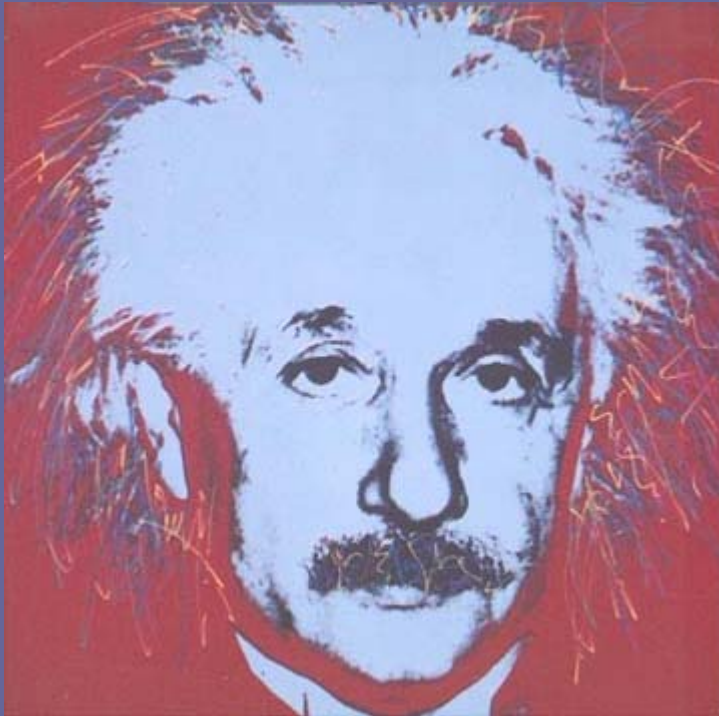


# The Corporate Assets Namely IPRs

An APTDC Training Session at Pune

Sept 28, 2004

“Imagination is more important than knowledge”



- Imagination is the ability to stand on an existing foundation of accepted knowledge, and see beyond to the next frontier of discovery...
- IP originates out of the power of imagination..

# Intellectual Asset is an Enterprise Value

- In the year 1999 the Global IP Licensing market totaled US\$ 100 Billion<sup>#</sup>.
- In 1982 the proportion between physical assets- intangible intellectual assets was 62:38. In 2002 the ratio between intangible intellectual assets and physical assets in US corporations was  
70 (IP assets):30 (physical assets)<sup>#</sup>

<sup>#</sup> *A report of PricewaterhouseCoopers, 2002*

# The Toyota Story

- Sakichi Toyoda secured a patent for an improved power loom in 1896
- In 1924, Sakichi Toyoda got another patent on an automatic loom. This patent was assigned to Platt Brothers & Co. for 100,000 GBP.
- It was with this money, the Toyota Motor Co. was started in In 1937.



Source:

Tadahi Ishii, *“Industrial Innovation in Japan – The Role of the Patent System”*, October 2000



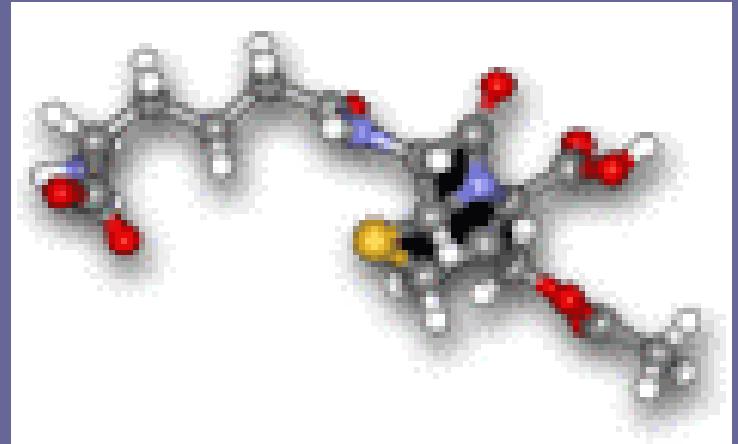
## The PLIVA Story

- Azithromycin - the world's best-selling antibiotic from Croatia
- Pliva, the most profitable company in Croatia and the largest pharmaceutical company in Central Europe, is widely considered to be Central Europe's first home-grown multinational.
- Once struggling to stay alive, this company witnessed a dramatic turnaround in its fortunes, following its discovery of azithromycin - today the world's best-selling antibiotic.
- Patented by Pliva in 1980, the drug was licensed to Pfizer, which markets it as Zithromax.

*Source: Wall Street Journal (Brussels),  
March 3, 1999, 14.*

# The PLIVA Story

- Sales of Zithromax were US\$1.4 billion in 2000.
- The phenomenal revenues derived from the licensing agreement have facilitated Pliva's rapid expansion across Croatia, Poland and Russia.
- Remarkably enough, all this came about only because Pfizer's scientists happened to stumble upon Pliva's patent in 1981 while searching through patent documents at the USPTO.



