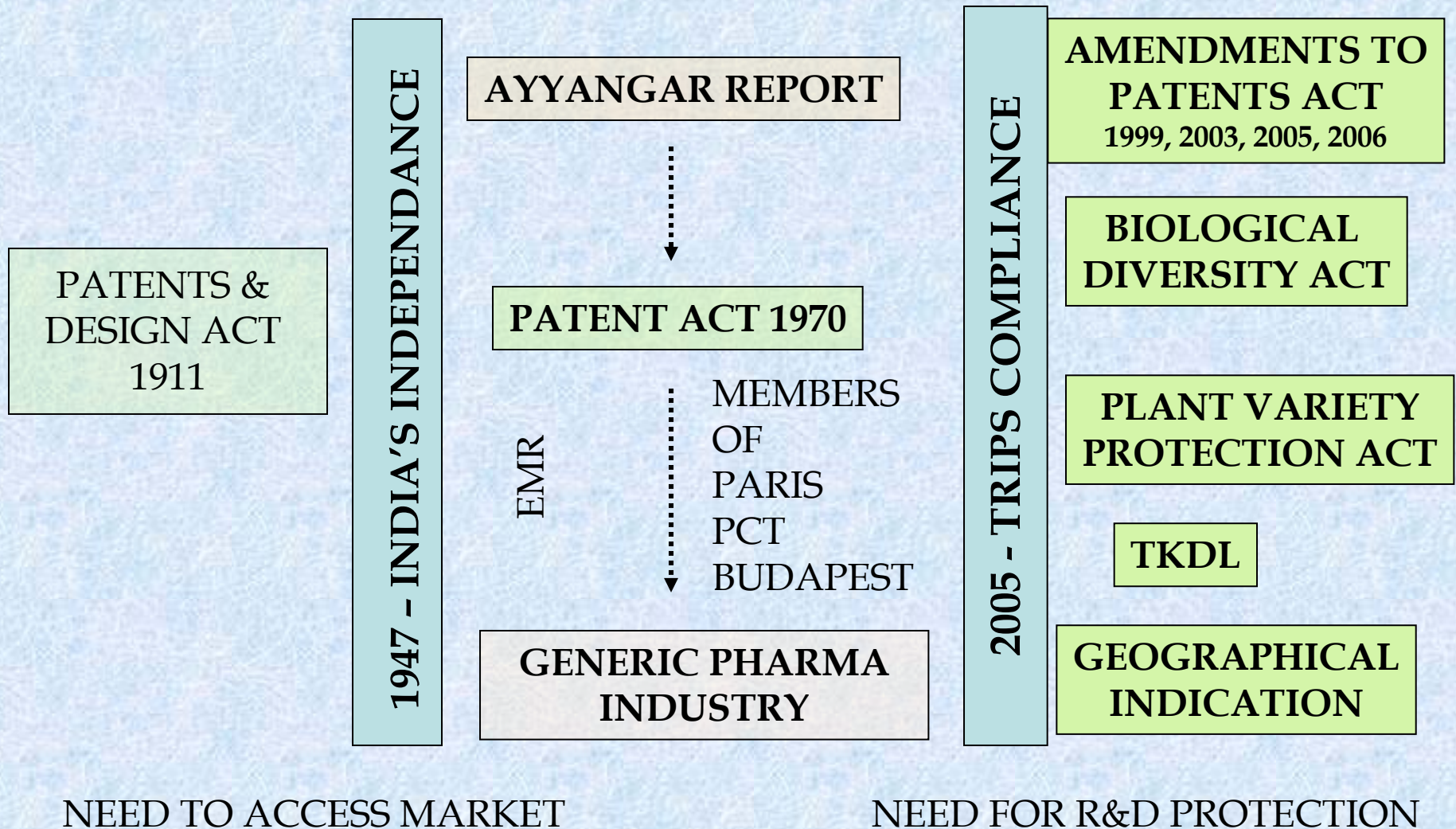


RECENT TRENDS IN INDIAN PATENT LAW

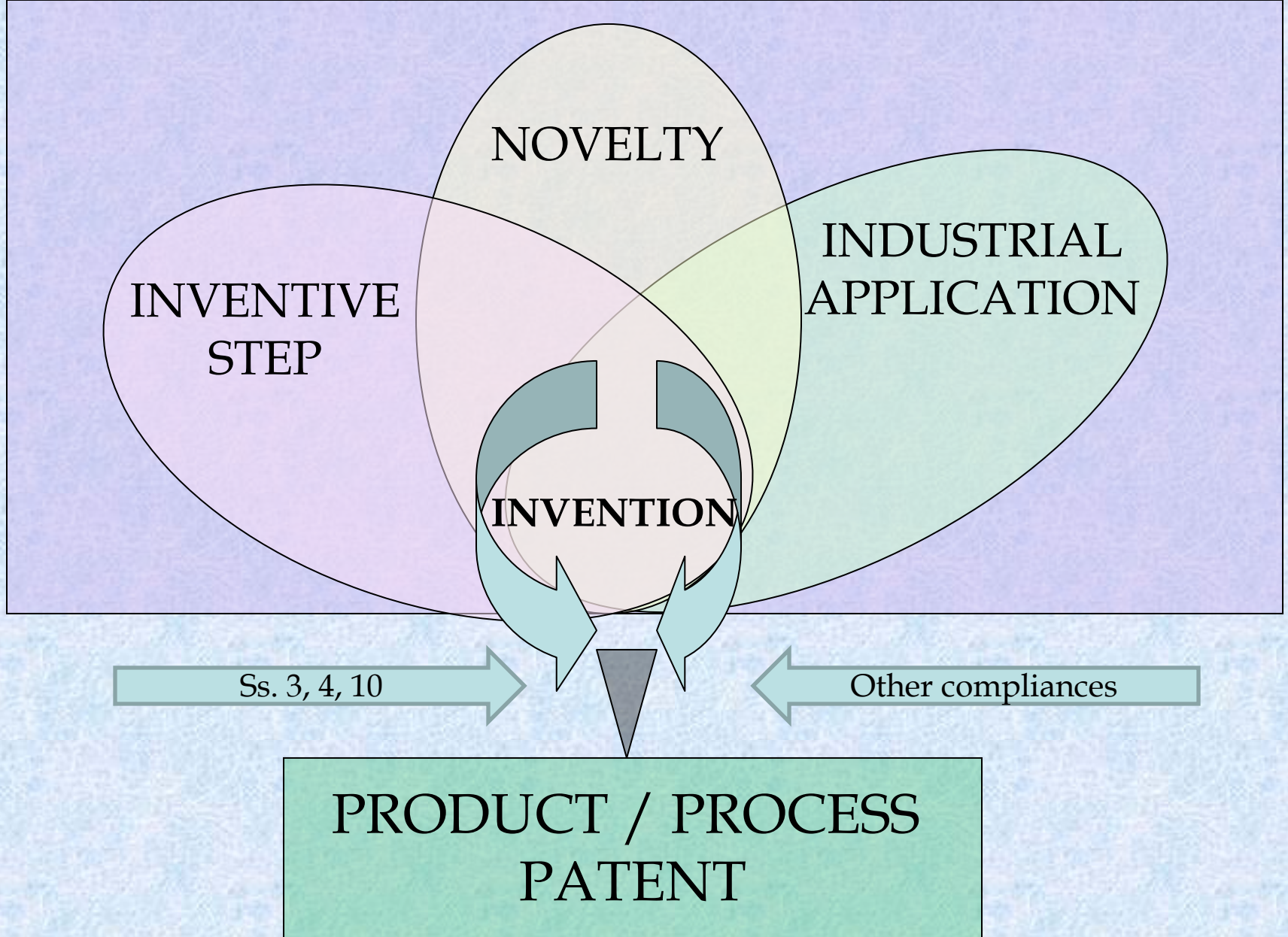
**SUNITA K. SREEDHARAN
SKS LAW ASSOCIATES, NEW DELHI
HANSEATIC COLLOQUIUM, HAMBURG
30th OCTOBER 2009**

