it may be, must reveal the flash of creative genius, not merely the skill of calling."*

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## FOREIGN JURISDICTIONS (VII)

- USA

Nomenclature: NON-OBVIOUSNESS

TESTS OF INVENTIVE STEP

**T - S - M**  
**eaching - uggestion - otivation**

- 1) A person having "ordinary skill in the art" would not know how to solve the problem at which the invention is directed by using the same mechanism.

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## FOREIGN JURISDICTIONS (VIII)

- USA

Nomenclature: NON-OBVIOUSNESS

TESTS OF INVENTIVE STEP

**GRAHAM FACTORS**

- 1) the scope and content of the prior art;
- 2) the level of ordinary skill in the art;
- 3) the differences between the claimed invention and the prior art; and
- 4) objective evidence of nonobviousness.

In addition, the court outlined examples of factors that show "objective evidence of nonobviousness". They are:

- commercial success;
- long-felt but unsolved needs; and
- failure of others.

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## INVENTIVE STEPS IN PHARMACEUTICAL PATENTS (I)

For process Patents:

- Use of different starting material (more economical, easily available, ease of handling, eco-friendly etc)
- Less number of steps,
- Simplicity,
- Less number of equipment,
- Economical,
- Improved purity,
- Ease of isolation, purification etc.

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## INVENTIVE STEPS IN PHARMACEUTICAL PATENTS (II)

For product Patents:

- Improved bioavailability
- Faster onset of action,
- Improved pharmacokinetics,
- Improved patient compliance,
- Improved specificity for target tissue,
- Improved safety profile,
- Improved efficacy.

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## INVENTIVE STEPS IN IT PATENTS

- Machine – transformation Test
- For computer related inventions, this test is employed
- It is argued that a process patent must either be tied to a particular machine or apparatus or must operate to change articles or materials to a “different state or thing.”

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## EXAMPLES (I)

- Claim reads: *means for fixing the first wooden member to the second plastic member*

Is it obvious that “*means for fixing*” signifies all types of means of fixing and not limited to e.g. adhesive or nut-bolt or welding or screw

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## EXAMPLES (II)

- Claim reads: *a hook for a crane which is shaped like*

Is it obvious that “*a hook for a crane*” signifies a hook with the shape and size of useful for a crane and is different from a hook used for fishing

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## EXAMPLES (III)

- Claim reads: *a product with a 2-layered structure panel fixed by welding....*

If a product with the same structure as a 2-layered structure panel is obtained by a process other than *welding*, and that is publicly know, novelty is denied.

If the same product with the same structure as a 2-layered structure panel fixed by *welding* cannot be usually obtained by other processes, the novelty is not denied unless the invention of the 2-layered structure panel using the process of *welding* is known publicly.

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## TRADE MARK SEARCH- www.ipindia.nic.in

Government of India  
Controller General of Patents, Designs and Trademarks  
Department of Industrial Policy and Promotion  
Ministry of Commerce and Industry

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India meets its International Obligations

News

- On the CGPDTM invite the valuable comments within 15 days from the publication of the document particularly in annexure VI of SEIZO2012. The comments may be sent by mail to [saidk@ipindia.nic.in](mailto:saidk@ipindia.nic.in) till February, 2013.
- The CGPDTM issues a Public Notice regarding association fee in respect of application for registration of trademark February, 2013.
- Public notice with reference to payment of fee and issuance of CGR (24 February, 2013)
- Notification for Patent Agent Examination 2013 (21 February, 2013)
- The Controller General of Patents, Designs and Trade Marks releases eVersion of the Patents Act, 1970 (<http://www.ipindia.nic.in>) the Patents Rules, 2003 (<http://www.ipindia.nic.in>) incorporating all amendments till date (30 January, 2013)
- Schedule of disposal of requests (in respect of all branches of the TMR) for recordal of Post Registration changes (Schedule - Ahmedabad | Chennai | Kolkata | Mumbai | Delhi) (30 January, 2013)
- CGPDTM invites applications for the National Intellectual Property Awards 2013 | [Application Form](http://www.ipindia.nic.in) (21 January 2013)
- The CGPDTM initiates a special drive for disposal of applications/requests for recordal of post registration changes trademarks including their assignments. | [Public Notice](http://www.ipindia.nic.in) (03 January, 2013)

Our Publications

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## TRADE MARK SEARCH- www.ipindia.nic.in

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Ministry of Commerce & Industry  
Department of Industrial Policy & Promotion  
Controller General of Patents Design & Trade Marks  
Public Search of Trade Marks

Class Details | Well Known Marks | Prohibited Marks | Vienna Code Classification | International Non-Proprietary Names

