

## AN INTRODUCTION OF INTELLECTUAL PROPERTY RIGHTS AND ITS PROVISIONS

**Mr. Ramdas Shankar Jamnuke,**

Assistant Professor Faculty of Mahatma Phule ASC College, Panvel, Maharashtra.

### Abstract:

Intellectual property rights (IPR) give exclusive rights to inventor or creator for their valuable invention or creation. In the present era of globalisation playing important role for international trade and practice and live hood. These rights boost the innovative environment by giving recognition and economic benefits to creator or inventor whereas the lack of IPR awareness and its ineffective implementation may hamper the economic, technical and societal developments of nation. Hence dissemination of IPR knowledge and its appropriate implementation is utmost requirement for any nation. The present paper highlights various terms of IPR such as patents, trademarks, industrial designs, geographic indications, copyright, etc. with their corresponding rules, regulations, their need and role especially pertaining to Indian context

**Keywords:** Intellectual property rights, patents, trademarks, industrial designs, layout design of geographic indications, copyrights.

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Intellectual property is an intangible property that is the result of creativity, such as patents, copyrights, trademarks, etc. The rights given to persons over the use of his/her creation for a certain period of time are known as the Intellectual Property Rights (IPRs). Its aim is to create an environment of creativity and innovation which can benefit all. It gives legal protection which enables an innovator to make his innovation public while ensuring that the rewards in terms of prestige and monetary incentives are accrued only to him. It also enforces mechanisms to discourage counterfeiting and piracy.

### Methodology

In this paper secondary data is used for explanation and analysis of this paper.

### Classification of IPRs

#### Rights Related to Copyrights

The rights of authors of literary and artistic works such as books and other writings, musical compositions, paintings, sculpture, computer programs and films. They are protected by copyright, for a minimum period of 50 years after the death of the author.

#### Industrial Property

It can usefully be divided into two main areas. One area can be characterized as the protection of distinctive signs, in particular Trade Marks (TM) and Geographical Indications (GI).

The other types of industrial property are industrial designs and trade secrets, protected primarily to stimulate innovation, design and the creation of technology.

In this category all inventions are protected by patents.

The intellectual property in India is administered by the office of the Controller General of Patents, Designs & Trademarks (CGPDTM) generally known as Indian the intellectual property in India is administered by the office of the Controller General of Patents, Designs & Trademarks (CGPDTM) generally known as Indian Patent Office, which administers the Indian law of Patents, Designs, Trademarks and Geographical Indications

CGPDTM comes under the Department for Promotion of Industry and Internal Trade (DPIIT) of the Ministry of Commerce and Industry

### **Objective of IPRs**

**Financial Incentive:** IPR give creators of IP a financial incentive.

**Economic Growth:** IP law facilitates economic growth by giving statutory expression to the creators' economic rights. It also promotes economic and social development through the fostering of fair-trade practices.

**Social Purpose:** It results from investment in the development of new technology, thus giving the incentive and means to finance research and development activities.

**Encourages Innovation:** The legal protection of new creations encourages the commitment of additional resources for further innovation.

**Safeguard the Rights of Creators:** IPR is required to safeguard creators and other producers of their intellectual commodity, goods and services by granting them certain time-limited rights to control the use made of the manufactured goods. It promotes innovation and creativity and ensures ease of doing business. It facilitates the transfer of technology in the form of Foreign Direct Investment (FDI), joint ventures and licensing.

### **Evolution of IPRs**

**Statute of Monopolies, 1623:** It was an Act of the Parliament of England. Though intended to strengthen England's economy by making itself sufficient, the law became a way to raise money. Patents were issued even for common commodities like salt and starch

**Increase in Patent and Trademark Filings:** Patent filings have increased by nearly 7% in the first 8 months of 2018-19 vis-à-vis the corresponding period of 2017-18. Trademark filings have increased by nearly 28% in this duration. IP Process Re-engineering Patent Rules, 2003 have been amended to streamline processes and make them more user friendly. Revamped Trademarks Rules have been notified in 2017.

**Creating IPR Awareness:** IPR Awareness programs have been conducted in academic institutions, including rural schools through satellite communication, and for industry, police, customs and judiciary

**Technology and Innovation Support Centres (TISCs):** In conjunction with WIPO, TISCs have been established in various institutions across different states.

### **Types of IPRs in India**

- Patent
- Trademark
- Copyrights
- Plant breeders' rights
- Utility model design
- Geographical indications
- Trade secrets

### **Patents**

It is the recognition of the invention and conferment of certain exclusive rights to inventors. It is granted by the government for an invention which is a new product or process involving an inventive step and capable of industrial

application. It grants exclusive right to assignee to make use of and exploit their invention for a limited period of time in exchange for full disclosure of the invention. This public disclosure enables others to replicate or improve upon the invention. The Patent System in India is governed by the Patents Act, 1970 which was last amended in 2005. Patents are of two types – product patent and process patent. Product patent is the right to produce the product and right to authorize others to produce that particular product. Process patent is the right to the inventor for the processing method and not for the product. Others can produce the product using different processing methods

### **Compulsory Licensing**

The 2005 amendments to the Patents Act of 1970 introduced a provision for enabling grant of compulsory license for export of medicines to countries which do not have a developed manufacturing base. In 2014, the Supreme Court of India passed a landmark judgment where it said that the grant of Compulsory License (CL) to NATCO for the anticancer drug Sorafenib Tosylate was valid. Availability of sorafenib tosylate was critical for the patients living with kidney and liver cancer. However, the drug was being sold by Bayer under the brand name Nexavar for 2.5 lakh per patient per month. This was unaffordable for most patients in India. Compulsory license enabled NATCO to produce a generic version of Nexavar, which costs around Rs. 8800 per patient per month

### **Evergreening of Patents**

Evergreening is a strategy used by producers to extend their patents over products that are about to expire. In India, a patent is granted for a period of 20 years. The patent period can be extended by applying for new patents after making modifications to the original product. The phenomenon is most prevalent in the pharmaceutical industry.

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