ISSN 0974-763X

SOUTH ASIAN JOURNAL OF MANAGEMENT RESEARCH (SAJMR)

Volume 11 Number 1 October 2021

Special Issue on Intellectual Property Rights (I.P.R.)

Contents

Editors
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Chhatrapati Shahu Institute of Business Education & Research (CSIBER)
(An Autonomous Institute)
University Road, Kolhapur-416004, Maharashtra State, India.

SOUTH ASIAN JOURNAL OF MANGEMENT RESEARCH (SAJMR)

ISSN 0974-763X

(An International Peer Reviewed Research Journal)

Published by

Chhatrapati Shahu Institute of Business Education & Research (CSIBER)

University Road, Kolhapur - 416 004, Maharashtra, India

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EDITORIAL NOTE

The world is passing through a phase of inventions and innovations. Countries in all stages of development are investing heavily in research and development in almost all fields of study. The high level of competition in the fields of research, inventions and innovations brings the risks associated with intentional or unintentional duplication of an ongoing or completed work. It is in this context the discussion and understanding of Intellectual Property Rights (I.P.R.) becomes all the more important. Recognising the importance of this concept the different accrediting agencies too are encouraging the Higher Educations Institutions to organise orientation and knowledge sharing sessions for faculty, staff and students.

The institute is happy to collaborate with Anjuman-e-islam College, Vijapura to conduct the International Webinar on Intellectual Property Rights (I.P.R.). As per the theme of the webinar the International and National Perspectives were critically explained by the invited resource persons for U.S.A and India. The practical knowledge of the resource persons in this field made the sessions very fruitful foe the participants. The invited papers too covered the different dimensions of I.P.R. with reference to Constitutional provisions, Cyber Crimes and others.

The present special volume of SAJMR is the outcome of this important academic exercise. The publication of the research articles will be a handy reference for all those who participated in the proceedings of the webinar but also to are undertaking deeper research in this field. We hope the present special issue serves this intended academic purpose.

Dr. T. V. G. Sarma
Prof. Sayed Wajid Peerzade
Prof. Amar D. Ekal

A Short Overview of Intellectual Property

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Abstract: Intellectual property plays a vital role in protecting the inventions of a human mind, encouraging the creations that solve practical problems in various facets of life, and thereby eventually promoting the overall healthy growth of the economy of a country. This manuscript gives an overview of various topics related to intellectual property including types of intellectual property, patentability of the inventions, prior art, patent applications, and fees. The manuscript provides a general overview, but the details of the topics depend on the local patent laws of the geographical area where the inventor is filing his or her IP application. Therefore, the author suggests the readers to further refer to their local laws.

Keywords: Patents, Copyrights, Trademarks

1.0 Introduction to Intellectual property (IP): IP is a type of property that includes both tangible and intangible creations of the human intellect. There are many types of intellectual properties, and the most common types include patents, copyrights, trademarks, and trade secrets. Figure 1 shows a quick overview of the intellectual property.

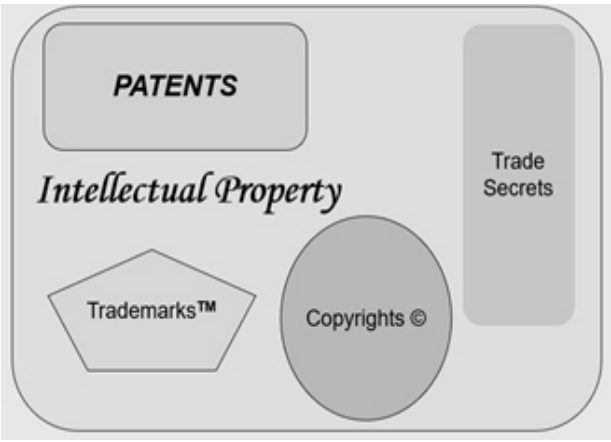


Figure 1: Overview of Intellectual Property

2.0 Patents:

A patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. It is important to remember that what is granted is not the right to make, use, offer for sale, sell, or import, but the right to exclude others from making, using, offering for sale, selling, or importing the invention. One can use the right to stop others from infringing one's patents.

Patents are considered as personal property. Patent rights can be licensed to another company to make, use, or sell the invention in exchange for the payment of fees, called royalty. Anyone regardless of age, nationality, or any other characteristic can apply for a patent so long as he or she is a true inventor of the invention. As per the First Inventor To File (FITF) US law effective March 16, 2013, if another person first discloses the details of the invention to the public by commercialization, publication, or other means, then the applicant is considered to be too late to file a valid patent application on the invention. Therefore, the inventors are advised to file their patent application as soon as the invention is conceived and before relevant disclosures by other people. The inventor has the option to file a provisional patent for a nominal fee which gives him or her one year to file the actual patent application.

There are 3 types of patents namely Utility Patents, Design Patents, and Plant Patents.

2.1 Utility Patent:

A utility patent is the most common type of

patent which covers the invented function. Examples of utility patents include inventions of mechanical machines like printing press, gramophone, bottle opener, electronic circuits like the circuits for security systems, manufacturing process, any gadget to solve a particular problem. Figure 2 shows more examples of utility patents including a broom and a toothpaste tube.

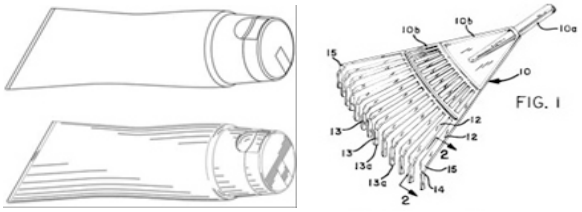


Figure 2: Examples of utility patents
a. Broom b. Tooth paste or a medicine tube.

To obtain a utility patent, the inventor must file a patent application including a detailed description of the invention explaining how to make and use the invention, together with claims that define the invention, drawings of the invention, other paperwork related to the application process, and a filing fee. A utility patent is valid for a period of 20 years from the date of application as long as the maintenance fees are paid in time.

2.2 Design Patent:

A design patent is the second type of patent that covers inventive appearance, unique look, decorative shape, or visible surface ornamentation of an article. A design patent is for the uniqueness of the shape and must be purely ornamental or aesthetic, but not functional. Examples of design patents include innovative shape of a desk, look of a building, shape of a car, shape of icons on smartphones etc. Figure 3 shows more examples of design patents including a design of a footwear and shape of an eyewear.

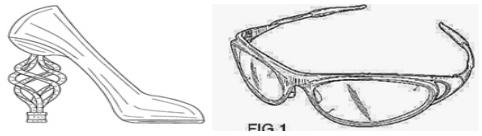


Figure 3: Examples of design patents a. Design of a footwear b. Shape of an eyewear

The design to be patented must be for an article that is different from an object in its natural state; thus, for example, a figure of an animal is not suitable for a design patent. A design patent application consists of drawings and a formal claim to the article of invention "as shown", along with formal paperwork of the application and a filing fee. A design patent is valid for a period of 15 years from the date of application as long as the maintenance fees are paid in time.

2.3 Plant Patent:

A plant patent is the third type of patent that covers the inventions related to plant cultivation. A plant patent can be granted to an inventor who has invented or discovered and asexually reproduced a distinct and new variety of plant, other than a tuber propagated plant or a plant found in an uncultivated state.

A plant patent application has the similar requirements as a utility application, but has a single, formal claim to the plant "as shown and described." A plant patent is valid for a period of 20 years from the date of application as long as the maintenance fees are paid in time.

3. 0 Patentability:

Though an invention seems to have some commercial viability, its inventors need to check for its patentability. For a utility patent to be awarded, there are at least 4 legal requirements that the patents need to meet. Requirements include the Statutory Class, Usefulness, Novelty, and Non-obviousness.

3.1 Requirement 1:

The Statutory Classes: The patent application must fit into one of the five broadly and comprehensively established classes namely process or method, machine, article of manufacture, composition of, improvement on one of the first four. It is widely believed that this requirement is comparatively easier to meet as most of the inventions fall within one or multiple of the considered statutory classes.

3.2 Requirement 2: Utility or Usefulness: To be patentable as a utility patent, the invention

must be functional and useful. Whether an invention is useful or not depends on the explanation provided by the inventor in his or her application and the assessment conducted by the patent examiner. Examples of inventions that fail the utility requirement include drugs that are not proved to be safe, whimsical inventions that claim usefulness by unusual explanations, inventions that are only useful in illegal activities. Further examples, in particular, that cannot be patented include machine used to counterfeit currencies, inventions that can disable safety alarms in a safety critical environment, and non-operable inventions such as perpetual motion machines which claim to defy the laws of physics as shown in Figure 4. Based on the application and the examination in the given context, a patent might be granted but it is to be noted that the fact that a patent is granted does not mean that the underlying invention will work or is useful.

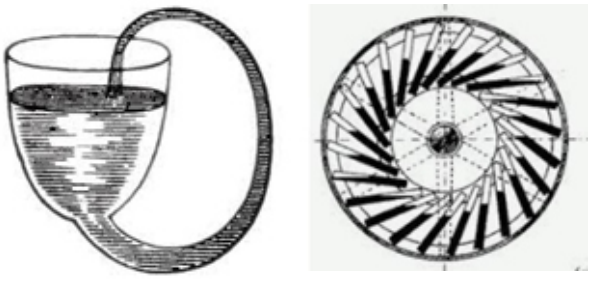


Figure 4: Perpetual motion machines a. Cup fed into itself b. Bhaskara's wheel

3.3 Requirement 3: Novelty: Novelty or newness in an invention is a requirement that an idea of invention must meet to qualify for a patent. The invention must be somehow different from all the prior developments, called prior art or state of the art, that are available to the public. Prior art includes any knowledge that was made publicly available by other people, explanations in printed publications, patent applications of other inventors, prior use, and on-sale activities of the invention. There are three types of novelties including 1. physical (hardware or method) difference, 2. new combination, and 3. new use. The invention can be considered as Novel as long as the patent application can claim the novelty in one of those 3 types.

3.4 Requirement 4: Non-obviousness: The invention must not be obvious to a person having ordinary skill in the art. The invention must not be by making an obvious change to another patent in prior art. Whether an invention is non-obvious in the opinion of a person having ordinary skill in the art or not has been in regular debate. In deciding the non-obviousness of an invention, the examiners usually check including the long-felt but unsolved need, and failure of others to come up with the invention.

Despite the large number of inventions that can be patented, there are inventions and discoveries related to certain fields that the law does not allow patents. Details of the restrictions on patentability of a particular invention depend, sometimes, on the local governing laws. Some of the examples of inventions or discoveries that are not patentable include phenomena of nature such as laws of physics, mental processes, and abstract intellectual concepts including concepts of pure Mathematics as they are the basic tools of scientific and technological work. Figure 5 shows more examples of human DNA and laws of nature. Inventions such as nuclear weapons, and tax avoidance schemes cannot be patented as per USPTO, similar local laws exist in other countries as well.

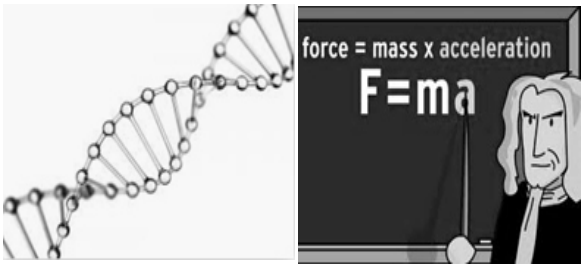


Figure 5 Examples of discoveries or inventions that are not patentable
a. Human DNA, b. Laws of nature

4. 0 Copyrights: A copyright is a right given by law to the artists in creative fields for their creations including but not limited to artwork,

literary work, and music compositions. It empowers the holder of a copyright to sue infringers in court to stop publishing or copying the copyrighted literary, dramatic, musical, or artistic works. Some examples of works that are covered by copyright are books, poems, plays, songs, photographs, movies, drawings, sculpture, and recordings. Figure 6 shows J. K. Rowling's Harry Potter book and Beatles' Abbey Road music record as examples of works that qualify to be copyrighted. A copyright is considered to exist automatically upon creation of the work. It is advised to place the copyright symbol © on each published copy of the literary work and register the work with Copyright office. For art works created after January 1, 1978, copyrights last for 70 years after the death of the author.

Figure 6. Examples of copyrighted works
a. J. K. Rowling's Harry Potter book and
b. Beatles' Abbey Road music record.

