



INTELLECTUAL PROPERTY RIGHTS IN INDIA : AN OVERVIEW

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ABSTRACT:

The present research paper is focusing on the importance of IPR, the types of IPR and status IPR in India. Intellectual Property Right is exclusive right is granted by government of India for protection originality of work of inventor. Simple intellectual property right is intangible creation of human mind. In this intellectual Property right includes in Patent, Trademark, Trades crates, Industrial design, Layout design and Copyright oriented rights.

Intellectual right is important for maintaining the quality, safety, efficacy of any Pharmaceutical product and services. It is certification authority and standard authority for certification and identification of product in world wide market. This intellectual property right is the rights given to people over the creation of their minds. They usually give the creator an exclusive right over the use of his/her creations for a certain period of time. Intellectual property refers to creations of the mind, inventions in artistic, literary, scientific and industrial field. It is important application for Protection of invention of inventor and maintaining the quality as well as standard of work of inventor. the present review describes The Basic concept in IPR, Objectives in IPR, Type of IPR (Patents, Trademarks, Copyrights And Related Rights, Geographical Indications, Industrial Designs, Trade Secrets, Layout Design For Integrated Circuits, Protection of New Plant Variety), Duration of Intellectual Property Rights, Concept Related Patents (Types of Patent, Tangible And Intangible Property, Novelty, Non-Obviousness, Utility, Anticipation, Prior Art, Global Perspective Of Patent System, Role Of International Organization, Indian Patent Act 1970, Patentability, Patent Infringement, Commercialization, Patent Licensing)

KEY WORDS: Intellectual property rights, WIPO, patents, trademarks, industrial designs

INTRODUCTION

The intellectual property rights (IPR) are intangible in nature and gives exclusive rights to inventor or creator for their valuable invention or creation. In present scenario of globalisation, IPR is the focal point in global trade practices and livelihood across the world. These rights boost the innovative environment by giving recognition and economic benefits to creator or inventor whereas the lack of IPR awareness and its ineffective implementation may hamper the economic, technical and societal developments of nation. Hence dissemination of IPR knowledge and its appropriate implementation is utmost requirement



for any nation. In wake of globalisation, it is utmost important to be ahead in innovations and creativeness to compete the stiff competitions in technology and trade. India is well recognised for its intellectual skills in the fields of software engineering, missile technology, Moon or Jupiter mission and other technological areas. However, India lags in generation of IPR assets in terms of registered patents, industrial design, trademarks, etc. In a recent report by the US Chamber of Commerce, India stood at 29th position amongst 30 countries in IP index around the globe. It is very alarming condition for policy makers as well as for the nation as a whole.

India is an emerging economy that has a vast potential for innovation, creativity, and growth due to which IPR plays a critical role in sustainable development. Moreover, the sustainable development refers to a way of meeting the needs of the present generation without compromising the ability of future generations to meet their own needs. It involves the pursuit of economic, social, and environmental goals in a balanced and integrated manner. However, the IPR may limit the free flow of technology that is necessary to promote sustainable development in India. Although, the IPR plays a major role for economic as well as technological growth in India. Therefore, is necessary to understand and analyze the role of IPR in the sustainable development in India.

The purpose of this research paper is to analyze the role of IPR in sustainable development in India. The research paper aims to provide insights into the existing IPR regime in India, its effectiveness, and its impact on sustainable development. It highlights the importance of IPR in promoting innovation, technological advancements, and knowledge creation. The research paper also examines the challenges and opportunities in the implementation of IPR in India and provides recommendations to improve the IPR regime in the country.

OBJECTIVES OF THE RESEARCH STUDY

The main objectives of present research paper are as under :

1. To comprehend the history and overview of intellectual property rights.
2. To Study the various type and IPR system of intellectual property Rights.

RESEARCH METHODOLOGY

With the above objectives keep in mind the descriptive method is used. For the present research study the data pertaining to the above objectives was collected and reviewed the literature on the topic concerned. The literature was thus collected by visiting various libraries. Some Government offices were also visited for getting office record and statistical data. The secondary data is also collected from various websites.

