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# UNIT 9 INTELLECTUAL PROPERTY RIGHTS

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## 9.0 INTRODUCTION

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We are living in an era of rapid technological advancements. Today development and growth have been made possible by the outcomes of the human intellect which need legal protection, worldwide. Such statutory protections provide economic and financial rights to the originator in his or her intellectual creations. They also promote creativity and encourage fair trading which contribute to the economic and social development of the society as a whole.

We have briefly discussed IPR in previous units. In this unit we shall give you a detailed overview of various aspects of Intellectual Property Rights (IPR). In the increasingly globalised world, it is important for you to be aware of this very important law.

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## 9.1 LEARNING OUTCOMES

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After reading through this unit, you should be able to:

- discuss the concept, nature and the scope of IPR;
- describe the evolution and growth of IPR;
- acquaint yourself with WIPO and new trading system;
- explain the important components under the IPR regime; and
- enumerate the various legislations available for IPR.

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## 9.2 CONCEPT, NATURE AND SCOPE OF IPR

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Intellectual Property (IP) very broadly means the legal rights which result from intellectual activity in the industrial, scientific, literary and artistic fields. IP refers to the ownership of an idea or design by the person who came up with it. It is a term used in property law. It gives a person certain exclusive rights to a distinct type of creative design, meaning that nobody else can copy or reuse that creation without the owner's permission. It can be applied to musical, literary and artistic works, discoveries and inventions. Common types of intellectual property rights include copyrights, trademarks, patents, industrial design rights and trade secrets.

According to the World IP Organisation (WIPO), IPR refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce.

### 9.2.1 Definition of IPR

The concept of property has existed from time immemorial. Various scholars have underlined the importance of the concept of property which directly or indirectly includes IP. According to world famous jurist Salmond, "*The immaterial product of a man's brains may be as valuable as his lands or his goods. The Law therefore gives him a proprietary right in it.*"

Encyclopedia Britannica defines the term intellectual property as: 'A property that derives from the work of an individual's mind or intellect'. Since IPR is a right over an idea so it also covers everything under the idea. If an idea which is the subject matter of an IPR finds its application in a tangible thing, the latter is also covered by that IPR.

Over a period of time and particularly in contemporary corporate paradigm, ideas and knowledge have become increasingly important parts of trade. Most of the value of high technology products and new medicines lies in the amount of invention, innovation, research, design and testing. Films, music recordings, books, computer software and on-line services are bought and sold because of the information and creativity they contain, and not simply because of the plastic, metal or paper used to make them.

Some products that were earlier used to be traded as low-technology goods are now products of a higher proportion of invention, innovation and design in their value, for example, new varieties of seeds, plants, etc. Therefore the rights to restrict others from using their inventions, designs or other creations are provided by IPR.

## 9.2.2 Importance of IPR

The protection of IP rights is an essential component of a country's financial policy. It can stimulate research, creativity and technological innovations by giving freedom to individual inventors and companies to gain the benefits of their creative efforts. The importance of IP rights can be summarised as:

- IPR are vital for the economic growth. The WIPO IP Handbook gives two reasons for IP laws: One is to give statutory expression to the moral and economic rights of creators in their creations and the rights of the public for accessing to those creations. Second is to stimulate, as a deliberate act of government policy, creativity and the dissemination and application of its results and to encourage fair trading which would contribute to economic and social development.
- IPR allow owners of IP to derive financial benefits from the property they have created.
- IP helps in the generation of Breakthrough Solutions to some major global problems: For example: Nearly all of the 300 products on the World Health Organisation's Essential Drug List, which are critical to saving or improving people's lives around the globe, came from the R&D intensive pharmaceutical industry that depends on patent protections. Innovative agricultural companies are creating new products to help farmers produce more and better products for the world's population while reducing the environmental impact of agriculture. IP-driven discoveries in alternative energy and green technologies may help improve energy security and address the problem of climate change.
- IPR encourage innovation and reward entrepreneurs. Risk and occasional failure are the lifeblood of the innovation economy. IP rights are a sort of encouragement to entrepreneurs to keep pushing for new advances in the face of adversity.

## 9.2.3 Scope of IPR

The convention establishing World IP Organisation (WIPO) has described a detailed definition of IPR.

According to which IPR shall include the rights relating to:

- a) Literary, artistic and scientific work;
- b) Performances of performing artists, phonograms and broadcasts;
- c) Inventions in all fields of human endeavour;
- d) Scientific discoveries;
- e) Industrial Designs;
- f) Trade Marks, service marks and commercial names and designations;
- g) Protection against unfair competition and; all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

**Check Your Progress: 1**

**Note:** 1) Use the space below for your answers

2) Compare your answers with those given at the end of the Unit

1) Define Intellectual Property Rights.