PATENT INDIA EVOLVES



DEVELOPMENTS

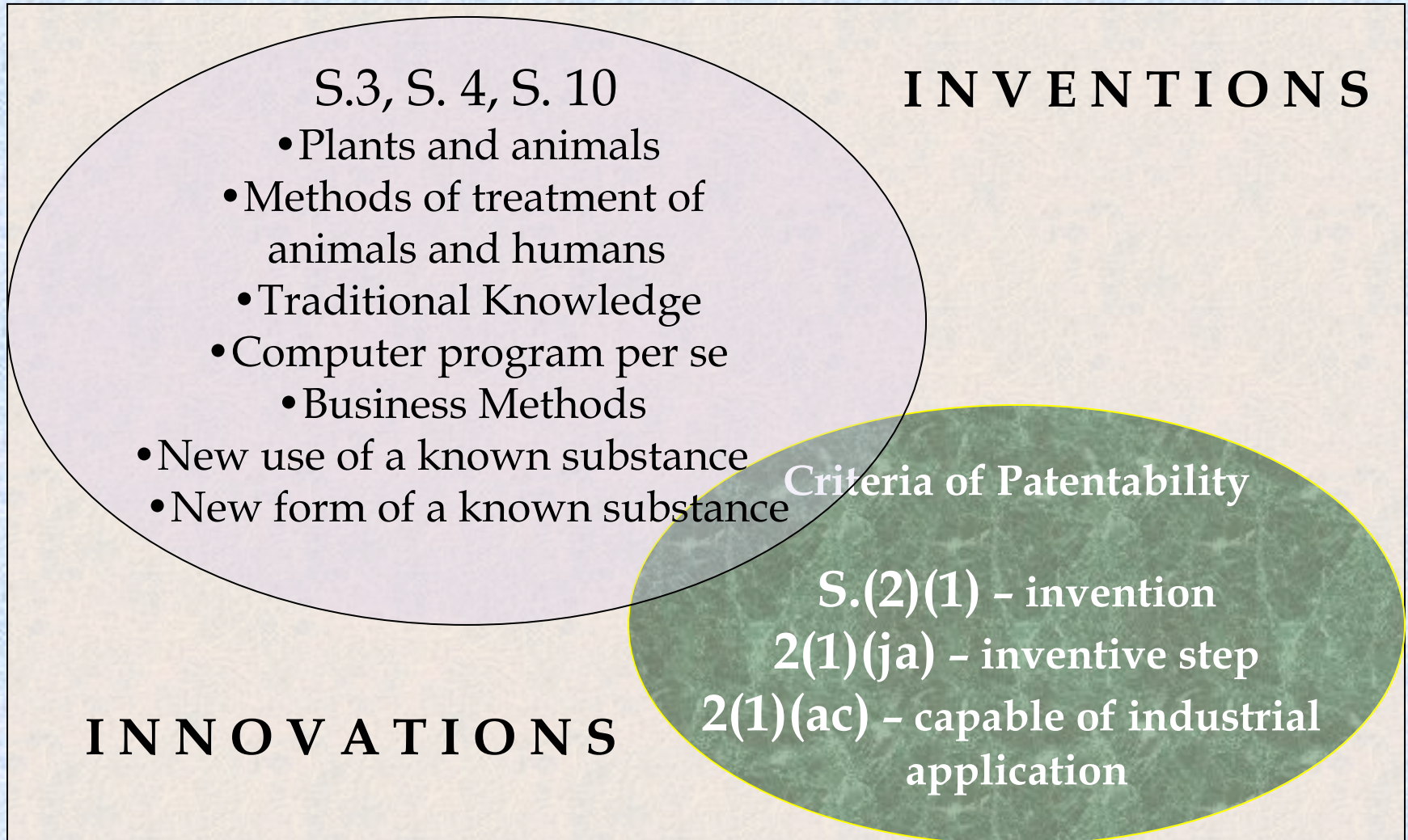




SECTION 3(d)

- mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance
- the mere discovery of any new property
- new use for a known substance
- of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant.
- *Explanation* : salts, esters, ethers... and other derivatives of known substance shall be considered to be the same substance, unless they differ significantly in properties with regard to efficacy

Patents Act 1970



Questions?

