RAMA UNIVERSITY

www.ramauniversity.ac.in

FACULTY OF ENGINEERING & TECHNOLOGY

Basic features of TRIPs agreement:

1. Standards:

✓ The agreement sets out the minimum standards of protection that has to be provided by each member country.

✓ The main TRIPs standards, relating to pharmaceuticals, that countries must include in their patent law are:

a. Availability of patents for both pharmaceutical products and processes inventions that are new, involve an inventive step and are capable of industrial application.

b. Protection of the product directly obtained using a patented process.

2. Enforcement:

✓ It deals with the internal methods or procedures for the enforcement of IPR.

3. Dispute settlement:

✓ The agreement makes disputes between WTO members in respect of TRIPs obligations subject to the WTO's dispute settlement procedures.

Madrid – The International Trademark System

The Madrid System is a one stop solution for registering and managing marks worldwide. File one application, in one language, and pay one set of fees to protect your mark in the territories of up to 96 members.

Benefits of Madrid System

- ✓ Convenient: The Madrid System is a centralized filing and management procedure. Through the Madrid System you can file one international application, in one language (English, French) and pay one set of fees in Swiss francs to obtain international registration in multiple territories.
- ✓ Cost effective: Filing an international application is the equivalent of filing a bundle of national applications, effectively saving you time and money.
- ✓ Broad geographic coverage

Conditions Under TRIPS Agreement - For An Invention To Be Patentable

- Article 27 of TRIPS Agreement establishes the following conditions for an invention to be patentable.
- The product or process must be “new”, involve an “inventive step” (non-obvious) and should be “capable of industrial application” (useful).
- Patents shall be available irrespective of the place of invention, the field of technology and whether products are imported or locally produced.

Exceptions To Patenting

- Under Article 65.1 and 65.2 of TRIPS Agreement, developing countries (including India) had 5 years to comply with the TRIPS provisions. Under Article 65.4, a further 5 years were provided to comply with the requirement of granting product patents in areas where such protection was not granted.

- The developing countries thus got a leeway of 10 years to introduce product patent regime in all areas of technology.

Article 27.2 permits a member state to exclude inventions from patentability only where it is necessary to protect ordre public or morality, including to protect human, animal or plant life or health or to avoid serious prejudice to the environment.

- Article 27.3 permits exclusion of (a) diagnostic, therapeutic and surgical methods for the treatment of humans or animals; and (b) plants and animals other than micro-organisms, and essentially biological processes for the production of plants or animals other than non-biological and microbiological processes. However, Members shall provide for the protection of plant varieties either by patents or by an effective sui generis system or by any combination thereof.

CHANGES UNDER THE INDIAN PATENT ACT (1970)

- **India availed of the 10 years exemption** (provided under Article 65.1, Article 65.2 & Article 65.4) to fully comply with the TRIPS provisions.

- Vide the **first amendment** to the Patent Act from **1st January 1995**, the GOI provided for **EMR (exclusive marketing rights)** and set up a **mail box facility** to accept product patent applications.

- The second amendment to the Indian Patent Act (1970) - applied from January 1, 2000 - introduced a **"uniform" patent term of 20 years** for innovations in all areas; **rationalized time lines** to reduce time taken for grant of patent.

QUIZ