

INTELLECTUAL PROPERTY RIGHTS IN INDIA: AN OVERVIEW

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Abstract: Intellectual property rights (IPR) is one of the most spoken word in scientific circles and the importance of protecting scientific discoveries, with commercial potential, is one of the most crucial aspects. Thus Intellectual property rights affect the economic development of a country by promoting healthy competition and encouraging industrial growth and economic growth. Intellectual Property empowers individuals, enterprises, or other entities to exclude others from the use of their creations without their consent.

Key words: Intellectual property rights, IPR, Copyrights, GI, Patents, and Trademarks.

Introduction:

Intellectual Property Rights (IPR) are rights given to people to protect commercially valuable products of human intellect, similar to the rights in the forms of physical property are necessary to protect product or services from being copied or stolen by others. IPR cover human intellect creations, such as inventions, designs, trademarks or artistic works, such as music, books, films, dances, sculptures or photographs. Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work for investment in a creation.

Intellectual property rights (IPRs) encourage innovation by granting successful inventors temporary monopoly power over their innovations. The consequent monopoly profits provide the returns on successful investment in research and development (R&D), which must be large enough to compensate for the high share of R&D investment that is unsuccessful. Once an innovation has been created, its non-rival character suggests that its benefits will be maximized if its use is free to all at marginal cost.

History of Intellectual property rights:

IPR is not a new concept. It is believed that IPR initially started in North Italy during the Renaissance era. In 1474, Venice issued a law regulating patents protection that granted an exclusive right for the owner. IPR. The importance of intellectual property was first recognized in the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886). Both treaties are administered by the World Intellectual Property Organization (WIPO).

Paris convention: The Paris convention adopted in 1883, applies to industrial property in the widest sense, including patents, trademarks, industrial designs, utility models, service marks, trade names, geographical indications and the repression of unfair competition. Protected in other countries.

Berne convention: The Berne Convention, adopted in 1886, deals with the protection of works and the rights of their authors. It provides creators such as authors, musicians, poets, painters etc. It is based on three basic principles of national treatment, automatic protection, and independence of protection and contains a series of provisions determining the minimum

protection to be granted, as well as special provisions available to developing countries that want to make use of them.

Types of Intellectual property rights:

- Copyrights and related rights
- ☐ Trade Marks
- ☐ Geographical Indications
- ☐ Industrial Designs
- ☐ Trade Secrets
- ☐ Patents
- Integrated Circuits

Copy right:

Copyright is a type of intellectual property that protects original works of authorship as soon as an author fixes the work in a tangible form of expression. Copyright refers to the legal right of the owner of intellectual property. In simpler terms, copyright is the right to copy. This means that the original creators of products and anyone they give authorization to are the only ones with the exclusive right to reproduce the work.

When someone creates a product that is viewed as original and that required significant mental activity to create, this product becomes an intellectual property that must be protected from unauthorized duplication. One safeguard that can be used to legally protect an original creation is copyright. The Copyright Act, 1957 (Act) along with Copyright Rules, govern the laws related to copyright protection in India. Mere ideas, knowledge or concepts are not copyrightable. Having said that copyright protects the original expression of information and ideas.

Copyright can be claimed by either the creator or the person who has inherited the rights of ownership from the original creator or an agent who is allowed to act on behalf of the creator. Copyright protection shall be provided to such works for a term of 60 years in addition to the life of the author.

Trademarks:

The term trademark refers to a recognizable word, or symbol that denotes a specific product and legally differentiates it from all other products of its kind. A trademark exclusively identifies a product as belonging to a specific company and recognizes the company's ownership of the brand. Trademarks are generally considered a form of Intellectual property right and may or may not be registered. A trademark is an easily recognizable symbol, phrase, or word that denotes a specific product. It legally differentiates a product or service from all others of its kind and recognizes the source company's ownership of the brand.

A trademark registration is valid for a term of 10 years. A trademark registration can be renewed perpetually for succeeding periods of 10 years by filing an application for renewal.

Geographical Indications:

Geographical Indication (GI) is a sign used on a product that originates from a specific geographical location. The product must possess reputation and qualities of the place of origin. GI tag gives the right to only those registered users the right to use the product name, and prevents others from using the product name that does not meet the standards prescribed.

The following States in India has registered GI products

1. Karnataka has the highest registered GI products in India. It has 42 GI products.
2. Tamil Nadu has the 2nd highest GI registered products. It has 35 GI products.
3. Maharashtra has the 3rd highest GI registered products. It has 30 GI products

Industrial Designs:

An industrial design is an original creation of an ornamental nature, which, when incorporated in or applied to a product, lends a special appearance to it. These characteristics may result from its shape, lines, outline, configuration, colour, texture or material. Designs can be protected by different means: through a registration system, through a system of non-registration and through copyright. Registration can be obtained at three different levels: 1.national, 2.regional 3. International.

Once a design is registered, the registered proprietor is afforded protection for a period of 10 years, which is extendable upon filing an application for extension for a further period of 5 years.

Trade secret:

A trade secret is any practice or process of a company that is generally not known outside of the company. Information considered a trade secret gives the company a competitive advantage over its competitors and is often a product of internal research and development. To be legally considered a trade secret in the India, a company must make a reasonable effort in concealing the information from the public; the secret must intrinsically have economic value, and the trade secret must contain information. Trade secrets are a part of a company's Intellectual property right.

Trade secrets may take a variety of forms, such as a proprietary process, instrument, pattern, design, formula, recipe, method, or practice that is not evident to others and may be used as a means to create an enterprise that offers an advantage over competitors or provides value to customers. A trade secret can be protected for an unlimited period of time, unless it is discovered or legally acquired by others and disclosed to the public.

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. To get a patent, technical information about the invention must be disclosed to the public in a patent application.

History of Indian Patent System:

1. The Act VI of 1856 on protection of inventions based on the British Patent Law of 1852. Certain exclusive privileges granted to inventors of new manufacturers for a period of 14 years.
2. The Act modified as act XV Patent monopolies called exclusive privileges (making, Selling and using inventions in india and authorizing others to do so for 14 years from date of filing specification).
3. The Patens & Designs Protection Act.-1872
4. The Protection of Inventions Act -1883
5. Consolidated as the Inventions & Designs Act-1888
6. The Indian Patents & Designs Act.-1911
7. The Patents (Amendment) Act -2005

The Semiconductor Integrated Circuits Layout:

A semiconductor integrated circuit is defined as a product having transistors and other circuitry elements which are inseparably formed on a semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function. All layout-designs capable of being registered are required to be original. Commercially unexploited anywhere in India and in any convention countries. An application for registration of design layouts has to be in writing and is required to be filed before the Registrar in the Semiconductor Integrated Circuits Layout-Design Registry present in the territorial limits of the principal place of business of the applicant. Further, the protection afforded to registered layout-designs is for a period of 10 years.

Conclusion:

In India, there are different forms of intellectual property rights, allowing a person to obtain protection for their assets. India has actively become party to many conventions and treaties in order to afford international recognition and protection for intellectual property rights recognized in India. Some conventions have led India to introduce new enactments such as the Plant Variety Act, in order to award protection to goods that represent the heritage, agricultural background and fauna of India.

References:

- 1.Maske S.B., Role of Librarian in implementation of copy right, Pune research times.
- 2.Maskus, Keith E. Intellectual property rights and economic development, NewDelhi.
- 3.<http://www.wikipedia.org>