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**INTELLECTUAL PROPERTY RIGHTS**

**INTRODUCTION**

Intellectual property rights (IPR) are the rights given to persons over the creations of their minds: inventions, literary and artistic works, and symbols, names and pictures utilized in commerce. They usually give the creator a prerogative over the utilization of his/her creation for a particular period of your time.

These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the proper to profit from the protection of ethical and material interests resulting from authorship of scientific, literary or artistic productions.

The importance of property was first recognized within the Paris Convention for the Protection of commercial Property (1883) and therefore the Berne Convention for the Protection of Literary and Artistic Works (1886). Both treaties are administered by the planet property Organization (WIPO).

**INTELLECTUAL PROPERTY RIGHTS ARE DIVIDED INTO TWO MAIN HEADS**

(i) Copyright and rights related to copyright:

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

(ii) Industrial property: Industrial property are often divided into two main areas:

-Protection of distinctive signs, in particular trademarks and geographical indications.

Trademarks distinguish the goods or services of one undertaking from those of other undertakings.

Geographical Indications (GIs) identify an honest as originating during a place where a given characteristic of the great is actually due to its geographical origin.

The protection of such distinctive signs aims to stimulate and ensure fair competition and to guard consumers, by enabling them to form informed choices between various goods and services.

The protection may last indefinitely, provided the check in question continues to be distinctive.

Industrial designs and trade secrets: Other sorts of industrial property are protected primarily to stimulate innovation, design and therefore the creation of technology. In this category fall inventions (protected by patents), industrial designs and trade secrets.

### **Need of Intellectual Property Rights**

The progress and well-being of humanity rest on its capacity to make and invent new works within the areas of technology and culture.

1. Encourages innovation: The legal protection of latest creations encourages the commitment of additional resources for further innovation.

2. Economic growth: The promotion and protection of property spurs economic process, creates new jobs and industries, and enhances the standard and delight of life.

3.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 regulate the use made of the manufactured goods.

4.It promotes innovation and creativity and ensures ease of doing business.

5.It facilitates the transfer of technology in the form of foreign direct investment, joint ventures and licensing.

### **INDIA AND INTELLECTUAL PROPERTY RIGHTS**

India may be a member of the planet Trade Organization and committed to the Agreement on Trade Related Aspects of property (TRIPS Agreement).

India is additionally a member of World property Organization, a body liable for the promotion of the protection of property rights throughout the planet.

India is additionally a member of the subsequent important WIPO-administered International Treaties and Conventions concerning IPRs.

- Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the needs of Patent Procedure
- Paris Convention for the Protection of Industrial Property
- Convention Establishing the World Intellectual Property Organization
- Berne Convention for the Protection of Literary and Artistic Works
- Patent Cooperation Treaty
- Protocol concerning the Madrid Agreement Concerning the International Registration of Marks- Madrid Protocol
- Washington Treaty on property in respect of Integrated Circuits
- Nairobi Treaty on the Protection of the Olympic Symbol
- Convention for the Protection of Producers of Phonograms Against Unauthorized Duplication of Their Phonograms

- Marrakesh Treaty to facilitate Access to Published Works by Visually Impaired Persons and Persons with Print Disabilities.

## **NATIONAL INTELLECTUAL PROPERTY RIGHTS POLICY**

The National property Rights (IPR) Policy 2016 was adopted in May 2016 as a vision document to guide future development of IPRs within the country.

Its clarion call is “Creative India; Innovative India”.

It encompasses and brings to a single platform all IPRs, taking into account all inter-linkages and thus aims to create and exploit synergies between all forms of intellectual property (IP), concerned statutes and agencies.

It sets in situ an institutional mechanism for implementation, monitoring and review. It aims to include and adapt global best practices to the Indian scenario.

Department of commercial Policy & Promotion (DIPP), Ministry of Commerce, Government of India, has been appointed because the nodal department to coordinate, guide and oversee the implementation and future development of IPRs in India.

The ‘Cell for IPR Promotion & Management (CIPAM)’, setup under the aegis of DIPP, is to be the only point of reference for implementation of the objectives of the National IPR Policy.

India’s IPR regime is in compliance with the WTO's agreement on Trade-Related Aspects of property Rights (TRIPS).

## **OBJECTIVES**

1. IPR Awareness: Outreach and Promotion - to make public awareness about the economic, social and cultural benefits of IPRs among all sections of society.
2. Generation of IPRs - To stimulate the generation of IPRs.

3. Legal and Legislative Framework - to possess strong and effective IPR laws, which balance the interests of rights owners with larger public interest.

4. Administration and Management - To modernize and strengthen service-oriented IPR administration.

5. Commercialization of IPRs - Get value for IPRs through commercialization.

6. Enforcement and Adjudication - To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements.

7. Human Capital Development - To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs.

### **ACHIEVEMENTS UNDER NEW IPR POLICY**

Improvement in GII Ranking: India's rank within the Global Innovation Index (GII) issued by WIPO has improved from 81st in 2015 to 52nd place in 2019.

Strengthening of institutional mechanism regarding IP protection and promotion.

Clearing Backlog/ Reducing Pendency in IP applications: Augmentation of technical manpower by the govt, has resulted in drastic reduction in pendency in IP applications.