5. 0 Trademarks: A trademark is any word or symbol that is consistently attached to a product or its packaging to identify and distinguish it from others in the marketplace. A trademark is a brand identity. Trademarks are believed to recall a particular brand to the customer and make purchase decisions when they notice a symbol that is normally associated with that brand. Like patents and copyrights, trademarks also award rights to the owners to stop others from copying their trademarks. Usually, the trademarks that are more distinctive from the others give stronger rights to stop others from infringing on them. Figure 6 shows examples of popular trademarks Mercedes-Benz and Apple. Sometimes the trademarks are also assisted with the letters TM to indicate that the symbol is trademarked. A U.S. trademark usually lasts as long as the trademark is used in business and defended against infringement.

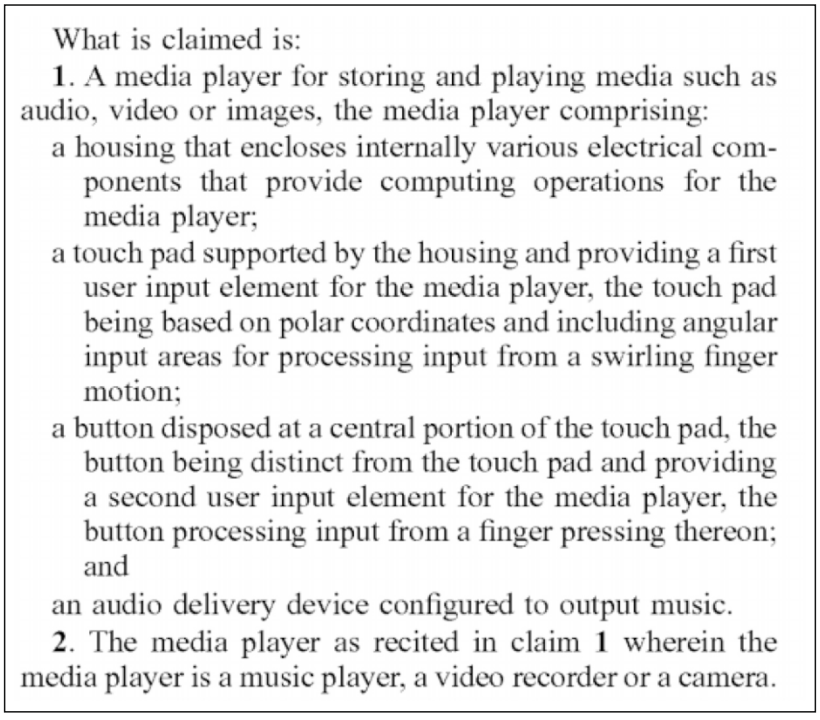
Figure 6: Examples of popular trademarks
a. Mercedes-Benz b. Apple.

6.0 Trade secrets: A trade secret is any proprietary information, design, process, composition, technique, or formula that is not known generally, and that provides its owner a competitive business advantage. Examples of trade secrets include chemical formulae such as the formula for the paper used to make currency bills, manufacturing processes such as the process used to form the eyes in sewing needles, and the process for adhering non-stick coating to a frying pan. The degree of rights that the law will provide to the owner of a trade secret is usually proportional to the business value of the trade secret and how strictly the owner maintained the secret. A trade secret can be protected as long as the owner takes reasonable precautions to maintain its secrecy. Figure 7 shows the examples of popular trade secrets the formula of Coca Cola and formula of Listerine.

Figure 7. Examples of trade secrets
a. Formula of Coca Cola b. Formula of Listerine

7. 0 Claims: Claims are the most important part of a patent application. Claims explain and

define the structure, or acts, of an invention in very precise, logical, and exact terms. They play a key role in determining if an invention is patentable over the prior art or if there is an infringement. Since the claims are vital to the invention, they are usually written by patent attorneys who were trained and experienced in wording the sentences in such a way that the invention is explained very broadly including the possible changes to create another invention. Figure 8 shows a snapshot of only 2 out of 28 claims written in US Patent # US 7046230 B2 "Touch Pad Handheld Device" assigned to Apple Computer Inc.



What is claimed is:

1. A media player for storing and playing media such as audio, video or images, the media player comprising:

a housing that encloses internally various electrical components that provide computing operations for the media player;

a touch pad supported by the housing and providing a first user input element for the media player, the touch pad being based on polar coordinates and including angular input areas for processing input from a swirling finger motion;

a button disposed at a central portion of the touch pad, the button being distinct from the touch pad and providing a second user input element for the media player, the button processing input from a finger pressing thereon; and

an audio delivery device configured to output music.

2. The media player as recited in claim **1** wherein the media player is a music player, a video recorder or a camera.

Figure 8. An example snapshot of claims in an Apple Patent.

8.0 Costs: Inventors need to be aware that in addition to having inventions that pass all the requirements, acquiring intellectual property also requires money to pay the patent office fees. Most common fees include but not limited to application filing fee, search fee, examination fee, maintenance fee etc. A small snapshot of the usual fees is provided in Table 1 for a quick reference.

Table 1. Reference for fees involved in obtaining and maintaining a patent thru United States Trademark and Patent Office (USPTO).

Description	Fee ($)	Small Entity ($)	Micro Entity ($)
Basic filing fee-Utility	320	160	80
Utility Search Fee	700	350	175
Utility Examination Fee	800	400	200
Maintenance at 3.5 years	2000	1000	500
Maintenance at 7.5 years	3760	1880	940
Maintenance at 11.5 years	7700	3850	1925

For more details on the complete fee schedule and requirements to qualify as Small or Micro entities, refer USPTO [7].

9.0 Conclusion: Intellectual property rights play a significant role in safeguarding the inventions of a human intellect. Patents, Copyrights, Trademarks and Trade secrets encourage the individuals to invent articles of use and thereby take advantage in acquiring financial gains thru business ventures. It is important for young inventors to be aware of IP laws and procedures so that they can take the right move in commercializing their invention. This manuscript provided an overview of various types of patents, differences, examples of patentable and nonpatentable inventions, fees involved in IP applications and importance of drafting claims. Since the details of IP including requirements, fee schedules, application procedures depend on the local governing laws, readers are advised to contact their local IP offices for further details.

References:

[1] David Pressman, David E. Blau, "Patent it yourself", Nolo, Oct 26, 2020.

[2] Richard Stim, David Pressman, "Patent Pending in 24 Hours", Nolo, Nov 30, 2018.

[3] Dylan O. Adams, "Patents Demystified: An Insider's Guide to Protecting Ideas and Inventions", American Bar Association, Dec 7, 2015.

[4] uspto.gov

[5] wipo.int

[6] freepatentsonline.com

[7] https://www.uspto.gov/learning-and-resources/fees-and-payment/uspto-fee-schedule#Patent%20Fees

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Intellectual Property Rights and Cyber Crime

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ABSTRACT: This article explores the interlinked between Cyber Crime & infringement of Intellectual Property rights. Generally people has mentality that they want everything at free of cost i.e. free antivirus, free software, free wifi internet, free latest movies, serials, Netflix episodes, etc but free version of such things on internet & other online media platform is the trapped set by cyber hackers to hacked data & information in laptop, PC or smartphone. Such people not only infringed the copyright work of owner but also they become victim of cybercrime. Due to less awareness & knowledge about cyber safety & security; people gets easily trapped in cyber criminals illegal activities & become a victim & lose their hard earned money, personal data & information. This article mentioned cyber security tips & precautionary measures to protect Intellectual Property work. This article is useful for all people who use digital electronics instrument, smartphone, computer, tab, internet, also who do work from home; this article is useful to safe personal data, information & money from cyber criminals.

Keywords: Cyber Crime, Cyber Security

1.0 INTRODUCTION:

Latest web based technology, smartphone, internet has increased our capacity to do financial transactions, e-commerce & quick electronic business transaction. The new internet culture with cyber space has changed the function of modern business which include online advertising, online ordering, online shopping, online education, publishing, banking, entertainment, investment, auction, professional services, etc. Internet has reached globally so it provides unlimited market to the owner of Intellectual Property. But it has negative side also because internet also provides expended opportunities to criminals to infringe the rights of owner. The Intellectual Property owners must be aware of new forms of infringement of Intellectual Property that occurs due to new internet technology. World Intellectual Property Organisation WIPO & World Trade Organisation WTO gives protection to Intellectual Property by maintaining balance between return on investment in knowledge to IP owner & giving unrestricted access, benefits of knowledge to the IP user.

Cyber crimes which are related with IPR includes software piracy, copyright infringement, cyber-squatting, domain name registration, web site related defacement.

There are many reasons due to which cybercrime rates has increased which includes less knowledge of cyber safety among public, less police manpower and less cyber cells to find out cyber criminals, also latest & advance technology are using by cyber criminals & creating new tricks & tactics to trap people.

Cyber criminals are taking disadvantage of covid lockdown period & by using name of well known company, they posted fake advertisement on social media to sell N95 face mask, spreading fake links of covid vaccine registration & oxygen cylinder availability, etc. people pay advance money but didn't receive materials & when they asked for refund of money, criminals are given many reasons & again cheated the victim. Many cases has been registered in Mumbai police station regarding using well-known companies name for fake advertisement on social media.

Cyber peace foundation has find out that Chinese hackers are spreading fake message on Whats App about 'Corona Subsidy'. Message consists of people who are suffering financial problem due to pandemic will get financial subsidy from 'corona foundation'. To avail financial subsidy, people open the Whats App message & click on links which collects all banking & personal information. People gets trapped in this new type of tricks & become a victim of cyber crime.

Police has noticed that cyber criminals contacted relatives of covid patients or circulate fake links of availability of Remdisvir injection & Tocilizumab injection on social media & pretend them as a dealer or distributor or representative of Cipla Pharma Company & give them false promised to supply Remdisvir injection & Tocilizumab injection after paying online advance payment for it. But after payment victim didn't get these lifesaving drugs. Cases has been reported in police station that many relatives of covid patients trapped in this new type of cybercrime.

Cases of cyber espionage increased: - As per 'Fireeye Mandiant Services company' special report of 'M-trends 2021' mentioned 'Cyber threats against organisation who are working with COVID-19 information & research'. Mandian threat intelligence group tracked activities of hackers who are doing cyber espionage campaigns. Cyber threat groups in countries like Vietnam, China, North Korea, Iran & Russia are more active in cyber espionage campaigns. These cyber threat groups are targeting information & data of Covid-19 vaccine, treatment data, research & response data, etc. Confidential medical treatment data & information comes under intellectual property. These hackers targeted World Health Organisation office, pharmaceutical companies, healthcare, medical research & similar organisation, also targeted government offices, education, aerospace & defense, transportation, public & nonprofit sector of other countries. Such cyber threats group also attacked on India's Corona vaccine manufacturing firm like Serum Institute, Bharat Biotech Company during the month of March 2021.

2.0 IPR & Cyber Crime

2.1.1. Copyright

Copyright is a unique kind of Intellectual Property Rights; also it is called as bundle of rights. Copyright consists of a different rights in the same copyrighted work which are the right of publication in magazines, journals & newspapers, the right of dramatic & cinematographic versions, the right of translation, the right of abridgement, the right of public performance, the recording right, the right of broadcasting, the right of reproduction.

Section 14 of The Copyright Act 1957 defines the term 'Copyright'- it's an exclusive right which authorise owner of the work to do following acts in respect of a work or any substantial part thereof which includes:-

a) In respect of literary, dramatic & musical work – to reproduce the work in any material form, to issue copies of the work to the public, to perform the work in public or communicate to the public, to make any sound recording or cinematographic film, translation or adaptation of work

b) In the case of computer Programme- to sell, give on commercial rental

c) In the case of an artistic work- to reproduce the work in any material form, to communicate the work to the public, to issue copies of the work to the public, to include work in the cinematographic film, to make adaptation of work,

d) In the case of cinematographic film- to make a copy of the film, to sell or give on commercial rental copy of the film, to communicate film to the public

e) In the case of sound recording – to make sound recording & store of it in any medium, to sell or give on commercial rental any copy of the sound recording, to communicate the sound

recording to the public.

2.1.2. Copyright Violation:

Publishing or using any painting, book, software, website or written document; without taking written permission from copyright owner which falls under copyright violation.

If someone illegally create or publish or sell it or make it available on internet duplicate copy of copyrighted movie, song, software, CD or DVD, blue ray disk then it comes under violation of copyright. Using or making some changes or modification in copyrighted owner's poem, song, article, music, or invention & using such copyrighted material in own name, which falls under violation of copyright.