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2) Does IPR cover tangible things?

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3) State how IPR helps in maintaining economic growth?

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**9.3 EVOLUTION AND GROWTH OF IPR**

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The growth of IPR can be seen in the light of two major conventions for the protection of IPR: Paris convention for the Protection of Industrial Property, 1883 and Berne Convention for the protection of Literary and Artistic Works, 1886. These two conventions have undergone various changes since then and have been brought under the supervision of World IP Organisation (WIPO) which was constituted in 1967 as a result of a treaty signed in Stockholm on July 14, 1967. WIPO is one of the 15 specialised agencies of the United Nations.

In 1947, General Agreement on Tariffs and Trade (GATT) was formed. After that, due to the insistence of America, new rounds of negotiations were held, and ultimately TRIPS came into existence and became effective from January 1995.

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) is an international legal agreement between all the member nations of the World Trade Organisation (WTO). It sets down minimum standards for the regulation by national governments of many forms of Intellectual Property (IP) as applied to nationals of other WTO member nations.

TRIPs is especially important for its detailed provision for enforcement of IPR's which had been hitherto in the jurisdiction of the national laws only. Within couple of years, WIPO supervised two more treaties for the protection of IPR: the WIPO Copyright Treaty, 1996 and the WIPO Performers and Phonograms Treaty, 1996. They together are termed as WIPO "internet treaties".

Thus we can see that the evolution of IP began with the Paris Convention for Protection of Industrial Property (1883) and attained perfection in the establishment of World Trade Organisation (WTO) in 1995 and signing of the Agreement on Trade Related Aspects of IP Rights (1993). The efforts made at Berne Convention on Literary and Artistic Rights (1886) and at Rome Convention (1961) for Musical and Performing Arts are important milestones in the history of evolution of IP. They ultimately led to secure protection in performances for performers, in phonograms for producers of phonograms and in broadcasts for broadcasting organisations.

### **9.3.1 Paris Convention**

The Paris Convention 1883 applies to industrial property in the widest sense, including patents, trade marks, industrial designs, utility models (a kind of "small-scale patent" provided for by the laws of some countries), service marks, trade names (designations under which an industrial or commercial activity are carried out), geographical indications (indications of source and appellations of origin) and the promotion of fair competition.

The substantive provisions of the Convention fall into three main categories: national treatment, right of priority and common rules.

Under the provisions on national treatment, the Convention provides that, each Contracting State must grant the same protection to nationals of other Contracting States that it grants to its own nationals. The term 'Contracting state' implies to those countries who have signed the treaty or convention. Nationals of non-Contracting States are also entitled to national treatment under the Convention if they are domiciled or have a real and effective industrial or commercial establishment in a Contracting State.

The Convention provides for the right of priority in the case of patents (and utility models where they exist), marks and industrial designs. This right means that, on the basis of a regular first application filed in one of the Contracting States, the applicant may, within a certain period of time (12 months for patents and utility models; 6 months for industrial designs and marks), apply for protection in any of the other Contracting States. These subsequent applications will be regarded as if they had been filed on the same day as the first application.

The Convention lays down a few common rules that all Contracting States must follow. The most important are:

a) **Patents**

- Patents granted in different Contracting States for the same invention are independent of each other: the granting of a patent in one Contracting State does not oblige other Contracting States to grant a patent; a patent cannot be refused, annulled or terminated in any Contracting State on the ground that it has been refused or annulled or has been terminated in any other Contracting State.
- The inventor has the right to be named as such in the patent.
- The grant of a patent may not be refused or be invalidated, on the ground that the sale of the patented product, or of a product obtained by means of the patented process, is subject to restrictions or limitations resulting from the domestic law.
- Each Contracting State that takes legislative measures providing for the grant of compulsory licenses to prevent the abuses which might result from the exclusive rights conferred by a patent may do so only under certain limited conditions.

