

NEED OF INTELLECTUAL PROPERTY LAW IN TODAY'S ERA.

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1. Conceptual Discussion

With the advent of the information revolution—or the third industrial revolution, skills and knowledge have become the only source of sustainable long-term competitive advantage. Intellectual property lies at the centre of the modern company's economic success or failure. From waking up on a Sleepwell mattress, having a cup of milk and Britannia bread for breakfast while watching a Samsung T.V, having a bath using Pears soap, wearing Peter England clothes, Bata shoes and a Titan watch, driving a Tata car to the office, ordering lunch from Zomato, working on a Lenovo laptop and having a Nescafe coffee in the evening, a person is engulfed with intellectual properties from dawn to dusk which he can't deny.

Intellectual property can be defined as a group of intangible assets that are owned by any individual person or an institution. The World Intellectual Property Organisation (WIPO) defines Intellectual Property Rights as “creations of the mind, inventions, literary and artistic works and symbols, names and images used in commerce”. In ancient times, a person's intellectual property was a common property that was unprotected. Anybody could copy and use the intellectual properties of a person. Even, in today's web-based environment, there is a very high risk of creative ideas getting stolen without the consent of the author. To protect, provide security and enhance the intrinsic value of such intangible properties, intellectual property rights (IPR) laws were enacted.

2. Different Kinds of Intellectual Property

2.1 Patent

A patent is an exclusive right granted to an inventor for his/her invention, which may be a product or a process that provides a new way of doing something, or offers a new technical solution to a problem. In India, the term of protection for a Patent is 20 years from the date of filing of the application and is primarily governed by the Patent Act of 1970. The primary office for patents in India is the Indian Intellectual Property Office (IPO).

2.2 Trademark

A trademark is a sign, symbol, word, or words that are legally registered or established by use as representing a company or product that is capable of distinguishing the goods or services of one enterprise from those of other enterprises. The benefits of registering a trademark include the owner being the sole and exclusive owner of the trademark, builds goodwill for the enterprise and trust among customers, helps customers to differentiate and recognize the quality of the product.

Revenue can be earned by commercially exploiting the trademark in the form of assignment, license, franchising or merchandising. In a trademark assignment complete transfer of ownership from the owner to the other party takes place. In the case of a trademark license, partial ownership is transferred to the other party while the owner enjoys ownership rights along with revenue. Franchising is when a party who is the owner, gives another party the right to market a product or service using the trademark and logo of their business. Examples of Franchising are Burger King and McDonald's. Trademark Merchandising is when a well-known trademark is allowed to be printed or used on goods that are different from its primary identification, for example, t-shirts with Coca-Cola print on them. In India, the term of protection for a trademark is 10 years from the date of application, renewable every 10 years on payment of the requisite fee and is primarily governed by the Trademarks Act, 1999.

2.3 Industrial Design

A design simply means the features of shape, pattern, ornament, configuration, the composition of lines or colours applied to a particular article whether it is in a two-dimensional or three-dimensional form or both, by any industrial process or means, whether it may be mechanical, chemical, manual, separate or combined, which in its finished article appeal to and are judged only by the eye. In India, the term of protection of

design is 10 years from the date of the application and can be extended for a further five years on payment of an extension fee and is governed by the Designs Act, 2000.

2.4 Copyright

Copyright is also known as the author's right. It is a legal term used to describe the rights that creators have over their own literary and artistic works. Works like books, music, paintings, sculptures, films, computer programs, databases, advertisements, maps and technical drawings are all covered under copyright. When an artist intentionally uses a copyrighted work of another artist and creates something new and unique by changing, building, or modifying it, it is known as appropriation art. It is considered as fair use which is an exception to copyright. The best example of appropriation art is news reporting, in which part of the original work is repeated. In India, the term of protection in the case of original literary, dramatic, musical and artistic works is the lifetime of the Author plus 60 years period is counted from the year following the death of the author and is governed by the Copyright Act, 1957.

3. Benefits of Intellectual Property Rights

- i. To protect unique ideas and creations
- ii. Accelerates business growth
- iii. Increases the market value of your business
- iv. Converts innovative ideas into profit making assets
- v. Beneficial for raising finance for your business
- vi. Strong IP protects consumers and families

4. Positive Impact of Intellectual Property Rights in Economy

A country like India which is one of the most developing economies in the world must focus on raising productivity in the market. India has always been known for outstanding services to the rest of the world. One can increase productivity by improving technology and methods. We can see and learn from developed countries like the USA and Japan in which the rate of development increased by 5 times after the implementation of Intellectual property laws. Now there are various theories that suggest that IPR has an adverse effect on the economy. In China in the 1980s, trademark infringement negatively affected Chinese innovative enterprises. The local companies started exploiting the well-established company by making counterfeited products and by launching them in the market.

In countries where copyright laws are weak pirate firms start exploiting the law and the market. Though low-quality copies or pirated copies would be available in the market the technological development would be hampered which will directly affect the economy. IPR laws should provide incentives for both the producers and consumers to invest in the market. This also assures quality, which is important for safeguarding the interests of the customers. The counterfeit or fake products of beverages, food products, cosmetics, and medicines can be hazardous to customers. After the introduction of Trade-Related Intellectual Property Rights (“TRIPS”) the market started changing. The act started to provide space for operation and opportunities to the companies for innovations. The private sector has started investing in Research and development. After the implementation of TRIPS, the number of patents filled in India has gradually increased.

5. Misuse of IPR on Economic Development

The biggest drawback of IPR is it sometimes it restricts the technology to be used in the best suitable way. The person who is holding rights sometimes misuses their rights. They can charge according to their will and because of protection under IPR that innovation cannot be used by the competitors. Competition is the most important factor for the development of an economy. The law is made for society, not vice versa. All the laws are made for the benefit and betterment of society. Every law has its positive as well as negative effects on society.

To conclude Intellectual Property Law is emerging yet the need of present day businesses and entrepreneurs to safeguard their different kinds of intellectual property.
