

CENTRE FOR INTERNATIONAL LEGAL STUDIES**SCHOOL OF INTERNATIONAL STUDIES**

Course : **Ph.D.**
Course No. : **DI635**
Course Title : **Global Regime on Intellectual Property Rights**
Course Type : **Optional**
Course Teacher : **Prof. V.G. Hegde**
Credits : **2**
Contact Hours : **2 hours per week**
Semester : **Winter**

Course Objectives

The primary objective of the course will be to provide an overview to the Ph.D. students on the existing global regime on intellectual property rights (IPRs) with specific focus on international legal and institutional framework. The course will have an evolutionary perspective comprising provisions of the Agreement on Trade-related Aspects of Intellectual Property Rights (TRIPs) and other related international conventions. The TRIPs Agreement (within the institutional and multilateral structure of the World Trade Organization) has set certain minimum standards with regard to substantive IPR norms. It requires the Member States to implement the minimum standards within their domestic legal systems. The course will seek to focus on these implementation issues that will cover an emerging economic power such as India. The students will be able to have a glimpse into the impact of global IP regimes on India and other developing countries.

The ambit of the subject matter of protection under global IPR regimes, besides core technological and other related subject matters, has been expanded to include areas such as traditional knowledge (TK), traditional cultural expressions (TCE), biodiversity and genetic resources. It will deal with and highlight the perspectives of India and other similarly placed developing countries. At the global level, some of these areas of IPR protection have been dealt both substantively and procedurally through varied multilateral treaty frameworks as administered by the World Intellectual Property Organization (WIPO), the World Health Organization (WHO), the Food and Agricultural Organization (FAO) and the United Nations Environment Programme (UNEP). The course will examine these IPR-related national and

multilateral treaty regimes with an inter-disciplinary framework. The international legal processes at the global level, specifically for IPRs, have been challenged by several difficult implementation issues for developing countries such as India. In recent times issues relating to cyber security and the protection of Artificial Intelligence (AI) related technologies have been posing new challenges. The course will, to the extent necessary, address these implementation issues referring to various decisions of the national and international courts and tribunals.

Learning Outcomes

The course will primarily seek to equip the Ph.D. students with a broader and comprehensive understanding of the ongoing international legal discourse on IPRs. It will also equip students with current debates and challenges within the domestic IP regimes, with specific reference to concerns of an emerging economic power such as India. It will also provide students an insight into the major cases (through analysis of cases) relating to IPRs.

Evaluation Methods

Grading: 100 marks for Grade to be given after evaluation

- End semester examination (60 marks)
- Term paper (20 marks)
- Book review (10 marks)
- Attendance (class participation) (10 marks)

Course Content

Unit 1 - Evolution of IPRs

Understanding IPRs: kinds of IPRs; evolution of IPRs; international law, globalization and IP.

Unit 2 - Global Regime on IPRs

Multiplicity of International Institutions dealing with IPRs (World Intellectual Property Organization (WIPO); World Trade Organization (WTO); Food and Agricultural Organization (FAO); United Nations Economic and Social Organization (UNESCO); World Health Organization; Trade and Investment Agreements.

Unit 2 - Nature and the Content of IPRs

Hierarchy and justifications for IPRs; Subject Matter of IPR Protection; Concept of Public Domain; Tangible and Intangible Rights; University v. Industry; Public Interest and Private Gains; Theoretical Frameworks on IPR protection; Relationship between IPRs and Economic Development.

Unit 3 - National IPR Policy: The Indian Context

National policies on IPRs: overlapping global institutional and legal regimes on IPRs; The 2016 Indian IPR Policy;

Unit 4 - An Overview of the TRIPs Agreement

TRIPs Agreement –the context, genesis and implementation issues - Patents - patentability criteria, local working, remedies for infringement, term of protection - Copyrights and other related rights–Definition, nature and scope (digital agenda, internet) - Trademarks–Definition and scope; law of passing off - Geographical Indications (GIs); undisclosed information/trade secrets - Enforcement of IPRs–civil, criminal and administrative remedies.

