



Need of intellectual property rights in India and other developing countries: A novel approach for global recognition and economic development

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Abstract

The intangible intellectual property rights (IPR) give exclusive rights to the creator for their creation. To withstand the competition in the market globally these rights boost the innovative thinking and research which give recognition and economic benefits to the creator. The lack of knowledge about IPR is the main hitch with developing countries like India. Lacking off IPR knowledge, foreigners steal our resources and ideas and giving provision for biopiracy. This article gives the basic information about various types of IPRs viz., patents, trademarks, and geographical indications, industrial designs, copyrights, trade secrets, layout designs, protection of new plant varieties, etc., with basic information about the need and method of getting the same.

Keywords: intellectual property rights, idea, inventions, protections, patent

1. Introduction

Globalization and competition word wide awake the ideas from inventors and creators to withstand the competitions in the market. India is rich with knowledgeable and talented people in all the areas of life sciences and technology which drive India to enter in the field of Intellectual Property Rights (IPR). The biodiversity and the traditional knowledge Intellectual Property Rights (IPR) denotes the creation of the human idea viz., inventions literary/creative works, symbols, names, pictures and styles employed in business holding rights defend the interests of creators by giving them property rights over their creations ^[1]. Intellectual property laws offer individuals the proper to have and exploit their creative scientific and technological creations for an outlined amount ^[2, 3]. Holding rights defend the interests of creators by giving them proper rights over their creations or intellectual property laws offer individuals the proper to have an exploit their creative scientific and technological creation. IPR is monitored by world Intellectual Property Organization (WIPO). According to WIPO, IPR includes rights related to following (as per Art. 2(viii) as on 14th July 1967).

- Abstract, masterful and logical works
- Developments in all fields of human behavior
- Exhibitions of performing craftsmen, phonograms and broadcasts
- Logical discoveries
- Modern designs
- Trademarks, administration imprints, and business names and designations

With the foundation of the World Trade Organization (WTO), the significance and job of the licensed innovation insurance have been solidified in the Trade Related Intellectual Property Systems (TRIPS) Agreement. It was

consulted near the finish of the Uruguay Round of the General Agreement on Tariffs and Trade (GATT) arrangement in 1994. The TRIPS Agreement envelops, on a fundamental level, all types of licensed innovation and goes for blending and fortifying gauges of security and accommodating compelling requirement at both national and international levels. It tends to the pertinence of general GATT standards just as the arrangements in global concurrences on Intellectual Property (IP) (Part I). It sets up gauges for accessibility, scope, use (Part II), implementation (Part III), procurement and upkeep (Part IV) of Intellectual Property Rights. Moreover, it tends to related debate counteractive action and settlement instruments (Part V). Formal arrangements are tended to in Part VI and VII of the Agreement, which spread transitional, and institutional game plans, individually ^[4, 5]. The TRIPS Agreement, which became effective on 1-1-1995, is to date the most complete polygonal franchise to licensed innovation. The zones of licensed innovation that it covers are as follows.

- Copyright and related rights (E.g., the privileges of entertainers, makers of sound chronicles and broadcasting associations)
- Trademarks including administration marks
- Geographical signs including epithets of beginning
- Industrial structures
- Patents including assurance of new assortments of plants
- The layout designs of coordinated circuits
- The undisclosed data including competitive innovations (trade secrets) and test information.

2. Types of IPR

Intellectual property is split into 2 categories:

- **Industrial property:** Which incorporates inventions for patents, trademarks, industrial designs, and geographical indications.

- **Copyright:** Which incorporates literacy and creative works like novels, poems, plays, films, musical works, and creative works (viz., drawings, paintings, images, sculptures and study styles).

The IPRs are broadly classified as follows:

A. Patents

A group of exclusive rights approved by a sovereign state to discover for a restricted amount of time in exchange for the general public disclosure of an invention [6, 7, 8].

The patentability of any development needs to satisfy the following criteria.

Novelty: creation must have modern pertinence or connected for a pragmatic reason.

Nonobvious: Innovation must be new which has not been distributed or accessible in the earlier specialty of the nation or somewhere else in the world before the date of patent documents.

Industrial application: Invention can be made or used in some kind of industry.

What Can Be Patented

Product, process, machine, manufacture, and composition of matter can be patented as per section 3 of the Patent Act, 1970 the accompanying is not patentable:

- Frivolous creation
- Invention against the regular laws
- Inventions which are not reasonable for the strength of human, creature, vegetation, condition too as in spite of open request or profound quality
- Discovery of any living thing; a revelation of any non-living substances happening in nature (E.g., Plan of any dynamic hypothesis, the disclosure of any logical rule)
- Substance or compound developed by simple admixture bringing about the total of the properties
- Invention identifying with nuclear vitality and related to security of the country.

