



A Study of Intellectual Property Rights: Emergence and Significance

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Abstract

The present article on intellectual property rights intends to explore the emergence and significance of the IPR. It aims to throw light on the history, objectives and types of IPRs. It has been noted that the idea of the IPR emerged in the 18th century. IPR provides legal protection for the individual's original ideas, creativity or innovations. Such innovations or creativity can be found in different forms such as literary work, design, symbol, parases or intelligence etc.

In business world and academic arena, IPR proves to highly beneficial and indispensable. IPR gives due credit to its original creator. It comes under the justification of copyrights law and patent law given in session 20 (1) (b) of the Indian copyright act of 1957. The rights related to IPR are discussed in article 27 of the universal declaration of human rights. It is noted that every industry constitutes its own IPR policies to facilitate its business. The present paper also discusses the significance of IPR in facilitating e-commerce.

Keywords: Intellectual property rights, copyrights, patents, commerce

Introduction:

Like the other physical property, psychological property that is intangible also requires protection. The concept of protection the intellectual property which is physiological that emanates through creative or innovative mind, emerged in the 18th century. During 18th century people found that a law is required to safeguard the people's creative, innovative and genius work that is assumed to be the original and beneficial for the people. Such IPR proves to be beneficial for the creator for gaining recognition and sometimes money as a reward. IPR commonly includes pattern, design, copyrights, and geographical indications. It is found that in the sector of E- commerce, IPR plays a significant role by enabling the creators or innovators to establish their individuality, identity and distinctiveness.

An intellectual property right varies from country to country because different countries consider different things to be recognized as an intellectual property. Nevertheless, many countries have some common things which are considered to be intellectual property. On the basis of this consideration, there are some types of IPR which are the most common in all the countries they are copyrights, pattern, trademarks and trade secrets. If there is no IPR phenomenon, then there will be chaos and anarchistic situation in the field of commerce and academia. Anyone can come and claim to be the owner or creator of the novel idea. There will be



a number of repetitions of the same innovative ideas, designs or trademarks. Therefore, legal protection is required to safeguard the parent-ship of the offspring. In this way, IPR becomes indispensable to give due credit and acknowledge the genuine creator of the work. It also becomes necessary to provide financial incentive to the generator of the idea or design. Such incentive provides encouragement and motivations to the creators to come up with new ideas even in future.

Review of Literature:

Dr. Arun Gaikwad (2020): The author speaks the development of the IPR and significance in business. His research paper also gives a comprehensive idea of IPR, its types and importance.

Miss Reema Dominic (2023): In this research article the author speaks about the history of IPR and its role in e-commerce. The author also discusses the major types of IPR.

Sreeragi R. G. (2021): The writer explains lucidly the types of IPR and the tenure offered to the copyrights. In this article the author discusses the significance of the various types of the patents and IPR.

Objective of the Study:

To understand the idea of IPR and its emergence

To discuss various type of IPR

To study the role of IPR in e-commerce

Research methodology:

Analytical and interpretative methods have been used to achieve the aforementioned objectives. The present paper is descriptive and conceptual. Literature review makes the paper conceptual in a nature. The information required for the analysis and description is taken from the secondary sources.

Emergence of the IPR:

IPR is emerged with a moral purpose of giving credit, value and financial benefits to the creator of the original idea. The idea is said to have emerged in Greek during 500 BC. According to some researchers, IPR was started in Italy during renaissance period. It is said that in 1474, in Venice, the law was made to provide the protection to the patents and offered right to the owner of the patents. As far as copyright is considered, it dates back to 1440 A. D. The copy rights was provided to Johannes Gutenberg for his invention of printing press. Thenceforth, many countries voiced the need of copy rights and offered legal protection for the innovative work. There were two prominent conventions which created a ground for today's convention and laws regarding the IPR. These two conventions are: Convention for the protection of Industrial Property (1883) and Berne Convention for the Protection of Literary and Artistic Works (1886).

The significance of IPR:

It has been observed the world has evolved and developed on all grounds due to the man's quest for knowledge. Men have always taken efforts to seek new knowledge. Such quests and seeking efforts have resulted in the innovative and creative practices. IPR provides the creator and innovators exclusive right and ownership. It protects their creative work from getting stolen by others. IPR provides incentives, motivation and encouragement to the innovators and provides



relaxation and assures them that their intellectual property is not going to be purloined. IPR encourages competitiveness in commercial arena. It provides honors and makes the individual and the organization esteemed. Indirectly and directly, it helps the business to grow and develop. According to American businessman Mark Getty IPR is associated explicitly with the growth of business. IP ensure enrichment and richness of the innovators. He states that IP is considered to be the oil of 21st century. In a nutshell, IPR provide to be highly beneficial in academic and industrial spheres.