Automatic issuance of electronically generated patent and trademark certificates has also been introduced.

Increase in Patent and trademark Filings: Patent filings have increased by nearly 7% within the first 8 months of 2018-19 vis-à-vis the corresponding period of 2017-18. Trademark filings have increased by nearly 28% during this duration.

IP Process Re-engineering Patent Rules, 2003 are amended to streamline processes and make them more user friendly. Revamped Trade Marks Rules are notified in 2017.

Creating IPR Awareness: IPR Awareness programs are 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 are established in various institutions across different states.

### **ISSUES IN INDIA'S IPR REGIME**

Section 3(d) of the Indian Patent Act 1970 (as amended in 2005) doesn't allow patent to be granted to inventions involving new sorts of a known substance unless it differs significantly in properties with reference to efficacy.

This means that the Indian Patent Act doesn't allow evergreening of patents.

This has been a explanation for concern to the pharma companies. Section 3(d) was instrumental within the Indian Patent and Trademark Office Database (IPO) rejecting the patent for Novartis' drug Glivec (imatinib mesylate).

Issue of Compulsory licensing (CL): CL is problematic for foreign investors who bring technology as they're concerned about the misuse of CL to duplicate their products. it's been impacting India-EU FTA negotiations.

CL is that the grant of permission by the govt to entities to use, manufacture, import or sell a patented invention without the patent-owner's consent. Patents Act in India deals with CL.

CL is permitted under the WTO's TRIPS (IPR) Agreement provided conditions like 'national emergencies, other circumstances of utmost urgency and anti-competitive practices' are fulfilled.

India continues to stay on the us Trade Representative's (USTR's) 'Priority Watch List' for alleged violations of property rights (IPR).

In its latest Special 301 report released by the us Trade Representative (USTR), the US termed India as "one of the world's most challenging major economies" with reference to protection and enforcement of IP.

Data Exclusivity: Foreign investors and MNCs allege that Indian law doesn't protect against unfair commercial use of test data or other data submitted to the govt during the appliance for market approval of pharmaceutical or agro-chemical products. For this they demand a knowledge Exclusivity law.

Enforcement of the Copyright act is weak, and piracy of copyrighted materials is widespread.

### **WORLD INTELLECTUAL PROPERTY ORGANIZATION (WIPO)**

Established in 1970, the World Intellectual Property Organization (WIPO) is a world organization dedicated to helping ensure that the rights of creators and owners of property are protected worldwide, and that inventors and authors are therefore recognized and rewarded for his or her ingenuity.

This international protection acts as a spur to human creativity, pushing back the bounds of science and technology and enriching the world of literature and therefore the arts.

By providing a stable environment for marketing products protected by property, it also oils the wheels of international trade.

WIPO works closely with its Member States and other constituents to make sure the intellectual property system remains a supple and adaptable tool for prosperity and well-being, crafted to assist realize the complete potential of created works for present and future generations.

As a part of the United Nations system of specialized agencies, WIPO is a forum for its Member States to determine and harmonize rules and practices for the protection of intellectual property rights.

WIPO also services global registration systems for trademarks, industrial designs and appellations of origin, and a worldwide filing system for patents. These systems are under regular review by WIPO's Member States and other stakeholders to work out how they will be improved to better serve the requirements of users and potential users.

Many industrialized nations have intellectual property protection systems that are centuries old.

Among newer or developing countries, however, many are in the process of build up their patent, trademark and copyright legal frameworks and intellectual property systems. With the increasing globalization of trade and rapid changes in technological innovation, WIPO plays a key role in helping these systems to evolve through treaty negotiation; legal and technical assistance; and training in various forms, including in the area of enforcement.

WIPO works with its Member States to make available information on intellectual property and outreach tools for a variety of audiences – from the grassroots level through to the business and policymakers – to make sure its benefits are well recognized, properly understood and accessible to all or any .

WIPO may be a largely self-financed organization, generating more than 90 percent of its annual budget through its widely used international registration and filing systems, also as through its publications and arbitration and mediation services. The remaining funds come from contributions by Member States.

## CONCLUSION

India has made variety of changes in its IPR regime to extend efficiency and has hamper the time required to issue patents. The culture of innovation is taking centre stage within the country. India is well poised to specialize in R&D. This has been reflected in its improved ranking in Global Innovation Index over the years.

Government's effort to strengthen National IPR policy, IP appellate tribunal, e-governance and commitment to abide by the TRIPS agreement of WTO in letter and spirit will help in improving perception of India globally.

An efficient and equitable property system can help all countries to understand property 's potential as a catalyst for economic development and social & cultural well-being.

In knowledge based economy, intellectual property rights are considerably essential for progressive societal development. The IPR is basic necessity to be a neighborhood of local also as global competitive trade as without dissemination of IPR knowledge and implementation,



creating the innovative environment is basically impossible. it's essential for policy makers to incorporate IPR in basic educational system and promote IPR registration by encouraging the innovators and creators.

India has all the resources in terms of available staple, cheap labor, innovative and creative dedicated manpower. little question that India and other developing countries will certainly harness its proportionate share in global trade by exploration in Intellectual Property Rights.

