



OVERVIEW ON INTELLECTUAL PROPERTY RIGHTS

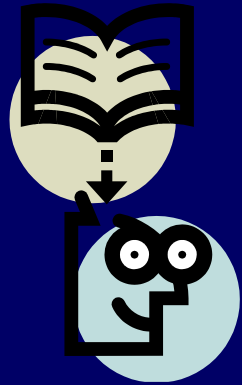
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What is intellectual property?

- Intellectual Property is something produced using human intellect which has commercial value.
- Often intangible in nature, but usually contained on a tangible, fixed medium- paper, CD, computer chips.....

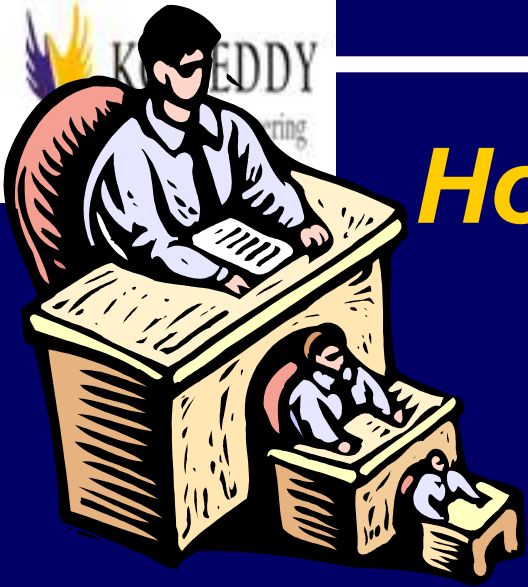


What is Intellectual Property Right (IPR)?



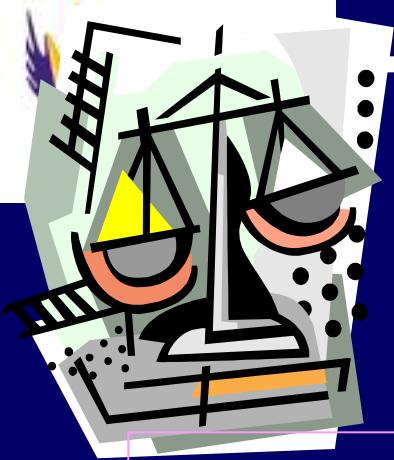
Intellectual Property Right

- not to be confused with IP
- it is a right vested in the asset, not the asset itself
- e.g.
 - an idea / invention is IP, a patent registration is an IPR
 - a customer / price list is IP, a right of confidentiality is an IPR
 - a secret production method is IP, a right to a trade secret is an IPR
 - a particular way of representation is IP, copyright or a design registration is an IPR
 - a brand / trade name is IP, a trade mark registration is an IPR



How Intellectual Property Law Works

- ❑ Affirmative Rights, NOT Protection
- ❑ Allows owner to file a lawsuit against a transgressor
- ❑ Does not stop a transgressor



Intellectual Property Rights

“INDUSTRIAL PROPERTIES”

PATENTS

INDUSTRIAL DESIGNS

TRADEMARKS

TRADE SECRETS

PLANT VARIETIES

INTEGRATED

CIRCUITS

GEOGRAPHICAL

INDICATORS

“COPYRIGHT”

LITERARY

NOVEL

POEM

PLAYS

FILMS

MUSICAL

ARTISTIC

DRAWINGS

PHOTOGRAHS

PERFORMING ARTS

SCULPTURES

SOFTWARE

COPYRIGHT ***(Governed by the Copyrights Act, 1957)***

Copyright in :

- a) Original literary , dramatic, musical and artistic works;
-Computer Software's, Engineering Drawings
- b) Cinematographic films; and
- c) Sound recordings.

Copyright –Right to reproduce,make copy,adaptations and translations as applicable

Term : Usually lifetime of the author until sixty years following the year of death of author

Broadcast Reproduction right – Twenty Five Years
Performers Right- Fifty Years

Authors Rights- Moral Rights-Authorship/Object to Alterations

Resale Share Right In original Copies

SOME ILLUSTRATIVE EXAMPLES OF WORKS.