b) **Marks**

- The Paris Convention does not regulate the conditions for the filing and registration of marks which are determined in each Contracting State by domestic law. The registration of a mark obtained in one Contracting State is independent of its possible registration in any other country, including the country of origin.
- Where a mark has been duly registered in the country of origin, it must, on request, be accepted for filing and protected in its original form in the other Contracting States.
- Each Contracting State must refuse registration and prohibit the use of marks that constitute a reproduction, imitation or translation, liable to create confusion, of a mark used for identical and similar goods.
- Each Contracting State must likewise refuse registration and prohibit the use of marks that consist of or contain, without authorisation, State emblems and official signs and hallmarks of Contracting States, provided they have been communicated through the International Bureau of WIPO. The same provisions apply to flags, other emblems, abbreviations and names of certain inter-governmental organisations.

c) **Industrial Designs:** Industrial designs must be protected in each Contracting State, and protection may not be forfeited on the ground that articles incorporating the design are not manufactured in that State.

d) **Trade Names:** Protection must be granted to trade names in each Contracting State without there being an obligation to file or register the names.

e) **Indications of Source:** Measures must be taken by each Contracting State against direct or indirect use of a false indication of the source of goods or the identity of their producer, manufacturer or trader.

- f) **Unfair competition:** Each Contracting State must provide for effective protection against unfair competition.

The Paris Convention, concluded in 1883, was revised at Brussels in 1900, at Washington in 1911, at The Hague in 1925, at London in 1934, at Lisbon in 1958 and at Stockholm in 1967, and was amended in 1979. The Convention is open to all States. Instruments of ratification or accession must be deposited with the Director General of WIPO.

### 9.3.2 Berne Convention

The Berne Convention deals with the protection of works and the rights of their authors. It is based on three basic principles and contains a series of provisions determining the minimum protection to be granted, as well as special provisions available to developing countries that want to make use of them.

- 1) The three basic principles are as follows:
  - a) Works originating in one of the Contracting States must be given the same protection in each of the other Contracting States as the latter grants to the works of its own nationals (principle of “national treatment”).
  - b) Protection must not be conditional upon compliance with any formality (principle of “automatic” protection).
  - c) Protection is independent of the existence of protection in the country of origin of the work (principle of “independence” of protection). If, however, a Contracting State provides for a longer term of protection than the minimum prescribed by the Convention and the work ceases to be protected in the country of origin, protection may be denied once protection in the country of origin ceases.
- 2) The minimum standards of protection relate to the works and rights to be protected, and to the duration of protection:
  - a) As to works, protection must include “every production in the literary, scientific and artistic domain, whatever the mode or form of its expression.”
  - b) Subject to certain allowed reservations, limitations or exceptions, the following are among the rights that must be recognised as exclusive rights of authorisation:
    - the right to translate,
    - the right to make adaptations and arrangements of the work,
    - the right to perform in public dramatic, dramatic-musical and musical works,
    - the right to recite literary works in public,
    - the right to communicate to the public the performance of such works,
    - the right to broadcast (with the possibility that a Contracting State may provide for a mere right to equitable remuneration instead of a right of authorisation),

- the right to make reproductions in any manner or form (with the possibility that a Contracting State may permit, in certain special cases, reproduction without authorisation)
  - the right to use the work as a basis for an audiovisual work, and the right to reproduce, distribute, perform in public or communicate to the public that audiovisual work .
- c) As to the duration of protection, the general rule is that protection must be granted until the expiration of the 50th year after the author's death. In the case of audiovisual (cinematographic) works, the minimum term of protection is 50 years after the making available of the work to the public ("release") or – failing such an event – from the creation of the work. In the case of works of applied art and photographic works, the minimum term is 25 years from the creation of the work.
- 3) The Berne Convention allows certain limitations and exceptions on economic rights, that is, cases in which protected works may be used without the authorisation of the owner of the copyright, and without payment of compensation.

The Berne Convention, concluded in 1886, was revised at Paris in 1896 and at Berlin in 1908, completed at Berne in 1914, revised at Rome in 1928, at Brussels in 1948, at Stockholm in 1967 and at Paris in 1971, and was amended in 1979. The Convention is open to all States. Instruments of ratification or accession must be deposited with the Director General of WIPO.

### **9.3.3 General Agreement on Tariffs and Trade (GATT)**

GATT is the product of growing realisation by the member nations that their relations in the field of trade and commerce should be conducted to raise standards of living, ensure full employment, develop the full use of the resources of the world and expand the production and exchange of goods. It aims to achieve these objectives by providing reciprocal and mutually advantageous arrangements directed to the substantial reduction of tariffs and other barriers to trade and to the elimination of discriminatory treatment in international commerce.

### **9.3.4 Rome Convention**

The Rome Convention secures protection in performances for performers, in phonograms for producers of phonograms and in broadcasts for broadcasting organisations.