Law relating to Copyright Violation:

Copyright Act, 1957, Trademark Act, 1999, Indian Penal Code 1860, Information Technology Act, 2000 are applicable for violation of copyright.

Section 51 of the Copyright Act, 1957 enumerates when copyright shall be deemed to be infringed i.e. infringement of copyright, when any person without the permission of the owner or the Registrar of the Copyright does anything act which he is not legally liable to do or when any person makes for sells, hires, or sells or distributes or exhibits in public or imports into India or lets for hire any infringing copies of the work, resulted in the infringement of the copyright in the work.

Chapter 13, Section 63, of the Copyright Act, 1957 mentioned offences of infringement of copyright- any person who knowingly infringes or abets the infringement of the copyright in a work or any other right conferred by the act shall be punishable for imprisonment for minimum six months to maximum three years & with fine fifty thousand rupees to two lakh rupees.

Section 63 (A) mentioned enhanced penalty on second & subsequent convictions which is imprisonment for one year to three years & fine of one lakh rupees to two lakh rupees.

Section 63(B) mentioned if any person knowingly makes use of an infringing copy of computer Programme then he shall be punishable with imprisonment for a term of minimum seven days to maximum three years & with fine of fifty thousand rupees to two lakh rupees.

Section 420 of Indian Penal Code1860 is applicable for software piracy which is cheating & dishonestly inducing delivery of property. Such person shall be punishable with imprisonment extend to seven years & shall also liable for fine. It's a non-bailable offence.

Section 405 of The Indian Penal Code 1860; which mentioned 'Criminal breach of trust' is also applicable for infringement of copyright work.

2.1.3. Sat-Isabgol case of violation of Copyright & Trademark

The Sidhpur Sat-Isabgol Factory, a partnership firm registered under the partnership Act situates at Sidhpur, Patan, Gujrat are the registered proprietors of the Trademark/labels of "B.G. Telephone brand Sat-Isabgol" with wide registration number 477558 & are the first adopter, user & originator of the said trademark & label. Label is also protected under the Copyright Act,1957.

Said company filed a suit against the firm named Ranakpur Sat-Isabgol vide TM suit no 28/2018 before the commercial court of Ahmedabad, where the Hon. Court had restrained the said Ranakpur Sat-Isabgol firm from using the identical & similar label. But then also Ranakpur Sat-Isabgol firm flouted the injunction order of the commercial court of Ahmedabad & started using illegally adopted label which amounts to contempt of court. The police authorities have also seized the goods with the infringing labels from the retailers at Thane, Maharashtra. The Sidhpur Sat-Isabgol Factory has taken criminal as well as civil action against the retailers, wholesalers, distributors, traders whosoever engaged in infringing activities.

2.1.4 Software Piracy

Software piracy means it is an act of stealing, copying, installation, distributing, modifying or selling of legally protected software.

Software piracy has now become worldwide issue & industry is facing huge financial loss. It hinders the profit & success of the software industry nationwide & globally. According to the 2018 Global software survey 37% software installed in the computer, laptop, tab are unlicensed software. Online piracy or internet piracy happens when illegal software is download, sold, share or acquired though internet.

Consequences of software piracy are there is high risk of infecting computer, laptop with malware, virus & adware which compromised all data & information in the computer, it slowed down the computer, & user will face legal repercussion due to infringement of copyright.

Law relating to software Piracy:

- Section 66 of the Information Technology Act, 2000 (Amendment Act 2008) mentioned punishment for Computer Related Offences including software piracy. If any person dishonestly or fraudulently does any act under section 43 of the act then such person shall be punishable with imprisonment up to 3 years or with fine up to 5 lakh rupees or with both. It's a bailable offence.
- Section 63(B) of Copyright Act, 1957 mentioned knowing use of infringing copy of computer programme to be an offence & such person shall be punishable with imprisonment of minimum 7 days which may extend to maximum 3 years & with fine of minimum fifty thousand rupees to maximum 2 lakh rupees. It's a bailable offence.
- Section 420 of Indian Penal Code1860 is applicable for software piracy which is cheating & dishonestly inducing delivery of property. Such person shall be punishable with imprisonment extend to seven years & shall also liable for fine.
- Section 468 of Indian Penal Code1860 mentioned forgery for the purpose of cheating. Forgery include document or electronic record forgery; such person shall be punishable with imprisonment extend to seven years & shall also liable for fine.
- Section 471 of Indian Penal Code1860 mentioned whoever fraudulently or dishonestly uses as genuine any electronic record or document which he knows that it's forged such person shall be punishable under the law.

3.0.Infringement of Trade Marks

If a person other than registered proprietor or owner of the mark which is registered, uses the same mark or a deceptive similar mark such act comes under the infringement of Trade Mark.

Essentials of infringement are:-

- Taking essential feature of the mark or taking whole of the mark as it is or making a few additions or alterations in original registered trade mark
- Infringing trade mark must be used for the trade, business purpose
- Infringing trade mark must be printed & publish it in advertisement, invoice or bills.
- Oral use of trade mark is not comes under infringement.

3.1.1 Case study of Covishield Trademark of Serum Institute of India (SII), Pune:

Serum Institute of India (SII) in Pune, Maharashtra is producing corona virus vaccine named Covishield. On 4th January 2021 Cutis-Biotech, a pharmaceutical firm based at Nanded, Maharashtra files a suit in the civil court in Pune claiming Covishield is their brandname & sought to restrain Serum Institute of India from using this trademark & seeking injunction against the use of 'Covishield' trademark. SII had told to court that two companies are operate in different product categories & there is no scope of confusion of using the trademark Covishield. Pune Court rejects the application of Cutis-Biotech. Then they appeal in the Bombay High Court, But Bombay High Court also dismissed Cutis-Biotech plea seeking to restrain SII from using trademark 'Covishield'. The Hon'ble High Court has held that 'Covishield' is a vaccine to counter Coronavirus is now widely known. A temporary injunction directing Serum institute to discontinue the use of mark 'Covishield' for its vaccine will cause confusion and disruption in the vaccine administration Programme of the State. In this case, thus, the grant of an injunction would have large scale ramifications traversing beyond the parties to the suit."

4.0 Domain Names in IPR

In the new world of e-commerce, to promote business & to reach customers, it's important for company to have an address in the cyberspace i.e. company must have registered under a particular domain name & must have its own website. The Domain Name System (DNS) is helpful for company to conduct online transactions & make it easily accessible on the internet. The domain name played important function of showing companies recognitions, goodwill in the marketplace.

Satyam Infoway Ltd. Vs Siffynet Solution (P) Ltd.(2004) 6 SCC 145:(2004) 28 PTC 566 in this case the court held that, the use of the same or similar domain name may lead to user accessing one domain name instead of another. Internet domain names are subject to the same legal norms as applicable to other Intellectual Property such as Trade Mark. There is no resolution in India which working on dispute resolution in connection with domain names. The Trademarks Act, 1999 is not extraterritorial as well as it's insufficient to protect domain names within the country.

4.1.0 Cyber Squatting

Cyber Squatting means buying an internet domain name & sell it to other person, business or organisation with intention to make a profit. To sell a domain name to the real owner of an identical or similar trademark is comes under infringement of trademark. The practice of Cyber Squatting is abusive. United States federal law known as the 'Anti Cybersquatting Consumer Protection Act' (ACPA) protects true owner of the domain name.

5.0.Website Related Defacement:

Website defacement is an attack on genuine or copyrighted website that changes the visual appearance, small changes in trademark, name of website or the webpage. Hackers do website defacement to replace the hosted website with one of their own.

Unexpected changes in website can mean a security compromise & called as defacement attack. Unauthorised access is the common cause of defacement attack.

Web Hijacking means taking forceful, illegal & without permission control of another persons website. In such kind of crime the actual owner of the website loses control over his website & its contents.

5.1.1 Law relating to website defacement:

- Section 65 of the Information Technology Act, 2000 (Amendment Act 2008) mentioned Tampering Computer Source Documents- Whoever knowingly or intentionally does act or causes another to do acts of conceals, destroys or alters any computer source code, computer commands, design & layout & programme analysis of computer

resource or computer system or computer network such person shall be punishable with up to 3years of imprisonment or with fine extended up to two lakhs rupees or with both. It's a cognizable offence & Bailable offence.

• Indian Penal Code 1860, Section 463, Whoever makes or create any false documents or electronic record with intention to cause damage or intention to cause injury to any targeted person, group of person, to public or to support any claim or title or property or to enter in any contract or with intention to commit fraud or forgery is crime under IPC, 1860

• Indian Penal Code 1860, section 464, Making a False document- a) Makes, signs, seals or executes a document or part of a document. b) Makes or transmits any electronic record or part of any electronic record. c) Affixes any electronic signature on any electronic records. d) Makes any mark denoting the execution of a document or authenticity of the electronic signature.

• Indian Penal Code 1860, section 468, Forgery for purpose of cheating- Whoever commits forgery, intending that such forged document or electronic record is used for the purpose of cheating; shall be punished with imprisonment up to 7 years or shall also liable for fine.

• Indian Penal Code 1860, Section 469, Forgery for purpose of harming reputation- Whoever commits forgery, intending that forged document or electronic record shall harm the reputation of any party & knowing that it is used for that purpose only; in such case such person shall be punished with imprisonment up to 3 years or with fine.

6.0 CYBER CRIME STATISTICS OF MUMBAI CITY:

Year	2019	2020
Total number of cybercrimes registered cases	2,225	2,435
Cases detected (case detected percentage)	284 (12.76%)	207 (8.5%)

Source: Hindustan times, 'Beware Mumbai recorded more cybercrimes in 2020: Data' 19 January 2021,pg 1. Lokmat, 'Big challenge for Mumbai Police to stop cyber crimes' 22 January 2021, pg 1.

Above mentioned table shows that there were more cases registered of cybercrimes in the year 2020 than last year 2019; which shows cybercrime cases has increased during covid 19 lockdown period. Compare to year 2019, the case detected percentage is less in the year 2020. It means during Covid 19 lockdown period cases of cybercrimes has increased but detection ratio is lower than non-lockdown period.

Major 5 cybercrimes registered & detection in the year 2019 & year 2020 information list:

Sr. No	Types of Cyber crimes	Year 2019	Year 2020		
		Registered cases	Detected Cases	Registered cases	Detected Cases
1	Credit card fraud	775	40	558	21
2	Obscene Emails	239	104	247	91

3	Fake social media	61	23	30	8
4	Phishing/ Hacking	34	2	37	6
5	Spoofing Mail	26	1	14	1
6	'Other' Cyber Crimes includes sextortion (sexual exploitation by coercion), e-shopping fraud, fraudulent classifieds & job listings	1087	112	1545	78

Source: Hindustan times, 'Beware Mumbai recorded more cyber crimes in 2020: Data' 19 January 2021,pg 1.
Lokmat, 'Big challenge for Mumbai Police to stop cyber crimes' 22 January 2021, pg 1

In above mentioned table statistics the cases of infringement of trademark, violation of copyrights by using Internet & Computer are also included in list of 'Other Cyber Crimes'.

Till December 2020, during corona lock down period, Cyber Cell of Maharashtra find out 14000 fake posts on social media and filed 400 cases of cybercrimes and took action on more than 100 peoples who did it. Cyber criminals created fake post on social media to defame government and police system, cyber criminals spread rumors and wrong information about corona virus on social media. Cyber cell find out more than 80000 fake accounts on social media which spread rumors and defame government.

7.0 SAFETY PRECAUTIONS AGAINST CYBER CRIMES

Use Strong password for Intellectual Property work:

- Keep Alpha-numeric with special character & include small & capital letters for making your password very strong. Strong passwords must have 8-10 characters.
- Change password on regular basis at least after every 90 days.
- Personal information should not be set as password.

Safety precautions from Software Piracy:

- Purchase original software from authorised dealer of company.
- Read properly terms & conditions of software before installing it in PC.
- Protect PC from paid version of authorised anti-virus.
- Install good genuine anti-virus software in computer & in mobile & keep updated it regularly. Never install pirated software or free version or demo version.
- There is need to create awareness about piracy of software & need to develop culture & promote ethics of being honest by using only original, authentic software.
- After evolution of information & technology & internet, piracy of software are become major problem to software industry.