Types of IPR:

The present paper discusses the following types of IPR such as Patent, Trademark, Copyrights, Trade secret, Industrial designs and Geographical indications.

1) Patent

Patent is commonly defined as “a government authority or license covering right or title for a set a period, especially the sole right to exclude others form making, using, or selling an invention.” There are some steps to be followed when an innovator comes up with a original idea or design. The steps include reaching the patent office, giving details about the product to be protected, waiting for the scrutiny and then getting protection for intellectual property. Patents offer credit, exclusive ownership and protection for a limited period, for example 10 to 20 years. There are three major types of patent: utility, design and plant. Utility patent refers to the usefulness and functionality of the patents. It may include useful innovation and electronic, chemical, mechanical etc. fields. Design patent refers to a patent which is pertaining to the appearance, shape or design of the product or object. Plant patent denotes protection of distinctive and new variety of plant.

2) Trademark

It refers to the special and individual sign that is a distinctive features or characteristic of a product. It helps the customers to recognize the source of the particular products. It can be a text, word, numeral, phrase, symbol, signature, shape, diagrams, design, packaging, color, sound etc. kind of things that offers the product a distinctiveness and a recognizable individuality. Trademarks ensures reputation and goodwill among the consumers. The person, who wants to protect his trademark or innovation, needs to visit the trademarks office and submit the applications for getting protection for his created Trademarks.

3) Copyright

It denotes the rights given to the authors, artists, composers etc. innovators for their original and novel work. Even artists, performers and broadcasters can have copyright sanctioning. Such right offers the owner the right to sell, publish, reproduce and display his/her original work that can be a piece of literature, music, architectural writing etc. Copyright also includes the right or ownership for books, stories, plays, newspaper, magazines, advertisement, database, movies, musical composition, videos, paintings, drawings, photographs, maps, architectures etc. There is overlap between copyright and other types of IPR. Generally speaking, copyright is granted to the original work when it is in the form of a language or code or audio-visual form. On the contrary, patent is offered to the original, innovative process. Slogan, logo, pictures or sentences though in the form of codes are offered Trademark protections.



4) Trade Secret:

It refers to the secrets of commercial world. It helps the business group to keep its business secrets. Such Trade secrets are provided protection because they give financial advantage to the businesses that own the secret. If these secrets are leaked then the company or industry has to face many business losses. Trade secret can include confidential data, formula, design, process etc. Trade secrets are given protection without any registration because the process of patent registration requires detailed description of the original ideas to be patented. In that case the idea gets publicized and the secrets of trade get disclosed. Therefore, trade secrets are never patented for example the recipe of particular product or gold drinks.

5) Industrial Design:

It refers to the ornamental or aesthetic aspect of an article. It includes three dimensional features such as shape, patterns, lines or colors. The patent pertaining to industrial design offers protection to the design from selling, copying or importing it by other commercial users. Such design includes packaging styles/ designs of jewelry, textiles, geographical symbols etc.

6) Geographical Indications

It refers to a sign illustrated on the products. Such signs imply specific geographical origin. such indications prevent the third party from using it. For example, the tea products in Darjeeling can use its GI but other tea companies located in other region and not having any association with Darjeeling tea can not use GI of Darjeeling tea

Role of IPR in E-Commerce:

IPR proves to be very useful in business world. It helps protect companies' business interest. It protects seminal components of a company such as digital and technical assets. It safeguards goods and e-commerce. In e-commerce outsourcing is required frequently, so there is a possibility of getting the ideas purloined, in such case of outsourcing IPR ensure protection. It helps patent preservation and safeguards trademarks, trade secrets. It establishes the reputations and identity of individual innovators or innovative company. It has been noted that IPR stimulates the competition among the innovators, creators or ingenious people.

Conclusion

To sum up, the parameters pertaining to IPR varies from country to country. It is found that the association between IPR and commerce can decide the magnitude and value of patented work. As far as patent is concerned, utility patent gets much recognition as compared to other patents because these patents help start new business.

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