- 1) Performers (actors, singers, musicians, dancers and those who perform literary or artistic works) are protected against certain acts to which they have not consented, such as the broadcasting and communication to the public of a live performance; the fixation of the live performance; the reproduction of the fixation if the original fixation was made without the performer's consent or if the reproduction was made for purposes different from those for which consent was given.
- 2) Producers of phonograms have the right to authorise or prohibit the direct or indirect reproduction of their phonograms. Where a phonogram published for commercial purposes gives rise to secondary uses (such as broadcasting



or communication to the public in any form), a single equitable remuneration must be paid by the user to the performers, to the producers of the phonograms, or to both.

- 3) Broadcasting organisations have the right to authorise or prohibit certain acts, namely the rebroadcasting of their broadcasts; the fixation of their broadcasts; the reproduction of such fixations; the communication to the public of their television broadcasts if such communication is made in places accessible to the public against payment of an entrance fee.

The Rome Convention allows for limitations and exceptions to the above-mentioned rights in national laws as regards to private use, use of short excerpts in connection with reporting current events, ephemeral fixation by a broadcasting organisation by means of its own facilities and for its own broadcasts, use solely for the purpose of teaching or scientific research and in any other cases where national law provides exceptions to copyright in literary and artistic works.

As to duration, protection must last at least until the end of a 20-year period computed from the end of the year in which

- the fixation was made for phonograms and for performances incorporated therein;
- the performance took place, for performances not incorporated in phonograms;
- the broadcast took place. However, national laws increasingly provide for a 50-year term of protection, at least for phonograms and performances.

WIPO is responsible, jointly with the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organisation (UNESCO), for the administration of the Rome Convention. These three organisations constitute the Secretariat of the Inter-governmental Committee set up under the Convention consisting of the representatives of 12 Contracting States.

### Check Your Progress: 2

**Note:** 1) Use the space below for your answers

2) Compare your answers with those given at the end of the Unit.

- 1) What is dealt with by Berne Convention?

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2) What is protected by Rome Convention?

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3) Who are responsible for the administration of Rome Convention?

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## **9.4 WORLD IP ORGANISATION**

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Establishment of WIPO is a landmark event in the history of promotion and protection of IP rights at global level. The convention establishing the WIPO was signed at Stockholm on July 14, 1967. The WIPO has been designated as specialised body at United Nations and it also acts as complimentary body with WTO in so far as promotion and protection of IPR are concerned. The headquarters of WIPO is located at Geneva. The membership of WIPO is open to all member countries of United Nations or other specialised agencies. The membership has risen more than 175 countries.

### **9.4.1 Objectives of WIPO**

The objectives of WIPO can be summarised as under:

- To promote the protection of IP throughout the world through co-operation among states and where appropriate in collaboration with any international organisation;
- To harmonise national IP legislation and procedures;
- To provide services for international applications for IP rights;
- To exchange information on IP;
- To provide legal and technical assistance to developing and other countries;
- To facilitate resolution of private IP disputes;
- To systematise information technology as a tool for storing, accessing and using valuable IP information.

WIPO performs its functions and programmes through four organs: General Assembly; Conference; Coordination Committee and International Bureau.

## 9.4.2 Programmes and Activities of WIPO

- Advice and expertise in the revision of national legislation particularly important for WIPO member states with obligations under the TRIP's Agreement;
- Comprehensive education and training programmes at national and regional levels for officials dealing with IP, concerned with enforcement and; for traditional and new groups of users;
- Extensive computerisation assistance to help developing countries acquire the information technology resources to streamline administrative procedures for managing and administering their own IP resources, and to participate in WIPO, global information network;
- Financial assistance to facilitate participation in WIPO activities and meetings, especially those concerned with the progressive development of new international norms and practices.

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## 9.5 EMERGENCE OF NEW TRADING SYSTEM

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The successful conclusion of the Uruguay Round of trade negotiations paved the way for a new era of profound significance for the emerging trading system. The Uruguay Round Negotiations formally began in 1986 and it took seven years for its conclusion on December 15, 1993 and thereupon the Final Act was signed on April 15, 1994 at Marrakesh (Morocco). As a result, World Trade Organisation (WTO) replaced GATT on January 1, 1995.

### 9.5.1 World Trade Organisation

The establishment of WTO is considered as a landmark in the history of multilateral trading system. Although there are many disturbing features as regards economic interests of developing countries vis-à-vis developed countries especially in the field of labour, environmental subsidies and IPR, yet this compromising deal has come to stay. One of the major agreements having far reaching impact on IPR is the agreement on trade related aspects of IPR.

