

**IKP KNOWLEDGE PARK**

**SITE OFFICE**

Genome Valley, Turkapally Village  
Shameerpet Mandal, Medchal-Malkajiri District  
Hyderabad - 500 101, Telangana, India  
T: +91 40 2348 0022 | F: +91 40 2348 0007

**CITY OFFICE**

Indra Towers, 3rd Floor Plot No.1, Krishna Nagar Colony  
Beside Gandhian School, Wellington Road, Picket  
Secunderabad - 500 009, Telangana, India  
T: +91 40 4201 8081/82

ikptto@ikpknowledgepark.com  
www.ikpknowledgepark.com



H A N D B O O K  
O N  
**INTELLECTUAL  
PROPERTY RIGHTS  
FOR INNOVATORS**



**CONTENTS**

SECTION 1 INTRODUCTION	01
SECTION 2 IPRs AT A GLANCE	03
SECTION 3 TYPES OF IPR	05
SECTION 4 PATENT PROCEDURES	13
SECTION 5 IPR RELATED GOVERNMENT SCHEMES	17
SECTION 6 TREAT IPR AS AN ASSET	19
SECTION 7 HOUSEKEEPING POINTERS: SOME QUICK DO'S AND DON'T'S	21
SECTION 8 IKP PRIME - YOUR PARTNER IN IPR PROTECTION AND COMMERCIALIZATION	23
FURTHER READING	26
IKP PRIME TEAM	27
ABOUT IKP & IKP PRIME	29



## SECTION 1

# INTRODUCTION

Intellectual Property (IP) refers to creations of the mind, such as inventions, literary and artistic works, designs and symbols, names and images used in commerce.

IP is protected in law by a diverse set of instruments, such as patents, copyright, trademarks, etc. These enable innovators to earn recognition and financial benefit from their inventions or creations. IP aims to foster an environment in which creativity and innovation can flourish by striking the right balance between the interests of innovators and wider public interest.

### IMPORTANT FEATURES OF IPR



Intangible property created by use of 'intellect'



Territorial rights



Economic value



Fixed period rights



Protectable under law



Imposition of rights as well as liabilities



Exclusive rights



Potential to commercialise



## SECTION 2

# IPRs AT A GLANCE

The following table gives a brief overview of the different types of Intellectual Property Rights (IPRs), protectable subject matters and terms of protection.

IP Rights	Protection for	Need to apply?	Protection Term	Example
Patent	Invention (product and/or process)	Yes	20 years	CRISPR CAS-9 patents 
Copyright	Literary, artistic, dramatic works, cinematographic films, sound recording and computer programs	No	(Lifetime of author) + 60 years	
Trademark	Distinctive name, symbol, sign, logo, tagline, shape, colour, sound, smell	No	10 years (renewable)	
Industrial Design	Ornamental or aesthetic design in a product	Yes	10 years (Renewable for 5 years)	
Integrated Circuits & Layout-Design	Semiconductor chip, integrated circuits, and layout-designs	Yes	Earlier of 10 years from filing date, or first commercial use	
Geographical Indication	Products with peculiar properties due to their geographical origin - e.g. agricultural & dairy products, food products, arts and beverages	No	10 years (renewable)	
Protection of Plant varieties & Farmer rights	New plant varieties of trees and vines, other crops and extant varieties	Yes	6 -15 years	KMH50 - Maize variety



## SECTION 3

# TYPES OF IPR

## PATENTS

Patents in India are governed by **The Patents Act, 1970** and the Rules made thereunder, as amended from time to time. A patent is an exclusive statutory right granted by a government to an applicant for a period of 20 years to exclude others from making, using, offering for sale, selling or importing a product or process involving the patented invention, without the applicant's prior approval. A patent is granted for a novel invention that has inventive features, is not obvious to a person skilled in the art or has economic significance and is capable of industrial application.

The exclusivity in a patent is granted within its territory by a government in exchange of full and complete disclosure, with accurate and enabling details mentioned in the patent specification, so that the patent is available to the public, who can practice the patent after the patent protection/ exclusivity term is over.

