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Intellectual Property Rights in India

(Manasvi Katiyar)

Did you know that, you can protect your ideas also? Yes, it is possible through Intellectual Property Rights. These are the exclusive rights which protect the original work of an inventor. Or simply, we can say that, Intellectual Property Rights is an intangible creation of human mind. These rights are important for maintaining the originality and qualities of any product or services. [1]

This article will give you a clear understanding on what is Intellectual Property Rights (IPRs), their history, types of IPR, and statutory framework.

Keywords-

Intellectual Property Rights, Patent, Copyright, Trademark, Integrated Circuits, Infringement, WIPO, Trade Mark, Geographical Identification (GI), Plant Varieties.

Intellectual Property Rights: Introduction-

Intellectual Property Rights (IPRs) are the legal rights given to the people over the creation of their mind. These rights are exclusive rights given exclusively to the creator over the use of his or her creation for a certain period of time. These rights protect the original work of an inventor. These rights also maintain the quality as well as standards of the work of an inventor. Here are some of the examples of intellectual property rights- author's copyright on a book or an article, any distinctive logo design different from others logo, unique design elements of a website, or any patent. [1]

Intellectual property also grant protection to inventions, literary work, artistic work, symbols, names, images and designs. These rights give legal recognition and economic benefit to the creator or inventor. In this technology driven economy, protection of intellectual property has become important. [1]

Evolution of Intellectual Property Rights-

The concept of Intellectual Property Rights (IPR) has evolved over centuries as societies recognized the importance of protecting human creations and innovations. During ancient civilization, creators enjoyed very limited recognition of their works because there were no legal framework or mechanism to protect their creations or innovations. But then the drastic change took place during Renaissance times when the invention of the printing press by Johannes Gutenberg increased the need to regulate the reproduction of literary works. [2][3][4].

Patent became the first recognized intellectual property right. One of the earlier recorded patent system was established by the Republic of Venice through The Venetian Patent Statute of 1474 which grants inventor an exclusive right over their inventions for a limited period of time in exchange of public disclosure. [5][6]

The evolution of copyright followed shortly afterwards. In England, the Statute of Anne became the world's first copyright law, granting exclusive rights to the author over their literary works for a specified terms. [7]

The international agencies also started recognizing and protecting these rights through treaties such as- Paris Convention for the Protection of Industrial Property (1883) [8] and Berne Convention for the Protection of Literary and Artistic Work (1886) [9]. These treaties works on the common principle for protecting intellectual creations across national borders. In 1967, World Intellectual Property Organization (WIPO) [10] was established to promote and administer international IP protection. A major milestone was the adoption of Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in 1994 under the World Trade Organization (WTO) for the protection of IP globally. [11]

In India, IP has evolved through statutes such as the Patent Act of 1970 [12], the Trade Marks Act of 1999 [13], the Copyright Act of 1957 [14], the Geographical Indications of Goods (Registration and Protection) Act of 1999 [15], and the Design Act of 2000 [16].

Types of Intellectual Property Rights in India-

In India, the different form of Intellectual Property Rights are- Copyright, Trademarks, Patent, Geographical Indications, Designs, Semiconductor Integrated Circuit Layouts, Plant Varieties, and Trade Secrets. Let us discuss the major rights in detail one by one-

1. Copyright-

A. Meaning-

- Copyright protect expression of ideas of an author. The definition of copyright is defined under Section 14 of the Copyright Act of 1957 [17]. It states that these are the exclusive rights granted to the original owner of the-
 - Literary Work
 - Dramatic Work
 - Musical Work
 - Artistic Work
 - Cinematographic Film
 - Sound Recordings

B. Exclusive Rights under Copyright-

- In case of literary, dramatic or musical work (other than computer programmes), the copyright owner has the exclusive right to-
 - Reproduce the work in any material form
 - Publish the work
 - Store the work in any electronic medium
 - Issue copies of the work to the public that are not already in public
 - Perform the work in public
 - Produce, reproduce, perform or publish any translation of the work
 - Make any cinematographic film or a record in respect of the work
 - Communicate the work to the public by a loud speaker or any other similar instrument the radio-diffusion of the work
 - Make any adaptation of the work [18]
- In case of artistic work, the copyright owner has the exclusive right to-
 - Reproduce the work in any material form
 - Publish the work
 - Include the work in any cinematographic film
 - Make any adaptation of the work
 - Communicate the work to the public
 - Depict the work in two-dimensional or three-dimensional form
 - Issues copies to the public [19]