Safety precautions of Copyright & Trademark Violation:

- Always ensure to search banks Branch/ office details/ toll- free number, etc in official bank website only. Never search for toll-free number or bank details in search engines.
- Do not download & install applications from untrusted sources there is high chances of copyright violation & cyber crime. Always download app from reputed application market. Always download apps & app updates from legitimates stores. Don't click on links for apps from emails or websites. Always use legitimate store to search & download app.
- Verify app permission & grant only that permission which have relevant context for the app's purpose. If the application is requesting for unnecessary permission, do not proceed with installation. Prior to installing any new application, always make sure to read reviews

on the App store or play store.

• Always verify & install authentic & genuine e-wallet apps from play store on smartphone. Because many similar apps of well-known e commerce companies are available on internet which are created by hackers to trap people. Do not follow links shared on messages, email or other social media account to install e-wallet apps in smart phone.

• Cyber criminals use name of well-known e commerce Company & create & send fake gift coupon/ lottery scams message on social media or internet. Never fall prey for fake gift coupon/ lottery scams. Never respond to such fake message/letters/ phone calls or any schemes or advertisement. Do not give any details or information to them.

Safety precautions to protect Domain name:

• Be sure to register domain name to the property entity. Domain name containing company's trademark should be registered to the same company.

• Use a reputable registrars to registered domain name.

• Lock the domain name.

• Use strong password to protect it.

• Register or renew domain name for longest period of time.

• Choose auto renew option so domain name registration will renew before it expires.

• Be aware of domain name scams.

Safety precautions against E-mail Phishing, Email Frauds, Email Hacking:

• Legitimate companies won't use email messages to ask for personal information. In such case contact company by phone. Don't click on links in these email messages.

• Do not believe any email message which mention to transfer funds urgently. In such case contact such person personally & cross verify email message.

Safety Precautions against social media challenge trends:

• During covid 19 lockdown period, social media like FB has started challenge to post photos of husband-wife, girlfriend-boyfriends, brother-sister, best friends, 10 years old photos challenge etc & got tremendous responds from users. But FB sells such data to facial recognition & artificial intelligence companies & earned millions of dollars. Such photos also may be used by darkweb to sell illegal articles. Such photos may be utilized by criminals to create obscene videos.

• It is advisable to don't post personal information, personal photos, and videos on social media.

Cyber security tips for Work From Home employees:

• Don't use pirated or free or demo version of any software or antivirus in computer, loptop, smartphone.

• Keep software & browser updated & visit only https websites.

• Create secure Email & online accounts.

• Check social media privacy settings frequently.

• Create strong password for computer, email, social networking sites. Also keep strong password for computer/laptop, bluetooth, hotspot & Wi-Fi router. So no any stranger person can access it.

• Do not use open, unsecure, public Wi-Fi for online transaction or to access social networking sites or emails.

• Use paid version of Antivirus in your laptop/computer & update it regularly.

General Tips for Cyber Security:

• For online purchase, make sure that website is authentic & secure.

• Keep safe from phony messages/ spam messages. Fraudulent messages are misspellings, poor grammar, odd phrasing, web sites address with strange extensions. Phishing messages tell you to act quickly to keep account alive, & urge customer to provide information.

• Educate children & talk freely to them about cyber security & internet safety.

• Protect computer by using security software such as Fire wall & Anti-virus software.

• Secure your mobile/smartphone. Download applications from only trusted sources only.

• Install the latest operating systems in your device eg. windows. linux, mac, etc. Use only paid version of operating system & don't use free version or pirated version of application software.

• Do not use public or free Wi-Fi to download any applications or updates any software.

• Protect your e-identity means personal information on social media.

• Beware of fake social media accounts! Not all the accounts are real and not all information provided on accounts are true; so verify information as well as profile.

Know What To Do If You Become A Victim:

• If you become a victim of cybercrime, then firstly contact bank or service provider & block your bank account. Or someone theft your smartphone then contact service provider & block your sim card network.

• Contact Cyber police station / cyber crime cells that has the jurisdiction over your residence or office premises & file written cyber complaint. Online portals are also available to register cyber crime complaints. At the national level 'https://cybercrime.gov.in'

• There has provision to report cyber crime by dialing the help line number 155260.

• In case you receive any fraud SMS, e-mail, link, phone call asking for any sensitive personal as well as banking information then immediately report it on cyber's web portal by visiting 'www.reportphishing.in'

• In absence of cyber police station or a cyber cell, victims can approach to high ranking police officer in their district like superintendent of police or deputy commissioner of police.

• Collect bank statements when you face bank fraud related cyber crime.

• If you received phishing email or faced problem of Email Hacking then save the received emails in pdf format or take the screenshot, note down or copy the full email headers details of phishing email. If phishing email has an attachments then save such attachments as evidence. Preserve the original evidence. Do not delete emails, email header, screenshot attachments, etc. These documents are useful for police as an evidence.

• Report any adverse activity or regarding any unwanted behaviour to CERT-IN on their email address- 'incident@cert-in.org.in'. Or on helpdesk number - +91 1800 11 4949. Provide details of time of occurrence of the incident, information related to affected system/ network & symptoms observed while reporting incident.

8.0 Concluding Remarks:-

This article, which is based on cyber safety of Intellectual Property work. The entire world is facing problem of corona virus epidemic. GDP rate of India in the year 2019 was 4.18% & in the year 2020 was -7.97% which shows that during covid pandemic situation, India is facing problem of economic recession. On 23rd July 2021, 161st report on 'Review of Intellectual Property Rights Regime in India' presented in parliament which has mentioned during corona epidemic period Europe had earned 65 billion euro (sale value) by selling Geographical Indication (GI) products in international market. Last year China had filed 15 lakhs patents, 80 lakhs trademarks, 7.5 lakhs industrial design applications & 7000 GI applications & last year India filed 60,000 patents, 3.5 lakhs trademarks, 15000 industrial design applications, 370 GI applications. Percentage of Intellectual Property in GDP of developed countries is high. India is moving towards from developing countries to developed countries but for that India not only has to increase Intellectual Property work like Patents, Copyright, Trademark & GI but also need to protect their Intellectual Property work from infringement & violation.

Cyber criminals are targeting Intellectual property work of well known companies & created fake websites, links, messages which looks like genuine to trap people. For example fake annual sale or gift coupons of Amazon, Flipkart, Facebook, Dmart are created to lure the people. There is only solution for this problem is to create awareness among people about cyber crime & cyber safety. This article mentions precautionary measures for various cyber crimes related Intellectual Property work.

Also it has mentioned what to do after become victim of cybercrime. Various non-governmental organizations like DLAI & INTERPOL are taking leading role to create awareness among people. INTERPOL are providing technical help to their member countries government to solve cases of cyber crimes as well as helping to transfer data of crimes & criminals between countries.

NOTES:

1) The world is already entered in technology era. Day by day new technology comes into the market & replaced by old one. There is inclusive growth of technology; not only rich people even middle class or poor people are also using latest electronic devices.

2) Intellectual property owner needs to update with latest technology to avoid infringement of their intellectual work.

3) Intellectual property owner has to be updated with cyber security measures to safeguard their Intellectual property work.

4) Police department, few Banks, Security & Exchange Board of India, cyber experts are creating awareness among general public related to cyber safety.

5) Awareness about cyber crime & cyber safety is the only preventive measures available with us.

6) Data shows that there were more cases registered of cybercrimes in the year 2020 than last year 2019 but case detection percentage is lower in the year 2020 than 2019.

7) Keeping weak password to intellectual work, not using updated version of antivirus, using pirated version or free version or demo version of software & ignorance & less knowledge about cyber safety are the main causes of increasing rate of cyber crime & infringement of intellectual property work in the country.

REFERENCES:

- Ministry of Home Affairs Government of India, 'A Handbook for Adolescents/ Students on cyber safety', PP 1-38.
- Ministry of Home Affairs Government of India, ,'Online Safety Tips'; 'National Crime Records Bureau Journal (NCRB)' New Delhi; Cybercrime reporting Portal, National Crime Records Bureau Journal (NCRB) New Delhi. Vol-I, (No1), October 2018, PP 1-4.
- Press release of Mumbai police Cyber cell on 30 April 2021- mumbaipolice.gov.in

Books:-

- Bare Acts of Copyright Act, 1957, Trademark Act, 1999, Indian Penal Code 1860, Information Technology Act, 2000 (Amendment Act 2008)
- 'Cyber Law & Cyber crimes simplified' (2019) by Adv. Prashant Mali
- Cyber Laws & IT Protection, (2012) by Harish Chander
- Law relating to Intellectual Property by Dr. B.L.Wadehra

Newspaper News & Articles:-

- Hindustan times, 'Beware Mumbai recorded more cyber crimes in 2020:Data' 19 January 2021,pg 1.
- Lokmat, 'Be cautious if you take online information about vaccination' 24 December 2020, Pg 2
- Lokmat, '300 crores email passwords leaked', 7 February 2021, pg10
- Lokmat, '14 lakhs fake posts, 400 crimes registered', 24 December 2020, Pg 3
- Loksatta Mumbai edition, 'Cyber safety during corona pandemic period',20 November 2020,pg4
- Loksatta, 'Online crime happens after working hours timing'; 4 March 2021, pg 4.
- Maharashtra Times,'93 lakhs cheating of online cyber crimes- behind masks' 11 February 2021, pg 1& 3:
- Sakaal, 'Prosperity path of Intellectual Property' by Mr. Ganesh Hingmire; 31 July 2021. Pg.4

Websites:

- https://cybercrime.gov.in/
- https://www.cert-in.org.in/
- https://ceir.gov.in.
- https://content.fireeye.com/m-trends/rpt-m-trends-2021
- https://nordpass.com/most-common-passwords-list/

RECENT TRENDS AND CHALLENGES IN TEACHING INTELLECTUAL PROPERTY

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ABSTRACT: For many decades, intellectual property (IP) was the exclusive domain of a small number of specialist lawyers, who had generally acquired their IP expertise from working in IP-based companies or representing clients with IP-related problems. At best they might have had an introductory IP course during their legal studies. Such was the state of IP education until relatively recently. On-the-job training was, therefore, necessary to supplement the limited opportunities to learn about IP offered by academic institutions. One such avenue has been national and regional IP offices (Patent Office, Trademark Office, Copyright Office), particularly those where the relevant laws require substantive examination of patent applications and/or administrative appeals. Those offices often set up internal training facilities to provide IP specific courses for their staff, often to very specialized levels. The training was initially for primary education in IP, after which the trained staff was deployed to specific functions within the office, for further on the job training. In some countries, after several years of services at an IP office, a number of such trained staff have left to join law firms or other IP-related businesses. This means that IP training programs at IP offices have contributed to the development of IP skilled human resources by constantly supplying experienced experts to the private sector. Though one could argue that this rather ad hoc form of IP education used to be sufficient, the acceleration in the use of the IP system and the importance IP has attained, on a global scale, has created a demand for more and better trained IP professionals, far beyond that which this rather limited approach could provide. While the following sections will illustrate the extent of that demand and how an attempt is being made to address lacunae in meeting it, it is clear that opportunities for IP education are still limited both in the scope, beneficiaries and availability of IP programs. IP issues have, for decades, been researched and discussed, on many occasions and in many different contexts, including national debates on revising and updating national IP laws, and debates in national and international fora on international IP treaties and conventions. WIPO, in cooperation with governments and IP-related non-governmental organizations, has provided assistance to academia and other IP institutions in their research and education activities and programs in the IP field. For example, as far back as 1981, WIPO's assistance resulted in the establishment of the International Association for the Advancement of Teaching and Research in IP (ATRIP), whose members consist of IP professors and researchers from all over the world.

Keywords: IPR education, University

1.0 INTRODUCTION: RECENT CHANGES IN IP EDUCATION

With the acceleration in the globalization of a world economy that is becoming increasingly knowledge-based, in the last decades, IP was recognized as a trade-related issue. With the adoption of the World Trade Organization (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights(the TRIPS Agreement), the obligations arising from its implementation prompted a comprehensive review of national IP legislation. This process awakened policy-makers in government and in the business sector to the increasing role of IP in development. The increasing prominence of IP on the national and international scenes has also had a significant impact on the way IP is taught and on the content of what is taught.

