

# **INTELLECTUAL PROPERTY RIGHTS LAW & PRACTICE**

**(NEW SYLLABUS)**

## **SUPPLEMENT REFERENCE GUIDE**

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**GROUP 1 PAPER 4.3  
FOR CS PROFESSIONAL  
JUNE 2025 ATTEMPT**





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## LESSON 4

## INDIAN PATENT LAW AND ITS DEVELOPMENTS

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|--|---|--------|
| <b>Comviva Technologies Limited (Appellant) versus Assistant Controller of Patents &amp; Design (Respondent)</b> | An appeal filed by 'Appellant' against an order passed by the Assistant Controller of Patents and Design refusing an application for grant of patent for an invention titled 'Methods and Devices for Authentication of an Electronic Payment Card using Electronic Token' on the ground that the same relates to 'computer program per se' and 'business method' and hence not patentable under Section 3(k) of the Patents Act. A perusal of the aforesaid clause from the Guidelines for Examination of Computer Related Inventions, 2017(CRI Guidelines, 2017) clearly shows that the term „business method“ would apply where the activity is in relation to the transaction of goods or services. However, where the subject matter of the application specifies an apparatus and/or a technical process for carrying out the invention, even partly, the Claims have to be examined as a whole. In other words, the Claims shall be treated as „business method“ only if they are essentially about carrying out business/ trade/ financial activity/ transaction. The use of words such as „business“, „sales“, „transaction“ „payment“ by themselves are not relevant to conclude that the invention is the business method. | 2      |
| <b>PATENTS (AMENDMENT) RULES, 2024</b>   | Some salient features of the Patents (Amendment) Rules, 2024 are as follows:  | 4      |
| <b>PATENTS (SECOND AMENDMENT) RULES, 2024</b>  | The Central Government notified the Patents (Second Amendment) Rules, 2024 on 16th March 2024. according to the Patents (Second Amendment) Rules, 2024, in the Patents Rules, 2003 after rule 107, the following chapters shall be inserted namely, -   | 4      |
| <b>CHAPTER XIVA - ADJUDICATION OF PENALTIES AND APPEALS</b>  | <ul style="list-style-type: none"> <li>• 107A. Definitions - In this Chapter, unless the context otherwise requires: ...</li> <li>• 107 B. Complaint...</li> <li>• 107 C. Holding of inquiry...</li> <li>• 107 D. Appeal...</li> </ul>  | 4 to 5 |
| <b>CHAPTER XIVA - ADJUDICATION OF PENALTIES AND APPEALS</b>  | <ul style="list-style-type: none"> <li>• 107H. Serving upon parties...</li> <li>• 107I. Extension of time...</li> <li>• 107L. Order and penalties...</li> </ul>   | 6      |