SIGNIFICANCE OF THE STUDY

The majority of businesses worldwide consider their intellectual property to be a much more valuable asset than any physical property they may hold. This is due to the fact that intellectual property laws shield businesses against unfair competition as well as the disclosure of their trade secrets. The primary goal of intellectual property legislation is to promote the production of several different intellectual goods. To do this, the law grants



individuals and organisations ownership rights to the knowledge and intellectual products they produce, typically for a finite amount of time. Because it enables people to make money from the knowledge and intellectual products they produce, this provides an economic incentive for their creation. Depending on the level of protection provided to innovators, these economic incentives are anticipated to encourage innovation and advance technology in countries. The modern digital economy makes the importance of IPR in E-commerce particularly obvious. In addition to preserving the creator's labour, the existence of regulations and procedures that govern the operation of IP laws has promoted new creations. The law forbids people from stealing intellectual property (IP) and utilising it for their own financial gain without compensating the inventor for their labour and ingenuity. This study concentrates on the importance of intellectual property rights in E-commerce.

POTENTIAL BENEFITS OF IPR IN PROMOTING SUSTAINABLE DEVELOPMENT

Intellectual Property Rights (IPR) are legal rights that protect inventions, creations, and innovations that are the result of human creativity and intellectual efforts. The concept of IPR has been gaining traction in recent years as a means to promote sustainable development. The potential benefits of IPR in promoting sustainable development are numerous and varied, including the promotion of innovation and creativity, encouraging technology transfer, promoting access to knowledge, and creating new jobs and promoting economic growth.

One of the primary benefits of IPR in promoting sustainable development is the promotion of innovation and creativity. IPR provides inventors, creators, and innovators with the incentive to invest in the development of new products and technologies by granting them exclusive rights to use and exploit their creations. This, in turn, promotes the development of new products and technologies that are environmentally friendly and socially beneficial.

Another benefit of IPR in promoting sustainable development is the encouragement of technology transfer. IPR can be used to promote the transfer of technology from developed to developing countries, which can help to close the technology gap and promote sustainable development. The transfer of technology can help developing countries to improve their productivity and competitiveness, which can help them to achieve their sustainable development goals. IPR can also be used to promote access to knowledge. Intellectual property protection encourages the creation and dissemination of knowledge by providing creators and innovators with the incentive to share their knowledge with others. This, in turn, promotes the development of new ideas and technologies that can help to promote sustainable development.

Moreover, IPR has the potential to create new jobs and promote economic growth. Intellectual property protection encourages the development of new industries and businesses, which can create new jobs and promote economic growth. This, in turn, can help to promote sustainable development by providing people with the means to meet their basic needs and improve their standard of living. Therefore, IPR has the potential to play a significant role in promoting sustainable development. By promoting innovation and creativity, encouraging technology transfer, promoting access to knowledge, and creating new jobs and promoting economic growth, IPR can help to address the challenges of



sustainable development. However, it is important to ensure that IPR is used in a way that balances the interests of creators and innovators with the broader public interest in promoting sustainable development.

TYPES OF INTELLECTUAL PROPERTY RIGHTS

Classification of Intellectual Property Rights On the basis of type of invention and creation of human mind and their application, the IPRs are classified as follows:

1. Patents - A patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. Patentability of any invention needs to fulfill certain criteria such as Usefulness, 2 Novelty and Non obviousness. It provides protection for the invention to the owner of the patent for a limited period, i.e 20 years.

2. Trademarks - A trademark is a distinctive sign which identifies certain goods or services as those produced or provided by a specific person or enterprise. It may be one or a combination of words, letters, and numerals. Copyright and related rights - Copyright is a legal term describing rights given to creators for their literary and artistic works.

3. Creators often sell the rights to their works to individuals or companies best able to market the works in return for payment. These payments are often made dependent on the actual use of the work, and are then referred to as royalties.

4. Geographic indications of source - A Geographical Indication (GI) is a sign used on goods that have a specific geographical origin and possess qualities, reputation or characteristics that are essentially attributable to that place of origin. The Geographical Indications of Goods (Registration and Protection) Act 1999 (the Act) provide for registration of Handicrafts as Geographical indications (GI).⁵ As on 31 July 2016,

5. Industrial designs - Industrial designs refer to creative activity which results in the ornamental or formal appearance of a product and 'design right' refers to a novel or original design that is accorded to the proprietor of a validly registered design.⁷ The existing legislation on industrial designs in India is contained in the New Designs Act, 2000 which aims at enacting a more detailed classification of design to conform to the international system and to take care of the proliferation of design-related activities in various fields.

6. Trade Secrets - Broadly speaking, any confidential business information which provides an enterprise a competitive edge may be considered a trade secret⁸. Trade secrets encompass manufacturing or industrial secrets and commercial secrets. The unauthorized use of such information by persons other than the holder is regarded as an unfair practice and a violation of the trade secret. Contrary to patents, trade secrets are protected without registration.