An invention becomes patentable if it does not fall under any of the prohibited subject matters as mentioned in section 3 and section 4 of the Indian Patents Act, 1970, and exhibits the following characteristics:

- a. **Novelty** – The invention is new, meaning that it should not have been published or generally known to public anywhere in the world before the filing of patent application.
- b. **Inventive Step** – The invention should have technical advancement to the existing knowledge, such that the said advancement is not obvious to a person skilled in the art. An invention that has economic significance in the ways that it reduces cost-burden or provides a solution for a long-felt need also qualifies for inventiveness.
- c. **Industrial Application** –The invention must be capable of being made or used in the industry.

The Patents Act, 1970 also mandates to comply with the following requirements before/while applying for a patent:

- a. Deposit of biological material in an International Depository Authority (IDA) before filing of the patent application.
- b. Approval from the National Biodiversity Authority (NBA) for access of biological material from India, for sharing information to a foreign entity regarding the biological material and for filing a patent application.
- c. Disclosure of sequence listing for nucleotides or amino acids in electronic format.

For entrepreneurs, a patent can help in creation of an intangible asset in addition to empowering their invention with protection from infringement. Entrepreneurs can benefit from patent protection in several ways, a few of them being:

- a. Creating an IP protected product
- b. Creating a strong IP portfolio
- c. Creating a niche market
- d. Gaining a strong market position
- e. Achieving competitive advantage
- f. Defence against unfair competitive practices of competitors
- g. Attracting investments and grants
- h. Enabling product commercialization through assignment and licensing
- i. Improving market share through value added products
- j. Providing better valuation for mergers and acquisitions, etc.

## TRADEMARKS

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Trademarks in India are governed by **The Trademarks Act, 1999** and the rules made thereunder, as amended from time to time. A 'trademark' is defined as any mark which is capable of being represented graphically and helps in distinguishing the goods and services of one person from those of others which may include shape of goods, packaging and combination of colours etc. A trademark could be a word mark, logo, device, label, hologram, a tag line, a smell, taste, shape of an article, packaging, a colour of a combination of colours, a sound or a jingle that is graphically represented in the form of musical notes.

Trademarks in India can be classified in the following broad categories: -

- a. **Product marks** - Marks which identify goods of the owner. E.g. Jaguar<sup>®</sup>, Nike<sup>®</sup> etc.
- b. **Service marks** - Marks which identify services of the owner. E.g. NETFLIX<sup>®</sup>, Uber<sup>®</sup> etc.
- c. **Collective marks** - Marks which distinguish the goods or services provided by an association or membership of a person from those of others. E.g. FICCI, CS, CA etc.

- d. **Certification marks** – Trademarks which are certified by an authorized agency in respect of origin, material, mode of manufacture of goods or performance of service, quality, accuracy or other characteristics of the goods or services. E.g. ISI mark, FSSAI mark.

A trademark is valid for a period of 10 years from the date of application for trademark registration, which can be further renewed for 10 years upon paying renewal fee from time to time.

Trademarks rights start as soon as it is used for commercial purpose. It is not necessary to register a trademark for using the same. However, trademark registration helps in enforcing the trademarks from infringements and serves as a *prima-facie proof of ownership*.

## INDUSTRIAL DESIGNS



Industrial designs in India are governed by **The Design Act, 2000** and the rules made thereunder, as amended from time to time. Industrial design rights protect the ornamental features of shape, configuration, pattern or composition of lines or colours, applied to an article, providing aesthetic value to the article. The Act excludes any mode or principle of construction or anything which is, in substance, a mere mechanical device, any trademark, property mark or artistic work.

A registered industrial design is protected for an initial term of 10 years from the date of filing or the first use date and is extendable for another 5 years. For obtaining an industrial design, the design must qualify the following conditions:

- a. The design should be applied to an article of manufacture or a part thereof and should be capable of being made and sold separately.
- b. The design should be new/original.
- c. The design should not be prohibited for registration as per any provisions of the Design Act, 2000.
- d. The design should not be contrary to public order and morality.