Unit 5 - IPRs and Public Health

TRIPS Agreement Flexibilities, Doha Declaration on Public Health, Access to Medicines and Human Rights; COVID - 19 and the Indian Initiatives in seeking amendments to TRIPs.

Unit 6 - New and Emerging Areas in IPRs

Biodiversity, farmers rights, traditional knowledge (TK), traditional medicine and IPRs; Traditional Cultural Expressions.

Unit 7 - Emerging Technology and IPRs

Impact of New Technologies on IPRs: Cyber Security and Artificial Intelligence.

Selected Reading List

Primary Sources:

1. Commission on Intellectual Property Rights (CIPR) (2002), *Integrating Intellectual Property Rights and Development Policy* (Government of United Kingdom : London).
2. Government of India (2016), *National Intellectual Property Rights Policy* (Ministry of Commerce and Industry, Government of India).
3. South Centre (1997), *The TRIPs Agreement: A Guide for the South, The Uruguay Round Agreement on Trade-Related Aspects of Intellectual Property Rights* (South Centre: Geneva).
4. United Nations (2016), *Report of the United Nations Secretary General’s High Level Panel on Access to Medicines: Promoting Innovation and Access to Health Technologies* (United Nations).

Secondary Sources:

1. Abbas, Muhammad Zaheer (2022), “Twenty Years After Doha: An Analysis of the Use of the TRIPs Agreement’s Public Health Flexibilities in India” (South Centre).
2. Ahuja, V. K. (2022), *Handbook on the Geographical Indications (with Special Focus on North-East Region)* (Guwahati: National Law University and Judicial Academy).
3. Calboli, Irene and Montagnani, Maria Lila (2021), *Handbook on Intellectual Property Research* (Oxford University Press).
4. Correa, Carlos M. (2000), *Intellectual Property Rights, the WTO and Developing Countries: The TRIPs Agreement and Policy Options* (Penang: Third World Network).
5. Cullet, Philippe (2005), *Intellectual Property Protection and Sustainable Development* (New Delhi: Butterworths).
6. Drahos, Peter (2002), *Global Intellectual Property Rights: Knowledge, Access and Development* (UK: Palgrave).
7. Foss-Solbrekk, Katrina (2021), “Three Routes to Protect AI Systems and their Algorithms under IP Law: The Good, Bad and Ugly”, *Journal of Intellectual Property Rights and Practice*, 16 (3): 247.
8. He, Juan (2011), “Developing Countries and Intellectual Property Rights”, *Chinese Journal of International Law*, 10(4): 827-863.
9. Hegde, V.G. (1998), “Patenting Lifeforms: National and International Perspectives”, *Indian Journal of International Law*, 38 (4): 99-110.
10. Hegde, V.G. (2007), “Intellectual Property Rights and African-Asian States” in the *Special Commemorative Volume on International Law*, Asian African Legal Consultative Organization (AALCO).
11. May, Christopher and Sell, Susan K. (2008), *Intellectual Property Rights: A Critical History*, Indian Edition (New Delhi: Viva Books).
12. Olwan, Rami M. (2013), *Intellectual Property Rights and Development: Theory and Practice* (Springer).
13. Phillips, Jermy and Firth, Alison (2001), *An Introduction to Intellectual Property Law* (London: Butterworths).
14. Ragavan, Srividhya (2012), *Patent and Trade Disparities and Developing Countries* (Oxford University Press).
15. Wattal, Jayashree (2001) *Intellectual Property Rights in the WTO and Developing Countries* (Oxford University Press).