- Efficacy?
- Assuming efficacy is functional effectiveness of the new form over prior art.....
- How much information is enough information to prove efficacy
- Do we need to have Data Protection laws in place before giving out more information?
- The Patent Office Manual – 24 Mar 08

www.patentoffice.nic.in/ipr/patent/DraftPatent_Manual_2008.pdf

Some more questions...

If more data to prove efficaciousness is submitted,

1. during examination:

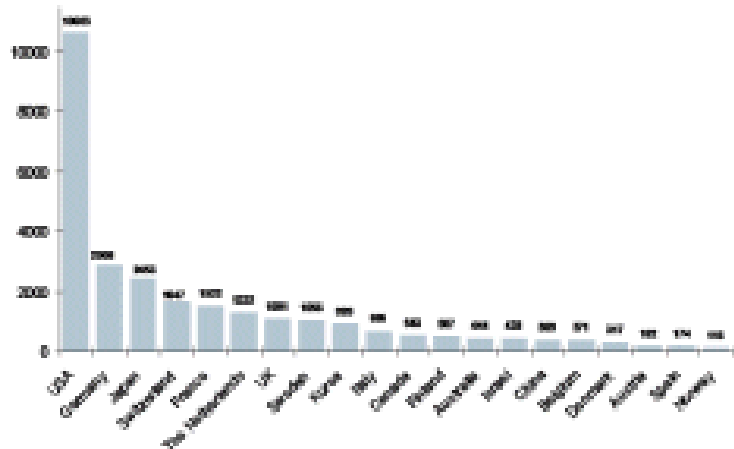
2. during appeal:

can such data be taken on record as part of the specification ???

Section 3(d) inventions – examination guidelines required on “differ significantly” & “efficacy”

Biopiracy issues – compliance - NBA

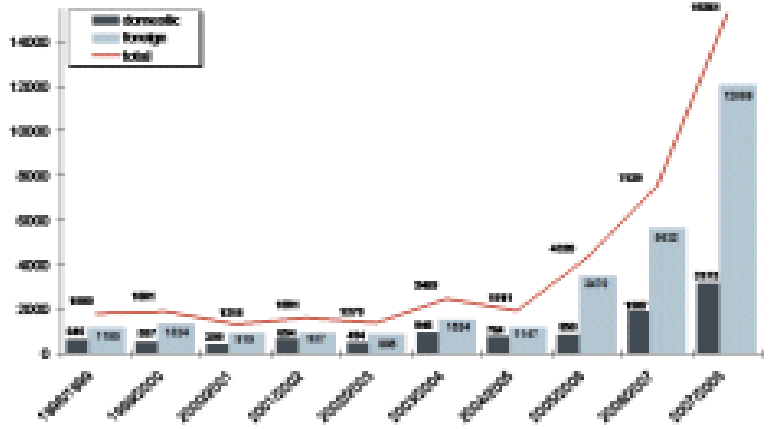
Top foreign applicants in 2007/2008 (by country)



(source: IPIndia annual reports)



Evolution of granted patents (domestic vs. foreign)