# INDIAN PATENT LAW AND ITS DEVELOPMENTS

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| <b>CONTRAVENTION OF SECRECY PROVISIONS RELATING TO CERTAIN INVENTIONS</b>  | Section 118 of the Patents Act, 1970 states that if any person fails to comply with any direction given under section 35 or makes or causes to be made an application for the grant of a patent in contravention of section 39, he shall be punishable with imprisonment for a term which may extend to two years, or with fine, or with both.   | 6    |
| <b>UNAUTHORISED CLAIM OF PATENT RIGHTS</b>   | If any person falsely represents that any article sold by him is patented in India or is the subject of an application for a patent in India, he shall be liable to penalty which may extend to ten lakh rupees, and in case of the continuing claim, a further penalty of one thousand rupees for every day after the first during which such claim continues.  | 6    |
| <b>REFUSAL OR FAILURE TO SUPPLY INFORMATION</b>  | As per section 122 if any person refuses or fails to furnish:<br>a) to the Central Government any information which he is required to furnish under subsection (5) of section 100;<br>b) to the Controller any information or statement which he is required to furnish by or under section 146, he shall be liable to penalty which may extend to one lakh rupees, and in case of the continuing refusal or failure, a further penalty of one thousand rupees for every day after the first during which such refusal or failure continues. | 7    |
| <b>ADJUDICATION OF PENALTIES</b>   | The Controller may, by an order, authorise an officer referred to in section 73, to be the adjudicating officer for holding an inquiry and imposing penalty under the provisions of this Act, in the manner as may be prescribed, after giving the person concerned a reasonable opportunity of being heard. (Section 124A) A CSR plan shall be presented to the CSR Committee and, based on its recommendations, to the Board of Directors of the Bank for approval.  | 7    |
| <b>APPEAL</b>  | Section 124B. states that whoever aggrieved by an order of the adjudicating officer under section 124A may prefer an appeal to the appellate authority, who shall be an officer at least one rank above the adjudicating officer, within a period of sixty days from the date of receipt of the order, as the Central Government may by notification authorise in this behalf.   | 7    |
| <b>BUDAPEST TREATY ON THE INTERNATIONAL RECOGNITION OF THE DEPOSIT OF MICROORGANISMS FOR THE PURPOSES OF PATENT PROCEDURE (1977)</b> | The Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purpose of Patent Procedure was entered and signed on April 28, 1977. It was later amended on September 26, 1980. The Budapest Treaty eliminates the need to deposit microorganisms in each country where patent protection is sought.   | 8    |
| <b>PATENT LAW TREATY (PLT) (2000)</b>  | The PLT was concluded in 2000, and entered into force in 2005, establishes common and, as a general rule, maximum requirements regarding many of the procedural formalities relating to national/regional patent applications and patents. The aim of the Patent Law Treaty (PLT) is to harmonize and streamline formal procedures in respect of national and regional patent applications and patents and, thus, to make  | 9    |



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|   | such procedures more user friendly. With the significant exception of filing date requirements, the PLT provides the maximum sets of requirements the office of a Contracting Party may apply.  |    |
| <b>WTO - TRADE-RELATED ASPECTS OF INTELLECTUAL PROPERTY RIGHTS (TRIPS) (1995)</b>   | The WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is the most comprehensive multilateral agreement on intellectual property (IP). The WTO's Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), negotiated during the 1986-94 Uruguay Round, introduced intellectual property rules into the multilateral trading system for the first time. It plays a central role in facilitating trade in knowledge and creativity, in resolving trade disputes over IP, and in assuring WTO members the latitude to achieve their domestic policy objectives. It frames the IP system in terms of innovation, technology transfer and public welfare. The Agreement is a legal recognition of the significance of links between IP and trade and the need for a balanced IP system. | 10 |
| <b>STRASBOURG AGREEMENT CONCERNING THE INTERNATIONAL PATENT CLASSIFICATION (1971)</b>   | The Strasbourg Agreement establishes the International Patent Classification (IPC) which divides technology into eight sections with approximately 80,000 subdivisions. Classification is indispensable for the retrieval of patent documents in the search for "prior art". Such retrieval is needed by patent-issuing authorities, potential inventors, research and development units and others concerned with the application or development of technology   | 12 |
| <b>PATENT COOPERATION TREATY (PCT) (1970)</b>   | This treaty established an international patent filing system, making it possible to seek patent protection for an invention simultaneously in each of a large number of countries. The PCT was concluded in 1970, amended in 1979 and modified in 1984 and in 2001.  | 12 |
| <b>PARIS CONVENTION FOR THE PROTECTION OF INDUSTRIAL PROPERTY (1883)</b>  | The first major international agreement relating to the protection of industrial property rights, including patents & the repression of unfair competition. It outlines, in particular, national treatment, the right of priority, and a number of common rules in the field of substantive patent law. The substantive provisions of the Convention fall into three main categories: national treatment, right of priority, common rules.  | 13 |
| <b>RxPrism Health Systems Private Limited v. Canva Pty. Ltd. CS (COMM) 573/2021 and I.A. 14842/2021, High Court of Delhi, dated July 18, 2023</b> | <b>Brief Facts:</b><br>The present suit for injunction restraining patent infringement, rendition of accounts etc., has been filed by the Plaintiff RxPrism Health Systems Private Limited against the Defendant Canva Pty. Ltd. , seeking a permanent injunction restraining infringement of Indian Patent No. 'IN 360726'. The Plaintiff is based in India, whereas the Defendant is based out of Australia.<br><b>Issues:</b><br>Whether the Canva product incorporating the 'Present and Record' feature, constituted an infringement upon the plaintiff's patent (IN360726)?   | 15 |
| <b>Bajaj Auto Ltd. v.TVS Motor Company. Ltd.(Civil Appeal No. 6472 of 2004) Supreme Court Dated</b>   | <b>Brief Facts:</b><br>The legal dispute involved two suits between Bajaj Auto Limited and T.V.S. The first suit was initiated by Bajaj in the Madras High Court under Section 108 of the Patents Act, 1970. Bajaj sought a permanent injunction against T.V.S., alleging that T.V.S.'s use of CCVTi technology in their 125-CC Flame engine infringed upon Bajaj's patented DTS-i technology. Bajaj claimed that, apart from a three-valve component, T.V.S.'s engine was substantially similar to their patented product.<br><b>Issues:</b><br>• Whether T. V. S. infringed the patent of Bajaj Ltd.?   | 17 |



