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Intellectual Property Rights: The Creative, The Better

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ABSTRACT

Intellectual Property Rights (IPR) has been defined as ideas, inventions and creative expressions based on which there is public willingness to bestow the status of property. IPR provide certain exclusive rights to the inventors or creators of that property in order to enable them to reap commercial benefits from their creative efforts or reputation. Common types of Intellectual Property Rights are patents, copyrights, trademarks, industrial designs, geographical indications, trade secrets, layout designs for integrated circuits and even ideas. Intellectual Property Rights provide an incentive to the creator to develop his creation and to share it with other people for the development of the society. The basic aim of the IPRs is to help in meeting the challenges in the development like reducing the poverty, stimulating economic growth, improving the health status by providing the medicines to poor, improving access to education and contributing the overall sustainable development.

I. INTRODUCTION

Intellectual property rights (IPR) have been described as concepts, innovations and creative expressions on the basis of which the willingness of the public to grant property status is based. In order to allow them to reap commercial profits from their innovative works or prestige, IPR grants certain exclusive rights to inventors or creators of that property. There are many ways of protection of intellectual property, such as patents, copyrights, trademarks, etc. For better recognition, preparation, commercialization, rendering and thus security of innovation or creativity, IPR is a prerequisite. What sort of property is that? And why do we, with one inclusive word, refer to such a menagerie? The phrase Intellectual property was first used in a legal decision in 1845 and acquired formal heft in 1967 with the establishment of the **World Intellectual Property Organization (WIPO)**, a specialized agency of The United Nations that represents and protects the commercial interests of holders of copyrights, trademarks, patents and trade secrets.

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II. IMPORTANCE OF INTELLECTUAL PROPERTY RIGHTS

Nearly everyone is a consumer and future developer of intellectual property in society. Protecting them through a set of national and international laws, known as intellectual property rights, is important in order to provide incentives and funding to innovate and generate economic, cultural and social change. Intellectual property rights also promote the production and distribution of information and a broad range of products and services of high quality. Intellectual property rights add value and can provide a guarantee of source and quality for customers. The defense of intellectual property contributes to economic growth in both developed and developing countries by stimulating, as part of a wider policy context, innovation, cultural diversity and technological progress. Intellectual property rights, properly used, may also be key instruments for the alleviation of poverty by trade. IPR refers to the original development of a human mind, such as the creation of art, literature, or science. It refers to the legal rights given to the inventor or creator to protect the invention or creation for certain period of time.²The fact that intellectual property plays a critical role in the global economy is very well known. The IPR is a powerful instrument for protecting the investments, time, resources, effort expended by the investor / creator of the IP, since it grants an exclusive right to use his invention / creation for a certain period of time. In this way, IPR supports the country's economic development by promoting healthy competition and by promoting the country's industrial development by promoting healthy competition and by promoting industrial development and economic growth. Governments and courts accept the rights that may belong to individuals or organizations .In both developed and developing countries, the framework is built to support society as a whole, striking a careful balance to ensure that the interests of both the designer and consumer are met. In order to ensure that the system is sustainable and advantageous for all stakeholders, the balance is preserved by checks within the intellectual property framework itself and in the broader regulatory structure.

III. SCOPE OF INTELLECTUAL PROPERTY RIGHTS

IPR restricts what, and for how long, can be covered. It does not safeguard concepts. In the case of copyrights, they cover only the expression of concepts, and inventors follow some strict and well-established requirements in the case of patents. These restrictions and requirements are built-in structures for balancing intellectual property owners' rights with society's interests. IPR allows innovators and designers to select the terms by which their work is published. They can choose, for example, to license and sell their work or inventions, to make them available

² New Delhi: Universal Law Publishing co. pvt. Ltd; 2004. Law relating to intellectual property.

