

Patents

Indian and International Patent Laws Applicable to Herbal/Natural Products and Processes

Introduction

- A patent is a legal right granted by the government to an inventor for a new invention.
- The patent holder receives exclusive rights to make, use, sell, or license the invention for a specific period.
- In Industrial Pharmacognostical Technology, patents are important for protecting herbal formulations, extraction methods, manufacturing processes, novel herbal products, and drug delivery systems.

Indian Patent Law

1. Indian Patents Act, 1970

- The Indian Patents Act, 1970 is the main legislation governing patents in India.
- The Act has been amended several times to comply with international agreements and technological developments.

2. Important Amendments

a) Patent (Amendment) Act, 1999

- This amendment introduced provisions related to Exclusive Marketing Rights (EMR).

b) Patent (Amendment) Act, 2002

- This amendment expanded patent protection and aligned Indian law with TRIPS requirements.

c) Patent (Amendment) Act, 2005

- Product patents were introduced in pharmaceuticals and chemicals.
- India became fully compliant with TRIPS obligations.

International Patent Laws



PCT



WIPO



TRIPS
Agreement



EPC

1. Patent Cooperation Treaty (PCT)

- The PCT provides a unified procedure for filing patent applications in multiple countries.
- It simplifies international patent filing.

2. World Intellectual Property Organization (WIPO)

- WIPO promotes international cooperation in intellectual property protection.
- It administers various international intellectual property treaties.

3. TRIPS Agreement

- TRIPS establishes minimum standards for intellectual property protection among WTO member countries.
- It influences patent laws worldwide.

4. European Patent Convention (EPC)

- The EPC provides a centralized patent application process for European countries.

Patent Laws and Herbal Products

Patentable Herbal Innovations

1. Novel extraction methods

- New extraction techniques can receive patent protection.

2. Standardized Herbal Formulations

- Novel formulations with improved therapeutic benefits may be patented.

3. Herbal drug delivery systems

- Advanced delivery technologies may qualify for patent protection.

4. Manufacturing processes

- Innovative production methods can be patented.

Non-Patentable Herbal Subject Matter

1. Naturally occurring plants

- Plants found in nature cannot be patented in their natural form.

2. Traditional knowledge

- Existing traditional medicinal knowledge cannot be patented.

3. Mere discoveries

- Discovery of a naturally occurring substance is not patentable.

Proposed Amendments Related to Herbal Products

1. Protection of Traditional Knowledge

- Efforts have been made to prevent misuse of traditional medicinal knowledge.
- Databases such as the Traditional Knowledge Digital Library (TKDL) have been developed.

2. Prevention of Biopiracy

- Amendments focus on protecting biological resources and indigenous knowledge.

3. Benefit Sharing

- Proposed changes encourage fair sharing of benefits arising from biological resources.

4. Strengthening Biodiversity Protection

- Patent applications involving biological materials require proper disclosure and approval.

Geographical Indication (GI)

Introduction

- A Geographical Indication (GI) is a sign used on products that originate from a specific geographical region.
- The product possesses qualities, reputation, or characteristics that are essentially linked to its place of origin.
- GI protection helps preserve the uniqueness and authenticity of regional products.

Objectives of Geographical Indication

A. Protection of Regional Products

- GI protects products associated with a particular geographical area.

B. Prevention of Misuse

- Unauthorized use of geographical names is prevented.

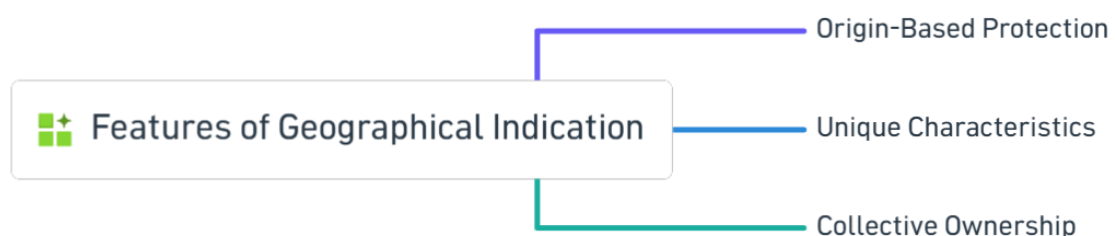
C. Promotion of Local Industries

- GI registration increases the market value of regional products.