*Source: Wall Street Journal (Brussels),  
March 3, 1999, 14.*

# Tequila

- Tequila is a Mexican spirit drink that has acquired a distinct identity
- Tequila is produced only within a specific area in Mexico where its primary raw material, the cactus-like agave plant, grows and that the name "Tequila" is protected as a geographical indication in Mexico under a Presidential Decree published in October 1977.
- "Tequila" can only be used for beverages originating in five Mexican states which have the exclusive right to produce the beverage.
- Tequila has earned a worldwide reputation, because this term is a protected geographical indication
- "Tequila" is protected as an appellation of origin in accordance with the Lisbon Agreement for the Protection of Appellations of Origin



*Source: Tequila Regulatory Council*

# Intellectual Property Rights

- Trade Marks
  - Lay out designs of semiconductor micro-chips
- Patents
  - Plant breeder's rights
- Designs
  - Geographical indications
- Copyrights
  - Domain names
- Confidential Information

# Types of IPRs as per the TRIPS Agreement

- Copyrights & Related Rights
  - (Arts. 9 through to 14)
- Trade Marks
  - (Arts. 15 through to 21)
- Geographical indications
  - (Arts. 22 through to 24)
- Industrial Designs
  - (Arts. 25 & 26)
- Patents
  - (Arts. 27 through to 34)
- Layout-Designs (Topographies) of Integrated Circuits
  - (Arts. 35 through to 38)
- Protection of Undisclosed Information
  - (Art. 39)
- Protection of Plant Varieties
  - Reference in Art. 27(3) (b)
- Domain Names
  - No reference

## Indian IPR Regime

- Intellectual Property is listed as Item 49 in the Union List
- Patents, inventions and designs; copyright; trade marks and merchandise marks.



# Indian IPR Laws

Are the following:

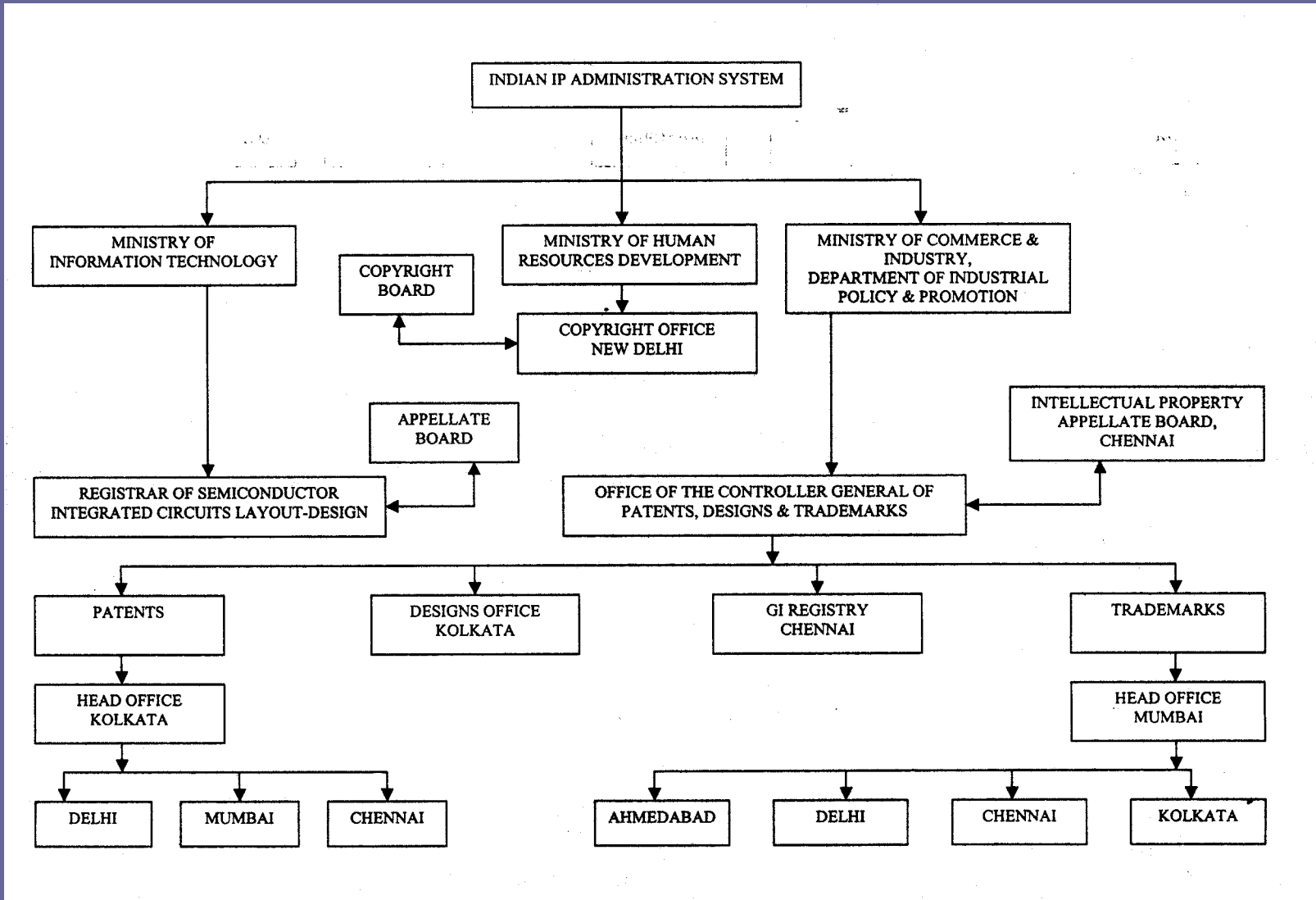
- The Patents Act, 1970
- The Trade Marks Act, 1999
- The Designs Act, 2000
- The Copyright Act, 1957
- The Geographical Indications of Goods (Registration and Protection) Act, 1999
- The Semiconductor Integrated Circuits Lay Out-Design Act, 2000