Copyrights in India are governed by **The Copyright Act, 1957**, and the rules made thereunder, as amended from time to time. A copyright exists in the original expression of an idea. Following category of works are eligible for protection under copyright:

- a. Literary works, including computer programs
- b. Dramatic works
- c. Musical works
- d. Artistic works
- e. Cinematographic works
- f. Sound recordings
- g. Broadcast reproductions
- h. Performance rights of a performer

Copyright comes into existence upon the creation of the work, and its registration is not mandatory for the purposes of enforcement, provided the ownership in the work can be established. Registration of copyright serves as a *prima-facie proof of ownership*.

For literary, dramatic, musical, and artistic works, published within the lifetime of the author, the copyright term will apply for the life of the author and a further 60 years after the author's death. The copyright terms will apply for 60 years for sound recordings and cinematographic films, 25 years for broadcast reproduction rights and 50 years for the performer's rights (applicable from the beginning of the calendar year following the year in which the work is created)

Under Section 14(b) of the Act, the owner of a literary work (which includes a computer program) has the following exclusive rights:

- a. To reproduce the work in any material form including the storing of the work in any medium by electronic means.
- b. To issue copies of the work to the public not being copies already in circulation.
- c. To perform the work in public or communicate it to the public.
- d. To make any cinematograph film or sound recording in respect of the work.
- e. To make any translation of the work.
- f. To make any adaptation of the work.
- g. To do, in relation to a translation or an adaptation of the work, any of the acts specified in the preceding six listed points.
- h. To sell or give on commercial rental or offer for sale any copy of the computer program (provided that such commercial rental does not apply in respect of a computer program where such program itself is not the essential object of the rental).



Semiconductor integrated circuits and layout-designs (ICLD) in India are governed by **The Semiconductor Integrated Circuits Layout-Design Act, 2000** and the Rules made thereunder, as amended from time to time. For the purposes of IP protection, the terms 'integrated circuits' and 'layout design (topography)' are defined as follows:

- a. An 'integrated circuit' means a product, in its final form or an intermediate form, in which the elements, at least one of which is an active element, and some or all of the interconnections are integrally formed in and/or on a piece of material and which is intended to perform an electronic function.
- b. 'Layout-design (topography)' means the three-dimensional disposition, however expressed, of the elements, at least one of which is an active element, and of some or all of the interconnections of an integrated circuit, or such a three-dimensional disposition prepared for an integrated circuit intended for manufacture.
- c. Layout-designs of integrated circuits are also called topographies of integrated circuits or mask works of semiconductor chip products.

A layout design of an integrated circuit can be protected if it is original in the sense that it is the result of the creators' own intellectual effort and not commonplace among creators of layout-designs and manufacturers of integrated circuits at the time of the creation. In general, protection of the topography requires that an integrated circuit be registered or commercially exploited.

ICLD can be protected if the creators show that their circuits and layouts are original, novel and inherently distinctive. The term for protection is 10 years from filing date or first commercial use, whichever is earlier.



## GEOGRAPHICAL INDICATIONS

Geographical Indications (GI) in India are governed by **The Indian Geographical Indications of Goods (Registration & Protection) Act, 1999**, and the Rules made thereunder, as amended from time to time. GIs are the indications that identify goods as originating in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristics of such goods are essentially attributable to its geographical origin.

GIs are collective community rights, which cannot be adopted instantly. GI protection is recognised over time and serves as identifier of geographical origin. GIs are marked only to the local production of goods for its unique attributes. The protection is only provided for the goods and not for the services. A GI is protected for a period of 10 years and may be renewed thereafter for 10-year terms indefinitely.

## PROTECTION OF PLANT VARIETIES AND FARMERS' RIGHTS

Plant varieties and farmers' rights in India are governed by **The Protection of Plant Varieties and Farmers' Rights Act, 2001**, and the Rules made thereunder, as amended from time to time. This Act was enacted to provide for the establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders, and to encourage the development and cultivation of new varieties of plants.

