

The Technological Impact on Conserving and Protection of IP Rights of the Indigenous People in India

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Abstract: *In this paper the Researcher is going to discuss the importance, role and impact factor of technology in preserving the traditional knowledge of the indigenous people and their IP rights further.*

Keywords: Concept of IPR in Customs and Traditions, Knowledge developed into Rights, Traditional and Indigenous People, TK & TCE's, Intellectual Property Rights of Indigenous People, Protection of IP rights, Importance of Technology, Advancement of Technology, Nexus, Role and Impact of Technology in preserving IP Rights

I. INTRODUCTION

In this paper the Researcher is going to discuss the importance, role and impact factor of technology in preserving the traditional knowledge of the indigenous people and their IP rights further.

Intellectual Property Rights are the Bundle of Rights intertwined together being a resultant of the creativity, innovation, originality and uniqueness factor in a product, expression of ideas in any intangible form, being an incorporeal property which attracts exclusive interests, economic incentives and rewards to the person holding it with exclusivity. IPRs are categorized into industrial property form for which each one has its own subject matter and importance with various different benefits and role. Technology is playing a vital role in each field boosting innovation, creativity, technical advancement. India has reached the stage of being one amongst the Developed Nations.

India is known as the Country of Unity in Diversity having rich, diverse culture and traditions. Customs and Traditions from each part and region having great impetus making it a matter of heritage and legacy to be conserved passing it over from generation to generation also renowned and is known as the Traditional Knowledge (TK). The TK is one amongst the various forms and subject matter of Intellectual Property creating rights on it. The Traditional Knowledge needs protection and conservation with utmost care and awareness being unique knowledge preserved by the native people and tribals, indigenous communities from various different parts and regions of the nation. This knowledge seeks special attention and protection as it creates a kind of reward and opportunities for the people holding it.

The Intellectual Property Rights are the rights vested with the creation of intangible industrial property over the property which is the resultant of the creation innovation and contribution. The IPR conveys legal ownership over intangible assets including Artistic Works, Commercial Designs, Patents, Trademarks, Copyrights, Geographical Indications, and Protection for Plant Variety, Traditional Knowledge, Traditional Cultural Expressions and Trade Secrets. The Intellectual Property creates an opportunity to create economic incentive rewarding the intellectual labour developing and sharing ideas, using transfer of technology. The dissemination of technology is playing a vital role for boosting innovations and research and development of a nation and intellectual property rights.

Traditional Knowledge or indigenous knowledge covers large ranging of subject areas of art to agriculture and medical uses of plants and traditional systems methods of treatment and diagnosis existing in indigenous and local communities as secret oral knowledge and traditions passed over from generations. Traditional Knowledge exists in various fields

such as agricultural, scientific, technical, ecological, medicinal remedies and biodiversity related knowledge.¹ Some examples of Traditional Knowledge are stories tales, poems like povadas, indigenous hymns songs etc., using Herbal Medicine and their knowledge about the jadi bootis and traditional method of healing using holistic, telepathic chanting of ancestral tribal mantras etc. Classification of Plants and Animals into particular families, segregation and selecting good Seeds of methods of planting indigenous methods used in agriculture, developing and building local irrigation, and classifying different types of soil for planting, producing wines from tropical fruits, unique rituals customs specifically performed in their regions with a cultural traditional value of expressions etc.

Indigenous people & intellectual property rights includes their legal rights to protect intangible property includes cultural knowledge of their groups to protect their cultural heritage in the visual arts, literature ,performing arts, traditional medicines, knowledge held in oral history. Transmission of knowledge strengthens & develops an association & identification of the community where technology plays a crucial role. UNDRIP is the UN Declaration on the rights of Indigenous peoples & (WIPO) World Intellectual Property Organization specification on indigenous knowledge explains it as the combination and blended form of traditional knowledge & traditional cultural expressions together.

Technology is the application of scientific knowledge to upgrade, develop and build the standard aiding rescuing the human kind for better experience, Technology is also the manifestation of encouraging innovations, invention inclining the survival of life easing the way of living. Technology and science has paved much positive effect in sustainable development. The relativity of technology & protection of IPRs can be explained as the expression of ideas and the creativity of minds lead to developing newer innovations which uplifts the knowledge resulting into an intangible form which needs protection and conservation as the indigenous people are lacking awareness and being a vulnerable section prone to manipulation and deprivation from availing the benefits easily.

The Tribals and the natives indigenous people staying remote and unaware regarding the advancement of technical aspects and the developments in the transmissions and dissemination of knowledge and its platform are always falling prey to incidences like Piracy in many forms depriving them of their legal rights which they should get their incentives and exclusive rights over them as the literate ones playing clever tricks take undue advantage of their innocence and unawareness developing a very familiar companionship with those innocent poor people reaching them out with a very low or even not even a benefit being shared with them for their actual contribution in rearing conserving their traditional indigenous knowledge. The AI high tech digital era today has developed many platforms for easy access, transfer and dissemination of information which somewhere has contributed leading to issues like Bio piracy and denial of the rights and the interests of the tribal and the communities dwelling in the native regions. Technology helps in strengthening the economy boosting the area of research and development. IPRs needs technology for its transmission and flourishing it to create the incentives and award.