In protecting procedure at one hand creator is conceded selective rights which give acknowledgment just as budgetary advantages yet at the other hand designer needs to unveil all the applicable data in engaging route to the patent office at the season of documenting patent application. The data accessible in a patent report can be seen by anyone and no uncertainty it provides guidance to different specialists to develop further in the significant field. In India, the office of Controller General of Patents Designs and Trademarks oversee the patent enrolment process. This office comes under the Department of Industrial Policy and Advancement, Ministry of Commerce and Industry. The patent documents steps are as follows:

Stage 1: Filing of Patent Application or Priority Application

There are 4 offices for patents (Chennai, Mumbai, New Delhi and Kolkata [Head office]). The candidate needs to document patent application in proper structure with all applicable data worried about development such as depiction, claims, drawing, dynamic, and so forth. The candidate has a choice to record temporary determination to set up the need of the creation when unveiled innovation is

just at a reasonable stage. From there on, within year candidate need to document total determination in the recommended group.

Stage 2: Publication of Application

The patent application is circulated in the workplace diary after the expiry of 18 months. The candidate can additionally set up demand for early production by paying the extra recommended expense.

Stage 3: Opposition of Patent

The pre-give patent resistance if any might be recorded inside three months of patent production. This sort of resistance representation is engaged by the controller of patent office if patent recording candidate has set up a demand for patent examination. There are likewise arrangements for post concede patent restriction.

Stage 4: Request for Examination

The candidate needs to apply independently for patent examination inside four years of recording of the patent application with endorsed expenses.

Stage 5: Examination and Clarification of Raised Complaints, assuming any

The patent analyst checks all part of patentability for example Curiosity, creativity, non-obviousness, and modern pertinence, and issue First Examiner Report (FER) to the candidate. In case of complaints in the examination report than candidate needs to clear up the protests inside one year.

Stage 6: Grant of Patent

The patent is allowed to the candidate by Controller in the wake of defeating the protests brought up in the examination process. According to the Patent Amendment Act 2002, the candidate needs to pay reestablishment charge time to time to keep patent in power. The full subtleties relating to Indian patent can allude to DIP&P website (<http://www.ipindia.nic.in/>). The patent can be likewise e documented since 2007. Subsequent to getting the rights, the proprietor can investigate these rights by modern creation or can sell, convey or authorizing the rights according to his will. The privileges of the patent are conceded for a long time. When a patent lapse then the development enters in to open space also, anyone can utilize that learning.

B. Trademark

Sign indicator utilized by a private business organization or different legal entity to spot those merchandise or services to shoppers [9, 10]. Trademark or Trade name encourages organizations to make their acknowledgment, notoriety, and trust among the clients. In a large portion of the cases, shoppers depend on trademarks where it is hard to investigate an item or administration rapidly to decide its quality. A specific portion of clients is without question worried about the brand and pay vigorously for brands glory notwithstanding for comparable kind of value to recognize themselves from the group [11, 12, 13]. A trademark/service mark contains words (name, surname, topographical name, trademark, and so on), letters and numerals, drawing, logo, image, state, picture, plan or a mix of these components to recognize a business or administration from the other. The details of trademark can be observed at the Copyright Office

website (<http://copyright.gov.in/>).

E.g., Cipla, Aurobindo Pharma, Sun Pharmaceutical Industries Ltd and Biocon etc.

C. Geographical Indication

These refer to the goods the merchandise or products originating from a selected location of the country. The GI act is managed by Controller General of Licenses, Design and Trade Marks, the enlistment center of GI. Under these guidelines insurance under GI is conceded for a long time and recharging is conceivable time to time for further 10 years [14, 15].

E.g., Natural origin: Darjeeling tea, Alphanso Mango, Nagpur orange, lowing with extraordinary alerts and bargains by specific clan or area.

Human creation: China silk, Mysore silk, Chanderi sari, Kanchipuram silk saree, Kullu shawls, Solapur chaddar, Solapur Terry Towel, Kashmiri handiworks

General Principles about GI System in India and further details can be found at the website of GI Registry (<http://ipindia.nic.in/>)

D. Industrial Designs

In India industrial designs are defined as pattern, configuration, shape, ornament designs or color compositions or lines applied to an article into or three dimensions or both. To be ensured under most national laws, a modern plan must be new or unique and non-functional. This modern structure is just concerned with stylish highlights and any specialized highlights or parts of the item to which it is connected are most certainly not ensured by the plan enrolment. Despite the fact that the specialized highlights, if are novel could be ensured by getting the patent. Next to these, structure which is abstract or masterful in character, for example, animation, name, pamphlet, map, dressmaking design, and so forth is secured under copyrights rather than modern plan. These are secured for 10 years and get renewed for another 5 years [16].

General Principles governing the Industrial Design System in India can be viewed at DIP&P website (http://ipindia.nic.in)

E. Copy rights

These are the special rights approved by law to the creators and producers of types of inventive expressions [17, 18].