Literary works : Novels, Diaries, Poems

Musical works: Symphonies, Jazz, Improvisation

Choreographic works : Dance, Ballet

Artistic works : Paintings, Engravings, Sculptures

Architectural works : Buildings themselves

Figurative works : Maps, Drawings and Charts of a scientific nature

Cinematographic Works : Movies, Video

Photographic works : Photographs, Photogravures

Program works : Computer Programs

OTHER CATEGORIES OF PROTECTABLE WORKS

Derivative works:

A “derivative work” means a work created by translating, arranging musically, transforming, or dramatizing, cinematizing or otherwise adapting a pre-existing work .

EXAMPLES ① translated works; ② arranged works ; ③ transformed works; and ④ adapted works. To exploit these works, authorization must be obtained from the copyright owner of not only the derivative work, but also of the original work .

Compilations:

“Compilations” are works (not falling within the term “databases”) which constitute intellectual creations, by reason of the selection or arrangement of their materials .

EXAMPLES

(e.g. Periodicals ;Databases ;Anthologies ;Audio-visual works ;Web pages).

COPYRIGHTS

- ☐ **India has a very strong and comprehensive copyright law based on Indian Copyright Act. 1957 which was amended in 1981, 1984, 1992, 1994 and 1999 (w.e.f. January 15, 2000). The amendment in 1994 were a response to technological changes in the means of Communications like broadcasting and telecasting and the emergence of new technology like computer software.**

- ☐ **The 1999 amendments have made the Copyright Act fully compatible with Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement. & fully reflects Berne Convention. The amended law has made provisions for the first time, to protect performers' rights as envisaged in the Rome Convention. With these amendments the Indian Copyright law has become one of the most modern copyright laws in the world.**



GEOGRAPHICAL INDICATIONS

**(Governed By The Geographical Indication
Of Goods (Registration & Protection) Act, 1999)**

- An indication used to identify agricultural, natural or manufactured goods originating from a definite territory in India.
- It should have a special quality or characteristics or reputation based upon the climatic or production characteristics unique to the geographical location.
- Examples of Geographical Indications in India are Darjeeling Tea, Kanchipuram Silk Saree, Alphonso Mango, Nagpur Orange, Kolhapuri Chappal, Bikaneri Bhujia, etc.
- Any association of persons, producers, organization established by or under the law can apply representing & protecting the interests of the producers.
- The registration of a Geographical Indication is for a period of ten years.
- Renewal is possible for further periods of 10 years each.

GEOGRAPHICAL INDICATIONS

India, as a member of the World Trade Organization, enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999 has come into force with effect from 15th September 2003. The source of Geographical origin of the biological material used in invention is required to be disclosed in the specification

Protection of New varieties of Plants

*(To Be Governed By Sui Generis system
The Protection Of Plant Varieties and Farmer's Rights Act,
2001)*

NEW PLANT VARIETY: a)DISTINCT b) UNIFORM and c)STABLE

The objectives of the Act are as follows :

- ❑ To provide for the establishment of an effective system for protection of plant varieties;
- ❑ To provide for the rights of farmers and **plant** breeders;
- ❑ To stimulate investment for research and development and to facilitate growth of the seed industry;
- ❑ To ensure availability of high quality seeds and **planting** materials of improved varieties to farmers

LAYOUT DESIGNS (TOPOGRAPHIES) OF INTEGRATED CIRCUITS

[To be governed by The Semiconductor Integrated Circuits Layout Designs Law (SICLD) Act, 2000]

- ❑ The Semi-Conductor Integrated Circuits Layout-Design (SICLD) Act, 2000 is the governing Act for 'Lay Out Designs of Integrated Circuits' in India.
- ❑ The aim of the Act is to provide protection of Intellectual Property Right (IPR) in the area of Semiconductor Integrated Circuit Layout Designs and for matters connected therewith or incidental thereto.
- ❑ The Act is implemented by the Department of Information Technology, Ministry of Information Technology.
- ❑ The Semiconductor Integrated Circuits Layout-Design Registry (SICLDR) is the office where the applications on Layout-Designs of integrated circuits are filed for registration of created IPR.
- ❑ The Registry has jurisdiction all over India.



OLYMPUS



TRADEMARKS

(Governed By The Trade Marks Act,1999)

- ❑ A trade mark is any sign which can distinguish the goods of one trader from those of another. Sign includes, words, logos, pictures, or a combination of these.
- ❑ A trade mark is used as a marketing tool so that customers can recognize the product of a particular trader.
- ❑ **To register a trade mark , the mark must be:-**
distinctive, **and**, not deceptive, or contrary to law or morality,
and, not identical or similar to any earlier marks for the same or similar goods.