## Other IPR Related Laws



The Biological Diversity  
Act, 2002

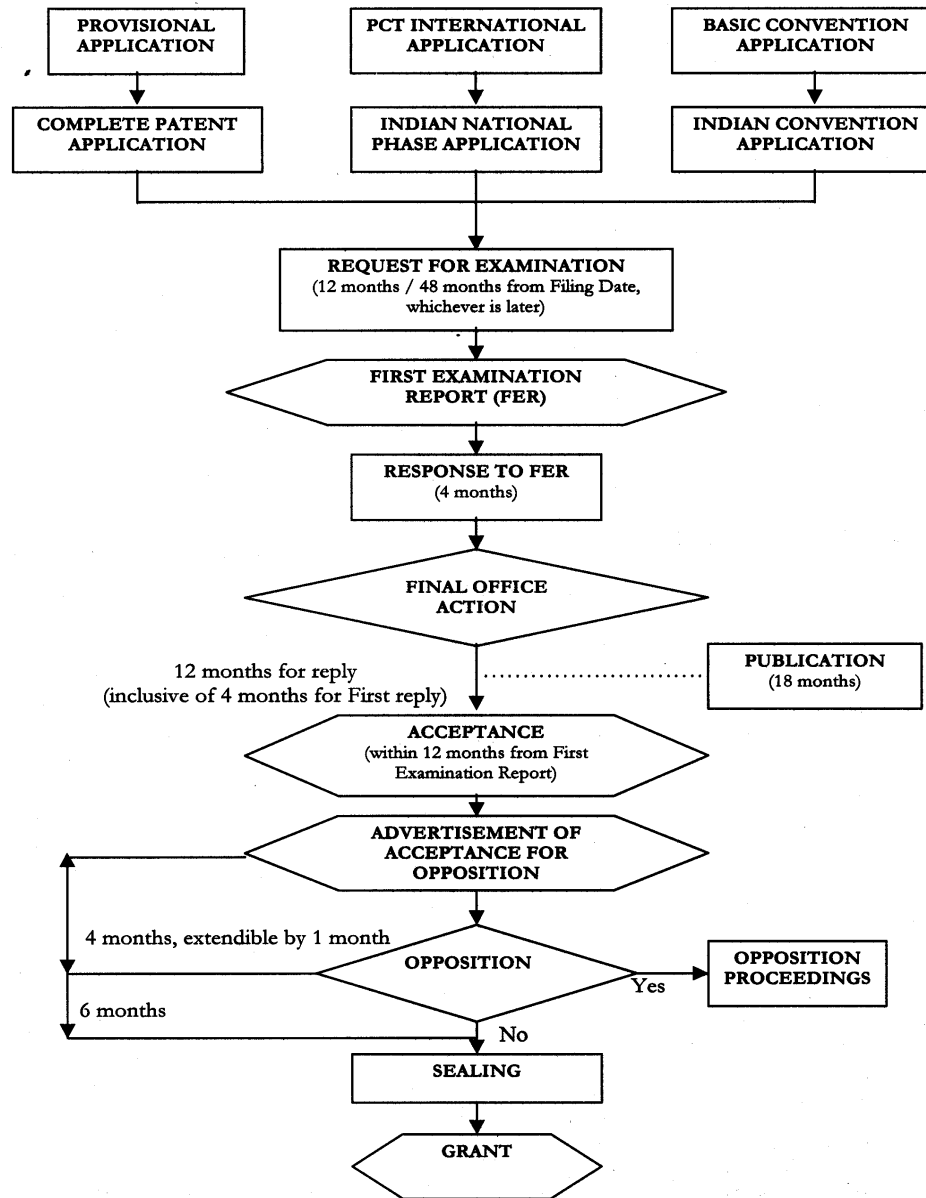
The Protection of Plant  
Varieties and Farmer's  
Rights Act, 2001



# Patents

- New, useful & non-obvious inventions
- Monopoly right to commercially exploit the invention
- For a limited period in consideration for the disclosure of invention as per procedure established by the law