for free or to allow their use subject to certain conditions³. In the field of patents, proprietary inventions are, in some words, exchanged as universal technological standards in order to increase the interoperability of various systems, thus simplifying consumers' lives. Intellectual property is an increasingly rare asset that must be constantly nurtured, secured and stimulated to expand as economies evolve. One aim of the scheme of intellectual property rights is to provide innovators and creators with incentives. In turn, this provides a steady stream of developments to society that drives economic, cultural and social change, help eradicate poverty and illness, and enrich our cultural heritage. IPR enables individuals to profit from their inventions and innovative work and to discourage others from copying the ingenuity and investment of the inventor or unfairly benefiting from it. Society offers an opportunity for individuals and organizations, in compliance with these privileges, to spend time, money and original thought to create new goods and innovations and to expand information and culture. This promotes the production of a wide variety of products and services in terms of quality and helps to ensure equal competition. The question arises that how it benefits with new creations to everyone? Technologies and creations that have touched and changed millions of lives would probably not exist today without the incentives provided by intellectual property rights. Patent protection has spurred the development of key technologies (e.g.- the transistor, telephone communication and electricity), lifesaving drugs (e.g. beta-blockers for heart disease, the anti-cancer drug taxol), plant science projects and other inventions that have helped improve lives in different parts of the world. Copyright has stimulated the development of vibrant local cultures, and encouraged the dissemination worldwide. Innovation and creation have to be financed; like everyone else the people, innovating and creating have to make a living. Large amounts of time and money can be spent on researching and developing new technologies and developments without any guarantee that these will be rewarded, as there is always a risk that a product will not be successful. Intellectual property rights are a mechanism that allows innovators, creators and innovators to finance their work through the market place. Other models of financing exists, such as government funding or private patronage, but IPRs remains the basic most frequently used by individuals and organizations to fund and disseminate their work. IPR promotes artistic freedom and facilitates the responsiveness of innovators and designers to customer needs. Intellectual property rights, especially copyrights and patents, facilitate the dissemination of ideas, expertise and information necessary to stimulate development and innovation. Because patent applicants are forced to disclose descriptions of

³ Contrary to certain misconceptions. Initiatives such as the creative commons and scientific commons, for example are all based on copyright and work within, not as alternatives to the intellectual property right system.

their inventions in order for patent protection, published patents and the publishing of patents provide a wealth of available technical and scientific knowledge. Patents also help prevent replication of research by promoting the publishing of inventions. Trademarks and geographical indicators allow consumers to distinguish between different producers' goods and services and to choose products from producers whose reputations they trust. They often reflect a lasting link between the manufacturer and its product and enable manufacturers to retain responsibility for the product's protection, effectiveness and consistency even after it has been sold.

IV. WHY DO WE NEED IPR?

Economic growth is all due to innovation, creativity, cultural diversity and technological advancement. This is all the more true as knowledge-based industries, particularly as the creators of jobs, increase in importance to the economy. For enterprises, creativity has been one of the most important vectors of sustainable development and economic progress for society as a whole. If they want to retain or gain market share and stay competitive, companies must continually develop or renew their goods and services. In research and development and in the advertisement and promotion of their goods, companies also spend significant sums of money. Innovations build upon each other, and to those who came before, every maker and inventor is indebted. Intellectual property protection fosters this virtuous cycle of innovation and creation. In an increasingly interlinked world, the economic health of countries is also heavily dependent on international trade. There is general agreement that there exists a positive two-way relationship between intellectual property and international trade⁴. By providing the basis for business transactions such as licenses, the intellectual property system also promotes economic growth. The patent system encourages the transfer of technology and foreign direct investment, as it reassures companies that are considering investing in a region. Patent databases have a deep pool of technological knowledge that can be used by countries to build up their capacity for technology. One critical element of the toolkit required for economic development is the security of intellectual property. However, in order to achieve its full potential, sound economic growth, strong infrastructure and the correct form of flanking policies must help the intellectual property system. The core elements of this toolkit are active intellectual property and effective institutional policies, as well as public knowledge and support.

As theft of intellectual property is a lucrative illegal enterprise, organized crime and its related

⁴ Intellectual property rights and economic development, 2000

violence are drawn to it. Consequently, counterfeiting and piracy are part of a larger criminal network and often fund criminal activity. A broad underground market forms the piracy and counterfeiting industry whose workers does not profit from worker security laws and does not pay taxes. This underground sector also drains legal jobs from legitimate businesses that are unable to cope with the lower costs of piracy and counterfeiting operations that deprive other countries of future employment opportunities. The rights granted to individuals over the development of their minds are intellectual property rights: inventions, literary and artistic work, and symbols, names and images used in commerce. These rights are outlined in **Article 27 of the universal declaration of human rights** which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic production. 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).