VARIETY OF MARKS

FANCIFUL MARKS: INVENTED WORDS

“KODAK”

ARBITRARY MARKS: HAVING REAL MEANING BUT NO
RELATION TO GOODS

“APPLE” FOR COMPUTERS

SUGGESTIVE MARKS: GIVE HINT OF THE PRODUCT

“BABY-DRY” FOR NAPPIES

BRAND VALUATION

JAPANESE PATENT OFFICE REPORT

COCA-COLA

-

+ 6.2 TRILLION YEN

MARLBORO

-

+6.2 TRILLION YEN

IBM

+3.1 TRILLION YEN

SONY

-

+1.9 TRILLION YEN

SOME OTHER WELL KNOW MARKS

CNN

24 HR CHANNEL;

DHL

PACKAGE DELIVERY

COMPUTERS-

-"MICROSOFT"; "INTEL"; "UNIX"

TRADEMARKS



- ❑ India affords full protection to trade marks under the Trade Marks and Merchandise Act. The Indian law of trademarks is protected by the Trade & Merchandise Marks Act, 1958. A new statute i.e. the Trade Mark Act, 1999 has been enacted in India to bring it in conformity with the TRIPs Agreement, to which India is a signatory. Indian Trademarks Act, 1999, came into force on September 15, 2003.
- ❑ India has made a step towards fulfilling its international obligations. Consequently, the Indian trademark law has now become fully compatible with the International standards laid down in the TRIPs Agreement. The New Act primarily consolidates and amends the old Trade & Merchandise Marks Act, 1958 and provides for better protection of goods and services

DESIGNS ACT 2000

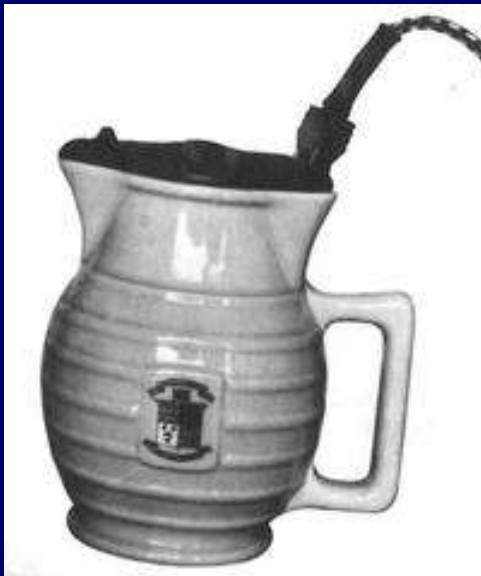
(Came In To Force On 11-05-2001)

**APPLIED TO
ANY ARTICLE OF MANUFACTURE IN TWO DIMENESION
OR THREE DIMENSION OR IN BOTH FORM**



Industrial Designs

□ Electrical JUG



- The protection you receive is only for the appearance of the article and not how it works.
- Design registration is intended to protect designs which have an industrial or commercial use.
- Duration of protection is initially for 10 years and extendable for another term of 5 years.
- Designs of stamps, labels, tokens, cards, cartoons, or parts of an article not sold separately, cannot be registered.

Fifteen years ago, Companies:

Competed on : Price

Today it's : Quality

Tomorrow it's : Designs

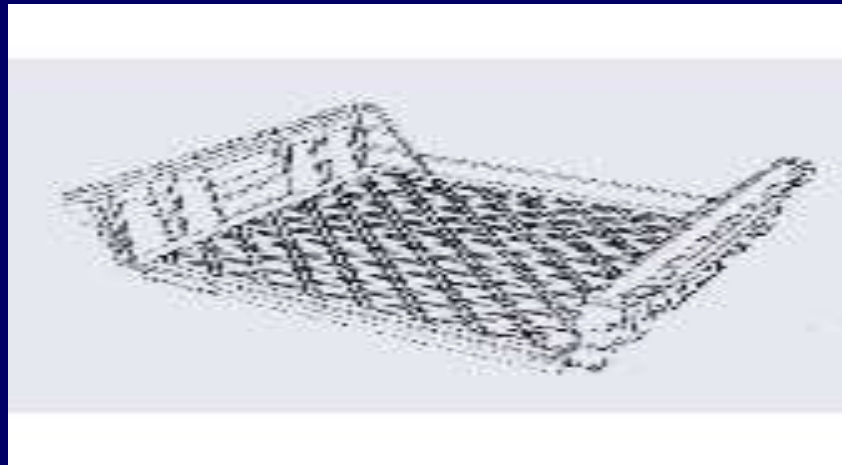


When companies are competing at equal price & functionality Design is the only differential that matters”

