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INTELLECTUAL PROPERTY RIGHTS IN INDIA

-Saanchi Bajaj

ABSTRACT

This blog traces the evolution of Intellectual Property Rights (IPR) in India, from colonial-era patent laws to the landmark Patents Act of 1970 and post-TRIPS reforms following WTO membership. It outlines the key IPR categories—patents, copyrights, trademarks, geographical indications, industrial designs, and trade secrets—along with governing legislation and enforcement authorities. The piece also examines persistent challenges like piracy and weak enforcement, while highlighting India's push toward digitization, startup innovation, and a more efficient IP ecosystem.

INTRODUCTION

According to WTO, Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time.

Intellectual property rights are customarily divided into two main areas:

(i) Copyright and rights related to copyright back to top

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 50 years after the death of the author.

Also protected through copyright and related (sometimes referred to as “neighboring”) rights are the rights of performers (e.g. actors, singers and musicians), producers of phonograms (sound recordings) and broadcasting organizations. The main social purpose of protection of copyright and related rights is to encourage and reward creative work.

(ii) Industrial property.

Industrial property can usefully be divided into two main areas:

One area can be characterized as the protection of distinctive signs, in particular trademarks (which distinguish the goods or services of one undertaking from those of other undertakings) and geographical indications (which identify a good as originating in a place where a given characteristic of the good is essentially attributable to its geographical origin).

The protection of such distinctive signs aims to stimulate and ensure fair competition and to protect consumers, by enabling them to make informed choices between various goods and

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

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

The social purpose of IPR is to provide protection for the results of investment in the development of new technology, thus giving the incentive and means to finance research and development activities.

EVOLUTION OF IPR

The journey of Intellectual Property Rights (IPR) in India began during British rule. In 1856, the British government introduced the first patent law in India, largely inspired by the patent system followed in Britain. The main objective of this law was to safeguard the interests of foreign inventors and British companies operating in India.

Over the years, the law went through several changes and improvements to make the system more organized and effective. These developments eventually resulted in the introduction of the Indian Patents and Designs Act, 1911, which became one of the earliest comprehensive laws related to patents and industrial designs in India.

After independence, India wanted laws that supported public welfare and domestic industries. The government felt that foreign companies dominated important sectors, especially medicines. This led to the formation of expert committees to reform patent laws.

The Patents Act of 1970 marked a turning point in the history of IPR in India. One of its most important features was that it granted only process patents for pharmaceutical and food products instead of product patents. This meant that companies could legally manufacture the same medicine using a different process.

As a result, Indian pharmaceutical companies were able to produce affordable generic medicines at a much lower cost. This not only made medicines accessible to millions of people but also helped India emerge as a global leader in the production of low-cost pharmaceuticals. In 1995, India became a member of the World Trade Organization (WTO).

India had to comply with the TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights).

The country gradually amended its laws to meet international standards.

Major amendments include:

1. Product patents in pharmaceuticals
2. Stronger trademark protection
3. Better copyright laws
4. Protection for Geographical Indications (GI)

India now focuses on:

1. Startup innovation
2. Digital copyright protection
3. Online trademark systems
4. Faster patent examination
5. Artificial Intelligence and data protection
6. Government initiatives like Startup India and Digital India encourage innovation and IP awareness.

There are some limitations and exceptions to copyright, that are legal provisions, such as Fair Use and Fair Dealing, that allow the use of copyrighted material without the owner's permission. These exceptions balance creator rights with public interests like education, research, criticism, and news reporting. Common exceptions include private use, library preservation, and the First Sale Doctrine, which allows for the resale of legally purchased physical copies.

In India, IPR is governed by laws such as:

Patents Act, 1970, Copyright Act, 1957, Trademark Act, 1999 and GI Act, 1999.

IPR Authorities in India are Controller General of Patents, Designs and Trade Marks, Ministry of Commerce and Industry and Copyright Office in India.

IPR in India is not away from challenges. Piracy and counterfeiting are very common. Fake products reduce the profits and reputation of original creators and companies.

Apart from this, many small businesses, startups and artisans are unaware of IPR laws and benefits. Patent and trademark applications are time consuming. Even court cases involving IPR disputes may take years for decision making. Coordination between police, customs and courts is sometimes inadequate, leading to weak enforcement.

The government is improving awareness, digitizing systems, strengthening laws and promoting innovation to overcome these challenges.

PROMOTING STARTUPS

India's startup ecosystem is growing at a remarkable pace, with new businesses emerging in sectors such as technology, healthcare, education, and e-commerce. As competition increases, startups are becoming more aware of the importance of protecting their ideas, innovations, brand names, and creative work. In the coming years, more companies are likely to apply for patents, trademarks, and copyrights to secure their unique identity in the market. Intellectual property will not just serve as legal protection but will also become an important business asset that can increase a company's value and attract investors.

FASTER AND DIGITAL IPR SYSTEMS

India is steadily modernizing its intellectual property system through digital technology. Online filing systems and digital processing have made it easier and quicker for individuals and businesses to apply for patents and trademarks. The government is also taking steps to reduce delays in approvals and improve the efficiency of the examination process. In the future, technologies such as automation and Artificial Intelligence may further speed up patent

searches, document verification, and application reviews, making the IPR system more accessible and efficient.

CONCLUSION

In a nutshell, India is on the right track to promote and identify IPR as something that can protect their identity in a subtle way.