D. Consumer Protection

- Consumers receive authentic products with assured quality.

Features of Geographical Indication



1. Origin-Based Protection

- The product must originate from a specific geographical region.

2. Unique Characteristics

- The product should possess qualities linked to its geographical origin.

3. Collective Ownership

- GI belongs to a group of producers rather than an individual.

Examples Related to Herbal and Natural Products

A. Darjeeling Tea

- Darjeeling tea is protected due to its unique geographical origin.

B. Alleppey Green Cardamom

- This cardamom variety is recognized for its regional characteristics.

C. Malabar Pepper

- Malabar pepper receives protection based on its geographical reputation.

D. Coorg Orange

- The product is linked to the Coorg region of India.

Advantages of GI Protection

1. Increases Product Value

- GI products often command premium prices.

2. Supports Rural Development

- Local producers benefit economically.

3. Preserves Traditional Knowledge

- Traditional production practices are protected.

4. Improves Export Opportunities

- GI products gain international recognition.

Difference Between Patent and Geographical Indication

Parameter	Patent	Geographical Indication
Protection	Invention	Product linked to region
Ownership	Individual or organization	Group of producers
Duration	20 years	Can continue indefinitely
Requirement	Novel invention	Geographical origin

Purpose

Protect innovation

Protect regional identity

Copyright

Introduction

- Copyright is a legal right granted to creators of original literary, artistic, scientific, and educational works.
- It protects the expression of ideas rather than the ideas themselves.
- Copyright provides exclusive rights to reproduce, publish, distribute, and communicate the work.

Objectives of Copyright

1. Protection of Original Work

- Copyright safeguards creative and intellectual efforts.

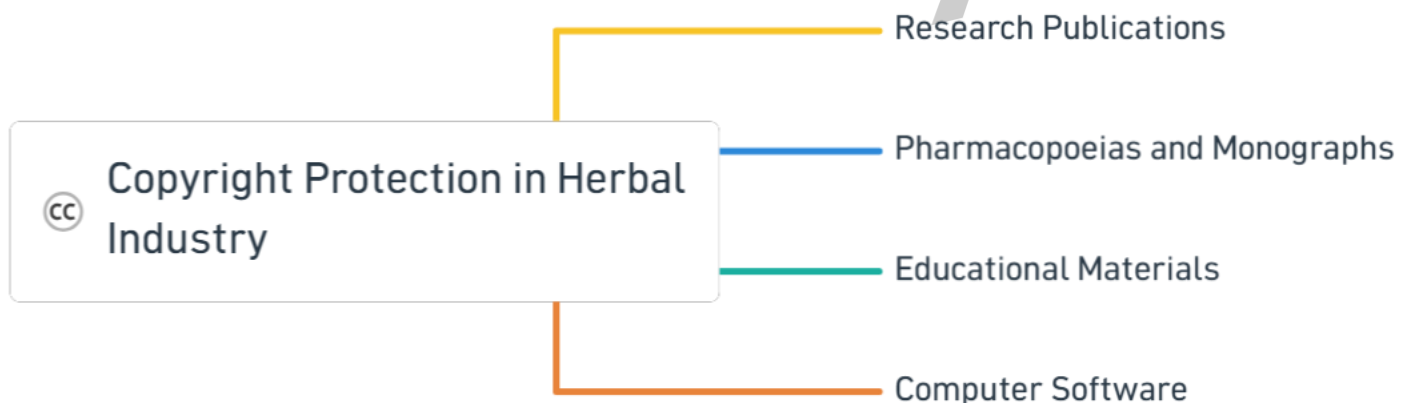
2. Encouragement of Creativity

- Creators receive recognition and economic benefits.

3. Prevention of Unauthorized Copying

- Others cannot reproduce protected work without permission.

Copyright Protection in Herbal Industry



A. Research Publications

- Scientific articles and research papers receive copyright protection.

B. Pharmacopoeias and Monographs

- Published content may be protected by copyright.

C. Educational Materials

- Books, manuals, and training resources are protected.

D. Computer Software

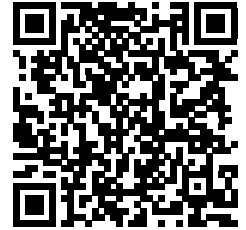


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