# PATENT REGISTRATION PROCEDURE IN INDIA



## The Trade Mark Administration System

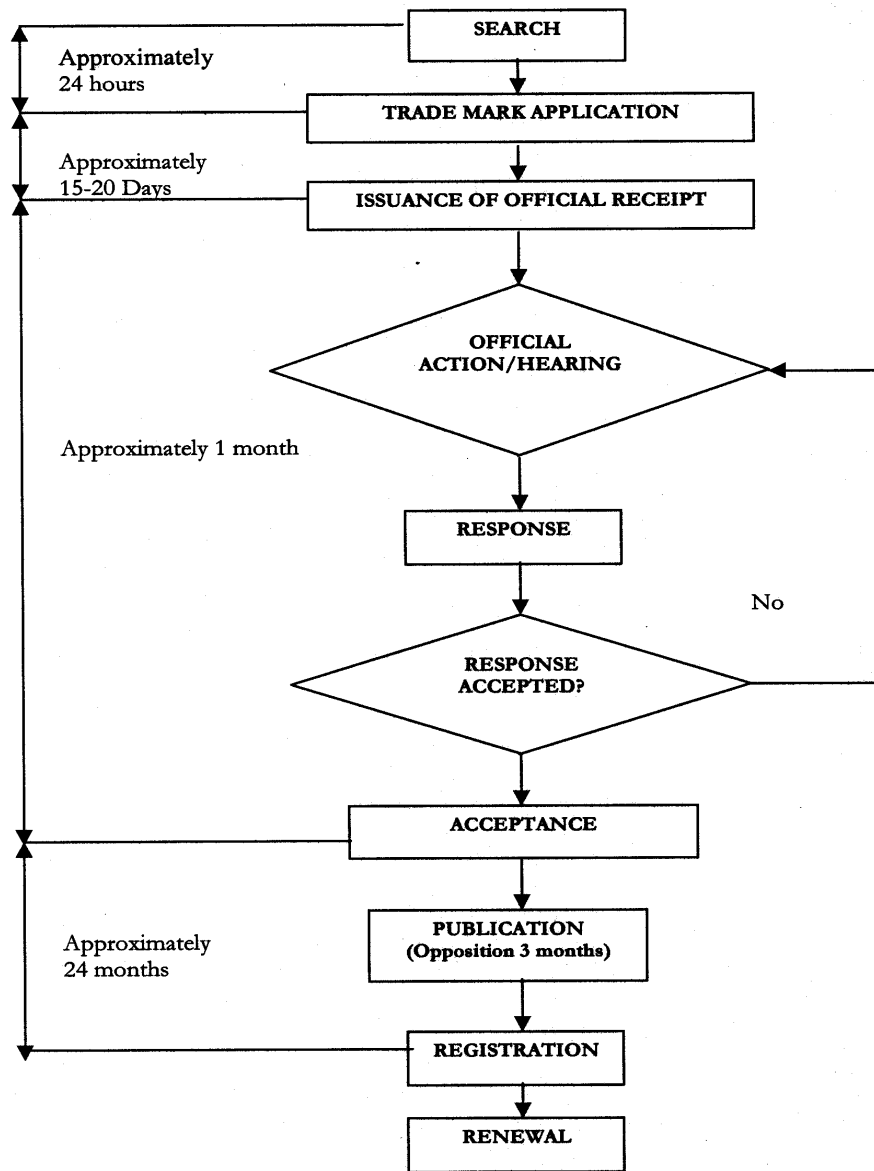


- Trade Marks Registry Mumbai (Head Office)
- 
- Trade Marks Registry, New Delhi
- Trade Marks Registry, Kolkata
- Trade Marks Registry, Ahmedabad
- Trade Marks Registry, Chennai

# Trade Marks

- Source identifier
- Functions as a “connector” between the originator of goods/services and the consumer *vis a vis* the goods/services
- Distinctiveness Requirement
  - Inherent Distinctiveness
  - Acquired Distinctiveness
- Registrability requirements
  - Marks includes names, emblems, words, combination of colors, shape of goods and packaging
  - Also includes smell, taste etc!
- Classification – Nice System
- Specification of Goods
- Term – unlimited provided registration is renewed
- Infringement action – injunction, damages, accounts are legal remedies

