



# Establishing an Effective Intellectual Property Regime: The Indian Experience

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# IPR Strategy

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- Meet International obligations.
- Safeguard public interest.
- Modernise the IPR Administration.
- Create awareness about IPRs.



## Legislative Framework

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- The Patents Act, 1970 (as amended in 2005).
  - The Designs Act, 2000.
  - The Trade Marks Act 1999.
  - The Geographical Indications of Goods (Registration & Protection) Act, 1999.
- ✓ India fully meets its international obligations



## Patents Act, 1970

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- Effectively balances and calibrates the rights of patent holders and national interest
- Safeguards in place to protect public interest in general and public health in specific



# Safeguards in the Patent Law

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○ ***Exemptions from patentability (some examples):***

- *the mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or 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 [section 3 (d)].*
- A substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substance [**section 3(e)**];
- An invention which in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components [**section 3(p)**];



# Safeguards in the Patent Law

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## ○ **Compulsory Licenses:**

- At any time after expiry of three years from the date of grant of a patent, a compulsory license may be sought on the grounds:
  - That reasonable requirements of public with respect to the patented invention have not been satisfied, or
  - That the patent invention is not available to the public at a reasonably affordable price, or
  - That the patented invention is not worked in the territory of India. [Section 84(1)]
- Special provisions to deal with (a) national emergency, extreme urgency and (c) public non-commercial use [Section 92].
- Provision to enable export of medicines to countries which do not have adequate production facilities [Section 92A].



# Modernisation of IP Administration

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- First phase of modernisation implemented at a cost of US \$ 40 million.
- Focus on:
  - Creation of state-of-the-art infrastructure;
  - Augmentation of human resources;
  - Computerisation;
  - Awareness creation;
  - Training.



# Milestones achieved

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## **Infrastructure Development**

- 4 state-of-the-art Intellectual Property Offices commissioned.

# FACADE

Before



Now

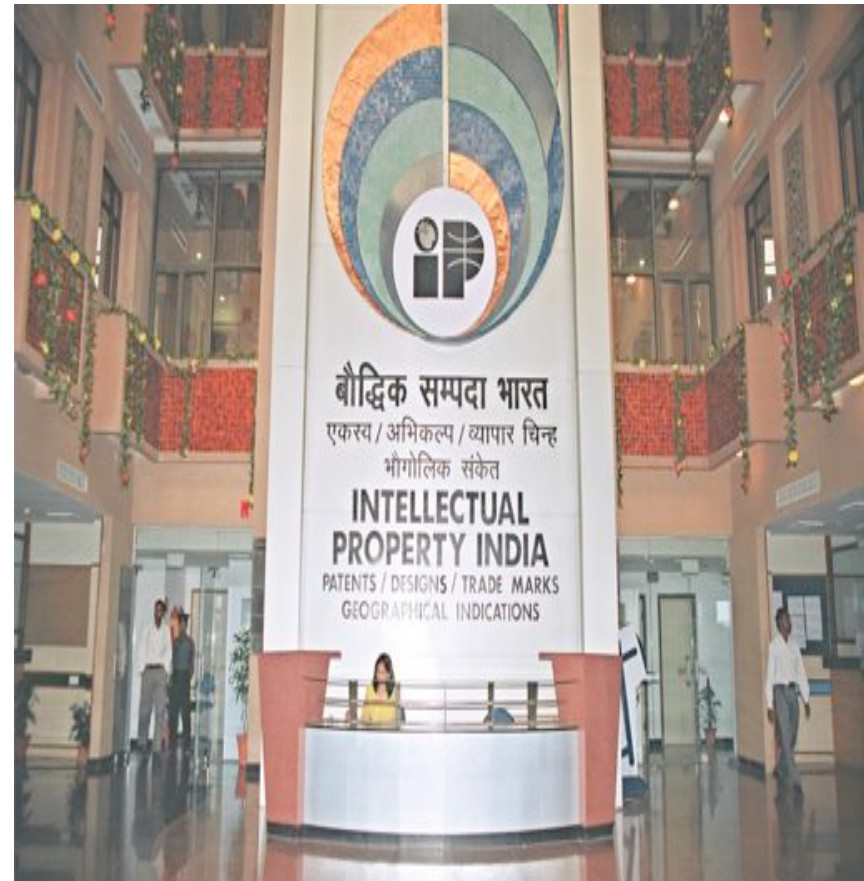


# Entrance

Before



Now



# STORAGE SPACE

Before



Now





# Milestones Achieved

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## **Human Resources**

- Five-fold increase in positions in the Patent Office.
- Two-fold increase in human resources in the Trademarks Registry.