- In case of cinematographic films, the copyright owner has the exclusive right to-
 - Make copies of the film including photographs of any image forming part of the film, storing it in any electronic medium
 - Communicate the film to the public
 - Sell or give copies for commercial rental or offer for sale any copy of the film [20]
- In case of sound recordings, the copyright owner has the exclusive right to-
 - Make any sound recording including storing it in any electronic medium or other means
 - Sell or give copies for commercial rental or offer for sale any copy of the film
 - Communicate the sound recording to the public. [21]

C. Terms of Copyright-

- Section 22 to Section 29 of the Copyright Act, 1957, as amended in 2012, defines the term for copyright. [22] It means the duration the work.
 - For Literary, Dramatic, Musical and Artistic Works (Section 22) - Lifetime of the author + 60 years after the author's death. [23]
 - For anonymous and pseudonymous works (Section 23) – 60 years from first publication unless identity is exposed. [24]
 - For posthumous works (Section 24) – 60 years from first publication after the author's death. [25]
 - For Cinematographic works (Section 26) – 60 years from first publication. [26]
 - For sound recording (Section 27) – 60 years from first publication. [27]
 - For Government works (Section 28) - 60 years from first publication. [28]
 - For the works of public undertakings (Section 28A) - 60 years from first publication. [29]
 - For the works of international organisations (Section 29) - 60 years from first publication. [30]

D. Infringement of Copyright-

- Copyright infringement means the unauthorized use of someone's copyrighted work. According to Section 51 of the Act, Copyright is deemed to be infringed when-
 - A person without obtaining the permission of the copyrighted owner does any act.
 - A person imported infringing copies of owner's original work.
 - A person reproduce owner's original work in any other form without their permission. [31]

E. Punishment for Infringement of Copyright-

- Section 63- General punishment
 - Minimum 6 months imprisonment which may extend to 3 years.
 - Minimum fine of 50,000 which may extend to 2,00,000 [32]
- Section 63A- Repeat Offenders
 - Imprisonment of minimum 1 year which may extend to 3 years.
 - Fine between 1,00,000 and 2,00,000 [33]

2. Trademark-

A. Meaning-

- Defined under Section 2(zb) of The Trademark Act of 1999. [34] Trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others.
- It may include shape of goods, their packaging and combination of colours also.
- It is unique in nature. [35]

B. Registration of Trademark-

- Who can register-
 - Natural person
 - Partnership firms
 - Trusts
 - Societies
 - Companies
 - Firms
 - Association of persons

- Joint owners of company [36]
- How to register (Step by step)-
 - Select a trade mark agent in India.
 - Choose the mark
 - Finding the eligibility and availability of the trade mark
 - Fill the trademark application
 - Submit the documents
 - Examination of trademark application
 - Reply to the examination report
 - Trademark publication [36]

C. Offences related to Trademark-

- Falsely Applying a Trademark (Sections 102 and 103)-
 - 6 month imprisonment which may extend up to 3 years
 - Fine of 50,000 which may extend up to 2,00,000
- Selling goods with false trademark (Section 104)
 - 6 month imprisonment which may extend up to 3 years
 - Fine of 50,000 which may extend up to 2,00,000
- Repeat Offender (Section 105)-
 - 1 year imprisonment which may extend up to 3 years
 - Fine of 1,00,000 which may extend up to 2,00,000
- Falsely representing trademark as registered (Section 107)-
 - Imprisonment for a term which may extend to 3 years, or with fine, or both.
- Falsely describing the place of Trademark Office (Section 108)-
 - Imprisonment for a term which may extend to 2 years, or with fine, or both.
- Falsely showing the entries of register (Section 109)-
 - Imprisonment for a term which may extend to 2 years, or with fine, or both. [37]

3. Patent-

A. Meaning-

- Patents are the exclusive right granted for the invention of new thing.
Owner of the patent has full rights over their inventions. These rights are

protected under Patent Act of 1970 [12]. To qualify for the patent protection one must fulfill certain criteria-

- It must be novelty (new)
- Capable of industrial application
- Must be an inventive step

B. Inventions which are not patentable (Section 3)-

- Frivolous invention
- Invention against the natural laws
- Inventions which are not fair to health of human, animal, plant life, environment as well as contrary to public order or morality
- Discovery of any living thing
- discovery of any non-living substances occurring in nature
- formulation of any abstract theory
- discovery of any scientific principle
- Substance or chemical obtained by mere admixture resulting in the aggregation of the properties
- mere arrangement or re arrangement of known devices
- Invention relating to atomic energy and related to security of India. [38]

C. Steps for the filing of Patent-

- Filing of patent application
- Publication of application
- Opposition of Patent
- Request for examination
- Examination and clarification of raised objections, if any
- Grant of patent [38]

4. Geographical Indication(GI)-

A. Meaning-

- Geographical Indication is a sign used on the product to determine the specific location of that particular product. These products are registered under Geographical Indication of goods (registration and protection) Act of 1999 and Geographical Indication of goods (registration and protection) rules of 2001.