The following statistics demonstrate the magnitude of the changes that have taken place

in the ever-evolving and expanding relationship between IP and the world economy. In the 1980s, an estimated 40 per cent of the total assets of private corporations in the United States of America consisted of intangible assets. Today, that percentage has increased to approximately 70 per cent. The number of patent applications filed worldwide increased from 884,400 in 1985 to 1,599,000 in 2004. This rate of growth is about 5 per cent annual growth rate, which is comparable to the overall increase in economic activity (as measured by the world growth of GDP). Use of the patent system internationally has increased markedly in recent years. This can be seen by the increase (an average of 7.4 per cent a year since 1995) in patent filings with national patent offices by non-residents of the country of filing and in the dramatic increase in patent filings in countries such as Brazil, China, India, the Republic of Korea and Mexico. Though the use of the patent system remains highly concentrated in five patent offices (United States of America, Japan, Republic of Korea, China and the European Patent Office) accounting for 75 per cent of all patent applications and 74 per cent of all patents granted, the recent surge in the use of the patent system in emerging economies is impressive.

The growing impact of IP has also become a central topic of discussion in various media. It is now perceived as one of several factors that are key to a healthy and successful economy and "wealth . . . will increasingly gravitate to those countries who get three basic things right: the infrastructure to connect . . . ; the right education programs and knowledge skills to empower more of their people to innovate and do value-added work on that platform; and, finally, the right governance – that is, the right tax policies, the right investment and trade laws, the right support for research, the right intellectual property laws, and, most of all, the right inspirational leadership – to enhance and manage the flow with the flat world." According to one expert, IP is one of "four interconnected features of the modern market economy that are of decisive importance, especially for any discussion of global economic integration alongside with the corporation, innovation and the role and functioning of financial markets and . . . Given the role of innovation, intellectual property is not a marginal feature of the property-rights regime of a modern market economy, but its core. It is the most important example of property that only a powerful state can protect."

2.0 IP EDUCATION AT UNIVERSITY LEVEL

Students from a wide range of disciplines, including business, law, fine arts, engineering, the sciences, and journalism, could benefit from IP education; and many teaching programs should include IP in their curricula. A WIPO Worldwide Academy survey indicated that, in many countries, three programs stand out as most commonly including IP in their coursework.

First, basic law degree programs offer IP courses that give students a general understanding of the philosophy and application of IP law. Even law students who do not intend to specialize in IP should be made familiar with the basic rights that are protected by IP law. Most basic university training programs in the law faculty include courses in commercial law and property law, as well as courses dealing with civil and criminal procedures, together with whatever array and level of basic IP courses it might provide. Some specialized post-graduate (LLM) programs, including specialized IP–LLM degree programs typically provide a more comprehensive, specialized knowledge of the theory and practice of IP law.

Second, some business schools have introduced IP courses. Although IP does not yet feature significantly in the curriculum of most economics faculties, almost all business programs (B.A. and M.B.A.) include some over - view of the subject. It is important for students

who hope to go into business or government to have a basic understanding of the role that IP plays in the modern concepts and day-to-day realities of economics and trade.

Third, in some faculties of science and engineering, general aspects of IP are taught, since the need for students in these disciplines to understand the role of IP in the context of R&D and technology project management is being increasingly recognized. Engineering faculties, for example, are including such topics as the acquisition and management of IP rights (in particular patents). An increasing number of faculties of science and engineering have realized the need for expanded collaboration with industry. To facilitate such collaboration, further mutually shared goals and objectives and safeguard their interests, some universities have established an internal body to be in charge of the management of their IP. The Technology Licensing Office (TLO) facilitates the collaboration between universities and industry, monitors the results, and often adds value to those collaborations through licensing, co-financing and strategic transactional assistance with key players from industry. This trend, and the evolving role of the TLO, also encourages the expansion of basic, and even advanced, IP courses within the faculties of engineering and science, where the results of those collaborations are most visible.

It is difficult to estimate the number of universities in the world where IP is taught, due to the absence of reliable data, but a preliminary estimate by the WIPO Worldwide Academy indicates there are some 700 of them, with most of their IP courses being centered in the law faculty. IP courses are elective and often fairly brief. The majority of universities with IP courses on their curricula offer only general IP programs primarily focusing on the nature and extent of the rights which are protectable under IP law, and the impact and role of IP in the context of the knowledge-based, globalized economy. However, some countries offer more specialized and comprehensive IP courses. For example, in the United States of America, there are some 20 IP specialized LL.M. programs. In Japan, a few technical universities have started to offer a year-long IP course in conjunction with other technology related disciplines such as the management of technology (MOT). In France, several universities have compulsory IP courses in the science faculty. Recent trends suggest that more universities will include IP courses in their curricula, while existing IP courses will continue to expand, particularly in countries where IP activities have grown. For example, in China, the Ministry of Education has officially encouraged universities to set up Masters and Ph.D programs in IP law or IP management. As a result, at least sixteen universities now offer IP courses, including five universities where courses are taught at their law school dedicated to IP.

3.0 CHALLENGES FACING UNIVERSITIES

The results of a sampling of some twenty universities around the world – designed to pinpoint the current constraints and challenges faced by academic institutions in the area of IP education – indicated problems in: updating programs to keep up with dynamic and rapid changes taking place in IP laws; obtaining up-to-date materials necessary for the teaching of emerging IP issues; and enhancing the curriculum to make it suitable for an inter-disciplinary approach in which IP is taught in the light of its increasing role in such fields as business, commerce, science and engineering. On June 30 and July 1, 2005, WIPO hosted an International Symposium on IP Education and Research, at which the authors of several of the chapters of this book participated as panelists. The panelists made the following recommendations regarding the above problems:

- encourage and advocate at the highest policy level the strengthening of governmental support for IP education and research in the context of development;
- help developing countries establish institutional bases (e.g. IP research centers) and

more effective mechanisms to collect and disseminate current and relevant documentation for IP education and research (IP libraries);

- develop the inter-disciplinary nature of IP in curricula, and to bring other partners, such as those in the field of economics, business management, engineering, science and technology, culture, environment and sociology into that process;
- conduct IP research from a national strategic perspective to facilitate national debate and policy formulation in developing countries;
- start IP education at an early stage with a view to fostering a culture which respects creativity and which strives to curb IP abuses;
- explore various new and different sources of funding to enhance IP education and research;
- provide IP researchers in developing countries with opportunities to publish their work, both in their country, and externally;
- conduct joint research operations involving researchers from both developed and developing counties, in an attempt to find common grounds for the further development of the IP system;
- develop a range of models of IP curricula tailored to the needs of different target groups such as engineers and business managers; and
- develop mechanisms allowing universities to collaborate internationally through, for example, teacher and student exchange programs to promote sharing of teaching materials and useful information about IP issues.

The recommendations require further debate at the national level, because there is no "one-size-fits-all" solution and the background, development and needs of each country differ markedly. For instance, the quality of an IP education program depends on the availability and quality of the IP lecturers available to teach it. Ideally, good IP education should be provided by full-time university faculty members who have specific expertise in one or more aspects of IP. However, many universities do not have such specialists available, and IP education depends on professors who take an interest in the IP field, in addition to their main specialty. In some countries, practicing lawyers give part of their time to teach IP courses. Referred to as "adjunct professors", in the United States of America, these "outside" lecturers provide an effective and economical way of building a comprehensive and high-quality IP program. Adjunct professors can bring the benefit of many different areas of expertise to a university program and provide a breadth of expertise that would not otherwise be available to a university. However, in many countries where practicing and experienced IP lawyers are still scarce, different solutions need to be explored to meet the strong demand for IP teachers. There is no quick fix: IP education and research needs to receive enough political attention and support, including financial assistance, to enable universities to produce a national core of IP resource persons, with the intention of their becoming IP lecturers some day. Proactive government policies would make it possible to include more IP courses in the programs of national universities. The creation of a critical mass of IP educators, and the momentum associated with that process, would then encourage other universities to benefit from the initial steps already taken. The creation – in parallel – of a training center for government staff responsible for IP rights registration in the national IP Office, and the eventual expansion of the training center into a national IP Academy or Training Centre (which could offer training programs also to IP practitioners) would also contribute to IP education through the exchange of IP resource persons, teaching materials, and IP knowledge at a practical on-the-job level.

4.0 THE NEW IP PARADIGM AND ITS IMPACT ON IP EDUCATION

Given that results from most innovative and creative activities now have some form of IP

protection, and given that a well-functioning IP regime is one of the most crucial factors for success in an increasingly knowledge-based economy, the need for awareness and knowledge about IP is no longer limited to lawyers and technical specialists. In the field of copyright and creativity, consider merely the fact that millions of Internet users are now potential creators of copyright and related rights works, "[t]he success of advanced economies is increasingly dependent not on their physical capital, but on their capacity to mobilize their citizens' brainpower." Many newspapers featured the growing popularity of a website "YouTube" as one of the most significant events in 2006. The website allows a large number of users to post video clips of their own creation which are susceptible of copyright protection.

In the field of patents and innovation, the patent attorney has always needed to understand the science and technology of the invention, the IP of which he has been engaged to protect. Now, however, the scientist working in the R&D lab must also have a similar level of awareness of IP and what IP rights might arise from his scientific endeavors, for purposes of, for example, determining the ownership of IP rights, downstream benefit-sharing, research co-financing with other scientists or organizations, product development and marketing, and licensing and follow-on products. All of these patent-related considerations are best handled with the assistance of IP professionals (best if locally available in the country, however small in number) and also working with the scientists involved. Such a collaboration at an early stage is critical for effective IP management leading to successful product development and exploitation. The challenge of producing more and better qualified IP professionals and a more IP-conscious workforce needs to be seen now in the new context of a greatly expanded awareness of the use, value and potential of IP – what might be referred to as a "new IP paradigm." The new IP paradigm, where IP knowledge is necessary at many different levels of enterprise, government, activities of creativity and innovation, and in other stakeholders, is most obvious, and most effective, if IP education can be designed to cater to and support diversified needs in an inter-disciplinary manner. This is the context which is at the very center of the accelerating need for more and better educated IP professionals and IP workers.

While an increasing number of countries have taken a dynamic approach to modernizing their IP legislation and national IP policies, the approach to updating and enhancing IP education has often been slow. It is hoped that the authorities responsible for national education systems and those in academia will look closely into this. In the meantime, in industry and companies, where IP rights are increasingly involved in the crafting of management decisions and overall policy, the pace and nature of changes is much faster. Some private corporations proactively participate in and support IP education by providing financial contributions to IP courses and programs in developing countries. The participation of the private sector in IP education could contribute to meeting recent needs for an inter-disciplinary approach to IP which should benefit from various and actual experience in the management of IP assets. Ongoing efforts to improve IP education could also be greatly assisted if international cooperation to forge greater partnerships and more effective strategic cooperation among academic and educational institutions, companies and governments were strengthened. The WIPO Worldwide Academy made a first step towards the institutionalizing of international cooperation for IP education by launching a global network of IP Academies.

5.0 LIFELONG IP EDUCATION

The need for IP education is no longer limited to university students and specialist IP practitioners. Introducing young students, early

on, to the concepts and principles of the IP system and its incentives and infrastructure can pay dividends later. An effective and interesting introduction to IP allows children to see where their creativity can lead them and how their dreams and imaginings can result in actual products and services. At the same time, it teaches them to respect both the original work of others, and their own original work. It also teaches respect in general, and gives them a sense of what current business is about and lessons in how the power of human intellect, innovation and creativity can drive the economy in a sustainable manner.

Specially designed teaching programs which enable business executives and other adult groups to obtain basic or additional IP skills as well as up-to-date knowledge about emerging IP issues applicable to their business activities and career management, have all increased in response to the current dynamic evolution of IP. In some countries, more refresher courses are offered by organizations of IP professionals to their members who wish to obtain additional skills. More business schools are offering IP specialized courses which are now attended also by business managers. Some companies have included IP courses in the corporate educational program to ensure that all researchers, engineers, and managers contributing to the generation and exploitation of the corporate IP assets should fully understand and follow the corporate IP strategy and policies.

6.0 TEACHING METHODS, MATERIALS AND THE INTERNET

A comprehensive, detailed syllabus covering the entire course should be presented to the students in advance. A syllabus is a list (with some explanations) of the topics to be presented in the course, and the reading materials, which correspond with each topic. An effective syllabus might separate the topics to be covered in the class in outline form, list the days on which each topic will be covered, and give the names of authors, titles and page numbers of the reading materials. A syllabus provides a coherent outline of the course, giving the students in advance an idea of the topics to be covered, and giving them in retrospect a guide for reviewing what they have, or should have, learned in the course. In scheduling topics for the various class sessions, the amount of time spent on each subject should correspond with the relevance, importance or difficulty of the subject. However, some advanced subjects should only be mentioned in passing and should be left for more advanced courses, or self learning according to the student's needs or interest. This publication includes advice and ideas from our very experienced authors on setting a syllabus. Some selected curricula are also posted on the WIPO Worldwide Academy's website for reference.