# Milestones Achieved

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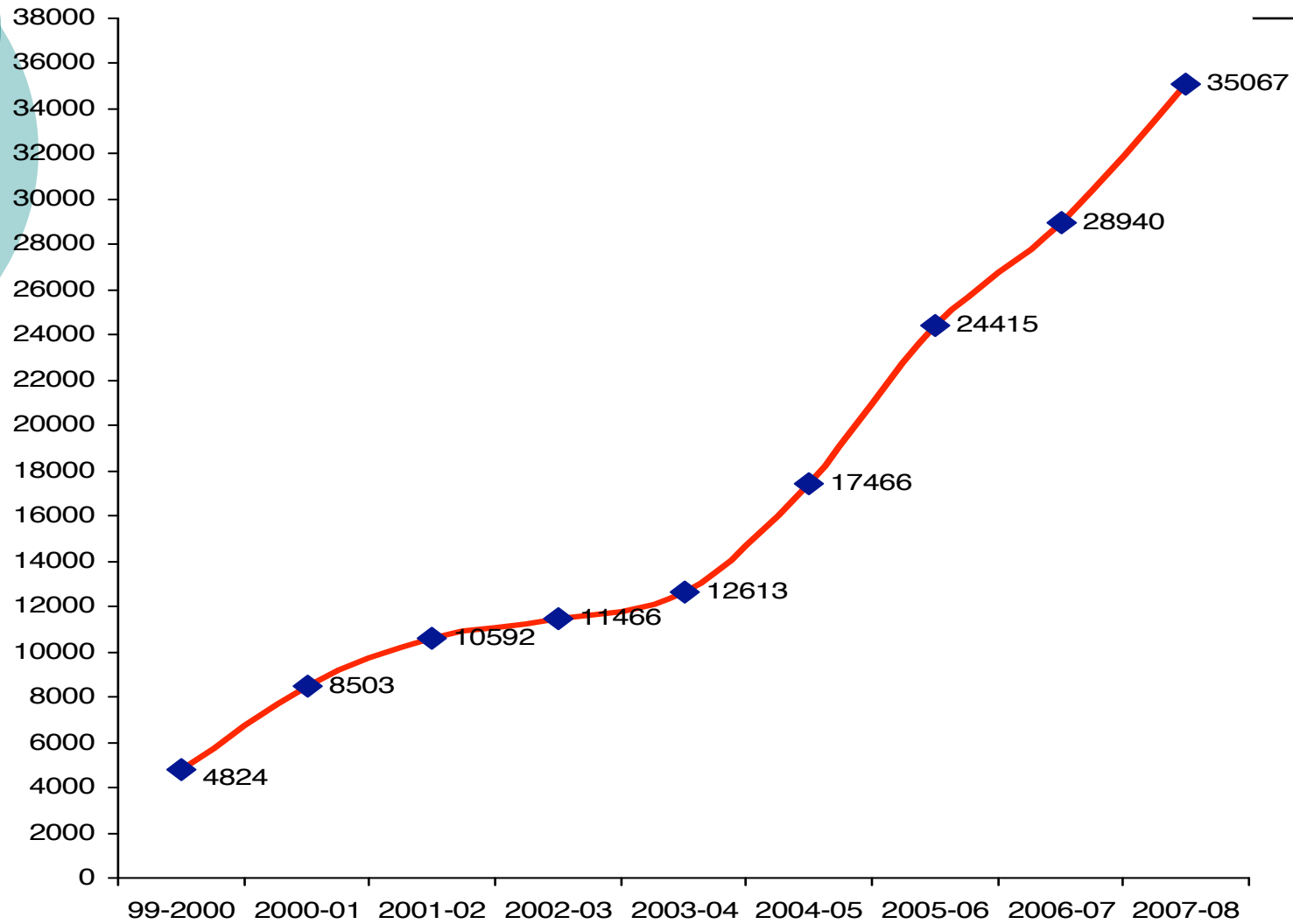
## **Computerisation**

- Initial level of computerisation & search facilities.
- E-filing established.
- Digitisation of IPR records initiated.
- International databases acquired.

