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Economics and IPR System in India

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ABSTRACT

Intellectual property refers to intangible creations of the human intellect. It refers to intellectual creativity of a creator. This article discuss various types of intellectual rights like, patent, copyright, trademarks, trade secret, industrial design, geographical indications and how we know it today. It provides rules for securing and enforcing legal right to design, invention, and artistic works. The basic aim of IPR is to help in meeting challenges for the development of the society.

Keywords: Innovation, Economics and intellectual property rights, trips, copyright, patent, trademark.

I. INTRODUCTION

Intellectual property law is a patchwork area of inventions, human mind like, literary, artistic works, symbols, images, symbols, and design used in commerce. It deals with basic creations of human intelligence. For trading in India it is essential know all rights over the intellectual property that you or your business own. It broadly means the legal right in field of industrial, scientific, artistic and literary. Every country have rights to protect intellectual property. It is country's social and economic development. There are various forms of intellectual property like patent, design, Trademark, copyright, geographical indications, Trade secrets. It plays important role in cultural and economic life.

II. WHAT IS INTELLECTUAL PROPERTY RIGHTS

Intellectual property rights can be defined as the creations of the mind, innovations, names, images, literary, symbols and artistic work used in commerce. It empowers individual, enterprise or others establishment to exclude others from the use of their creations without their consent. It is certain kinds of exclusive rights to intellectual capital. The intellectual property rights accepted by all over the world. These are rights granted to creators and owners of works that are results of human intellectual creativity.

There are following areas of intellectual property right

- Patents

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- Trademark
- Copyright
- Industrial design
- Geographical design
- Trade secrets

(A) Patents

- Inventions (processes, products, compositions, material)
- Technical solutions to a technical problem

Patent were on of the first types of intellectual Property to be recognized in modern legal system. Patents are important part of the intellectual of company and a good instrument to protect the innovative investments of the company. Patents right of inventor to prevent others from possessing, using, selling, manufacturing and importing the patented Invention with a definite geographical area. Patent right in India governed by Patent Act, 1970. rules are made by the government, which is known as ‘‘Patent Rules, 2003’’, as of now Patent (Amendment) Rule, 2006 and further updated in September 2015 are in force.

(B) Trademark

- Artist, musical, literary and dramatic creations
- proprietary right

A trademark is a special symbol to distinguish the goods and services of one from those of others. Trademark is a distinguishing sign that identifies certain goods or services Produced or provided by a company or an individual. Trademark protect company’s brand from consumer confusion and sales losses. Trademark is generally Brand or Logo. Trademark is a visual symbol conceivably name, signature, label, device, numerals or combination of colors used by one undertaking on goods or services. Trademarks are on device, symbol, monogram, their packing or shape of goods. It is a badge of origin.

(C) Copyright

- literary, Artistic, musical and dramatic creations
- Proprietary right

The Copyright Act, 1957 Encouraged by the Copyright Rules, 1958. The Act has amended several times to keep pace with changing times. It is the law grants authors, artist and other creators protections for their artistic and literary creations . Copyright is literary and scientific

works, such as cinema , choreographic works, sculptures, musical works, paintings are covered under copyright. Copyright also includes novel, poems, reference works, plays newspapers which allow rights to claim creators of work and the right to prevent changes to it. The greatest challenges of the copyright industry is piracy of the works., it may be books, musical works, films, television programmes or computer database or computer software. In India copyright is governed by copyright Act, 1957.

(D) Industrial design

- Pattern, New shape or configuration
- External features appealing to the eye

Industrial design refers to the ornamental or aesthetic aspects of an product. A design may consist of creation of a line shape, materials, contours composition of pattern or configuration. Design can be two or three dimension shape to produce articles, handicraft or industrial commodity.

Industrial designs are applied to variety of industrial products and handicrafts from technical and medical instruments to jewelry, watches, and other luxury items from house wares and electrical appliances to vehicles and architectural structure from leisure goods to textile designs. Design can be protected by registration. Industrial design have exclusive right against unauthorized copying.

(C) Geographical design

- Identifies natural, agricultural, or manufactured goods originating from a definite territory in India.
- Possessing special quality or reputation based upon unique features of the geographical location.

Geographical indication is a sign used on goods that have a specific geographical origin and possess qualities or a character due to that place of origin. Agricultural products typically have qualities that derive from their place of production and are influenced by specific local geographical factors, such as soil and climate . Whether a sign functions as a geographical indication is a matter of consumer perception and national law. Geographical indications identify, natural or manufactured goods, agriculture associated with a territory/region/locality. Geographical indications gives protection to the group of people or associations involved in the production of the product using traditional skills and knowledge.

III. TRADE SECRETS

Trade secrets are Intellectual property rights on confidential information. The uncertified acquisition, use or disclosure of such secret information in a manner contrary to honest commercial practices by others is regarded as an unfair practice and a violation of the trade secret protection. Trade secrets are competitive information that companies have and have to be keeping confidential. It is most precious intellectual asset. For example the composition of coco cola is trade secret. There are various information which are not given they give business advantage and commercially benefit. Trade secrets which may be sold or licensed.

IV. ORGANISATION

(A) WIPO

The World Intellectual Property Organization (WIPO) established in 1970 is a United Nations (UN) agency with 189 member states . dedicated to helping ensure that the rights of the creators and owners property of intellectual protected world wide. The main concern of WIPO is to balance the effective international intellectual property system(IPR) that enables innovation and creativity for the benefit of all. WIPO also administers several international IPR registration systems. WIPO produces good resources for IPR awareness and information and also presents good databases for IPR rights, where interested parties can proceed searches. WIPO is the global forum for intellectual property services, information, policy and cooperation.