7. Semiconductor Integrated Circuit of Layout Designs (SICLD)- All electronic gadgets are very compact nowadays due to their integrated circuits. These designs of circuits are creation of human mind as a consequence of enormous investments and efforts of highly qualified experts. The SICLD Act of 2000⁹ empowers the registered proprietor of the layout-design an inherent right to use the layout-design, commercially exploit it and obtain relief in respect of any infringement.

8. Protection of plant varieties & farmer's rights - The objective of this act is to recognize the role of farmers as cultivators and conservers and the contribution of traditional, rural and



tribal communities to the country's agro-biodiversity by rewarding them for their contribution and to stimulate investment for R & D for the development of new plant varieties to facilitate the growth of the seed industry which will ensure the availability of high quality seeds and planting material to the farmers.

9. Protection of Biological Diversity - The Biological Diversity Act covers the traditional knowledge in the preamble itself. It also provides for issues related to traditional knowledge under the umbrella of associated knowledge within various provisions of the Biological Diversity Act, 2002.¹² The benefit claimers are conservers of biological resources, creators and holders of knowledge and information relating to the uses of biological resources.

THE IPR IN INDIA

The origins of India's IPR system date back to British colonial rule, when as a colony the state enacted various rules and enforcement mechanisms pertaining to IP rights. Post-independence, India retained elements of these structures while updating some guiding regulations and other bureaucratic structures. As India moved toward liberalization, privatization, and globalization in the 1990s and later, Indian policymakers made further adjustments to keep up with growing needs of domestic and international stakeholders. Indian IPR Laws fully conform to the Agreement on Trade Related Aspects of Intellectual Property Rights under WTO aegis. IPR Policy 2016 Adopted in May 2016, the IPR Policy is a giant leap by the Government of India to spur creativity and stimulate innovation. It lays the roadmap for the future of IPRs in India. The Policy seeks to reinforce the IPR framework in the country that will create public awareness about economic, social and cultural benefits of IPRs among all sections of the society, stimulate IPR generation and commercialization, modernize and strengthen service-oriented IPR administration as also the enforcement and adjudicatory mechanisms for combating IPR infringements. Vision Statement of the Policy An India where creativity and innovation are stimulated by Intellectual Property for the benefit of all; an India where intellectual property promotes advancement in science and technology, arts and culture, traditional knowledge and biodiversity resources; an India where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared. ⁶ The Policy lays down seven objectives which are elaborated with steps to be undertaken by the identified nodal Ministry.

The objectives of the Policy are:

- 1) IPR Awareness: Outreach and Promotion - To create public awareness about the economic, social and cultural benefits of IPRs among all sections.
- 2) Generation of IPRs - To stimulate the generation of IPRs: India has a large talent pool of scientific and technological talent spread over R&D institutions, enterprises, universities and technical institutes. There is a need to tap this fertile knowledge resource and stimulate the creation of IP assets.
- 3) Legal and Legislative Framework - To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest.
- 4) Administration and Management - To modernize and strengthen serviceoriented IPR administration.
- 5) Commercialization of IPR - Get value for IPRs through commercialization.



6) Enforcement and Adjudication - To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements.

CONCLUSION

Intellectual Property Rights (IPR) play a vital role in promoting sustainable development in India. The country has recognized the importance of IPR in achieving its development goals and has implemented various policies and initiatives to encourage innovation and protect intellectual property. India has also taken measures to ensure that IPR does not become a barrier to access to essential medicines and technologies, particularly for the poor and vulnerable sections of society. Despite the progress made, there are still challenges to be addressed in the area of IPR and sustainable development in India. These include improving the effectiveness of IP laws and regulations, strengthening enforcement mechanisms, and promoting greater public awareness and understanding of IPR. It is also important to strike a balance between protecting intellectual property and promoting access to essential goods and services, particularly in the context of public health and environmental sustainability.

Intellectual Property Right is Government Right is granted by the Government of India. Intellectual Property right is concerned with intellectual activity in industrial, scientific, literary & artistic fields. These rights Safeguard creators and other producers of intellectual goods & services by granting them certain time-limited rights to control their use. The rights given to people over the creation of their minds. They usually give the creator an exclusive right over the use of his/her creations for a certain period of time. It is exclusive right is granted by government for protection of Novelty as well as Originality of Patent oriented Data and Maintaining Quality, Safety, Efficacy and Standard or Certification of drug, Any Product and Services.

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