In the case of general courses (i.e. basic, broadly focused courses which are designed to give an overview of the various fields of intellectual property), it is important to stimulate the interest of students and allow them to understand better that IP is highly relevant to their daily life. As often is the case, strictly legal aspects of IP are not always easy to digest. An effective technique in an introductory course is to present specific facts concerning current topics involving IP, connecting those topics to how and in what ways they might manifest or impact the daily lives of the students, and thereby hopefully interest the students a bit more – those students might even decide on some specialty focus in IP for their career as a result of that course. In preparing teaching materials, those used by other lecturers can be a starting point for a new IP lecturer. Today, enormous amounts of information are made available through the Internet. In giving reading assignments, students should be encouraged to search for relevant resources themselves, using the Internet and other appropriate sources. For specific thematic surveys, a number of portals focusing on IP issues and websites dedicated to

IP subjects are also useful in locating the most relevant and up to date resources (for example, in addition to the WIPO website itself, the WIPO website offers links to other IP-related organizations).

REFERENCE:

1. www.wipo.int/treaties/en/general/.

2. www.atrip.org/.

3.www.wto.org/english/tratop_e/trips_e/trips_e.htm.

4. Kamil Idris, IP– A Power Tool for Economic Growth, Chapter 3, "Intellectual Property, Knowledge and Wealth Creation", WIPO Publication No. 888 (www.wipo.int/about-wipo/en/dgo/wipo_pub_888/wipo_pub_888_index.htm).

5. WIPO Patent Report 2006 (www.wipo.int/ipstats/en/statistics/patents/patent_report_2006.html#P70_1820).

6. Thomas L. Friedman, The World is Flat, Chapter 8: "The Quiet Crisis", published with updates by Penguin Books (2006).

7. Martin Wolf, Why Globalization Works, Chapter 4: "The Magic of the Market", published by Yale University Press (2004).

8. Kamil Idris, IP– A Power Tool for Economic Growth, Chapter 4: "Patents, Research and Development, and New Technologies", WIPO Publication No. 888.

9. Information provided by Prof. Shengli Zheng, IPSchool, Peking University, China.

10.www.wipo.int/meetings/en/details.jsp?meeting_id=8083.

11. "The Battle for Brainpower, A Survey of Talent", The Economist, October 7, 2006.

12.www.china.org.cn/english/culture/93464.htm, visited on March 2, 2006.

13. WIPO Press Release UPD/2007/290 at www.wipo.int/pressroom/en/articles/2007/article 0022.html.

Intellectual Property Rights Vis-a -Vis Constitutional Rights With Special Reference to Copyright

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ABSTRACT: Intellectual Property is the creation of mind, human and intellect and hence called 'Intellectual Property'. With the establishment of the World Trade Organization (WTO) Intellectual Property Rights (IPR) attracted the attention of international community. The Indian Constitution enumerated various rights including fundamental rights, freedom and also laid down economic, social, and political justice to every citizen in the country. The intellectual property right is not expressly recognized as property right by the Indian Constitution but at the same time under Indian Constitution does not expressly exclude the Intellectual property Rights. The individuals are granted the liberty to write a book and publishing the same is now protected under the Indian Constitution. Any copyright infringement comes within the purview of the restriction under morality as laid down under Article 19(2) of the Constitution. This article proposes to deal with some aspects of the laws relating to the Intellectual Property especially law relating to copyright and its relation with the Constitutional Rights.

Keywords: IPR, Fundamental Rights, Copyright, IPR laws.

1.0 Introduction

Intellectual Property includes Patents, Designs, Trademarks, Copyright confidential information and Trade Secrets. It plays crucial role in the development of industry; regime of Intellectual Property has come to a full circle. Intellectual Property Rights (IPR) system has many different forms commerce and trade and in the growth of creative effort in almost every field of human Endeavour[1]. Beginning with the Paris Convention on Intellectual Property 1833 and with the conclusion of TRIPS (Trade Related Intellectual Property Rights) agreement of World Trade Organization, the legal of protection of IPR are independent of each other and are governed by separate laws. This law is incorporated in the Patent Act, Trade Mark Act and Copy Right Act.

Present era is an era of knowledge, knowledge is inherently non rivalries. That means one person's possession use and enjoyment of the good. The importance of Intellectual Property in India is well established at all levels be it at statutory, administrative and judiciary. After the entry into force of TRIPS agreement, India has given effect to its different provisions through emending the existing intellectual property laws or legislation new ones. In this process the present topic Intellectual Property Rights Vis-à-vis Constitutional Rights chosen by the Scholar is of contemporary significance and relevance. Having decided that, I wanted to share my thoughts with you all on a contemporary issues relating to Intellectual Property Rights under Part-I. It includes the concept of Property, Concept of Intellectual Property, kinds of Intellectual Property, Nature and Scope of Intellectual Property. Under Part II includes the Copy Right Law in general and its relevance under Constitution of India.

1.1.Part one of the Article Intellectual Property Rights

In today's world the international

[1]*Pratibha M. Singh & Sunil B.Krishna(Ed.), The value of Intellectual Property, A Journal of Manupatra Intellectual Property Reports, Vol.1, Part-2, January 2007, p.S-29.*

dimension of intellectual property is of ever increasing importance for three compelling reasons[2] . First, the composition of world trade is changing. Currently, Commerce in intellectual property has become an even greater component of trade between nations. The value of information products has been enhanced greatly the new technologies of the semi-conductor chip, computer software and biotechnology. Second, the world commerce has become even more interdependent, establishing a need for international cooperation. No longer can a single country impose its economic will on the rest of the world. Accordingly, countries have recognized this interdependence and have called for a broadcasting of international agreements/arrangements involving intellectual property. Third, a third new reprographic and information storage technologies permit unauthorized copying takes place in the third world due to the relaxation of legal standards. All these factors have prompted the international community as a whole to accord due recognition to intellectual property regime. Thus the above reasons widen the scope of intellectual property rights.

2.0 Concept of Intellectual Property

Properties are two types, either tangible or intangible i.e., touchable or non-touchable. Land, house, jeweler, cash etc., are some examples of the tangible property that can be seen and touched. But there is a kind of property that cannot be touched. Intellectual property is one of them. It is more precious than the tangible ones. In R.C. Cooper Vs Union of India[3] the Supreme Court has very rightly described the definition of property in a very compendious form;

"Property means the highest right, a man can have to anything, being that which one has to land or tenements, goods or chattels which does not depend on another's courtesy: it includes ownership, estates and interests in corporeal things, and also rights such as trademarks, copyrights, patents and even rights in personam capable of transfer or transmission, such as debts; and signifies a beneficial right to or a thing considered as having a money value, especially with reference to transfer of succession, and to their capacity of being injured".

Intellectual property is the creation of human mind, human intellect and hence called "Intellectual Property". Intellectual Property, although a hidden property, is an important means of accumulating tangible wealth. Intellectual properties and intangible assets jointly form the most important driving force of the world economy. That is why, multinational companies and international corporations have invested enormous amount for the enrichment of their intellectual property.

It is remarkable that with every property comes the question of its protection and security. The intellectual properties have different kinds of dangers. If a tangible property can be stolen, an intellectual property has the fear of being pirated. Piracy or illegal copying is the most serious concern of the intellectual property protection because it gives a jolt to the originality of the intellectual product and its creator.

The term intellectual property indicates a specific legal term, now-a-days 'IP' or 'IPR' has become the fashionable name of intellectual property. Random House Webster's Unabridged Dictionary defines the term 'Intellectual Property' that results from original creative thought as patens, copyright material and trademarks.

In very general terms intellectual property can be defined as a right in a property created by expending intellectual efforts. Of late for reaching and all pervasive amendments have

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[2] *https://www.abyshinialaw.com, written by Balew Mersha, ABYSSINIA Law, 2nd April, 2012.*
[3] *AIR 1970, SC 564: (1970) 3 SCR 530.*

been carried out in these laws in order to ensure that these laws are accordance with India's obligations as a signatory of the Trade Related Intellectual Property Rights (TRIPS). Instead of speaking in general terms about intellectual property it would be better to focus on particular aspects of intellectual property law and discuss them context of the far reaching changes that the law of intellectual property is experiencing. Being an emergent player in the world polity and economy in India cannot choose to be oblivious of these changes.

The Convention establishing the World Property Organization (WIPO) concluded in Stockholm on July 14, 1967 Art.2 (vii) provides that 'Intellectual property shall include rights relating to:

1. Literary, artistic and scientific works;
2. Performances of performing artists, phonograms and broadcasts;
3. Inventions in all fields of human behavior;
4. Scientific discoveries;
5. Trademarks, service marks, and commercial names and designations;
6. Protection against unfair completion and all other rights resulting from intellectual activity in industrial scientific, literary or artistic fields.

2.1 There are two opinions about Intellectual Properties

The Concept of Intellectual Property contains two important jurisprudential opinions. Salmond in his classic work on Jurisprudence said that in modern law "every man owns that which he creates". The immaterial product of a msn's brains may be as valuable as his land or his goods. The law therefore gives him a proprietary right in it, and the unauthorized use of it by other persons is a violation of his ownership[4]. He also enumerates some traditional intellectual properties, Patents, Copyright, Trademarks and Trade names.

Jeremy Phillips in his opinion Copyright, Trademarks, Designs and Patents are intangible personal properties whereas land, buildings are tangible immovable properties. Intellectual Property is property in legal sense, it is something that can be owned and dealt with.

The rights of intellectual property are created and protected by statutes. An invention may relate to a new product or an improvement of an existing product or a new process of manufacturing or existing or new product. These immaterial products arise out of human brain and they must be treated as valuable as his lands or goods. It includes anything that would result from the human intellect[5].

Generally speaking Intellectual Property law aims at safeguarding creators and other producers of intellectual goods and services by granting them certain time-limited rights to control the use made of those productions. These rights do not apply to the physical object in which the creation may be embodied but instead to the intellectual creation as such, Intellectual Property is traditionally divided into two branches

i. Industrial Property

ii. Copyrights and Neighboring Rights.

The Industrial Properties are Patents, Trademarks, Industrial designs, Layout design and Geographical indications etc. whereas the Copyright and Neighboring rights are Writings, Musical works, Dramatic works, Audio-visual works , Paintings and drawings, Sculptures, Photographic works, Architectural works, Sound recordings, Performance of musicians, actors and singers, and broadcasts etc.

Intellectual Property is an intangible right exercisable and asserted in respect of a material or tangible work. In Gramophone Company India Ltd. Vs Birendra Bahadur Pandey,[6] the Supreme Court has observed that intellectual properties are brainchild of the authors, the fruits of labor and therefore considered to be their property.

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[4] *Salmond on Jurisprudence, 12th Edition, Pp.422-423.*

[5] *Jermy Phillips, Introduction to Intellectual Property Law, London; Butterworths, 1986, p.3.*

3.0 Nature of Intellectual Property:

Intellectual Properties have their own peculiar features. These features of Intellectual Properties may serve to identify intellectual properties from other types of properties[7]. Thus, we will discuss them in brief.

1. Territorial: Any intellectual property issued should be resolved by national laws. Why it is an issue? Because intellectual property rights have one characteristic which other national rights do not have. In ownership of intellectual property of immovable properties, issues of cross borders are not probable. But in intellectual properties, it is common. A film made in Hollywood can be seen in other countries. The market is not only the local one but also international. If a design in China is imitated by another person in France which law would be applicable?

2. Giving an exclusive right to the owner: It means others, who are not owners, are prohibited from using right. Most intellectual property rights cannot be implemented in practice as soon as the owner got exclusive rights. Most of them need to be tested by some public laws. The creator or author of an intellectual property enjoys rights inherent in his work to the exclusion of anybody else.

3. Assignable: Since they are rights, they can obviously be assigned (licensed). It is possible to put a dichotomy between intellectual property rights and the material object in which the work is embodied. Intellectual property can be bought, sold, or licensed or hired or attached.

4. Independence: Different intellectual property rights subsists the same kind of object. Most intellectual property rights are likely to be embodied in objects.

5. Subject to public policy: They are vulnerable to the deep embodiment of public policy. Intellectual property attempts to preserve and find adequate reconciliation between two competing interests. On the one hand, the intellectual property rights holders require adequate remuneration and on the other hand, consumers try to consume works without much inconvenience. Is limitation unique for intellectual property?