These rights are granted to plant breeders, researchers and farmers who have developed any new or extant plant varieties. These rights are dual right – one is for the variety and the other is for the denomination assigned to it by the breeder. The rights granted under this Act are heritable and assignable and only registration of a plant variety confers the right.

The protection is provided to new plant varieties that qualifies DUS (Distinctiveness, Uniformity, and Stability) test. The protection term is 9 years (only time extension of additional 9 years) for trees and vines, 6 years (only time extension of additional 9 years) for other crops, and 15 years for extant varieties effective from date of notification of such variety by the Central Government under section 5 of the Seeds Act, 1966.



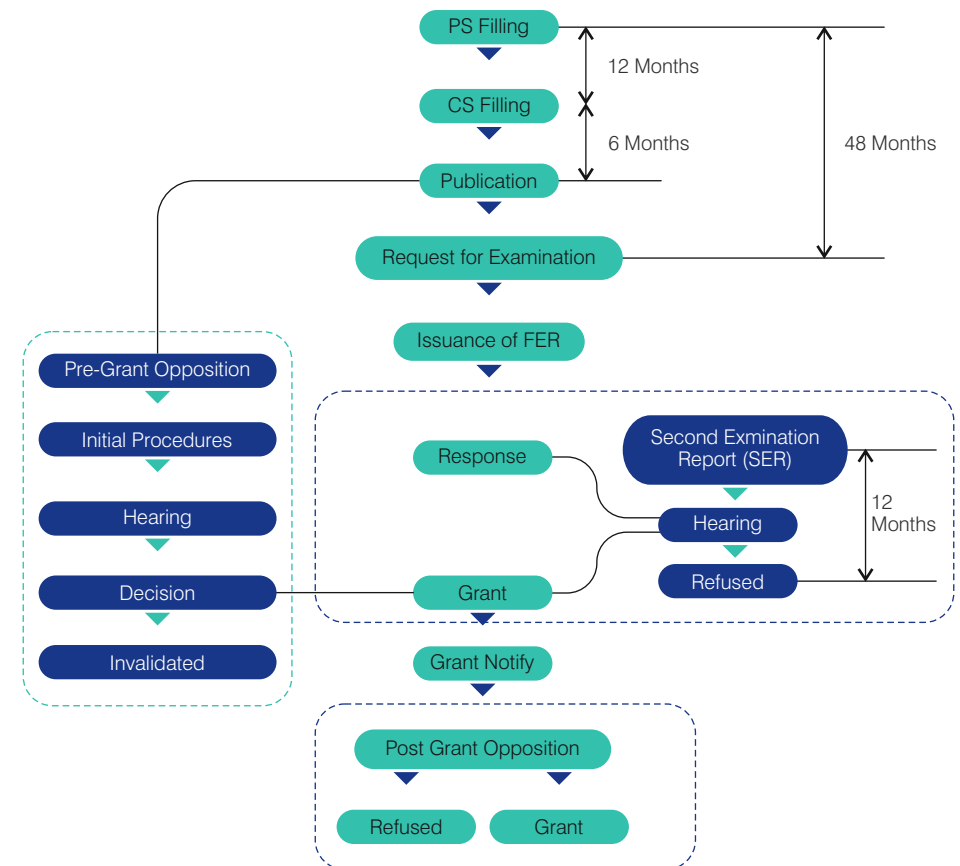


## SECTION 4

# PATENT PROCEDURES

Patents are the most important and relevant IP for entrepreneurs. The patent prosecution process is complex. Entrepreneurs should prefer taking help from an IPR professional to achieve better outcomes of their inventions. In the following sections, patent prosecution procedures in India are outlined for better understanding of the patent application and grant system:

### Patent prosecution in India under Ordinary Examination





## Patent prosecution in India under Expedited Examination

### ELIGIBILITY

- Applicants choosing India as International Search Authority (ISA) or as an International Preliminary Examination Authority (IPEA) in its PCT appl
- Start-up as defined in rule 2(fb) of the Patent Rules, 2003
- Small entity as defined in rule 2(fa) of the Patent Rules, 2003
- Female inventor
- Government undertaking as per Section 2(1)(h) of The Patents Act, 1970
- Applicant eligible under Patent Prosecution Highway (PPH) arrangements

