

An Overview of Intellectual Property Rights in India

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Abstract: Intellectual property is an intangible creation of the human mind, usually expressed or translated into tangible form that is assigned certain rights of property. In present scenario of globalization, IPRs is the important 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 IPRs awareness and its ineffective implementation may hamper the economic, technical and communal developments of nation. IPRs knowledge and its appropriate implementation is utmost requirement for any nation. This study highlights what is IPRs, Legislations Covering IPRs in India and various terms of IPR such as patents, trademarks, industrial designs, geographic indications, copyright, etc.

Keywords: Intellectual property

I. INTRODUCTION

Technology developments in the 20th century have transformed the majority of wealth creating work from physically-based to knowledge-based. Technology and knowledge are now the key factors of production. India is well recognized 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 IPRs assets in terms of registered patents, industrial design, trademarks, etc. In present scenario of globalization, IPRs 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 IPRs awareness and its ineffective implementation may hamper the economic, technical and societal developments of nation. IPRs knowledge and its appropriate implementation is utmost requirement for any nation.

II. WHAT IS INTELLECTUAL PROPERTY?

Intellectual property is an intangible creation of the human mind, usually expressed or translated into tangible form that is assigned certain rights of property. Intellectual property refers to creations of the mind, such as inventions, literary and artistic works, design and symbols, names and imaged used in commerce. It is an intangible asset. Examples of intellectual property are as follows:

- Include an authors copyright on a book
- A distinctive logo design representing a company and its product
- Unique design elements of website
- A patent on a process to manufacturing product, etc.

III. WHAT IS INTELLECTUAL PROPERTY RIGHTS (IPRS)?

Intellectual property rights (IPRs) are rights assigned to the creators of intellectual property. it can be individuals or organizations. Intellectual property rights are in different forms. IPRs is a right that had by a person or by a company to have exclusive rights to use its own plans, ideas, or other intangible assets without the worry of competition, at least for a specific period of time. These rights can include copyrights, patents, trademarks, and trade secrets. These rights may be enforced by a court via a lawsuit. The reasoning for intellectual property is to encourage innovation without the fear that a competitor will steal the idea and take the credit for it.

IV. LEGISLATIONS COVERING IPRS IN INDIA

Patents: The Patents Act, 1970 as amended in 1999, 2002 and 2005

Design: The Designs Act, 2000

Trade Mark: The Trade Marks Act, 1999

Copyright: The Copyright Act, 1957 as amended in 1983, 1984 and 1992, 1994, 1999

Layout Design of Integrated Circuits: The Semiconductor Integrated Circuits Layout Design Act, 2000

Protection of Undisclosed Information: No exclusive legislation exists but the matter would be generally covered under the Contract Act, 1872

Geographical Indications: The Geographical Indications of Goods (Registration and Protection) Act, 1999

Plant Varieties: The Protection of Plant Variety and Farmers' Rights Act, 2001

V. CLASSIFICATION OF IPRS

Based on their specific nature, intellectual property is often divided into two categories: 1) industrial property, which includes patents, trademarks, industrial designs and geographic indications of course. 2) Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Here is a brief introduction of all IPRs.

- **Industrial Property:** Industrial Property alludes to the property that has got protection under intellectual property laws and includes trademark, service mark, designs, patent for the invention, trade secret, utility model, etc.
- **Trademark:** Trademark refers to an ascertainable sign, symbol or a word determining the source of a particular product. It is used to afford protection to the mark owner, by facilitating restricted rights to use it. When it identifies the service provider, it is called as a service mark. Once registered, the trademark is protected for a definite period, after which it can be renewed by paying a fee.
- **Patent:** Patent is the protection provided to the inventor for their creation which can be a device or a process. It is a government license, which confers exclusive rights to the inventor, for a specified period, to debar others from creating, using or selling it.
- **Design:** Otherwise called industrial design, is primarily related to the aesthetic features of a product or system, which makes it more appealing and thus increases its commercial value.
- **Trade Secrets:** As it is evident from the name, it is the sensitive business information which provides a competitive edge to the firm.
- **Copyright:** Copyright implies the exclusive rights assigned to the creator or composer of artistic and literary works, for a definite period, to stop others from copying the work. It covers a wide variety of literary works such as novels, poems and plays, films, drama and musical work and artistic creations, e.g. paintings, sculptures, photographs and many more.

VI. WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)

WIPO stands for World Intellectual Property Organization, was set up in the year 1967 by WIPO Convention. Its headquarters are located in Geneva, Switzerland. Its objective is to provide protection to the intellectual property worldwide. It is an international body based in United Nation. It works for the development of intellectual property system. WIPO frame works as well as regulate various policies concerned to IPRs across the globe. The economic, social and sustainable cultural development with preservation of biodiversities, traditional knowledge through a balance and effective international IP system is main objective of WIPO. Besides this, it is responsible to harmonise differences amongst various countries especially between the developed and developing nations by amending international regulation so that each of them get a equal opportunity in emerging world.

VII. CONCLUSION

In knowledge based economy, intellectual property rights are very much essential for progressive community development. The IPRs is basic necessity to be a part of local as well as global competitive trade as without

dissemination of IPRs knowledge and implementation, creating the innovative environment is really impossible. It is essential for policy makers to include IPRs in basic educational system and promote IPRs registration by encouraging the innovators and creators. India is having all the resources in terms of available raw material, cheap labour, innovative and creative dedicated manpower. No doubt that India and other developing countries will definitely harness its proportionate share in global trade by exploration in Intellectual Property Rights.

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