- These rights are administered by Controller General of Patents, Design and Trade Marks, the registrar of GI. The central government has established “Geographical Indication registry” at Chennai where the right holders from all Indian jurisdictions can register their GI.
- Under these rules, GI is granted for 10 years and renewal is possible for further 10 years.
- Here are some of the examples of Geographical Indications-
 - Darjeeling Tea
 - Basmati Rice
 - Banarasi Sarees
 - Mysore Silk
 - Kullu Shawls etc. [38]

B. Step by step registration of Geographical Indication-

- Filing of an application
- Preliminary Scrutiny
- Examination
- Issue of show cause notice
- Advertisement
- Opposition of registration
- Correction and amendments
- Registration [38]

5. Industrial Designs-

- Section 2(d) of the Design Act of 2000 define what is design. According to this, design means only the features-
 - of shape,
 - configuration,
 - pattern,
 - ornament or
 - composition of lines or
 - colours applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means, whether manual, mechanical or chemical, separate or combined.

- A design shall not be registered if-
 - Design is not new or original
 - It has been disclosed to the public anywhere in India or in any other country
 - It contain obscene elements
 - It does not distinguish from the known design [35]

6. Semiconductor Integrated Circuit Layouts-

- These are used in televisions, washing mobiles, phones, etc. According to the treaty of Intellectual Property of Integrated Circuit (IPIC), the protection provided to the circuits is for 10 years from the date of filling of application.
- To protect the electronic industries Semiconductor Integrated Circuits Layout Design (SICLD) Act, 2000 was passed in compliance with TRIPS agreement. This act was implemented by the Department of Information Technology under the Ministry of Information Technology. [38]

7. Plant Varieties-

- Plant Varieties are registered under the Plant Variety Protection and Farmers Rights Act of 2001. It is sui generis (of its own kind) system protecting the plant varieties and the rights of plant breeders and farmers.
- Time duration for the protection of a registered plant variety-
 - For trees and vines-18 years from the date of registration of the variety.
 - For extant varieties- 15 years from the date of notification of that variety by the central government under Seed Act of 1966.
 - For other crops- 15 years from the date of registration of the variety.
- For the registration of new varieties of plant, it must follow the following criteria-
 - It must be new
 - It must be distinctive
 - It must maintain the uniformity
 - It must maintain the stability [39]

8. Trade Secrets-

- Trade secrets refers to the confidential information of the business. It may be sold or licensed. Essentials of trade secrets are-
 - It should be known by the limited number of people.
 - Steps must be taken to prevent trade secrets from being leaked in the public
 - It must be of commercial value to the business or individual
- Advantages of trade secrets-
 - There is no need of registration.
 - It has unlimited period duration.
 - There is no subject limitation.
 - There is secrecy.
 - It can protect biotechnological inventions also. [40]

Statutory Framework-

Registration and grant of major forms of intellectual property is done by the Office of the Controller General of Patents, Designs and Trade Mark (CGPDTM). The major laws or legislations governing IPR in India are-

- a. The Patent Act of 1970 (amended in 2005)
- b. The Trademark Act of 1999
- c. The copyright Act of 1957 (as amended)
- d. The Design Act of 2000
- e. The Geographical Indicators of Goods (Registration and Protection) Act of 1999
- f. The Semiconductor Integrated Circuits Layout Design Act of 2000
- g. The Plant Variety Protection and Farmers Rights Act of 2001 [41]

Conclusion-

From the above discussion, we have seen that Intellectual Property is not a new concept. It has just evolve from time to time. In India, there are different types of intellectual property rights protecting the original work of an inventor. A robust intellectual property ecosystem will not only protect innovators but also strengthen India's position in the global knowledge economy. As India continues to emerge as a global innovation hub, an efficient and balanced intellectual property system is essential for encouraging creativity, technological advancement, entrepreneurship, and economic development.