**– Mark Dziersk,
quoted in TIME Magazine**

METHOD OF MANUFACTURE NOT PROTECTED BY DESIGN

FRUIT BASKET DESIGN



PATTERN OF THE BASKET

Locarno Agreement

Classification of designs in classes:

An International classification of Industrial Designs according to the Locarno Agreement has been introduced in the Designs Rules, 2001. The classification of goods is based upon the function of the classification of goods is applied.

Classes and most of the classes are further divided into sub-classes. These classes and sub-classes are mainly function oriented.

Normally, the name of the article should be such that is common/familiar in the trade or Industries. The name of the article as mentioned in the application from should correspond with the representation of the article as filed.

CLASSIFICATION OF DESIGNS

CLASS-01= FOODSTUFFS

**Sub Class 01-01: Bakers' products ,biscuit
pastry,Chocolates**

Sub Class 01-04: Butcher's meat, fish ..

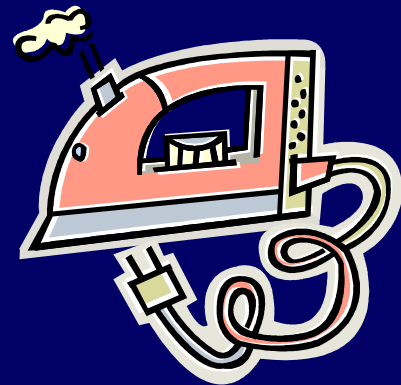
Sub Class 01—06: Animal Foodstuff

CLASS 07 : HOUSEHOLD GOODS

Sub Class 07-01 : China ,glassware,dishes..

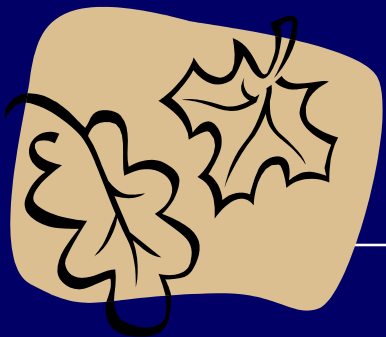
Sub Class 07-03 : Table Knives..

