

**DE JURE NEXUS LAW JOURNAL**

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2<sup>nd</sup> Year, BBA LL.B.**INNOVATION AND COMPETITIVENESS IN IPR- AN ANALYSIS****WITH RESPECT TO INDIAN SOCIETY**

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**INTRODUCTION**

Over the last three decades, the Indian market has undergone many significant developments and changes. Indian consumer choices are increasing dramatically. The number of cars you can choose, the number of hospitals you can access, the phone you use to connect with others and connect to the internet. All of these were the result of India's market-oriented policy reforms in the early 1990s, enabling a revolution in the telecommunications, automotive and consumer sectors. In considering the need for India's next growth phase, both industry and policy makers are focusing on strategies to drive innovation. Innovation and competitiveness are linked at the national level and are reflected in the strong correlation between national performance in the Global Innovation Index and the Global Competitiveness Index. To address these competitive concerns, we need to be aware that innovation is related to intellectual property (IP) protection, as today's invention is tomorrow's innovation. A stable intellectual property (IPR) system is the foundation of a globally competitive country that attracts investment, especially from foreign direct investment. With this in mind, India's patent ecosystem has changed since

liberalization to meet increasing pressure from domestic and foreign companies looking to export to markets that require specific IP standards. You need to be aware of that. Therefore, India adopted the General Agreement on Tariffs and Trade (GATT) on the Trade-Related Aspects of Intellectual Property (TRIPS) and later renamed it the World Trade Organization in 1994. This allowed India's IP systems and enterprises to comply with global IP standards, supporting the growing movement towards harmonization of IPR regimes and global standards. This helped foreign companies to compete with each other in many industries where patents are important to gain a competitive advantage over their competitors, and to compete equally with Indian companies. Nevertheless, concerns arise when there are conflicts between IPR regimes in different countries. Strong intellectual property policies are becoming more and more important for developing countries, where companies are entering global perspectives in different areas, instead of strengthening different intellectual property systems around the world. In India, intellectual property law is slowly evolving with its economic development. However, without proper protection of intellectual property rights, India's long-term economic interests will be severely impaired, as reduced investment by foreign parties can adversely affect job creation and production. Will be. Therefore, more than ever, it is imperative that Indian companies focus on improving intellectual property protection to compete globally.

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### **THE IPR SYSTEM IN INDIA**

India's intellectual property rights system is highlighted by the state's view of the set of policies, laws, international agreements and its global obligations that shape the protection given to domestic rights holders. The origin of India's intellectual property system dates back to British colonial rule when the colonial state enacted various rules and enforcement mechanisms related to intellectual property rights. After independence, India renewed some governance and other bureaucratic structures while retaining elements of these structures. Since the 1990s, as India has transitioned to liberalization, privatization and globalization, Indian politicians have made further adjustments to meet the growing needs of domestic and international stakeholders. As a result, the legal basis of India's IPR system today consists of major laws, governing bodies, and patchwork of international agreements.

### **TYPES OF PROTECTED INTELLECTUAL PROPERTY AND HOW INDIAN LAW COVERS IT**

Under Indian law, there are six major recognizable categories of innovation covered by intellectual property protection.

- Patent. A patent is a set of exclusive rights granted to an inventor to create, sell, or use an invention. Three major laws, the 1970 Patent Law, the 2003 Patent Regulations, and the 2005 Patent Amendment, form the basis of Indian patent law. Patent law includes compulsory licenses, government rights to price patented goods, and government-only use of some patents. The patent amendment also allows applicants to submit their applications via electronic media (although a paper copy must be submitted within one month). It is worth noting that Indian patent law has taken different approaches to the issue of "process patents" over the decades: whether a process can be patented (rather than a product / molecule / compound). The 1970 Act granted process patents, under which chemicals, pharmaceuticals, and pharmaceutical patents were initially granted for 14 years. This situation changed with the enactment of the Patent Amendment Act of 2002 and the Patent Regulations, which extended the patent term by 20 years (and added some other provisions related to fees and other issues). However, due to the 2005 patent amendment, the process patent was completely abolished.
- Trademark. A trademark is a recognizable symbol, design, or representation that distinguishes a manufacturer's goods or services from other products or services. In India, the Trademark Law of 1999 was a revised version of the Trademark and Commodity Marking Act of 1958, and the mark was extended to services. The scope of the Indian trademark is 10 years from the date of initial application, but a 2010 amendment to the law has made the provisions of the Madrid Protocol available to stakeholders.
- Copyrights. Copyright is a form of intellectual property that grants the creator of an original work an exclusive right to sell for a limited time. The first copyright law was introduced in India in 1914, modeled after 1911 English law. After independence, India's copyright regulations were significantly revised, and eventually the Indian Copyright Act of 1957 was enacted, extending copyright protection (among other provisions) to 50 years. Since then, the law has been amended five times (most recently in 2012) to further extend the copyright period, update for the digital environment, radio distribution, changes affecting coverage in other media formats such as cinematography has been added.