Application assigned to examiner

▼ 1-2 months

Examiner submits examination report to the Controller

▼ 1 month

First Statement of Objections (FSO)

▼ 15 days

FSO sent to the applicant

▼ 6 months

Applicant sends one or more replies to the Controller corresponding to the FSO

▼ 3 months

Controller makes final decision on patent grant or rejection

### COST

Official fees are 2-3 times higher than the normal fees

### BENEFIT

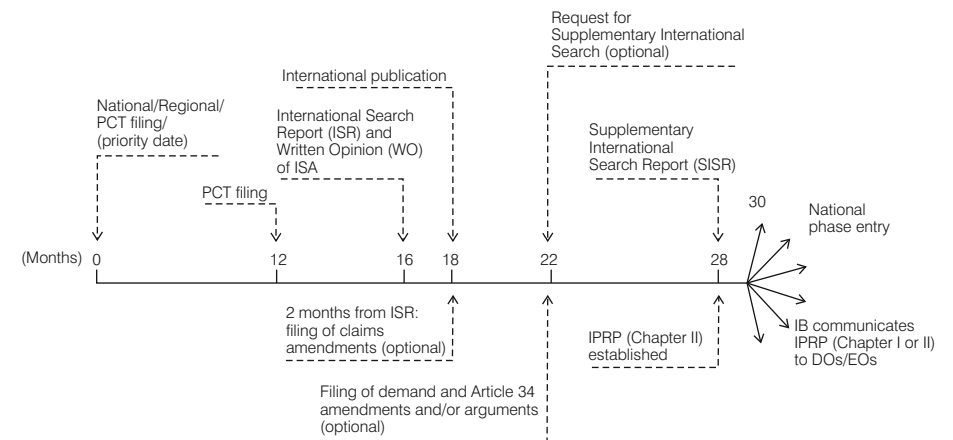
All the processes are quick leading to patent grant in 12-18 months

## Patent Cooperation Treaty (PCT)

The Patent Cooperation Treaty (PCT) assists applicants in seeking patent protection internationally for their inventions, helps patent offices with their patent granting decisions, and facilitates public access to a wealth of technical information relating to those inventions.

By filing one international patent application under the PCT, applicants can simultaneously seek protection for an invention in many countries. A brief schematic of PCT timeline is mentioned below:

### PCT TIMELINE





## SECTION 5

# IPR RELATED GOVERNMENT SCHEMES

The Government of India, through various schemes, provides facilities and benefits with respect to IPRs to empower and encourage start-ups to innovate and commercialize their intellectual properties. To avail these schemes, start-ups have to be recognised under the 'Start-up India Scheme' by Government of India and should qualify as per **the eligibility criteria**.

'**Scheme for facilitating Start-ups Intellectual Property Protection**' (SIPP) is one such scheme under which a panel of facilitators is appointed to assist the start-ups in filing of IP applications.

Other benefits available to start-ups with respect to IPRs are as mentioned below:

1. **Fast-tracking of start-up patent applications:** Patent applications filed by start-ups shall be fast-tracked for examination, under expedited examination procedure, so that their value can be realised sooner.
2. **Panel of facilitators to assist in filing of IP applications:** For effective implementation of the scheme, a panel of 'facilitators' has been empanelled by the Controller General of Patents, Designs and Trademarks (CGPDTM), who also regulate their conduct and functions. Facilitators are responsible for providing general advisory on different intellectual property as well as information on protecting and promoting intellectual property in other countries.
3. **Government to bear facilitation cost:** Under this scheme, the Central Government bears the entire fees of the facilitators for any number of patents, trademarks or designs that a start-up may file, and the start-ups shall bear the cost of only the statutory fees payable.
4. **Women scientists:** To encourage women scientists to file more patents, the Indian Patent Office has introduced incentives to avail of an expedited examination scheme for patent applications.
5. **Rebate on filing of patent application:** Start-ups are provided 80% rebate on the official patent filing fees in India.
6. **Rebate on filing trademark application:** Under the Trade Marks Rules 2017, there are special fee rebates for applicants who are start-ups and small enterprises.
7. **IP filing support by State governments:** Several State governments have various schemes providing financial support in IP filing fees.