Sub Class 07-08: Fire Place Implements

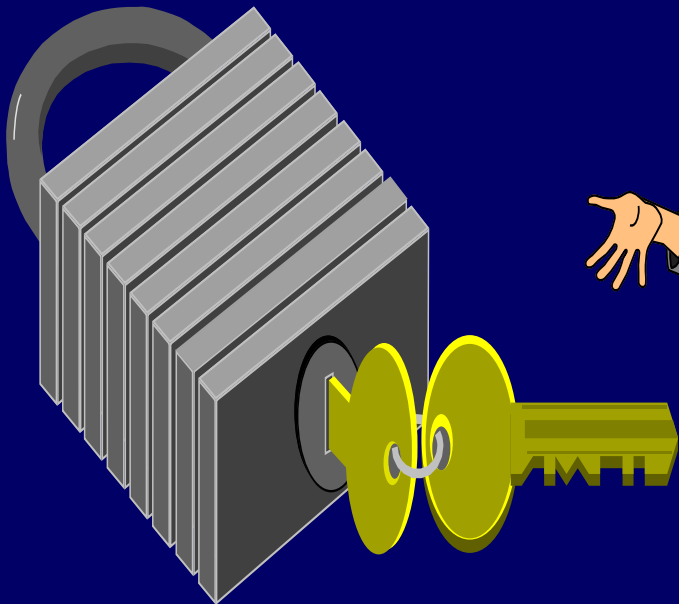


DESIGNS

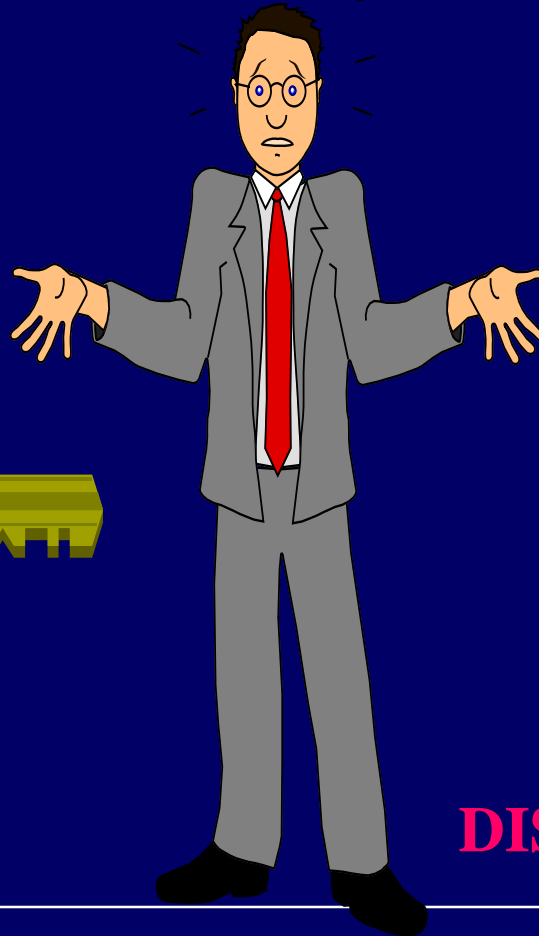
The existing legislation on industrial designs in India is contained in the New Designs Act, 2000 India had achieved a mature status in the field of industrial designs and in view of globalization of the economy. The present legislation is aligned in view of the changed technical and commercial scenario and made to conform to international trends in design administration.



***TECHNICAL ADVANCEMENT BY WAY OF
A NEW PRODUCT OR A NEW PROCESS
NOT LIMITED TO OUTER VISUAL APPEAL***



KEEP IT SECRET



DISCLOSE TO OTHERS



CONFIDENTIAL INFORMATION TRADE SECRETS

MANUFACTURING AND COMMERCIAL SECRETS

Secret
Commercial
Value
Steps Taken
To Keep It
Secret



- CONSUMER PROFILES
- DISTRIBUTION METHODS
- MANUFACTURING PROCESSES
- ADVERTISING STRATEGIES

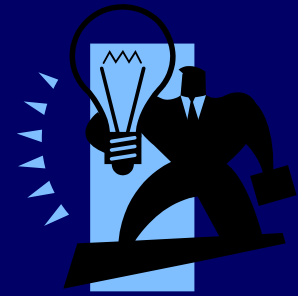
TRADE SECRET



A typical example is Coca-Cola. This soft drink was invented in 1886 and was never protected by a patent, only by a trademark (for the name Coca-Cola) and by an industrial design (for this very special design of the Coca-Cola bottle, supposed to be in the shape of a woman wearing a long skin-tight dress).

The process of the Coca-Cola drink is secret and is only known by two persons in the world. They are not allowed to travel together, so that there is no chance of them dying at the same time in an accident. The secret of the Coca-Cola process was well kept during all these years, and nobody is able to produce a drink with exactly the same taste still today. You all know that Pepsi Cola, its biggest competitor, has a different taste.

PATENTS



- A patent is a legal title granting its holder the exclusive right to make use of an invention for a limited area and time by stopping others from, among other things, making, using or selling it without authorization.
- In return for this right, the applicant must disclose how his invention works in sufficient detail.
- When a patent is granted, the applicant becomes the owner of the patent. Like any other form of property, a patent can be bought, sold, licensed or mortgaged.
- Patents are territorial rights, so an Indian patent will only give the owner rights within India and rights to stop others from importing products into India.

THE PATENTS LAW AND PRACTISE

**Guided By The Patents Act,1970 as amended
By The Patents (Amendment) Act,2005**

DISCLOSURE OF ADVANCEMENT

INVENTOR

ASSIGNEE OF THE

**LEGAL HEIR OF AN
INVENTOR/HIS**



**THE
PATENT
OFFICE**

**20 YEARS EXCLUSIVE RIGHT
ON ADVANCEMENT**

PATENTS



- ❑ As on date, India is fully in compliance with its international obligations under the TRIPs Agreement.
- ❑ **The Patents Act 1970 has undergone three amendments – 1999, 2002 & 2005.**
- ❑ **The III Amendment in 2005 has major implications on the following:**
 - Introduction of product patent protection for food, pharmaceutical and chemical inventions.
 - Examination The “mail box” applications, from January 01, 2005