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|   | <ul style="list-style-type: none"> <li>Whether improvements made on patented technology can be used without infringing the original patent?</li> </ul>  |    |
| <b>F. Hoffman-La Roche Ltd. v. Cipla Ltd. (2012) Delhi HC CS (OS) No.89/2008 dated September 12, 2012</b> | <p><b>Brief Facts:</b></p> <p>A dispute arose in the Delhi High Court concerning Roche's medicine "Erlotinib," marketed as TARCEVA by Hoffman-La Roche Ltd. Erlotinib hydrochloride was a key component for both Hoffman-La Roche Ltd. and Cipla. Roche had obtained a patent for Erlotinib and began distributing it under the trade name TARCEVA in February 2007.</p> <p>In January 2008, it came to light that Cipla intended to introduce a nonexclusive version of Erlotinib. Roche subsequently filed an infringement claim against Cipla, alleging a violation of Patent No. 774 for Erlotinib Hydrochloride, for which Roche held a license. Cipla, an Indian multinational corporation, indeed launched a generic version of Erlotinib.</p> <p>Roche filed a lawsuit against Cipla on January 15th, 2008, alleging infringement, asserting that Cipla was attempting to use their patented medicine Erlotinib Hydrochloride without authorization.</p> <p><b>Issues:</b></p> <ul style="list-style-type: none"> <li>Whether Cipla violated Hoffman-La Roche Ltd.'s patent on Erlotinib Hydrochloride by selling a generic version of the medication in India.</li> <li>Whether Hoffman-La Roche Ltd. patent was valid and enforceable.</li> </ul> | 17 |



## LESSON 7

## TRADEMARKS

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| <b>The Indian Hotels Company Limited (Plaintiff)</b><br><b>Vs. Manoj (Defendant)</b> | <p>Adoption of the similar trade mark and trade name by the defendants is not only a violation of the rights of the plaintiff, but may also deceive general unwary consumers and appears dishonest.</p> <p><b>Brief Facts:</b></p> <p>In the above case, the Defendant has unauthorizedly used the Plaintiff's Trade Marks, as well as various content and photographs available on the Plaintiff's website. The Plaintiff has no connection or association with the Defendant and has not authorized the Defendant to use the said marks, logos, photographs and content. The Defendant has also not filed its written statement and has not entered appearance to defend his actions before Court.</p> <p>The Plaintiff has filed the present suit before the High Court seeking an order of permanent injunction restraining infringement of registered trademarks and copyrights, passing off, dilution and tarnishment of trademarks, damages, rendition of accounts, delivery up, etc.</p> | 19   |