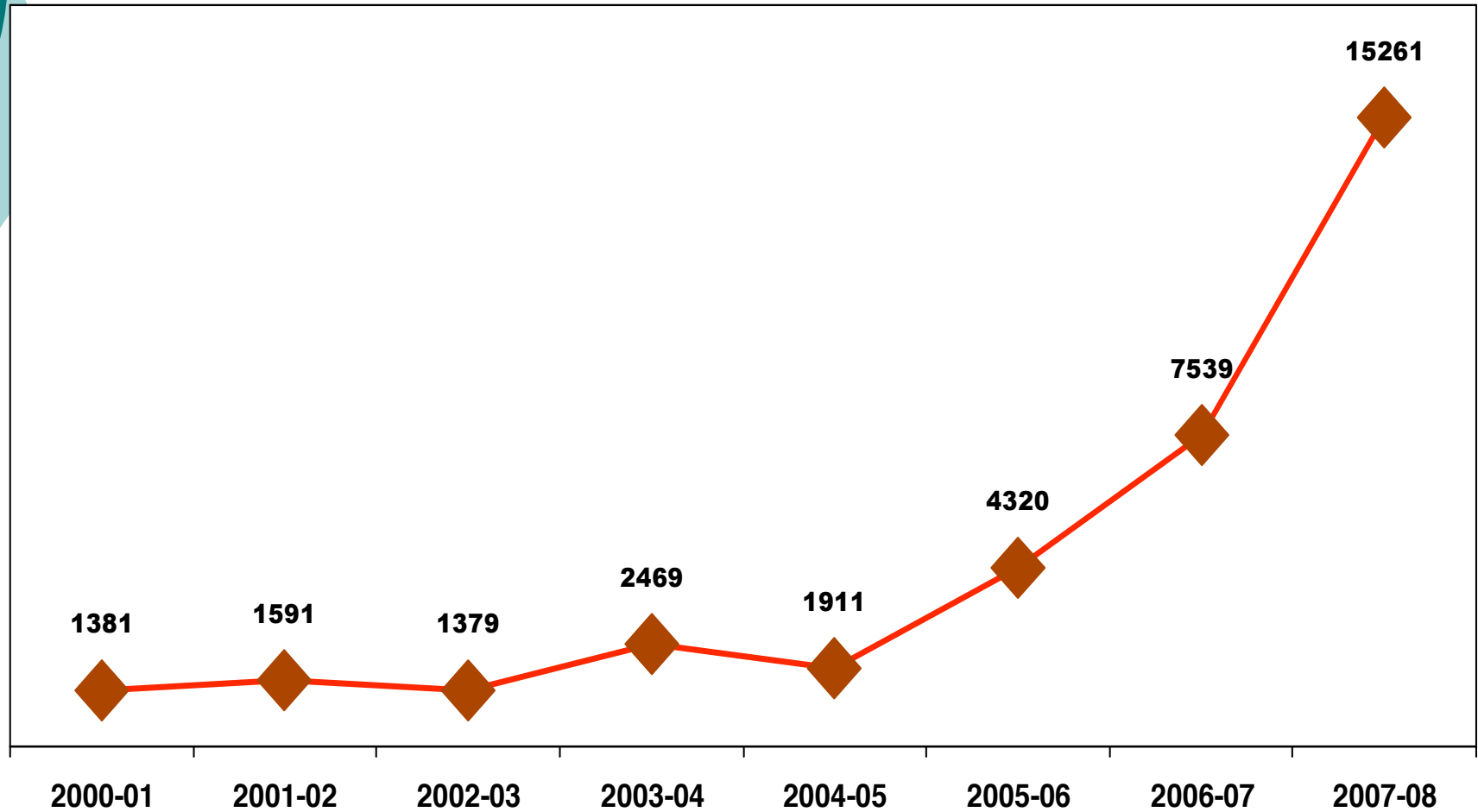
## **Training & Awareness Creation**

- Intellectual Property Training Institute (IPTI) established at Nagpur to provide training and develop strategies for awareness creation.