## SECTION 6

# TREAT IPR AS AN ASSET

IPRs are intangible assets that give immense strength to their owners. When used strategically, they enhance the value for the owner. If the IPRs are not used effectively, they become a liability.

Following are some of the advantages of monetizing IPRs:

- Competitive advantages
- Revenue generation through
  - Assignment
  - Licensing
  - Technology transfer
  - Collaboration
  - Merger & Acquisition
- Value addition to the organization
- Strengthening the IP portfolio for better ring-fencing protection
- Enhanced valuation of the organization
- Solidification of goodwill and reputation of the organization





## SECTION 7

# HOUSEKEEPING POINTERS: SOME QUICK DO'S AND DON'T'S

It is pertinent that entrepreneurs understand and appreciate the value of IPRs for their sustainable growth. Certain housekeeping pointers for generation, protection, and maintenance of IPRs must be considered:

- Maintain confidentiality/secretcy regarding your IPRs until applying for IPR protection.
- Any disclosure about unpublished IPRs should be carried out under non-disclosure agreement.
- One must apply for patent protection before publishing the invention.
- Maintain regular lab-notes and records.
- Conduct patentability search/FTO before proceeding further in developmental work/product launch.
- Avoid delaying patent/IP protection filing.
- Institute IPR policies/guidelines frameworks for your organisation.
- Consult your IP attorneys/technology transfer office for guidance.