# TRADE MARK REGISTRATION PROCEDURE IN INDIA



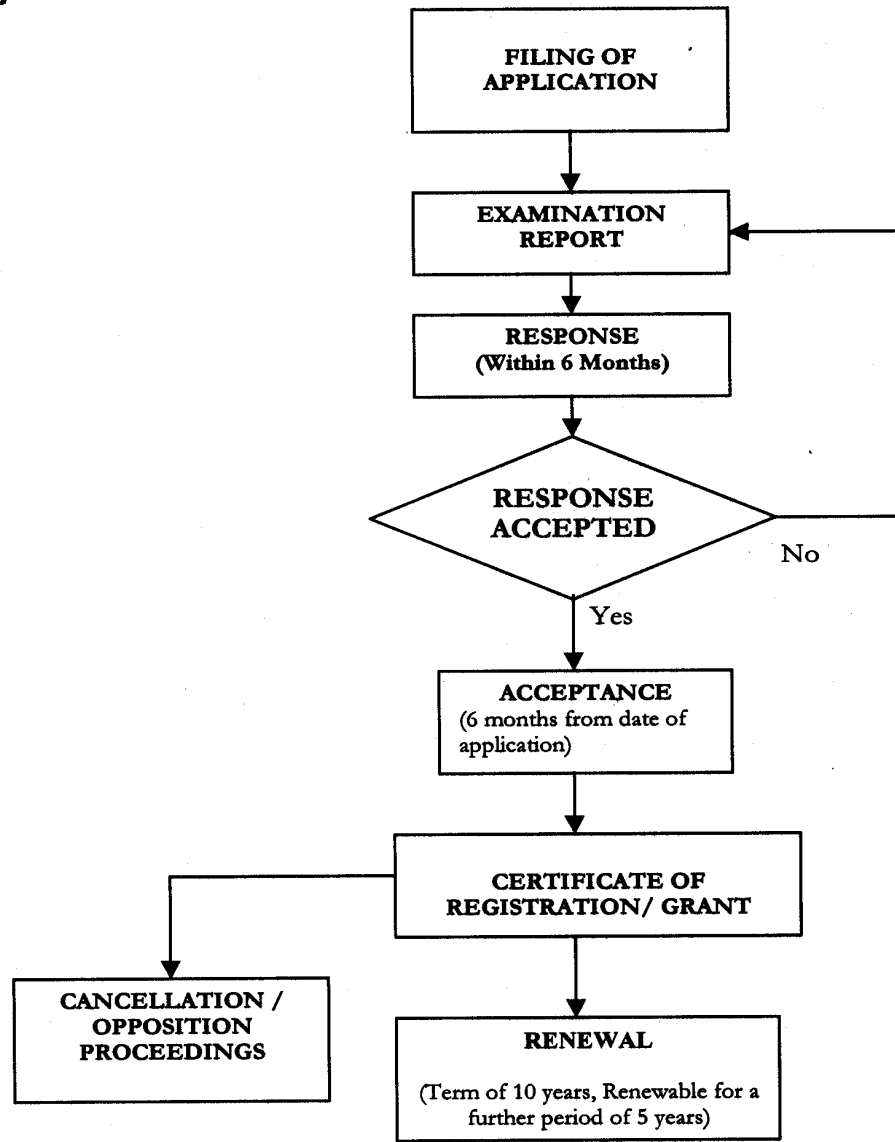
# Designs

- New and original features of shape, configuration, pattern, composition of lines and/or ornamentation
- Judged solely by eye
- Subsisting in an article made by an industrial process or otherwise
- Exclusive right to reproduce the article
- Term of 15 years

# Designs

- Disclosure Requirements
  - Representation (photographic) or C A D Figures
  - Depicting the views (perspective, front, rear, top, bottom and side views)
  - No cross sectional views, no surface shading (in IN; in the US Yes)
- Locarno Classification
- Lodgment at national IP office
  - Search and Examination
  - Office Action response
  - Grant
  - Maintenance – renewal 10 years + 5

## DESIGN REGISTRATION PROCEDURE IN INDIA



# Copyright

- Right subsisting in original:
  - Literary works,
  - Artistic works,
  - dramatic works,
  - cinematograph films,
  - photographs &
  - sound recordings
  
- The owner of copyright shall have the rights to:
  - reproduce,
  - issue copies,
  - perform ,
  - make film or sound recording,
  - translate or adapt the work

# Domain Names

- Domain names
  - An IP address that enables identification of a remote client (end user) in the Internet
- The Department of IT, GOI (NCST) through the Domain Name Registrar administers Indian CCTLDNs.
- ICANN Administers through various DN Registrars GTLDNs.

# Plant Breeder's Rights

- TRIPS Agreement (Art. 27(3)) mandates that member countries must provide protection for plant varieties through one of the following means:
  - Patents
  - *Sui Generis* system
  - A combination of both
- The Protection of Plant Varieties and Farmer's Rights Act, 2001 has been passed to fulfill this obligation under TRIPS.