### 9.5.2 TRIPS

TRIPS is an international legal agreement which reflects the concern of the members regarding the need to promote effective and adequate protection of IP rights. It ensures that measures and procedures to enforce IPR do not themselves become barriers to legitimate trade. It presents model provisions for adequate standard and principles concerning the availability, scope and use of trade-related IPR; effective means for their enforcement; and settlement of disputes between governments.

TRIPS asserts that IPRs are private rights; and takes note of underlying policy objectives of different national systems for the protection of IPR, including developmental and technological objectives. It also aims at establishing what it terms as a mutually supportive relationship between the WTO and WIPO.

The Agreement makes a fine balance between evolving new mechanisms and honouring old commitments in the field of creation, protection and exploitation

of IP rights; and also presents a blue-print for the future. It hints at certain basic principles which the members are supposed to follow with a view to ensure that they not only provide and seek protection for the IPR created by their own nationals but also extend the same favour to the nationals of other members. TRIPS set standards which members are obliged to maintain. It also suggests solutions in case of non-compliance by any member and refers to dispute resolution mechanism.

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## 9.6 COMPONENTS OF IPR

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The components of IPR, as envisaged by WIPO and TRIPS, have specified aims and objects. A brief explanation of the components is as follows:

### 9.6.1 Patent

John of Utynam is the recipient of the first known English patent, granted in 1449 by King Henry VI. John came to England to make the windows for Eton College. The patent granted him a 20-year monopoly on the making of coloured glass.

Patent is granted for inventions which have industrial and commercial value. Any person, whose invention has, novelty, involving inventive steps and is of industrial application, can be granted a monopoly right for a specified period to commercially exploit the invention and earn profit out of the invention. *Novartis v. Union of India* decided by the Supreme Court of India in 2013 is a leading case regarding patent rights.

### 9.6.2 Trademark

A trademark, as you are aware, is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company. Its origin dates back to ancient times when craftsmen produced their signatures, or “marks”, on their artistic works or products of a functional or practical nature. The system helps consumers to identify and purchase a product or service based on whether its specific characteristics and quality as indicated by its unique trademark meet their needs. Trademark protection ensures that the owners of marks have the exclusive right to use them to identify goods or services, or to authorise others to use them in return for payment. The period of protection varies, but a trademark can be renewed indefinitely upon payment of the corresponding fees. Trademark protection can be legally enforced by courts.

For Example, in the case of *Pidilite Industries Ltdv SM Associates*, decided by the Bombay High Court in 2003, the plaintiff was registered proprietor of trademark “M-SEAL”. The defendant adapted and used mark “SM SEAL”, with all essential characters of trademark “M- SEAL”. The Bombay High Court ruled that defendant’s use of impugned mark was causing confusion and deception and restrained the defendants from using the mark.

### 9.6.3 Copyright

The subject matters of copyright are the literary, artistic, dramatic, musical, cinematographic films, sound recording. Literary works now also include computer programmes, tables, compilation including computer database. Mere idea without tangible expression is not granted legal protection. It is a right granted

to author or originator of certain literary or artistic production. A copyright owner has sole and exclusive right of multiplying copies of the original work and publishing and selling them for a specified period. For example, downloading and sharing files of music, videos and games without permission of the copyright owner amounts to copyright infringement. Another example is the case of *Celador Production Ltd v Gaurav Mehrotra*, decided by the Delhi High Court in 2002. The High Court found that the defendant's website using domain name "CrorepatiKaun.com" with logos and names and identical photographs of plaintiff's TV show Kaun Banega Crorepat was an act of infringement of plaintiff's copyright.

#### **9.6.4 Geographical Indication**

An indication which identifies goods, such as agricultural goods, natural goods or manufactured goods as originating in the territory of a country, or its region are called as geographical indications. These indications denote quality, reputation or other characteristics of such goods essentially attributable to its geographical origin. The right conferred on geographical indication prevents competition from commercially exploiting the respective rights to the detriment of the owner of that property.

#### **9.6.5 Industrial Designs**

Industrial designs mean only the features of shape, configuration, pattern, ornament or composition of lines or colour applied to any article whether in two dimensional or three dimensional or both. It may be by any industrial process or means whether manual, mechanical or chemical, separate or combined which in the finished article appeal to and are judged solely by the eye but does not include any trade mark. In the case of industrial designs the property consists in the exclusive right to apply the design registered under the statute.