Artistic and scientific works: Books, sonnets reference works, papers, plays, books, leaflet, magazine, diaries, and so on.

Melodic work: Tunes, instrument melodic, ensembles, performances, groups, ensembles, and so on artistic works, for example, painting, illustrations, design, notices, and so on.

Photographic work: Representations, scene, style or occasion photography, and so on Films: it incorporates the cinematography works, for example, film, dramatization, narrative, newsreels, dramatic show, TV broadcasting, kid's shows, videotape, DVDs, and so on

Computer programmes: Computer programs, virtual products, and their related databases, Maps and specialized illustrations. The duration of copyrights lifetime.

F. Trade Secrets

It may be confidential business information that provides an enterprise a competitive edge. Usually, these are

industrial/commercial secrets. These include sales methods, distribution methods, consumer profiles, and advertising strategies, lists of dealers and customers, and manufacturing processes. Contrary to patents, trade secrets are protected without registration. A trade secret can be protected for an unlimited period of time but a substantial element of secrecy must exist, so that, except by the use of improper means, there would be difficulty in acquiring the information. Seeing the vast obtainability of traditional information in the country the defense under this will be very vital in gaining benefits from such type of knowledge [19, 20].

E.g., Coca-Cola, KFC

G. Layout Design for Integrated Circuits

Semiconductor Integrated Circuits means a product incorporated with transistors and other circuitry elements. The aim of the Semiconductor Integrated Circuits Layout Design Act 2000 (SICLD) is to provide protection of IPR in the area of SICLD. The main focus of SICLD Act is to provide for routes and mechanism for protection of IPR in Chip Layout. The initial term of registration is for 10 years and it may be renewed from time to time. Department of Information Technology Ministry of Communications and Information Technology is the administrative ministry looking after its registration and other matters.

Further details on Layout Design in India can be viewed at DIT website (<http://deity.gov.in>)

H. Protection of New Plant Variety

The unbiased of this act is to know the role of farmers as growers and conserves and the influence of traditional, rural and tribal groups to the country's agro biodiversity by fulfilling them for their influence and to kindle investment for R & D for the development of the seed industry.

This Act was passed to contrivance UPOV (Union for protection of Plant) international convention and the following actions require prior approval of the right holder:

- Production
- Propagation
- Sales
- Marketing
- Exporting
- Importing
- Storing

The Plant Variety Protection and Farmers Rights act 2001 was enacted in India to protect the New Plant Variety (effective on 30th Oct 2005). Department Agriculture and Cooperation is the administrative ministry looking after its registration and other matters [21]. Further details of Protection of Plant Varieties and Farmers Rights Authority, India (PPV&FR) can be obtained at <http://www.plantauthority.gov.in>.

E.g., Rice, Wheat, Maize, Green gram, Black gram, Lentil, Kidney bean, etc.

3. Need for IPR

People have all the components of management. Straight forward to map out disputes between people, creators document their innovations. Offer creators the liberty to converse regarding their innovation [22, 23, and 24].

- The original owner must be rewarded.
- The society can succeed for progress with the encouragement of innovation and creativity

- Plays a vital role for accelerating the growth of the economy of the nation.
- Protects inventors and innovators who invest both their money and energy in developing a new product, process, literary work or other artistic creation.
- The investment in intellectual property gives a boost to production and commercial activities and help for economic growth.
- Intellectual property brings coordinated efforts for different agencies for the development of new process/products through technological development.
- IP has an important role by linking cooperative competitiveness and socio-economic development.
- Prevents duplication of work, thus saving time and money.
- Prevents abuse of workers and safeguard proper compensation in case their work is used for marketable purpose.
- Helps in income generation in different forms such as licensing of patent.
- In IPR patents are significant source of technical evidence.
- Patents stimulate creativity and impose challenges for researchers to take their achievements further.
- IPR's are powerful tools for enhancing business profits by strategic business planning.
- Protects the existing markets by altering the new developments.
- Prevents infringements thus avoiding costly and tedious litigations.
- Useful for identifying people having same commercial interest for global partnerships.
- IPR's create trusted, profitable brands for domestic or global markets.
- A good Intellectual property system is engine of creation.

4. Conclusion

Gaining knowledge about intellectual property rights is vital for the economic and social development of any organization. IPR is necessary to withstand the competitions domestically and globally. The basic information and education about IPR is required to promote IPR registrations and inventions. The biodiversity of India provides a great platform for inventions in the field of IPR, additionally India has renewable resources, raw material, labour, which are needed for obtaining IPR with ease. Finally the IPR is a perfect tool for India and other developing countries to grow and to get infinite benefits.

5. Acknowledgements

The first authors are thankful to the Dr. Y. Padmanabha Reddy, principal of RIPER, Ananthapuramu, AP, India for his encouraging and support.

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