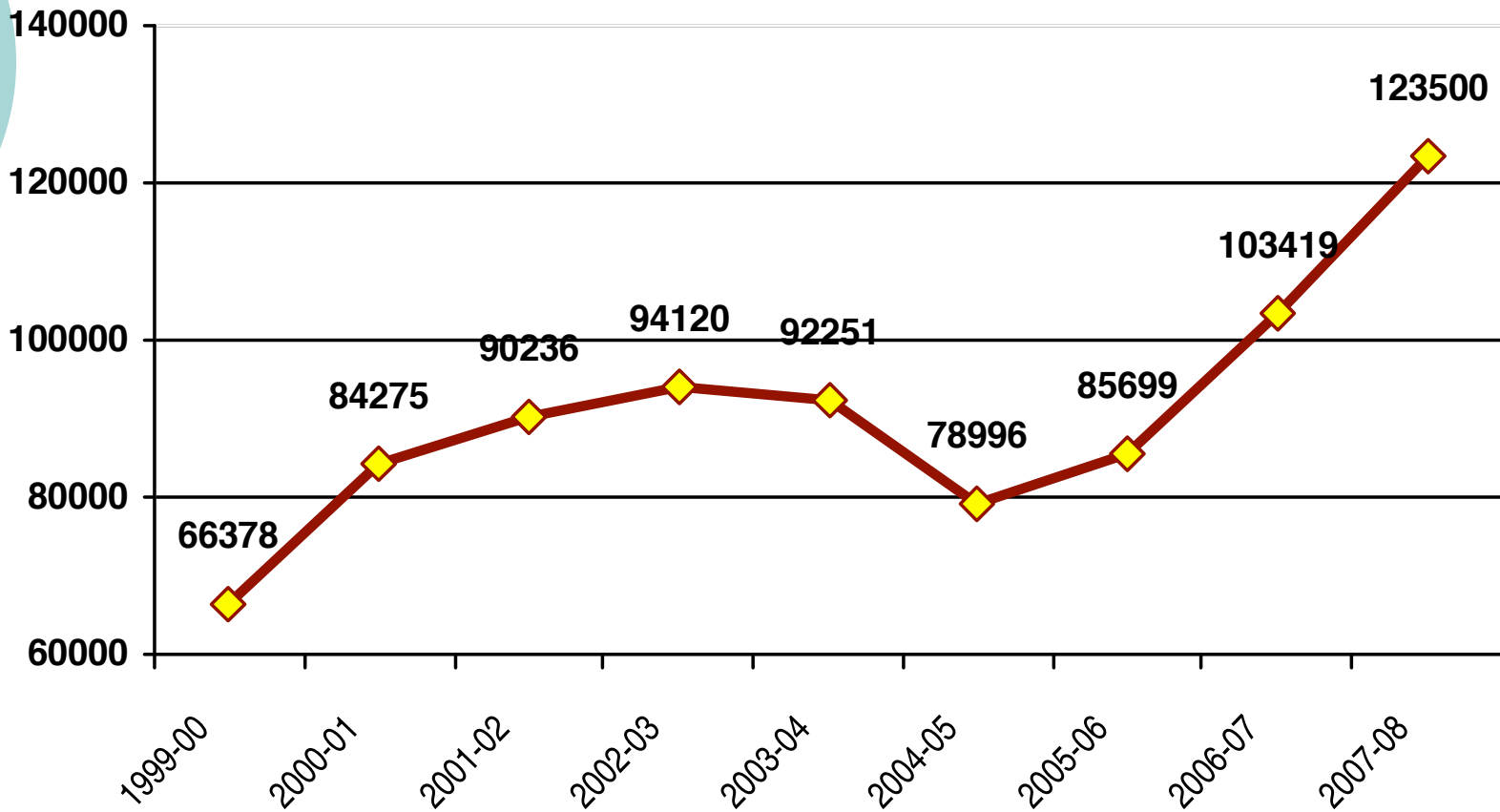
# Impact: Patent Applications



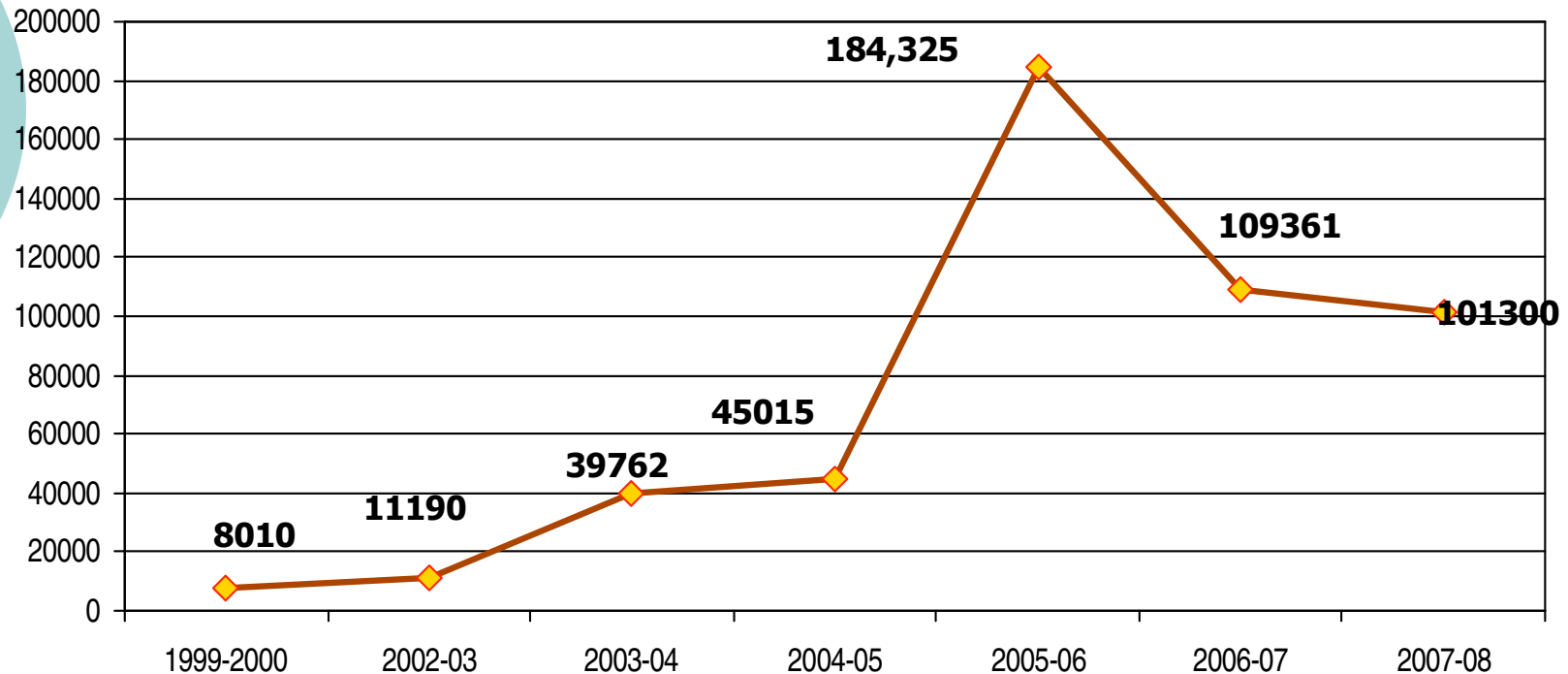
# Impact: Patents Granted



# Impact: Trade Mark Applications



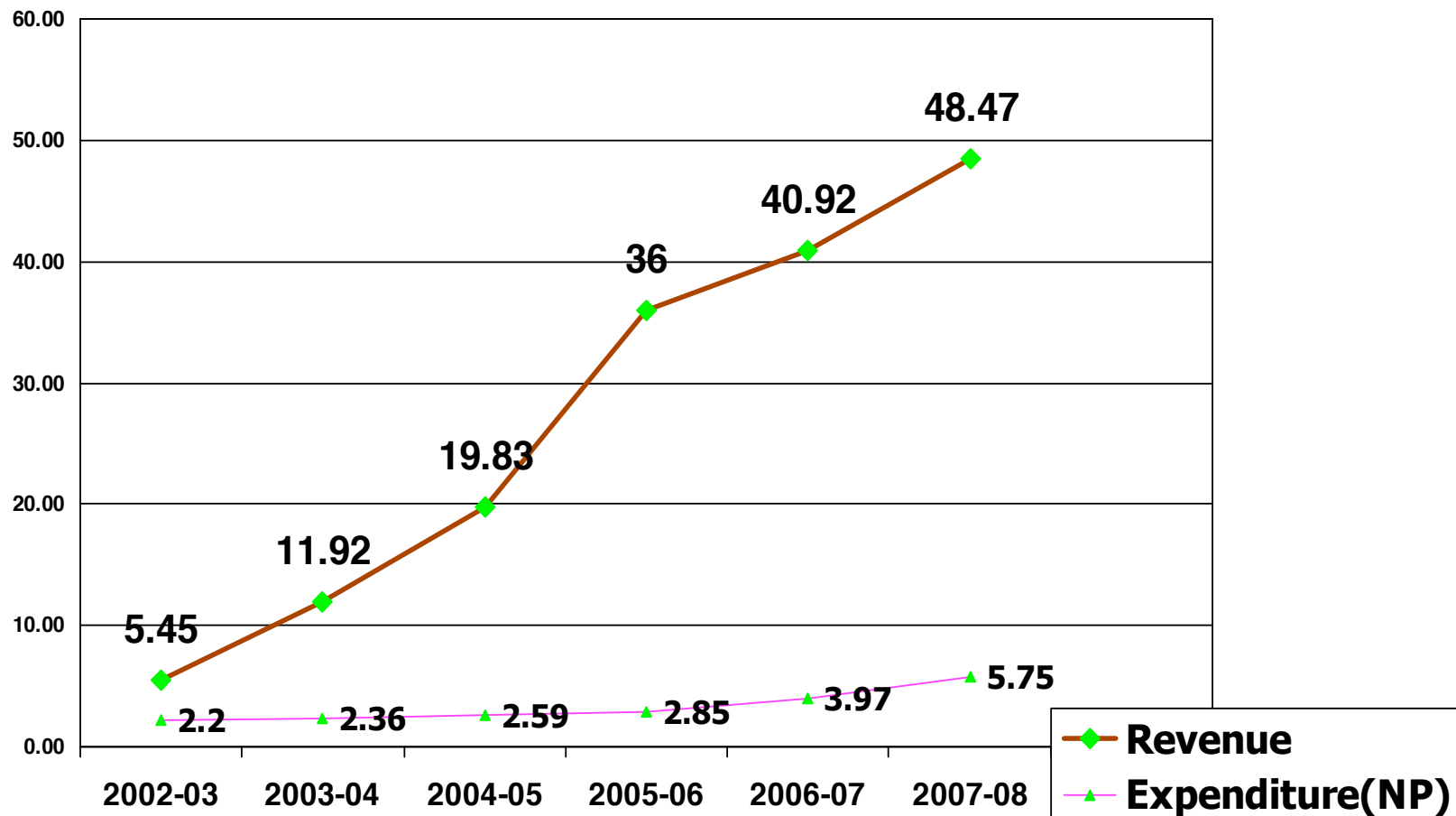
# Impact: Trade Marks Registered



In the last 3 years 3,38,000 trade marks registered – more than those registered in the preceding 50 years.

# Impact: Revenue and Expenditure

In million dollars





# Challenges ahead

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- Operationalisation of International Searching Authority/ International Preliminary Examining Authority (ISA/IPEA);
- Accession to Madrid Protocol;
- Strengthening of Infrastructure;
- Augmentation of Human Resources;
- Comprehensive computerisation;
- Awareness and sensitisation.



## Second Phase of Modernisation

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- Allocation – US \$ 82 million.
- Components:
  - Infrastructure Development;
  - Augmentation of Human Resources- As many as 1380 personnel proposed to be inducted ;
  - Target to achieve total electronic processing;
  - National Institute of Intellectual Property Management for training, education, research and policy advice;
  - National-wide IP Awareness campaign.



# Enforcement of IPRs

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The Indian IPR laws contain provisions for stringent punishments and fines for IPR violations.

- Various administrative measures include setting up of the Inter-Ministerial Committee on Enforcement of IPR laws, Copyright Advisory Council, Enforcement Cells in the State Police Headquarters, conducting of special anti-piracy drives by State police, etc.
- The Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, broadening the scope of enforcement of IP rights were notified on 8th May, 2007.
- Intellectual Property Appellate Board provides fast track mechanism for resolution of IP disputes.
- The enforcement measures have resulted in registering of large number of cases relating to IPR violations, filing of charge sheets, arrests and convictions.



Thank you

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