Search Type: Wordmark

Key Word	Value
Wordmark	Start With <input type="text" value=""/> <input type="text" value=""/>
Class	<input type="text" value=""/> *Enter one class at a time
Goods Description	<input type="text" value=""/> *Will be available soon

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## TRADE MARK SEARCH- www.ipindia.nic.in

Class Details | Well Known Marks | Prohibited Marks | Vienna Code Classification | International Non-Proprietary Names

Total No. of Matching Marks: 10 DTP Records Found: 0 Search Type: Wordmark

Click on Show Details to display

No Record found

Record No.: 7 Application Number: 1862154

Word Mark: APFLES  
Appl No: 1862154 Class: 43  
Appl Date: 08/09/2009  
Proprietor: MR. KODWANI HARISH M  
Journal No.: - Journal Date: -  
Status: Objected  
Used Since: 03/09/2009 Valid Upto: -  
Goods & Services: SERVICES RELATED TO FAST FOOD RESTAURANT, CAFETERIAS, BQ AND DRINK CATERING, HOTEL RESERVATION, HOTELS, SNACK CANTIERNS, INCLUDED IN CLASS

Matching Trademark(s)

Sl. No.	Document	Image
1	Wordmark: APFLEEE Proprietor: APFLEEE'S INTERNATIONAL INC. Application Number: 1752790 Class / Classes: 43 Status: Objected	
2	Wordmark: APFLES Proprietor: MR. KODWANI HARISH M Application Number: 1862154 Class / Classes: 43 Status: Objected	
3	Wordmark: apple Proprietor: TRINETHRA INFRA VENTURES LTD Application Number: 1952314 Class / Classes: 43	

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News

- On the CGPDTM invites the salable comments within 15 days from the publication of the document particularly on annexure VI of PCT/228. The comments may be sent by mail to [subdeep.ip@nic.in](mailto:subdeep.ip@nic.in) (06 February, 2013)
- The CGPDTM issues a Public Notice regarding association fee in respect of application for registration of trademark (February, 2013)
- Public notice with reference to payment of fee and issuance of OBE (04 February, 2013)
- Notification for Patent Agent Examination 2013 (01 February, 2013)
- The Controller General of Patents, Designs and Trade Marks releases revision of the Patents Act, 1970 (04 Jan 2013)
- The Patents Rules, 2003 (04 Jan) incorporating all amendments till date (30 January, 2013)
- Schedule of disposal of requests (in respect of all branches of the TMR) for recordal of Post Registration changes Trademark Public Notice Schedule - Ahmedabad | Chennai | Kolkata | Mumbai | Delhi (30 January, 2013)
- CGPDTM invites applications for the National Intellectual Property Awards 2013 | Application Form (21 January, 2013)
- The CGPDTM initiates a special drive for disposal of applications/requests for recordal of post registration changes trademarks including their assignments | Public Notice (10 January, 2013)

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## PATENTSEARCH- www.ipindia.nic.in

Granted Patents | Application Status | Agent Register

Granted Patents

NOT SELECTED 30

NOT SELECTED	Containing	AND	OR
TITLE OF INVENTION	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
ABSTRACT TEXT	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
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APPLICANT ADDRESS	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
NAME OF GRANTEE	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
PATENT NUMBER	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
DATE OF FILING/NATIONAL	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
INVENTOR NAME	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
INVENTOR ADDRESS	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
JOURNAL NUMBER(S) 43(X)	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
DATE OF GRANT	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
PUBLICATION DATE	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
INTEL. CLASS. CODE(IPC)	<input type="text" value=""/>	<input type="text" value=""/>	<input type="text" value=""/>
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INTELLECTUAL PROPERTY INDIA  
PATENTS | DESIGNS | GEOGRAPHICAL INDICATIONS

GOVERNMENT OF INDIA  
Controller General of Patents Designs and Trademarks  
Department of Industrial Policy and Promotion  
Ministry of Commerce

Total No. Of Records(s) : 2

No.	Application Number	Publication Number	Title Of Invention	Date Of Filing	Priority Country
1	187AM/M/2010	31/2010	Fashion-shopping console device	25/01/2010	N/A
2	536AM/M/2003	04/2005	On line water cooler	27/05/2003	N/A

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The best method to predict the future is to invent it!!

but

The best way to nurture the invention is to PROTECT it!!!

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#### **PATENT QUESTIONNAIRE**

- What is the title of your invention?
- What are the objectives of your invention?
- what problem or problems does your invention solve
- how does your invention solve the problem or problems
- how does your invention differ from already patented or made inventions
- what improvements or new features are part of your invention
- how does your invention work or what process steps are involved
- What are the uses of your invention and state any different ways that your invention can achieve the desired result?
- List the parts of your invention or steps in the process if you have a process and how the parts or steps relate to each other.

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