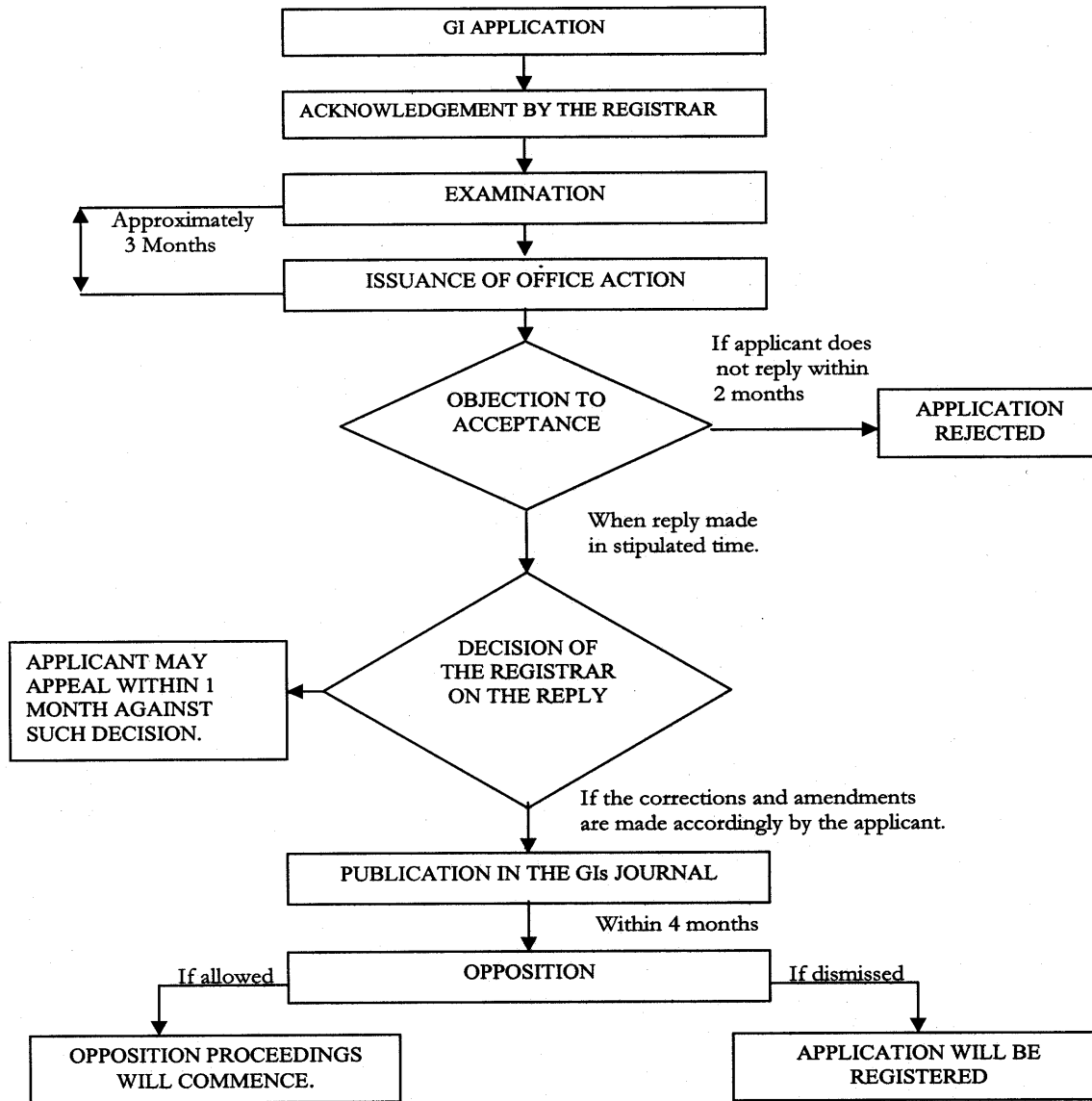
# Undisclosed Information

- Traditionally “trade secrets” were protected through common law contracts
- In some countries, there are legislations to protect undisclosed information
- Art. 39 of TRIPS brings protection of undisclosed information within the ambit of unfair competition.

# Geographical Indications

- Can be best explained by referring to well known Geographical Indications such as:
  - Basmati, Kancheevaram Silk, Banarese Silk, Idaho Potatoes, Scotch Whisky, Tequila, Alphonso Mangoes & Darjeeling Tea
- Geographical Indications
  - An indication that signifies the geographical signification of goods