HOW IP CAN BE GENERATED AND WHAT CAN BE THE BENEFIT

**IT IS A MYTH THAT INTELLECTUAL PROPERTY IS
HIGH TECH AND SO THE MOST BUSINESS OPERATORS
ARE VERY REMOVED FROM THE CONCEPT OF
INTELLECTUAL PROPERTY AND INTELLECTUAL
PROPERTY RIGHTS.**



WORLDS FIRST INSTANT NOODLE

**MADE IN ROADS INTO THE GLOBAL MARKET BY
WAY OF PATENTS.**

**MR. MOMOFUKU AND OF NISSAN
FOOD PRODUCTS,LTD., JAPAN HAD
EMBARKED ON A QUEST TO
CREATE NOODLE THAT COULD BE
EATEN ANYWHERE WITH JUST A
BOWL AND CHOPSTICKS.**

**HIS RESEARCH RESULTED IN
SUCCESSFUL DEVELOPMENT OF
WORLDS FIRST INSTANT NOODLES,
“CHICKEN RAMEN” IN 1958.**

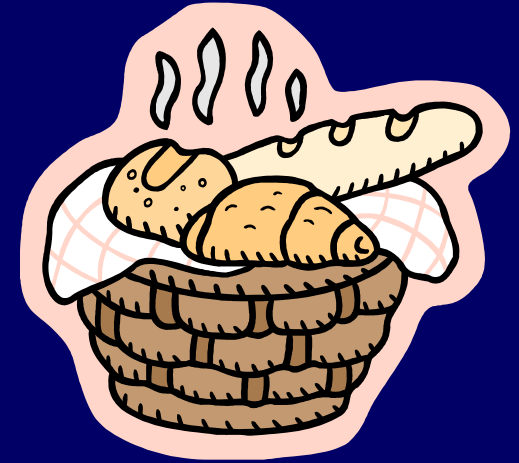


"Chicken Ramen," the world's first instant noodles, 1958



The internationally popular "Cup Noodles" ,1971

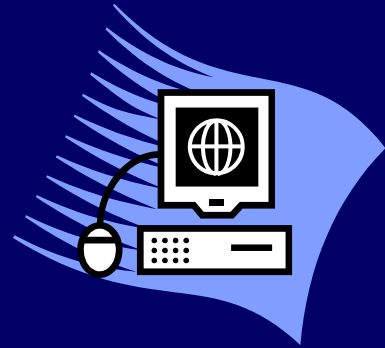
CHICKEN RAMEN



- ❖ **TURNUED OUT TO BE A BIG HIT**
- ❖ **CRUDE IMITATIONS APPEARED IN MARKET.**
- ❖ **NISSIN USED ITS PATENTS ON MANUFACTURING METHODS TO COMBAT COUNTERFEIT.**
- ❖ **INTELLECTUAL PROPERTY BY WAY OF PATENTS ALLOWED RETAIN EXCLUSIVITY.**

IP AS A TOOL TO COMPETE WITH MULTINATIONALS

CASE OF GOLDTOUCH TECHNOLOGIES VS MICROSOFT



- ❑ GOLDTOUCH A SMALL COMPANY DEVELOPED AN ERGONOMIC KEYBOARD MANOEUVURED INTO DIFFERENT POSITIONS TO SUIT USER NEEDS AND MOUSE DESIGN.**
- ❑ FILED APPLICATIONS FOR PATENTS FOR ITS PRODUCTS.**
- ❑ LICENSED TO LEXMARK AND IBM**
- ❑ SUBSEQUENTLY APPROACHES MICROSOFT TO DISCUSS LICENSING.**

A YEAR LATER ELEMENTS OF THE NOVEL MOUSE DESIGN FOUND INCORPORATED IN MICROSOFT MOUSE

GOLDSOFT START LOSING SALES

**PRODUCT BRANDED WITH THE LOGO “MICROSOFT”
MORE ACCEPTABLE THAN
LESSER KNOWN GOLDSOFT”**

**POWER OF MICROSOFT LOGO GREATLY
REDUCED POTENTIAL SALES OF
GOLDSOFT DESPITE - GOLDSOFT
DESIGN -ORIGINALITY**

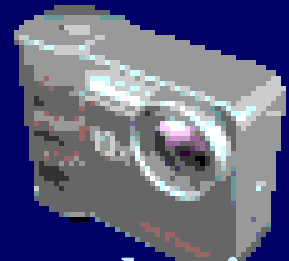
**ONLY BECAUSE OF THEIR PATENT
GOLDSOFT COULD EVEN THINK OF
STOPPING MULTINATIONAL MICROSOFT
FROM SELLING PATENTED
PRODUCT**