Selected Cases:

1. *Association for Molecular Pathology v. Myriad Genetics Inc.* US Supreme Court, 13 June

2. 2013 [No. 12-398: Ass'n for Molecular Pathology v. Myriad Genetics - Amicus \(Merits\) \(justice.gov\)](#).
3. *Bajaj Auto Ltd v. TVS Motor Company Ltd* High Court of Madras (4 October 2010) [Bajaj_Auto_Ltd_vs_Tvs_Motor_Company_Ltd_on_4_October_2010.PDF](#)
4. *Bayer Healthcare Lld vs Natco Pharma Limited*, High Court of Delhi (5 July 2023) [Bayer_Healthcare_Llc_vs_Natco_Pharma_Limited_on_5_July_2023.PDF](#).
5. *Bilskiv. Koppas*, US Supreme Court 28 June 2013 [No. 08-964: Bilski v. Kappos - Brief\(Merits\) \(justice.gov\)](#).
6. *Canada-Patent Protection of Pharmaceutical Products*, WTO Doc. WT/DS114/R (18 August 2000) [WTO | dispute settlement - the disputes - DS114](#).
7. *Canada Term of Patent Protection*, WTO Doc. WT/DS114/R (28 February 2001) [WTO | dispute settlement - the disputes - DS170](#).
8. *Cipla Ltd. v. F.Hoffmann-La Roche Ltd. & Anr.* High Court of Delhi (27 November 2015) [Cipla Ltd. vs F.Hoffmann-La Roche Ltd. & Anr. on 27 November, 2015 \(indiankanoon.org\)](#)
9. *Diamond v. Chakravarty*, US Supreme Court, 1980 [U.S. Reports: Diamond v. Chakrabarty, 447 U.S. 303 \(1980\). \(loc.gov\)](#).
10. *Feist Publications* US Supreme Court, 1991, [Microsoft Word - 1991 Feist.docx \(harvard.edu\)](#).
11. *Harvard College v. Canada (Commissioner of Patents)*, Supreme Court of Canada, 2002, [Harvard College v. Canada \(Commissioner of Patents\) - SCC Cases \(lexum.com\)](#).
12. *Harvard Mouse Case*, European Patent Office, 2004, [T_0315/03 \(Transgenic animals/HARVARD\) 06-07-2004 | Epo.org](#).
13. *India-Patent Protection for Pharmaceutical and Agricultural Chemical Products*, WTO Doc. WT/DS50/R (16 April 1999) [WTO | dispute settlement - the disputes - DS50](#).
14. *Monsanto v. Nuziveedu Seeds*, Supreme Court of India (8 January 2019) [Monsanto Technology Llc Thru The ... vs Nuziveedu Seeds Ltd. Thru The ... on 8 January, 2019 \(indiankanoon.org\)](#).
15. *Mansanto Canada Inc. v. Schmeiser*, Supreme Court of Canada 21 May 2004, [Monsanto Canada Inc. v. Schmeiser - SCC Cases \(lexum.com\)](#).
16. *Novartis v. Union of India and Others*, Supreme Court of India, 1 April 2013 [vaptm \(sci.gov.in\)](#).

NATCO v. Bayer, Indian Patent Office, (21 June 2012)
https://ipindia.gov.in/writereaddata/Portal/News/358_1_compulsory_License_12032012.pdf

17. *Telefonaktiebolaget Lm Ericsson v. Intex Technologies (India)*, High Court of Delhi (13 March 2015) [Telefonaktiebolaget Lm Ericsson ... vs Intex Technologies \(India\) ... on 13 March, 2015 \(indiankanoon.org\)](https://indiankanoon.org).
18. *Telefonaktiebolaget Lm Ericsson v. Competition Commission Of India* High Court of Delhi (30 March 2016) <https://indiankanoon.org/doc/164770226/>.
19. *Telefonaktiebolaget Lm v. Xiaomi Technology & Ors* High Court of Delhi 22 April 2016 [Telefonaktiebolaget Lm vs Xiaomi Technology Ors on 22 April 2016.PDF](https://indiankanoon.org/doc/164770226/)
20. *United States Section 110(5) of US Copyright Act*, WTO Doc. WT/DS160/R (16 October 2023) https://www.wto.org/english/tratop_e/dispu_e/cases_e/ds160_e.htm.