1. Nature and Scope of intellectual Property

- The scope of Intellectual Property rights is broad two classification modes are used to determine whether IP is copyright or Industrial Property or copyright.
- Industrial properties include inventions patents or trademarks, biodiversity, trade names, plant breeding rights and other commercial interests.
- Patent gives its holder the exclusive right to use the Intellectual Property for the purposes of making money from the invention.
- An invention is itself a new creation, machine, process, or manufacture.
- Copyright covers many fields, from art and literature to scientific works and software.
- Music and audio-visual works are enclosed by copyright laws.
- The time duration of copyright is 60 years after the death of the creator

- Intellectual property rights discuss Intangible Rights over Tangible Property. one factor they share is that they establish property protection over intangible things such as ideas, signs, inventions and information whereas intangible assets and close relationships are a tangible object.
- It allow the creators to get benefit from their work when they used commercially.
- In the language of the law, IP is an asset that can be owned and dealt with. Right to sue: Most forms of IP are challenged in rights of action that are enforced only by legal action and by those who have rights.
- Intellectual property gives Rights and Duties not only to property rights but also duties.
- Intellectual property has Coexistence of different rights, different types can co-exists in a relation to particular function.
- Intellectual property rights are generally Exhaustion of rights subject to the doctrine of exhaustion.

2. Objectives

- The Parties' different levels of economic development and capacity, and differences in national legal systems
- The need to promote creativity and innovation.
- The need to maintain an appropriate balance between the legitimate interests of users and the rights of intellectual property right holders and the public interest.
- The importance of facilitating the diffusion of information, content, knowledge, culture, and the art.
- That establishing and maintaining a transparent intellectual property system and maintaining promoting and adequate and effective protection.
- A Party may, in construct or amending its laws and regulations.
- adopt measures necessary to protect public health and nutrition and to promote the public interest in sectors of vital importance to its and technological development and socio-economic.
- The protection and enforcement of intellectual property rights should contribute to the to the transfer and dissemination of technology and promotion of technological innovation and the mutual advantage of users of technological knowledge and producers and in a manner conducive to social and economic welfare.

(B) Trade Related Intellectual Property Rights Agreement (TRIPS)

It is worth recalling that the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) covers the areas of intellectual property as it covers copy rights and related rights such as, producers of sound recordings and broadcasting organizations rights of performers and rights of performers. Trademark including service marks, geographical indications including, industrial designs, appellations of origin, patents including, the layout-designs of integrated circuits; and undisclosed information including trade secrets and test data. The significance of this agreement is numerous

- (a) In principle, it raises the levels of protection from those in existing treaties, like the Paris Convention and Berne Convention, and obligates countries that have not joined these conventions to adhere to them;
- (b) It covers the full range of protections afforded intellectual property.
- (c) It specifies substantial levels of protection and rights that WTO Members are obligated to guarantee in their domestic laws, and also contains detailed provisions on the procedures for enforcing rights should they be infringed; and
- (d) It contains dispute-settlement procedures.
- (e) It is the first treaty on intellectual property rights to explicitly mandate most-favoured-nation treatment;

V. PROMOTE AND PROTECT INTELLECTUAL PROPERTY

- There are several reasons for promoting, protecting and compelling reason of intellectual property. Some of them are:
- The progress and well-being of humanity rest on its capacity to create and progress invent new works in the areas of technology and culture..
- Protection and the promotion and of intellectual property spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life.
- An equitable and efficient intellectual property system can help all countries to realize intellectual property's potential as a catalyst for economic development and social and cultural well-being.
- The intellectual property system helps strike a balance between the interests of public and innovators.

- Progress and the good of humanity remain in the ability to create and invent new works and create in the field of technology and culture.
- IP protection encourages publication, disclosure of the creation to the public, and distribution, rather than keeping it a secret.
- Protection and Promotion of intellectual Property promote economic development, generates new jobs and industries, and improves the quality of life.
- Intellectual Property helps in balancing between the public interest and innovator's interests, provide an environment where innovation, creativity and invention can flourish and benefit all.
- It can be licensed or sold , providing an important revenue stream, offer customers
- something new and different and form an essential part of the marketing or branding.
- Intellectual Property protection has become more and more important nowadays. Highly featuring technological improvement, scientific and establishing an efficient Intellectual Property system.
- fast growth in commercial income resulting from intellectual and artistic works made a profitable sector. Now, production of musical, literature works, cinema, and computer software are major industries worth of billions of -USD.
- Developed states execute International Treaties to protect inventions, original designs, trademarks, software, cinema and musical works, scientific and literature works that are subject of Intellectual Property in an International manner.

VI. CONCLUSION

The importance Intellectual property rights is acknowledged the world over as essential to business are monopoly rights that grant temporary privileges to their holders for the exclusive exploitation of income rights from cultural expressions and inventions. There must be good reasons for a society to grant such privileges to some of its individuals, and so supporters of these rights provide us with three widely accepted justifications to protect today's inter-global intellectual property rights. IP and IPR is a multi-disciplinary task and calls for many different and strategies and functions that need to be aligned with national laws and international treaties and practices. India has made number of changes in its IPR regime to increase efficiency. Different forms of IPR demand different treatment, planning, handling and strategies, and individuals engagement with different domain knowledge such as science, medicine, engineering, law, finance, marketing, and economics.

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