6. Divisible (Fragmentation): Several persons have legally protected interests evolved from a single original work without affecting the interest of other right holders on that same item. Because of the nature of indivisibility, intellectual property is an inexhaustible resource. This nature of intellectual property derives from intellectual property's territorial nature. For example, an inventor who registered his invention in Ethiopia can use the patent himself in Ethiopic and License it in Germany and assign it in France. Also, copyright is made up of different rights. Those rights may be divided into different persons: publishers, adaptors, translators, etc.

4. 0 Scope of Intellectual Property Rights

The scope of Intellectual Property Rights is broad, consisting of many aspects. It covers the following various Intellectual Properties.

Patents: A Patent is a type of intellectual property right which allows the holder of the right to exclusively make use of and sale an invention when one develops an invention. Invention is a new process, machine, manufacture, composition of matter. It is not an obvious derivation of the prior art (It should involve an inventive step). A person who has got a patent right has an exclusive right. The exclusive right is a true monopoly but its grant involves an administrative process.

Copyright: It is an intellectual property which does not essentially grant an exclusive right over an idea but the expressions of ideas which makes if different from patent law. Patent is related with invention, technical solution to technical problems. Copyright is a field which has gone with artistic, literary creativity, creativity in scientific works, audio-visual works, musical works, software and others. There are neighboring rights. These are

[6] *AIR 1984 SC 667: (1984) 2 SCC 534.*

[7] *Dr.S.R.Myneni, Law of Intellectual Property, Asia Law House, Hyderabad, 9th Edition, 2019, p.2-3.*

different from copyright but related with it- performers in a theatre, dancers, actors, broadcasters, producers of sound recorders, etc. It protects not ideas but expressions of ideas as opposed to patent.

Copyright protects original expression of ideas, the ways he works are done; the language used, etc. It applies for all copyrightable works. Copyright lasts for a longer period of time. The practice is life of author plus 50 years after his/her life. Administrative procedures are not required, unlike patent laws, in most laws but in America depositing the work was necessary and was certified thereon but now is abolished.

Industrial Design Law: Some call this design right (European) and some call it patentable design, industrial design (WIPO and other international organization). A design is a kind of intellectual property which gives an exclusive right to a person who has created a novel appearance of a product. It deals with appearance: how they look like. Appearance is important because consumers are interested in the outer appearance of a product. It is exclusively concerned with appearance, not quality.

The principles which have been utilized in developing industrial design law in developing industrial design law are from experiences of patent and copyright laws. It shares copyright laws because the design is artistic. It shares patent law because there are scientific considerations. Design law subsists in a work upon registration and communication. It makes them close to patent law since they are also founded in patent law. Duration is most of the time 20 years like the patent law trademark rights law.

Trademarks Rights Law: It is a regime of the law giving protection to graphic representation to work or logos or depending on the jurisdiction question such as sound or smells which are distinctive in nature and serve as source identification. There is also a recent phenomenon which is representing goods in their smell and sound. It is to be found on the goods associated with them. It enables the customer to identify the goods from others. They serve as a source identifier. Trademarks perform communication function. Once there is a valid presentation, it gives the mark owner an exclusive right. It begins with registration and publication of the mark. But there are exceptions which serve what trademarks registered serve which are not registered. They exist forever so long as the good with which they are associated continue to be sold. But they require renewal.

Right of Publicity: It protects the right to use one's own name or likeness for commercial purposes.

Geographic Indication: It is indications on products of the geographic origin of the goods. It indicates the general source. The indication relates to the quality or reputation or other characteristics of the good. For example, "made in Ethiopia" is not influenced by the geographical indication. Geographical indications are sometimes called appellations of origin. For example, "Sheno lega" "shampagne" (name of a region in France) are geographical indications.

Trade Secrets: It gives the owner of commercial information that provides a competitive edge the right to keep others from using such information if the information was properly disclosed to or acquired by a competitor and the owner of the information took reasonable precautions to keep it secret. It protects confidential secrets of some commercial value. The holder of the secret wants this information to be protected; some protect the holder from an unauthorized disclosure of the information. A tort law, unfair competition or contract law can protect such information which is secret /confidential information. The holder (owner) has to do his/her best to keep the information secret. Trade secrets exists without registration as it is to make the information public, for example, the formula of Coco Cola. Information that are protected in trade secrets can be patentable if they are novel and non obvious. But it is, most of the time, not to make the secret public.

However, their full-fledged IP rights are contestable.

5.0 Law of Intellectual Property Rights

Intellectual Property protects applications of ideas and information that are of commercial value. The subject is growing in importance, in the advanced industrial countries is particular, as the fund of exploitable ideas becomes more sophisticated and as their hopes for a successful economic future come to depend conceits. There has recently been a great deal of political and legal activity designed to assert and strengthen the various types of protection for ideas.

The various types of intellectual property as envisaged by World Intellectual Property Organization (WIPO) and Trade Related aspect of Intellectual Property Rights (TRIPs) have specific aims and objects. The protection of Intellectual Property provided the following various enactments.

1. The Copyright Act, 1957 (amended in 1999)
2. The Patents Act, 1970 (amended in 1999, 2002 and 2005)
3. The Trademarks Act, 1999
4. The Geographical Indications of Goods (Registration and Protection) Act, 1999
5. The Designs Act, 2000
6. The Semiconductor Integrated Circuits Layout Designs Act, 2000
7. The Protection of Plant Varieties and Farmers' Rights Act, 2001
8. The Biological Diversity Act, 2002.

6.0 Copyright Law and its relevance under Indian Constitution

The next issue relates to Copyrights, its relevance in the Indian Constitution. Copy right is an exclusive intellectual property right. Copyright is a right given to the owner or to the licensee against the copying of original work of cultural information and entertainment production. Thus it protects the expression not the idea itself but in a tangible form.

Copy right means the exclusive right to copy or reproduce a work in which the copyright subsist wholly or in part in any material form. In India copyright is recognized, granted and enforced by the Indian Copyright Act, 1957 under the present frame of laws there is no uniform law of copyright. The Act contains total 79 sections and 15 chapters. The Copyright [Amendment] Act, 2012 has a long history behind it. It was introduced into the Parliament as the Copyright [Amendment] Bill 2010 after the Report of the Standing Committee on Human Resource Development. This Act received the assent of the President on June 7, 2012 and through notification and shall come into force[8].

The Copyright Act, 1957 which was amended in the year 2012 contains the following sections in outline. Chapter1. Preliminary [Sections 1-8], chapter 2. Copyright Office & Appellate Board [Section 9-12], Chapter 3 Copyright [Sections-16], Chapter 4 Ownership of Copyright and Rights of the Owner [Sections 17-21], Chapter 5 Term of the Copyright [Sections 22-29], Chapter 6 Licenses [Sections 30-32B], Chapter 7 Copyright Societies [Sections 33-36A], Chapter 8 Rights of Broadcasting Organization and of performers [Sections 37-39A], Chapter 9 International Copyright [Sections 40-43], Chapter 10 Registration of Copyright [Sections 44- 50A], Chapter 11 Infringement of Copyright [Sections 51-53A], Chapter 12 Civil Remedies [sections 54-62], Chapter 13 Offences [Sections 63-70], Chapter 14 Appeals [Sections 71-73], Chapter 15 Miscellaneous [Sections 74-79].

6.1.1. Preamble of Indian Constitution:

The preamble of our constitution envisages the liberty of thought and expression. Every citizen of India enjoys full liberty to express himself or their self. The preamble of our constitution plays a vital role in determining the purview of fundamental rights guaranteed to the people which is enshrined in Part III of the

[8] *T.Ramappa, Intellectual Property Rights Law in India, Asia Law House, Hyderabad, 2nd Edition, P.11.*

constitution. The conceptual dimension of fundamental rights or human rights is contained in the preamble of constitution itself.

6.1.2. Freedom of Speech under Fundamental Rights

Article 19(1) (a) Freedom of speech and expression

Article 19 (1) (f) the right to acquire, hold and dispose of property which was specified as a fundamental right in article 19(1) (f) and it has been deleted by the Constitution 44th amendment Act, 1978. Articles 20, 21 and 22 listed under the reading Right to Freedom while Article 20 and 22 confer protection in respect of trial of and conviction for offences and provide certain safeguards in respect of arrest and detention, including preventive detention, the other two articles 19 and 21 cover between themselves all other freedoms and liberties and while of such freedoms or liberties have been distinctly and separately dealt with in article 19 (1) and Article 21 takes in Comprises and residue. It is also said that copyright is a property then the mandate in Article 300 A to the effect that no person shall be deprived of hi property save of authority of law.

Under the Copyright Act, 1957 a Copyright is the instrument used to protect the rights of authors of literary and artistic works such as books and other writings, musical compositions, paintings, sculpture, computer programs and films for a minimum period which is the life of the author plus 60 years after his death. Sometimes in addition to these rights the copyright also seeks to protect other related rights such as the right of performer such as actors, singers and musicians, producers of phonograms (sound recordings) and broad casting organizations[9].

After the decision of Supreme Court in Secretary, Ministry of Information Broadcasting Vs Cricket Association of Bengal[10] it is well established that the right to freedom of speech and expression as provided under Article 19 (1) (a) includes within its fold the right to be educated, informed and entertained. This has off late led to the controversy regarding whether the concept of copyright in literary, musical and artistic works being vested in a particular person is in effect a violation of the fundamental right to other citizens to have access to the same creative works for the purposes of education, information and /or entertainment.

Article 21 of the Constitution of India

The right or liberty to write a book, to publish some and sell copies thereof, are also freedom protected as fundamental right under Article 21 of Constitution of India. In later decision in Francis Caralie Mullin[11] Justice Bhagwati who delivered the leading judgment in Maneka Gandhi[12] has observed that "reading and expressing oneself in diverse form" are fully covered by and guaranteed under life/liberty clause in Article 21. It is also said that 'copyright' is a 'property', then the mandate in Article 300A to the effect that 'no person shall be deprived of his property save of authority of law'.

In this regard there are various national laws and international conventions providing protection to these rights usually expressly otherwise under the subject 'freedom of speech and expression'.

Universal Declaration of Human Rights (UDHR) under its Article 19 gives everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers. Article 10 of the European Convention on Human Rights (ECHR) provides for freedom to receive and impart information. Also Article 19 of International Convention on Civil and Political Rights provides every one shall have the right to freedom of expression; this right shall include

[9] *Justice N. Santosh Hegde, Intellectual Property Rights vis-s-vis Constitutional Rights, NYAYA DEEP, The Official Journal of NALSA, Vol.VI, Issue 1, January, 2005, P.51.*

[10] *(1995) 2 SCC 16.* [11] AIR 1981 SC 746 [12] AIR 1978 SC 597

freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice.

Apart from the above Article 13 of American Convention on Human Rights, Article IV of the American Declaration of Rights and Duties of man, Article 9 of the Charter of Human Rights and Peoples rights, Article 5 of the International Convention on Elimination of Racial Discrimination and Article 2, 12, and 13 of the Convention on the Rights of the Child provides for the protection of freedom of speech and expression through press. One of the most important components of freedom of speech and expression is free and unhindered use of the appropriate language. A society cannot effectively communicate if a restriction of sanction is imposed on it in only mariner whatsoever. A copyright would confer an indirect copyright in the language itself, which cannot be justified in any circumstance. Such a claim would definitely be vocative of Article 19 (1) (a) of the Constitution of India.

7.0 Conclusion

From the above discussion it may be concluded that the Intellectual Property Rights which effectively protects the entire field of individual interest of personality and individual interest of substance. The scope of IPR laws are fundamentally to protect the subject matters of creation of product of mind, to lay the qualifications for protection, procedure for claiming to determine the Substantive criteria, to set exclusive rights. The Constitution of India is supreme contained certain important intellectual rights which should not be infringed.

REFERENCES:

1. Dr. B.L.Wadhera, 'Law Relating to Patents, Trade-Marks, Copyright, Design and Geographical Indications' (2000), Universal Law Publishing CO. Ltd, New Delhi.