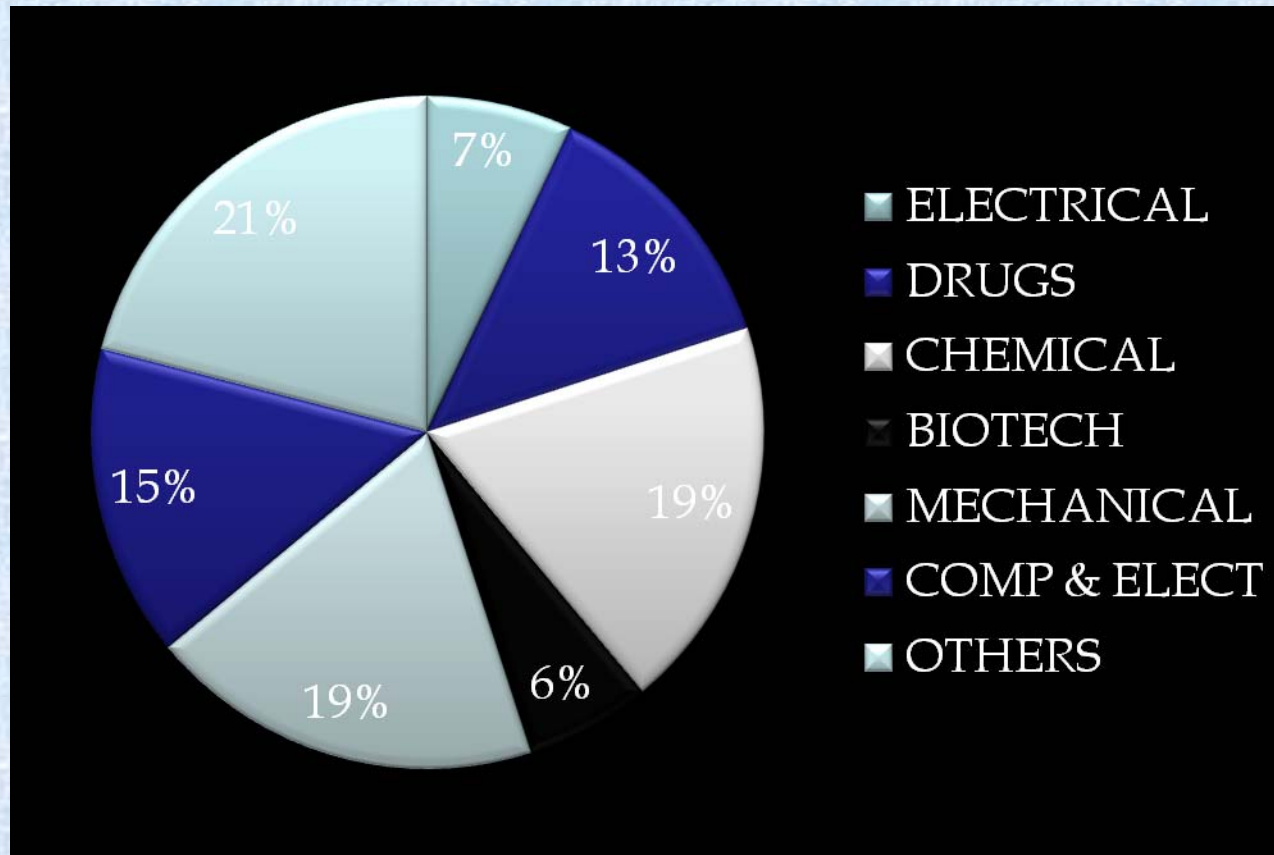


(source: IPIndia annual reports)



Source IP Indian Annual Reports

TOP TECHNICAL FIELDS (2007-2008)



SOURCE : IP INDIAN ANNUAL REPORTS

ADVERSORIAL ACTIONS DEVELOPMENT OF JURISPRUDENCE

- PRE-GRANT OPPOSITIONS
- POST-GRANT OPPOSITIONS
- INFRINGEMENT SUITS
- DECLARATORY SUITS – NON-
INFRINGEMENT

SOME RECENT CASES

- NOVARTIS
- BAYER v CIPLA
- ROCHE v CIPLA
- TVS v BAJAJ

THANK YOU

SUNITA K. SREEDHARAN

sunita@skslaw.org