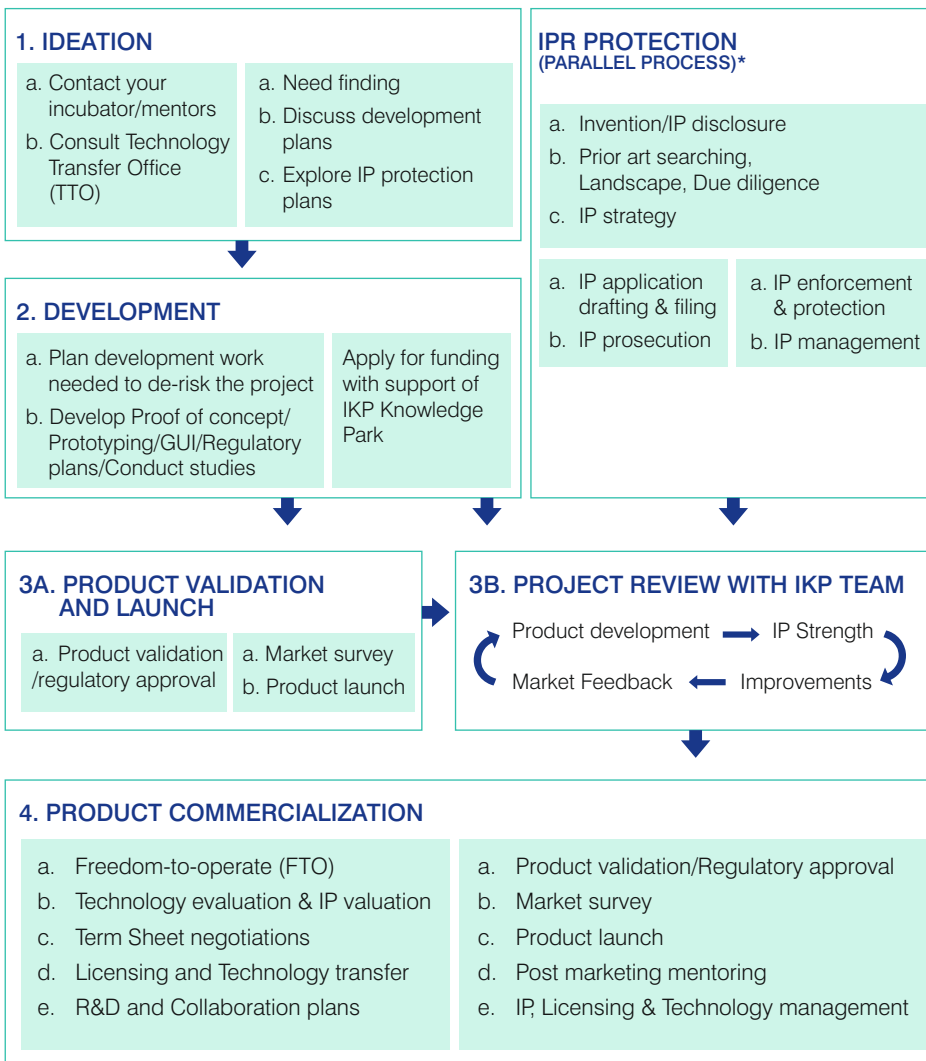


## SECTION 8

# IKP PRIME - YOUR PARTNER IN IPR PROTECTION & COMMERCIALIZATION

Innovators and entrepreneurs face several hurdles in their journey from ideation to commercialization. IKP and IKP PRIME will be happy to handhold you in this journey.





## FURTHER READING

- WIPO Intellectual Property Handbook**  
([https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_489.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_489.pdf))
- Manual of Patent Office Practice and Procedure**  
([https://ipindia.gov.in/writereaddata/Portal/Images/pdf/Manual\\_for\\_Patent\\_Office\\_Practice\\_and\\_Procedure\\_.pdf](https://ipindia.gov.in/writereaddata/Portal/Images/pdf/Manual_for_Patent_Office_Practice_and_Procedure_.pdf))
- Manual of Trade Marks**  
([https://ipindia.gov.in/writereaddata/Portal/IPOGuidelinesManuals/1\\_32\\_1\\_tmr-draft-manual.pdf](https://ipindia.gov.in/writereaddata/Portal/IPOGuidelinesManuals/1_32_1_tmr-draft-manual.pdf))
- Work Manuals for Copyrights**  
([https://copyright.gov.in/Latest\\_Notice23.aspx](https://copyright.gov.in/Latest_Notice23.aspx))
- Manual of Designs Practice & Procedure**  
([https://ipindia.gov.in/writereaddata/Portal/IPOGuidelinesManuals/1\\_30\\_1\\_manual-designs-practice-and-procedure.pdf](https://ipindia.gov.in/writereaddata/Portal/IPOGuidelinesManuals/1_30_1_manual-designs-practice-and-procedure.pdf))
- The Oxford Handbook of Intellectual Property Law**  
(<https://www.oxfordhandbooks.com/view/10.1093/oxfordhb/9780198758457.001.0001/oxfordhb-9780198758457>)
- United States Patent and Trademark Office**  
(<https://www.uspto.gov/>)
- European Patent Office**  
(<https://www.epo.org/>)
- World Intellectual Property Organization**  
(<https://www.wipo.int/about-ip/en/>)

For any further clarification and/or support,  
contact us at: [prime@ikpknowledgepark.com](mailto:prime@ikpknowledgepark.com)

[@IkpPrime](#)

## IKP PRIME TEAM



### DR. HEMA MOHAN

Senior Manager - Innovation and Research

- 20+ years of experience in Research and Science Management
  - Scientist turned Tech Transfer Professional
  - 1100+ Citations for 10 Research Publications
  - Assisting Technology Scouting (Innovators) and Technology Transfer (Industry)
  - Client Relationships, Business Development
- 



### DR. VITHAL KUMAR

Manager – IP and Licensing

- 12+ years of experience in Research and Project Management
  - Expertise in Life Sciences (Biotechnology, Microbiology and Agriculture)
  - PhD in Biotechnology and Registered Patent Agent
  - IPR policy & Technology Transfer
  - Patent Searches, Drafting, Filing and Tech Landscape Analysis
- 