- Geographic indicators. Geographical indications emphasize the origin of a product and may be closely related to the perceived value of the product for IP purposes. Examples of geographical indications include Darjeeling tea, Varanasi sari in India and Havana, and international champagne. India's Geographical Indications (Registration and Protection) Act was first enacted in 1999 and is relatively new as it was enacted to fulfill its obligations under GATT signed by India. The purpose is to prevent unauthorized persons from misusing geographical indications and to prevent consumers from being fooled by handing over non-resident goods. Registration of such indicators is valid for 10 years and can be extended for another 10 consecutive years.
- Industrial Designs. Indian law also protects the intellectual property protection of industrial design based on the unique look and feel of the invention: Pattern, shape, or texture. For registration purposes, we can provide design-related IP protection for 14 classes of products. The design life after registration is 15 years and is renewed every 5 years. After 15 years, the design will be in the public domain and public properties. In addition, in the field of design, the Semiconductor Integrated Circuit Layout Design Act and the 2000 Regulations require specific protection of semiconductors. This law gives the owner the exclusive right to create a layout design for 10 years. The law allows owners to use their creations commercially and seek relief under the terms in case of infringement.
- Agriculture. Under Indian law, intellectual property rights related to crop and planting innovation fall under the Plant Varieties Protection and Farmers' Rights Act 2001. This law aims to stipulate "establishment of an effective system for the protection of plant varieties, farmers' rights". The term of protection for registered varieties depends on the crop. For trees and vines, the protection period is 18 years, for other crops it is 15 years. Similarly, protection of existing varieties is 15 years from the date of notification.

## **STATE GOVERNANCE AND INTELLECTUAL PROPERTY MANAGEMENT**

In order to implement and enforce the above legal policies, India has a patchwork bureaucracy, which is currently being updated under the direction of a new national intellectual property think tank. Therefore, India's intellectual property management and management now belongs to different offices across different parts of the country. Intellectual property protection is the responsibility of many departments, including the Ministry of Education, Information Technology Department, Agricultural Cooperation

Department, and Industrial Policy Promotion Department. Some of these sectors are within the Ministry of Trade and Industry, while others are housed in departments of different parts of the country.

### **ADDITIONAL RECENT DEVELOPMENTS**

India's Intellectual Property Issues- Since the establishment of the new government in May 2014, India's intellectual property rights system has undergone some changes. The first of these was Prime Minister Modi's five-day visit to the United States, which began in September 2014, after which the Indian Prime Minister's residence and the White House issued a joint statement on September 30. The statement noted the need to establish an "annual high-level intellectual property (IP) working group with appropriate decision-making and technical-level meetings as part of the Trade Policy Forum"

Cycle review of India's IPR regime- This review proposed a deadline for submission of comments by the general public on October 30, 2014, and set a deadline for submission of comments by foreign governments on November 7, 2014. Meanwhile, the Department of Industrial Policy Promotion (DIPP) took another important step on 22 October, with an IPR think tank (chairman and five other members) to draft a national policy on intellectual property rights and DIPP. Established). About IPR issues. The think tank submitted the bill to DIPP and published it on its website on December 19, 2014. In February 2015, the US Chamber of Commerce and Industry's Global Intellectual Property Center published its Annual Intellectual Property Report. It ranked India as one of the second weakest IP environments among the 30 countries under consideration for international indexing. The index ranks countries based on 30 parameters, and each country is assigned points. India slightly surpassed Thailand (7.10) and recorded a disastrous 7.23. Following this index is the USTR Special 301 Report released in April 2015. The report returned India to its priority watch list in 2015, prompting further progress on the IPR issue. The report was also positive about the draft IP directive and its progress so far. In fact, given the ongoing changes, India is at the forefront of a major IP revolution that can change the dynamics of IP protection and enforcement and lead to further innovation.

### **RECENT DEVELOPMENTS IN THE IP REGIME IN INDIA**

- The USTR Special Report 301, published in April 2015, continues India's "priority monitoring status" but is positive about the draft IP Directive.
- In February 2015, GIPC will publish an annual report on the protection of intellectual property in 30 countries. India has improved slightly from second place to the end.
- Draft National IP Policy issued in December 2014 by an IP think tank appointed by the Government of India.
- India's out-of-cycle review conducted after the reporting of Special 301 will continue India's priority monitoring status in late 2014.



## CONCLUSION

Thus to conclude we can say that both innovation and competitiveness are an important aspect in the growth of the Intellectual Property Regime in India. New laws have been brought up over a period of time and the government has taken various initiatives to ensure the growth of Intellectual Property Rights. The growth is clearly visible but still there is a long way to go which will take a considerable amount of time. But, without the two very important factors, what IPR has grown up to be today would have never been possible.