Endnotes-

1. Sagar Kishor Savale & Varsha Kishor Savale, Intellectual Property Rights (IPR), 5 World Journal of Pharma and Pharmaceutical Sciences, 2529-2559 (2016).
2. Christopher May & Susan K. Sell, Intellectual Property Rights: A Critical History 1–25, Lynne Rienner Publishers (2006).
3. Peter Drahos, A Philosophy of Intellectual Property 15–34 Dartmouth Publishing Co. (1996).
4. Brad Sherman & Lionel Bently, The Making of Modern Intellectual Property Law: The British Experience, 1-18 Cambridge Univ. Press (1999).
5. Venetian Statute on Industrial Brevets (1474), reprinted *in* Primary Sources on Copyright (1450–1900) (Lionel Bently & Martin Kretschmer eds., 2008).
6. William Cornish, David Llewelyn & Tanya Aplin, Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights 12–16 (9th ed. 2019).
7. Statute of Anne, 8 Ann., c. 19 (1710) (Gr. Brit.).
8. Paris Convention for the Protection of Industrial Property, Mar. 20, 1883, 828 U.N.T.S. 305.
9. Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, as revised at July 24, 1971, 1161 U.N.T.S. 3.
10. Convention Establishing the World Intellectual Property Organization, July 14, 1967, 828 U.N.T.S. 3.
11. Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299
12. The Patents Act, No. 39 of 1970 (India).
13. The Trade Marks Act, No. 47 of 1999 (India).
14. The Copyright Act, No. 14 of 1957 (India).
15. The Geographical Indications of Goods (Registration and Protection) Act, No. 48 of 1999 (India).
16. The Designs Act, No. 16 of 2000 (India).
17. The Copyright Act, No. 14 of 1957, § 14 (India).
18. The Copyright Act, No. 14 of 1957, § 14(a) (India).
19. The Copyright Act, No. 14 of 1957, § 14(c) (India).
20. The Copyright Act, No. 14 of 1957, § 14(d) (India).
21. The Copyright Act, No. 14 of 1957, § 14(e) (India).

22. The Copyright Act, No. 14 of 1957, §§ 22–29 (India).
23. The Copyright Act, No. 14 of 1957, § 22 (India).
24. The Copyright Act, No. 14 of 1957, § 23 (India).
25. The Copyright Act, No. 14 of 1957, § 24 (India).
26. The Copyright Act, No. 14 of 1957, § 26 (India).
27. The Copyright Act, No. 14 of 1957, § 27 (India).
28. The Copyright Act, No. 14 of 1957, § 28 (India).
29. The Copyright Act, No. 14 of 1957, § 28A (India).
30. The Copyright Act, No. 14 of 1957, § 29 (India).
31. The Copyright Act, No. 14 of 1957, § 51 (India).
32. The Copyright Act, No. 14 of 1957, § 63 (India).
33. The Copyright Act, No. 14 of 1957, § 63A (India).
34. The Trade Marks Act, No. 47 of 1999, § 2(1)(zb) (India).
35. Sangeeta Rana, Intellectual Property Rights in India, Lawyered (May 9, 2016),
<https://www.lawyered.in/legal-disrupt/articles/intellectual-property-rights-india/>.
36. Haridya Iyengar, *How to Register a Trade Mark in India*, iPleaders (Oct. 31, 2024),
<https://blog.ipleaders.in/registration-of-trademarks/>.
37. Lakshmi Raman, Criminal Prosecution for Infringement of Trademark and Copyright, Numen Law Offices. <https://www.numenlaw.com/criminal-prosecution-for-infringement-of-trademark-and-copyright.php>.
38. Lalit Jajpura, Bhupinder Singh and Rajkishore Nayak, Introduction to Intellectual Property Rights and their Importance in Indian Context, 22 Journal of Intellectual Property Rights, 32-41 (2017).
<https://docs.manupatra.in/newslines/articles/Upload/41C26FED-7AFE-40EA-8736-4E6C516917AE.pdf>
39. Obhan Mason, *Plant Variety Protection*, <https://obhanmason.com/practice-areas/intellectual-property/plant-variety/>
40. R. Kalpana Sastry, *Trade Secrets (Undisclosed Information)*, Foundation Course for Agricultural Research Services (FoCARS), ICAR–National Academy of Agricultural Research Management (NAARM), Hyderabad, Session No. 104, July 25, 2016,
<https://naarm.org.in/focarsrepository/files/11.%20Trade%20Secrets.pdf>.

41. Anurag Gupta, Intellectual Property Rights (IPR) in India: A Comprehensive Overview, Record of Law (Feb. 3, 2026), <https://recordoflaw.in/intellectual-property-rights-ipr-in-india-a-comprehensive-overview/>.

