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INTELLECTUAL PROPERTY RIGHTS IN INDIA: PROMOTING INNOVATION IN A KNOWLEDGE-DRIVEN ECONOMY

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Introduction

In a world increasingly governed by knowledge and technology, the ability to generate and harness creative outputs and protect them by the grant of intellectual property rights (IPR) has become critical to economic growth, technological advancements, and socio-cultural progress. Innovations and new ideas may be protected through patents, literary, artistic and musical works may be protected through copyright and neighbouring rights and through neighbouring protection, new visual aspects of the design of a product could be protected through design. Trade Marks protect and promote brands, trade and services that enable consumers to distinguish between different trading entities and thereby the consumers do not face undue problems.

Objective of Intellectual Property Rights

IPRs aim to give owners proprietary rights in their intellectual property works so that this drives investment in creativity, innovation and research; so that the owners of the IPs make their money. While protecting the interests of the creators, the IP laws simultaneously consider public interest and the overall social welfare through balanced protection so as not to restrict access to knowledge, innovations, etc.¹

¹ The Patents Act, 1970, No. 39 of 1970, INDIA CODE (1970)

Legal Framework Governing Intellectual Property Rights in India

India has enacted legislation to safeguard various forms of Intellectual Property (IP) in accordance with its international obligations under the TRIPS Agreement. IP protection in India encourages innovation, protects creators' interests and ensures economic growth. The laws strive to enhance certainty for inventors, business houses and consumers.

India has a well-developed legal system for the protection of novel inventions that involve an inventive step and have potential for industrial application; and this is encompassed by the *Indian Patents Act, 1970* as amended in 2005. By making product patents in pharmaceuticals and chemicals possible, the 2005 Amendment brought Indian patent law in compliance with the TRIPS Agreement; However safeguards like compulsory licensing remain to secure public interest in health.

India also offers protection against the unauthorised use of brand names, logos, emblems and other devices of markings or devices with the help of the *Trade Marks Act, 1999*, which helps businesses develop goodwill and safeguard their goods or services from others.

Creative and aesthetic inventions that include works such as novels, films, music, etc., also receive legal protection under the *Copyright Act, 1957*, which will lead to innovation and further development of originality.

Aesthetic creations like designs and decorative features applied to industrial products such as toys, etc get protection through the *Designs Act, 2000*. Products that are special to specific regions and are famous for their uniqueness, like “Darjeeling Tea ”and ”Kashmir saffron”. This is guaranteed under the *Geographical Indications of Goods (Registration and Protection) Act, 1999*. Together they reinforce the Intellectual Property Regime, fostering innovation, cultural identity and indigenous economic values.²

Recent Developments and Landmark Judicial Decisions

Indian IPR regime has been amended through legislative efforts and executive actions, facilitating to foster innovative ideas and keeping pace with international trends. The National Intellectual Property Rights Policy, 2016, online registration of IPs and amendment of the

² Agreement on Trade-Related Aspects of Intellectual Property Rights art. 7, Apr. 15, 1994, 1869 U.N.T.S. 299.

patent examination system have played a vital role in strengthening the innovation environment and facilitating 'Ease of Doing Business.'

Indian IPR law has also been moulded by pronouncements on judicial precedents. In *Novartis AG v. Union of India*, the Supreme Court ruled that patents should be awarded only for novel and inventive innovations meeting the requirements stipulated under law, thereby restricting the evergreen nature of pharmaceutical patents without denying cheap medicines to people at affordable rates.³

In *Eastern Book Co v. D.B.Modak*, the Supreme Court reiterated the fact that copyright is protected by law only when it consists of a literary work having a minimum degree of skill and intelligence and should not include reproduction of an existing work.⁴

Challenges and the Way Forward

Despite strong policy and legal frameworks being introduced and implemented, it remains that enforcement of Intellectual Property Rights in India continues to be a complex issue, fraught with various challenges like Digital Piracy, On-Line Trade Mark infringement, Piracy/Counterfeiting, long duration of proceedings, very less consumer awareness, etc. Are issues hampering enforcement and effective working of IP regime in India. With the development and increase in the use of AI and other digital technologies, complicated problems are facing copyright, patents related to these innovations and other IPR's.

There is an immediate need for a forward-looking, balanced approach to tackle the enforcement challenges effectively.

Efforts to intensify enforcement activities and augment the capacities of IPR institutions in India will play a vital role. The quicker disposal of applications by the I.P. Office, through continued digitalisation and improved intra-governmental liaison with other state organs, including industry and the research fraternity, will also create a robust and research-friendly Indian innovation landscape.⁵

³ *Novartis AG v. Union of India*, (2013) 6 S.C. 1 (India)

⁴ *Eastern Book Co. v. D.B. Modak*, (2008) 1 S.C.C. 1 (India).

⁵ National IPR Policy, 2016, Dep't for Promotion of Indus. & Internal Trade, Ministry of Commerce & Industry, Government of India.

Conclusion

Intellectual property rights will play an increasingly significant role in India's innovation-led future and its integration with the world's growing economy, as the economy leverages creativity, innovation and its entrepreneurial spirit to drive prosperity for its citizens. With ongoing policy refinements and reforms within the current legal environment to facilitate development through innovation in the face of the emerging technology paradigm and its resultant dynamics in global trade and commerce, the IPR regime will ensure balanced protection and appropriate regulation for Intellectual property and in ensuring an optimal protection, while adequately protecting IPR.