V. SIGNIFICANCE OF IPR IN VARIOUS FIELDS

The pharmaceutical industry is generally knowledge-intensive, and it is commonly accepted that the economy of this field is typically vulnerable to IPRs. In recording and understanding the interactions between IPRs, complementary regulatory and policy provisions, the international growth of the industry and their consequences for drug pricing and access, R&D, trade and development, some progress has been made. Different types of IPRs need different care, handling, preparation and strategies and participation of individuals with different knowledge of the field, such as technology, engineering, medicine, law, finance, marketing and economics. Depending on its area of expertise, each industry establishes its own IP policies, management style, tactics, etc. Governments must take positive steps in order to make the intellectual property system work for their nations and societies. They should ensure transparent and enforceable ownership of intellectual property rights, without prejudice as to nationality, and enhance the usability of the intellectual property system, both nationally and globally, by keeping the costs of acquiring, retaining and enforcing intellectual property rights low. Ensuring that an intellectual property institution is successful and adequately financed should be assured. Intellectual property policies in areas such as education, science and technology, culture, taxation, investment legislation, development and technological incentives, trade and competitiveness should be accompanied by sound economic management, strong infrastructure and other relevant policies. Establishing an active and consistent intellectual property policy coordinated on the potential benefits of the

intellectual property system throughout government policies and local governments, companies and the public; providing innovators / producers / creators with assistance on how to use intellectual property rights to their commercial advantage; and promoting stakeholder association activities. Also by bridging the gap between academic and research institution, businesses and financing sources and taking action against counterfeiting and piracy by making it a priority to strengthen or create a legal framework to ensure implementation and effective enforcement measures against intellectual property theft.

VI. HOW DO INTELLECTUAL PROPERTY RIGHTS ENCOURAGE CREATIVITY AND INNOVATIONS?

One goal of the IPR scheme is to provide innovators with incentives to develop new innovations and creations. In exchange, this offers a steady stream of innovation to society that drives economic, cultural and social growth, helps to mitigate our property and disease, and enriches our cultural heritage. IPR helps individuals to profit from their inventions and innovative work and to discourage others from copying the ingenuity and investment of the inventor or unfairly benefiting from it. Without any assurance that they will be paid, vast sums of time and resources will be spent on exploring and designing new technology and goods, since there is always a chance that a product will not be successful. Intellectual property rights are a tool that enables innovators, developers and manufacturers, via the marketplace, to fund their work. There are other funding models, such as government funding or private sponsorship, but intellectual property rights (IPRs) remain the cornerstone that individuals and organizations use most often to finance and disseminate their work. Intellectual property rights promote creative freedom and encourage the responsiveness of innovators and developers to consumer needs. Intellectual property rights, especially patents and copyrights, are encouraged to disseminate concepts, expertise and information necessary to promote development and innovation. Since patent applicants are expected to disclose descriptions of their inventions in order for patent protection, published patents and patent applications are a rich resource of technological and scientific knowledge available to everyone via the databases of the patent office. This reservoir of experience that might not exist without the legal system encourages further research and development, generating a virtuous cycle of innovation. Patents also help prevent replication of research by promoting the publishing of inventions. As writers are more likely to make their works public if they feel they can maintain some control over them, copyright promotes the distribution of new works and artistic expressions. Trademarks and geographical indications allow consumers to distinguish between different producers' goods

and services and to choose products from producers whose reputations they trust. They often reflect a lasting link between the manufacturer and its product and enable manufacturers to retain responsibility for the product's protection, effectiveness and consistency even after it has been sold.

VII. CONCLUSION

Here to sum up by mentioning that it is obvious that management of IP and IPR is a multidimensional task and calls for many different actions and strategies which need to be aligned with national laws and international treaties and practices. It is not driven purely by a national perspective. IP and its associated rights are seriously influenced by the market needs, market response, cost involved in translating IP into commercial venture then on. In other words, trade and commerce considerations are important within the management of IPR. Pharmaceutical industry currently has an evolving IP strategy. Since there exist the increased possibility that some IPR are invalid, antitrust law, therefore, needs to step in to ensure that invalid rights are not being unlawfully asserted to establish and maintain illegitimate and monopolies within the pharmaceutical industry.