ADVANTAGE IP



FOR MOST PRODUCTS EVERY FORM OF INTELLECTUAL PROPERTY RIGHTS CAN BE OBTAINED

←CAMERA→



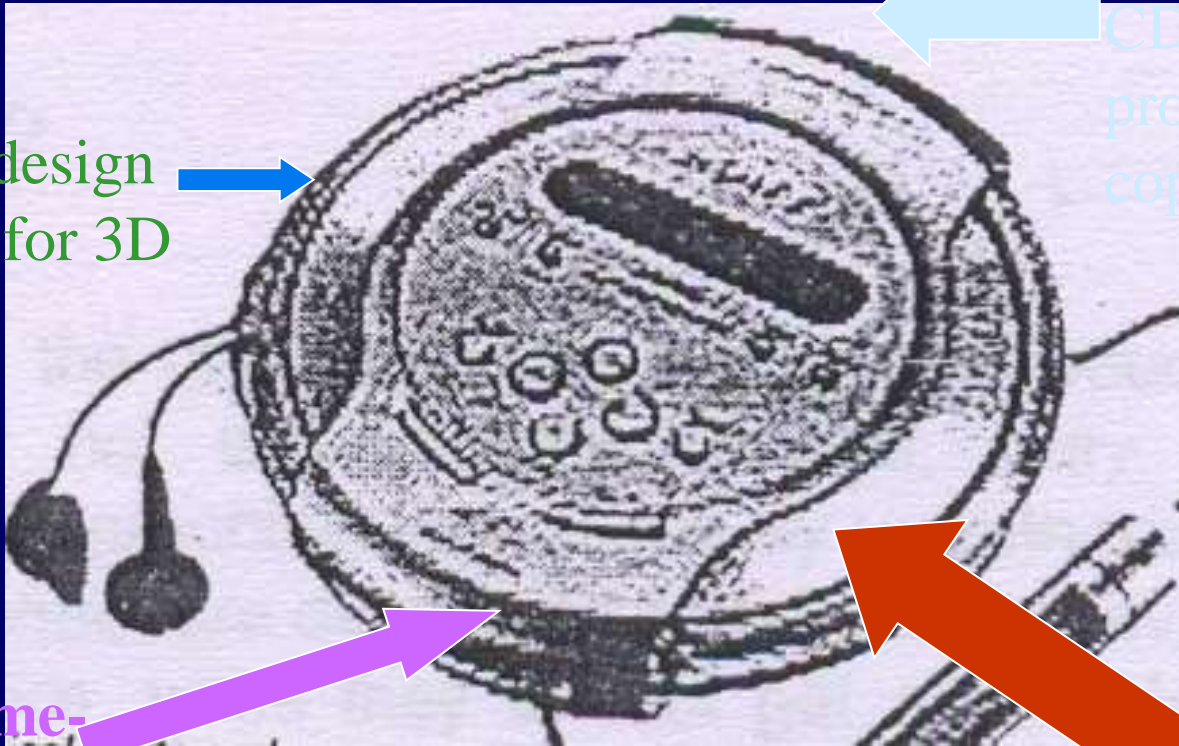
“PATENT” → For every individual improved mechanism

“DESIGN” → For outer shape & Contour / Configuration

“TRADE MARK” → Brand name or Logo for goods denoted as ®

“Copy right” → For Instruction / manual booklet denoted as ©

CD PLAYER



Music played on the
CD player is
protected by
copyright

Industrial design
protection for 3D
shape

Brand name-
registered under
trademark

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

INTELLECTUAL PROPERTY AND MARKET



- ❖ **DIFFERENTIATES YOUR PRODUCTS AND SERVICES FROM OTHERS**
- ❖ **PROMOTES YOUR PRODUCTS AND SERVICES AND CREATES A LOYAL CLIENTELE**
- ❖ **DIVERSIFIES YOUR MARKET STRATEGIES TO VARIOUS TARGET GROUPS**
- ❖ **POPULARIZES YOU IN FOREIGN COUNTRIES**
- ❖ **KEEPS AWAY YOUR COMPETITORS/COPIERS**

THANKS