Intellectual property Rights serves as the cornerstone for fostering innovation, creativity, and economic growth. However, the accelerated pace of technological change presents both challenges and opportunities for the traditional frameworks governing IP. The Digital era and the technological advancement has boosted and fostered many innovations, inventions and creativity with the flow seamlessly encouraging transfer of technology giving birth to rights over intangible property which is intellectual property. Technology Transfer amplifies the process of dissemination of information, databases, ideas and novel innovations in any field providing with a higher pace of contribution in the

¹WIPO's current working definition of traditional knowledge, "refers to the content or substance of knowledge resulting from intellectual activity in a traditional context, and includes the know-how, skills, innovations, practices and learning that form part of traditional knowledge systems, and knowledge embodying traditional lifestyles of indigenous and local communities, or contained in codified knowledge systems passed between generations. It is not limited to any specific technical field, and may include agricultural, environmental and medicinal knowledge, and any traditional knowledge associated with genetic resources." World Intellectual Property Organization [WIPO], Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore, Glossary of Key Terms Related to Intellectual Property and Genetic Resources, Traditional Knowledge and Traditional Cultural Expressions, WIPO/GTRK/IC/20/INF/7, Annex, page, (January 10, 2011).

economic growth of nation and its R&D. Indigenous knowledge (IK) has the potential to become a preserving agent of society's norms and conventions which could offer a new approach to tackling societal problems in context if integrated into Technology Education (TE), as IK displays a culture loaded with values.

The Technology has its own advantages as boon and disadvantages which proved to be a bane, as every coin has its two sides so is the case of the technological impact on the IPRs, when we discuss about the advantages and contribution of technology in protection of IPRs of indigenous people are that it allows effective documentation so that it can be source of prior art to establish proof of priority to avoid and prevent issues of infringement and loss of data and profits availed by the business minded people exploiting the right of benefit sharing² in case of the biological sources and genetic resources preserved and conserved by the indigenous people, with the help of TKDL which provides for the data library and database for maintain the records for protecting their traditional knowledge (TK) globally.

Technology helps in enabling cultural preservation,empowering economy, making greater recognition of their unique cultural heritage and expressions. Technology has aided in cultural preservation and resilience in management of significant resources, also embarking the solving the restorationof tropical ecology,The technology has promoted inclusivity, empowering the students, preserving the traditional knowledge, enriching the field of technology with diverse perspectives and innovative ideas.

Technology has also posed many drawbacks and loopholes while tackling with the IPRs of indigenous people, some of them can be discussed and enumerated accordingly like incidences of misappropriationleading to the obstacles hindering their social, economic, political and legal development, facing disparity and marginalization. Technology have raised the issues of piracy where no legal recognition and attribution are found in many cases for example the famous case of Patenting Turmeric, Basmati, Neem for their identity source and use with their own quality and working properties, if there could not have been the data available as an evidence and proof for giving the priority as the traditional and indigenous knowledge in the manuscripts then we could have lost our exclusive rights over the IP Rights.

Technology at times cannot proportionately calculate and monitor the share properly to sustain the requirements inducing the limitedefficiency riskfactor involved in calculating the Fair Equitable Benefit Profit Sharing (FEBPS)³.Issues in relation to collection,development access in preservation media.

The impact of Technology on IPRs of indigenous people if we discuss in positive approach is that it helps in promoting the cultural exchangeenhancing the value and recognition of traditional knowledge.Helps in encouraging and boosting in contributingfor the social, cultural, economic, and political development. Profoundly creating digital databasesassistance in advancing and promoting indigenous geographical indications, such as specific forms of art like work, craft, food cuisines, or other products linked to a particular geographic region. Some of the examples of GIsare like Nagpur Orange, Kolhapuri Chappal, and Kashmiri Saffron.

The negative impact of technology based on the issues of indigenous people and their traditional knowledge involving the misuse and cultural appropriation. There are chances and conditions where there is a difficulty in enforcing IPR. Possibilities of issues andties of lack of legal resources, technical knowledge, and access to international intellectual property systems also difficulty for people in remote areas, access to the internet, legal resources, or even education around IPR can be limited, making it harder to combat misuse of their cultural heritage.There is risk of losing control & regulating the use on internet due to digitization.Possibility of misinterpretation or misrepresentation.More probabilities of instances like disparity, as indigenous knowledge may be globally shared but local laws might not effectively protect it.Difficulty in navigating the complexities of different complex legal systems and bureaucratic processes for indigenous people leaving them vulnerable to exploitation.

²The Biological Diversity Act, 2002

³ "Divya Pharmacy v Union of India" case (2018),

II. CONCLUSION

“Creativity is the greatest rebellion in existence. Protecting that creativity means protecting a future of possibilities.”
— **Unknown**, therefore it needs to be protected in every sense where technology plays crucial role in fostering sustainable development by innovations expressions creativity and quality of uniqueness boosting up the economic incentives and exclusivity to make profitable benefit protecting the rights and interests of the conservators, creators and holders of the intellectual property.