### MANISH KUMAR

Manager – IP and Licensing

- 6+ years of experience in IP & Tech transfer (Industry Experience-Life Science)
- Biotech Engineer-turned-Lawyer
- Registered Patent Agent - mentoring, drafting and prosecution
- IP due-diligence, Portfolio management & development
- Technology Transfer Professional
- Contract drafting and negotiations



### HARSHADA WADKAR

Manager - IP, Legal & Contracts and Business Development

- 7+ Years of experience in IP & BD
  - Biotech Engineer, IP Lawyer, LLM (International & Comparative Law)
  - Copyright-X Certificate from Harvard-X
  - IP & Technology Analytics
  - Patents, Copyrights, TM, Designs (IP) Consultation and Strategy Formulation
  - Client Relationships, Business Development
- 

### MENTOR



### DR. AMBUJ CHATURVEDI

Senior Vice President – IKP Knowledge Park

- MS, DNB, MBA (Gold Medalist)
- Two decades of rich and varied experience as a clinician-surgeon, marketer, business strategist, medical affairs, R&D leader and innovation evangelist
- Panel member – Multiple Central/State Govt. committees on entrepreneurship, healthcare and med-tech industry
- Industry Mentor for start-ups/innovators





## ABOUT

IKP Knowledge Park is a 200-acre Science Park and Incubator set up to enable organizations to undertake research and development in life sciences and engineering domains and commercialize their technologies, products and services. It is the first wet lab research park and incubator in India set up to create a world-class ecosystem for fostering leading-edge innovation.



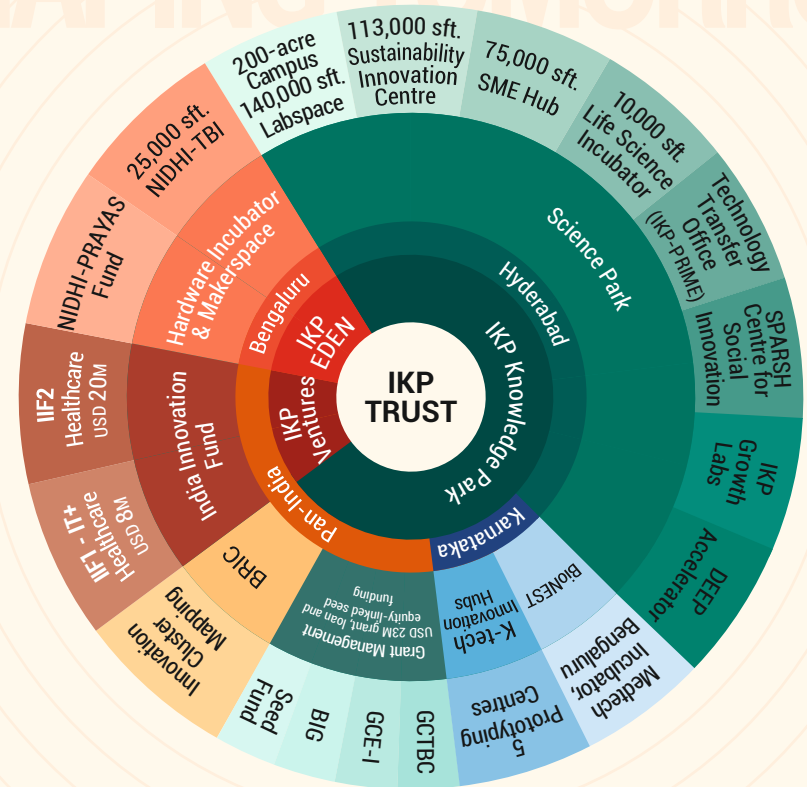
## ABOUT



IKP has set up its Technology Transfer Office (TTO), IKP Platform for Regional IP Management Ecosystem (IKP-PRIME), with support from the National Biopharma Mission (NBM), BIRAC, Government of India, to provide technology commercialization services to academia, start-ups and industry. As a TTO, IKP works with researchers, start-ups, institutions, and companies for intellectual property and technology licensing services.



# 20 YEARS OF SHAPING TOMORROW



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