#### **Legislations for IPR In India**

India being the signatory member to all the major conventions related to IPR has legislated certain acts and statutes to show its commitment towards IPR protection. Some of the major legislations for the protection of IPR are listed as follows:

- The Patents Act, 1970
- The Patents (Amendment) Act, 1999
- The Patents (Amendment) Act, 2002
- The Patents (Amendment) Act, 2005
- The Trade Marks Act, 1999
- The Trade Marks (Amendment) Act, 2010
- The Competition Act, 2002
- The Competition (Amendment) Act, 2007
- The Competition (Amendment) Act, 2009
- The Semiconductor Integrated Circuits Layout-Design Act, 2000
- The Geographical Indications of Goods (Registration and Protection) Act, 1999

- The Protection of Plant Varieties and Farmers' Rights Act, 2001
- The Designs Act, 2000
- The Copyright Act, 1957
- The Copyright (Amendment) Act, 1994
- The Copyright (Amendment) Act, 1999
- The Copyright (Amendment) Act, 2012

**Check Your Progress: 3**

**Note:** 1) Use the space below for your answers

2) Compare your answers with those given at the end of the Unit.

- 1) Outline the objective of TRIPS Agreement.

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- 2) What are the subject matters of copyright?

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**9.7 LET US SUM UP**

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In this unit it was explained that Intellectual property (IP) broadly means the legal rights which result from intellectual activity in the industrial, scientific, literary and artistic fields. IP is a term used in property law and refers to the ownership of an idea or design by the person who came up with it. It gives a person certain exclusive rights to a distinct type of creative design, meaning that nobody else can copy or reuse that creation without the owner's permission.

Considering IP is the major contributor in the developmental process, various conventions have been organised globally to establish a formal outline of the laws for protecting IP. Conventions like Paris and Berne and Organisations like WIPO have not only set forth the guiding principles for the establishment of IPR regime, but also drawn the regulations which bind the signatory nations to effectively implement the laws relating to IPR in their countries. In India, following the guiding principles of these conventions several landmark laws and legislations have been enacted to protect the major components of IPR.

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## 9.8 FURTHER READINGS

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An Introduction to IP Rights, JP Mishra, Central Law Publication, third Edition (2012)

Law relating to IP Rights, V.K Ahuja, Lexis Nexis; 2nd edition (2013)

Law Relating to IP, B.L.Wadhera, Universal Law Publishing - An imprint of LexisNexis; Fifth edition (2016)

Intellectual Property, Elizabeth Verkey, Eastern Book Company, Lucknow (2015)

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## 9.9 CHECK YOUR PROGRESS: POSSIBLE ANSWERS

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### Check Your Progress: 1

- 1) Intellectual Property (IP) are the legal rights which result from intellectual activity in the industrial, scientific, literary and artistic fields. IP refers to the ownership of an idea or design by the person who came up with it. It gives a person certain exclusive rights to a distinct type of creative design, meaning that nobody else can copy or reuse that creation without the owner's permission.
- 2) Since IPR is a right over an idea so it also covers everything under the idea. If an idea which is the subject matter of an IPR finds its application in a tangible thing, the latter is also covered by that IPR.
- 3) IPR help in maintaining economic growth by giving statutory expression to the moral and economic rights of creators in their creations and the rights of the public for accessing those creations. As act of government policy, IPR promote creativity and the dissemination and application of its results and to encourage fair trading which would contribute to economic and social development.

### Check Your Progress: 2

- 1) The Berne Convention deals with the protection of works and the rights of their authors. It is based on three basic principles and contains a series of provisions determining the minimum protection to be granted, as well as special provisions available to developing countries that want to make use of them.
- 2) The Rome Convention secures protection in performances for performers, in phonograms for producers of phonograms and in broadcasts for broadcasting organisations.
- 3) WIPO is responsible, jointly with the International Labour Organisation (ILO) and the United Nations Educational, Scientific and Cultural Organisation (UNESCO), for the administration of the Rome Convention. These three organisations constitute the Secretariat of the Intergovernmental Committee set up under the Convention.

### Check Your Progress: 3

- 1) The objective of TRIPS Agreement is to present model provisions for adequate standard and principles concerning the availability, scope and use of trade-related IPR; effective means for their enforcement; settlement of disputes between governments; and transitional arrangements aiming at the fullest participation in the results of the negotiations.
- 2) The subject matters of copyright are the literary, artistic, dramatic, musical, cinematographic films, sound recording. Literary works now also include computer programmes, tables, compilation including computer database. Mere idea without tangible expression is not granted legal protection.



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