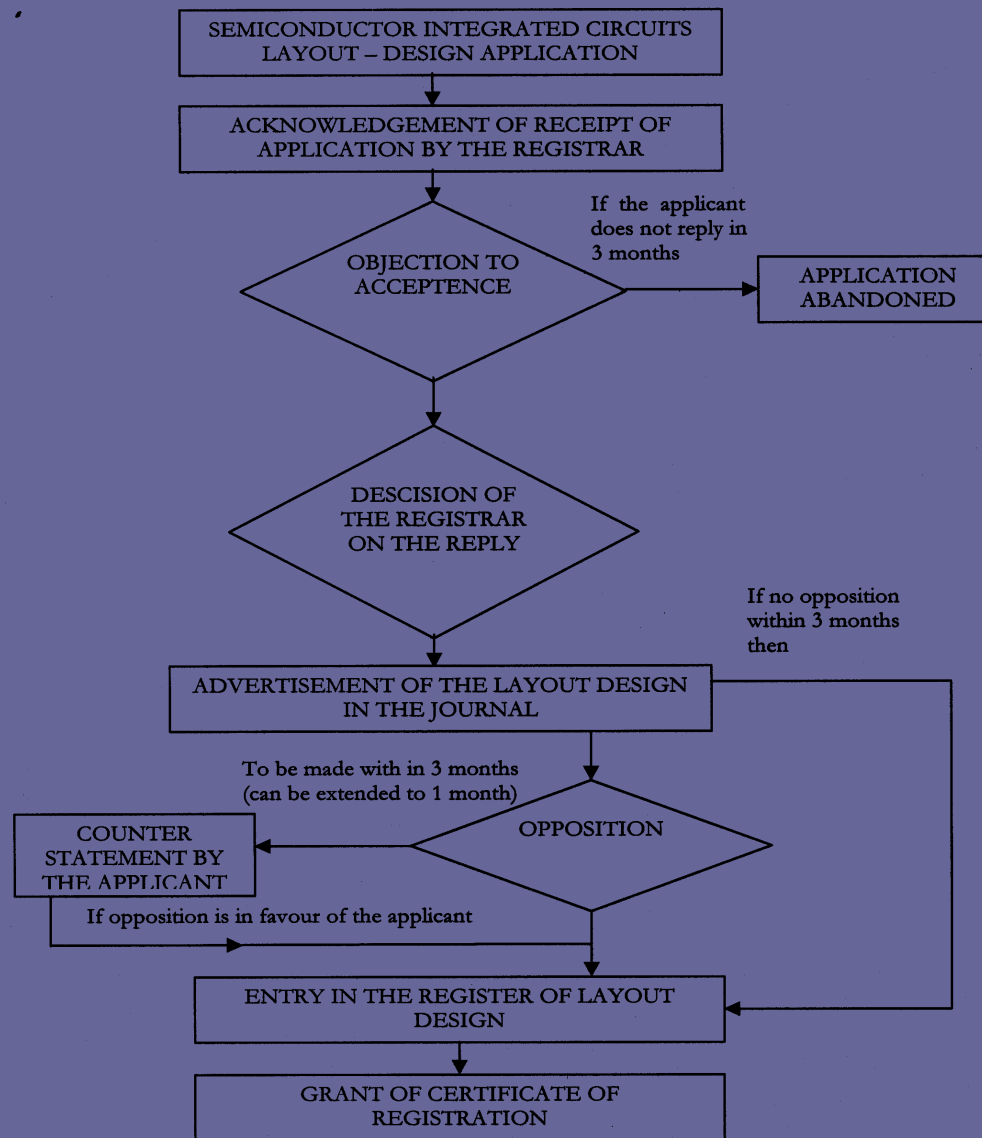
# GEOGRAPHICAL INDICATIONS REGISTRATION PROCEDURE IN INDIA



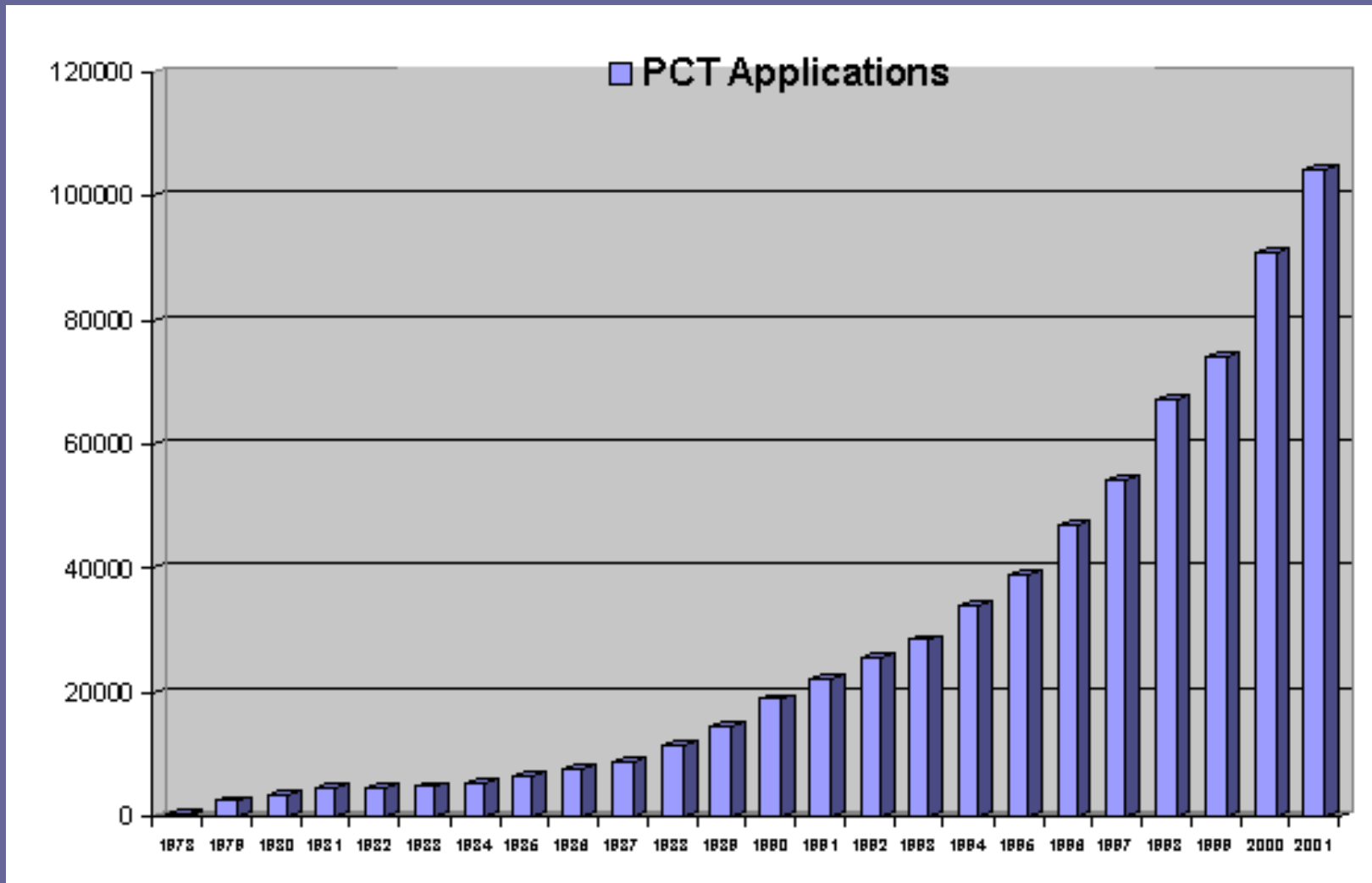
# Topography of IC Chips

- India has a law in place to protect the topography of IC Chips
- The law namely The Semiconductor Integrated Circuits Lay Out-Design Act, 2000
- The law defines lay-out designs as lay-outs of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in a semiconductor integrated circuit
- A semiconductor integrated circuit is defined as a product having a transistor and other circuitry elements which are inseparably formed on a semiconductor material and designed to perform an electronic circuitry function.

**SEMICONDUCTOR INTEGRATED CIRCUITS LAYOUT – DESIGN  
REGISTRATION PROCEDURE IN INDIA**

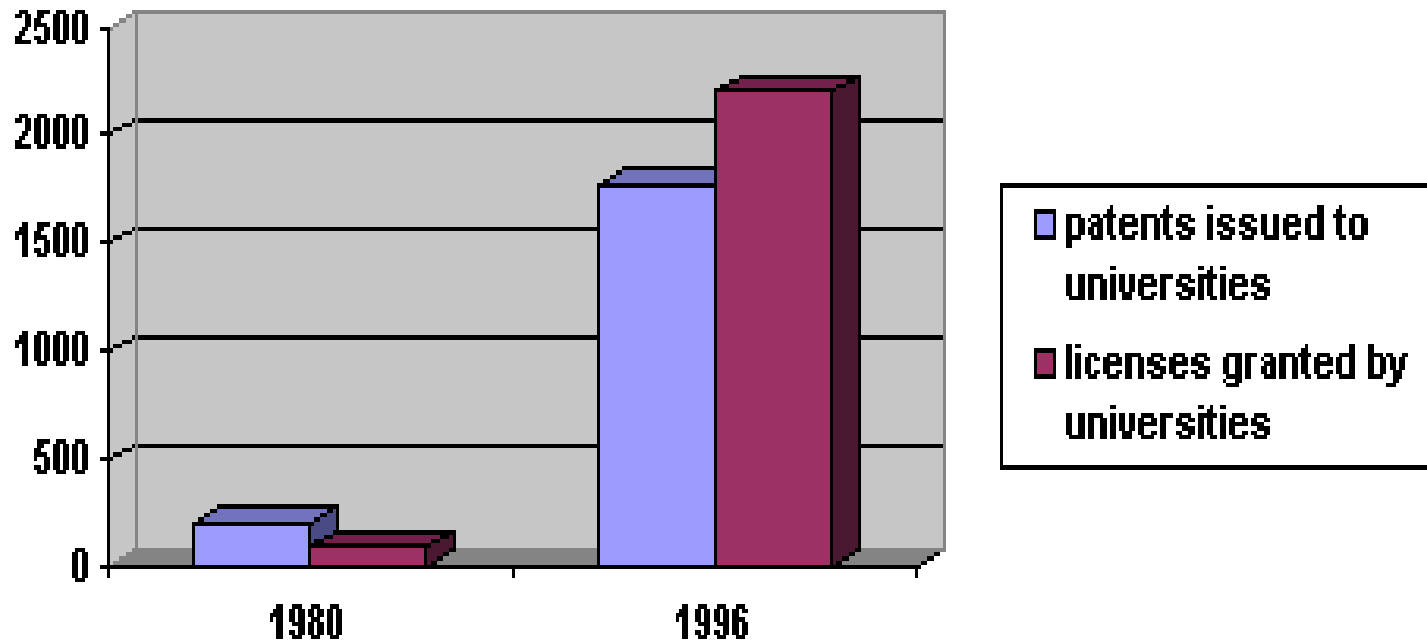


This PCT Filing Statistics shows the steady increase in the number of PCT Applications in the recent years



Source: WIPO

## US Patents issued to Universities and in turn licensed out



Source: USPTO

# IP as Corporate Asset

- IP is one of the most valuable, or often the most valuable asset in corporate transactions
- Corporations are becoming increasingly aware of the value addition that IPRs can bring into the company

Thank You