2. Dr. S.R. Myneni, 'Law of Intellectual Property', 6th Ed, (2012-13), Asia Law House, Hyderabad.

3. Brad Sherman and Linel Bently; 'The Making of Modern Intellectual Property Law', (1999), Cambridge Press.

4. David Bainbridge; 'Cases and Materials in Intellectual Property Law' (1995), Pitman Publishing, London.

5. P.S. Narayana; 'Intellectual Property Law in India', (2000) Gogia Law Agency, Hyderabad.

6. Ishita Chatterjee, 'Copyright Law', 1st Ed, (2011), Central Law Publications, Allahabad.

7. Prof. Kailash Rai, 'The Constitutional Law of India', 8th Ed (2009), Central Law Publications, Allahabad.

ARTICLES:

1. Ganesh A.V; 'Uruguay Account an Opportunity', The Hindu, January 25-28, 1994.

2. Justice Krishna Iyer V.R; 'GATT, TRIPS and Patent Law', The Hindu, September 11-12, 2000.

3. Sukumar Muralidharan; 'WTO and Patents – A Trade Offensive', Frontline, December 13, 1996.

4. Tarun Kabiraj; 'Intellectual Property Rights, TRIPS and Technology Transfer', Economic and Political Weekly, November 19, 1994.

5. Justice Jeevan Reddy B.P; 'India and the WTO', The Hindu, November 19-20, 1999.

REPORTS

1. Manupatra Intellectual Property Rights (MIPR), January 2007, Volume 1, Part1.

AN OVERVIEW OF GEOGRAPHICAL INDICATIONS IN INDIA

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ABSTRACT: Geographical indications have appeared quite recently in the landscape of Intellectual Property Rights (IPR's) in comparison with more classical concepts such as trademarks, patents and copyright. GI has evolved in order to provide protection for the indigenous knowledge in the agrifood sector without hampering the culture of free trade. This paper seeks to establish some clarity regarding the protection that can be provided through GI. Also has explained the rationale behind the official recognition of GI i.e. to reduce the asymmetry of information between the producers and the consumers. This paper has also dealt with providing overview of Geographical Indication (GI).

Key words: Geographical Indication (GI),IPR and Trademarks

1.0 Introduction:

Geographical Indication (GI) is a sign used on a product that originates from a specific geographical location. The product must possess reputation and qualities of the place of origin. GI are generally registered on products produced by rural, marginal and indigenous communities over generations that have garnered massive reputation at the international and national level due to some of its unique qualities. GI tag gives the right to only those registered users the right to use the product name, and prevents others from using the product name that does not meet the standards prescribed. Presently, in India the Geographical Indications (GI) have emerged as an important form of Intellectual Property Rights (IPR) issue. GI provides the producers of a region the exclusive right to use the indication for their products originating from that region. It also means that they have the right to prohibit any unauthorized use or imitation of the sign on a product that is not from the designated area or which does not have the qualities guaranteed by the GI.

Government of India enacted Geographical Indications of Goods (Registration and Protection) Act, 1999. This act came into force in September, 2003.

2.0 Geographical Indication Registered Products in India

As of March 2020, India had registered 361 Geographical Indication Products. Registration of GI's began in the year 2004-05 after the above mentioned law came into effect in 2003. Darjeeling Tea of West Bengal was the first product to receive the GI tag in India. Both the product and the logo received the GI tag. In the first year apart from Darjeeling Tea, the other products to receive GI tags were Aranmula Kannadi a Handicraft from Kerala, Pochampalli Ikat a Handicraft from Telangana.

The latest 4 products to receive GI tags were Dindigul Locks, manufactured product from Tamil Nadu, Kandangi Saree a handicraft of Tamil Nadu, Srivilliputtur Palkova Food stuff of Tamil Nadu, and the 361st GI product (the last product to receive GI Tag as of March 2020), is Kaji Nemu an agricultural product of Assam. Out of 361 GI products registered in India, 15 products are originating from 9 different countries – Italy, France, UK, USA, Ireland, Mexico, Thailand, Peru, Portugal.

2.1 Geographical Indication States in India

1. Karnataka has the highest registered GI products in India. It has 42 GI products.

2. Tamil Nadu has the 2nd highest GI registered products. It has 35 GI products.

3. Maharashtra has the 3rd highest GI registered products. It has 30 GI products.

4. Jharkhand has no GI's registered.

5. Haryana and Punjab does not have GI products registered under its name individually.

3.0 Need for Geographical Indication (GI) and protection

Registering Geographical Indication is always beneficial as the owner can prevent others from unauthorized usage or from commercializing of the registered product. However the registration of GI is not mandatory in India, unregistered GI are protected under passing off cases, but it's always advisable to register the geographical origin as no further proof is required.

3.1 Who can apply for GI?

Geographical indication is generally owned by a community. Any organization or association of people established under law can apply for geographical indication in prescribed format indicating the interest of the producers of the concern goods.

3.2 What does not qualify for GI?

The following are the geographical indications that cannot be registered in India:

i. Things which are determined to be generic names or indications of goods and are, therefore, not or ceased to be protected in their country of origin, or which have fallen into disuse in that country

ii. Things which comprise or contain any matter likely to hurt the religious susceptibilities of any class or section of the citizens of India

iii. Things which would otherwise be disentitled to protection in a court

iv. The use of which would be likely to deceive or cause confusion

v. The use of which would be contrary to any law for the time being in force

vi. Things which comprise or contain scandalous or obscene matter

vii. Things which although literally true as to the territory, region or locality in which the goods originate, but falsely represent to the persons that the goods originate in another territory, region or locality, as the case may be.

4.0 Guidelines for filing of geographical indication application

The purpose of this guideline is to give elementary information for filing of an application. The guidelines are subject to requirements of the Act and Rules. An application for registration of a geographical indication is to be made in writing using a replica of the official application Form GI-1 for the registration of a Geographical Indication in Part A of the Register by an Indian applicant; Form GI-2 for a convention application; an application for goods falling in different classes by an Indian applicant in Form GI-3 and an application for registration of goods falling in different classes from a convention country in Form GI-4 along with prescribed fee and should be addressed to the "Registrar of Geographical Indications", Chennai. The application should include the various requirements and criteria for processing a geographical application as specified in Rule 32(1).

5.0 Benefits of Registration of Geographical Indications

1. It confers legal protection to Geographical Indications in India,

2. It prevents unauthorized use of a registered Geographical Indication by others.

3. It boosts exports of Indian Geographical indications by providing legal protection.

4. It promotes economic prosperity of producers.

5. It enables seeking legal protection in other WTO member countries.

6.0 Challenges and Problems in the Post GI Act and rules

The Government of India has established the Geographical Indications Registry'with all-India jurisdiction at Chennai, where the GIs can be registered. Authority's claim that this Act has two key characteristics; (i) protection of

producers against counterfeiting and misleading commerce, and (ii) striking of balance between trademark and GI protection. According to this Act, once a GI is registered, any person claiming to be the producer of the good designated by the registered GI can file an application for registration as an authorised user. The GI Act is to be administered by the Controller General of Patents, Designs, and Trademarks – who is the Registrar of GIs. The registration of a geographical indication is for a period of ten years. Renewal is possible for further period of ten years. If a registered GI is not renewed, it is liable to be removed from the register.

7.0 Conclusion :

India is in evolving era of the new upcoming intellectual property i.e. geographical indications. Total registered geographical indications are gradually increasing year by year. Odisha is one of the states coming up as a potential player in this area. For Karnataka, number of other GI applications can be filed in the fields of Manufacture, Food stuff, textiles and Natural Goods. To be qualified as a GI, a product or service may be described and designated as such only where specific aspects of that geography contribute to its uniqueness. This creates the intrinsic link between the product and the geographic location and is very critical when it comes to identification of GIs.

REFERENCES:

Das, K. (2006a) 'International Protection of India's Geographical Indications with Special Reference to ''Darjeeling'' Tea', Journal of World Intellectual Property. 9(5), 459–95.

Das, K. (2009) 'Unresolved Issues on Geographical Indications in the WTO', in C. M. Correa (ed.), Research Handbook on Intellectual Property Law and the WTO. Edward Elgar Publishing, Cheltenham (forthcoming)

Ganguli P, WTC Research study Report Geographical Indications its evolving controls,Jan. 2009, p.4

Gopalakrishnan, N. S., Nair, P. S. and Babu, A. K. (2007) Exploring the Relationship between Geographical Indications and Traditional Knowledge: An Analysis of the Legal Tools for the Protection of Geographical Indications in Asia, International Centre for Trade and Sustainable Development (ICTSD), Geneva.

http://www.wipo.org/athome/en/index.htm > (Last accessed on 10.01.2014)

Kasturi D, Socio-Economic Implications of Protecting Geographical Indications in India, August 2009, Centre for WTO Studies, p.6.

Rangnekar, D. (2004). The socio-economics of geographical indications. UNCTAD ICTSD Project on IPRs and Sustainable Development, Issue Paper, 8.

AN OVERVIEW OF INTELLECTUAL PROPERTY RIGHTS AND ITS IMPORTANCE

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ABSTRACT: The Intellectual Property Rights are those which gives exclusive rights to the inventor or creator for his valuable creation. They are intangible in nature and in the present context of globalization, they are the focal point in the global trade practices. IPR came into existence to serve the basic goal and to protect the interest of individuals. There are several types of Intellectual Property protection like Patents, Copyrights, Trademarks etc.IPR is pre requisite for better identification, planning, commercialization, rendering and there by ensure protection of invention or creativity.

Keywords: Intellectual Property, Patent, Copyright, Trade Marks, Industrial Designs

1.0 Introduction:

The world is driven by modern technology, where new creations and inventions enable any nation to compete with other nations in technology and trade. In the Indian context it can be said that Intellectual Property Rights have a decisive role to play in the overall economic development and trade practices. India ranked 40th in 2020, scoring 38.4 out of 100 on a set of 50 intellectual property related indicators released annually by the United States Chamber of Commerce, Global Innovation Policy Centre.(GIPC) The index evaluatesc IPR in 53 global economies from patent and copyright policies to commercialization of Intellectual Property assets and ratification of international treaties.

Intellectual Property Rights development in other sense is the development of the society, and the policy framework has to be in consonance in creating awareness. Lack of IPR awareness has resulted in the death of inventions, high risk of infringements, economic loss and decline of intellectual era in the country. There is a need for dissemination of Intellectual Property Rights information, so as to boost indigenous inventions and developments in the field of research and technology.

2.0 WIPO:

The World Intellectual Property Organization(WIPO) was incepted in 1967 at Stockholm to protect the IPR throughout the world. Later it becomes one of the agency of United Nation in 1974. WIPO frameworks as well as regulate various policies concerned to IPR across the globe. The economic, social and sustainable cultural development with preservation of biodiversities, traditional knowledge through a balance and effective international IP system is main objective of WIPO. Besides this, it is responsible to harmonize differences amongst various countries especially between the developed and developing nations by amending international regulation so that each of them get a equal opportunity in emerging world., Intellectual Property Rights, Meaning and Classification

Intellectual refers to a person's ability to think in a logical way and to understand things. IPR are the rights given to the persons over their 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. It is an intangible property of the person, who took pains and hardship for invention or creation. Therefore as per law, legal rights or monopoly rights are given to creator or innovator to enjoy the economic benefits of his/her invention.

Intellectual Property is protected in law, for example patents, copyrights and trademarks which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance between the interest of the innovators and the wider public interest, the Intellectual Property system aims to foster an environment in which creativity and innovation can flourish.

3.0 Types of Intellectual Property

3.1.1. COPYRIGHT

Copyright is a legal term used to describe the rights that creators have over their literary and artistic work. Works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings .Copyrights laws in India are governed by Copyright Act 1957, which has been amended six times, with the last amendment in 2012. It is a comprehensive statute providing for copy right, moral rights (known as authors rights) and neighbouring rights (rights of the broadcasting organizations, performers etc). The Act provides for exhaustive economic rights in various works that are transferable and enforceable by the authors and legal representatives even when the Copy right in the work has been assigned.

Copyrights can be enforced in Civil and Criminal Courts, civil remedies for the copyright owner include injunction, damages and rendition of accounts. Infringement of copyright is also an offence under the act and may incur imprisonment of up to three years and a fine up to 20 Lac rupees. The Copyright Act provides an enhanced penalty on second and subsequent conviction. The Copyright provides for protection of moral rights of the authors in their work and of performers in their performances. Moral rights of an author consists of the following:

• The right to claim authority of the work (paternity right)

• The right to claim damages in respect of any distribution, mutilation, modification or other acts in relation to the work if such distortion would be pre judicial to his/her honor or reputation.

• Moral rights of a performer are the rights to claim to be identified as the performer of his/her performance, except where omission is dictated by the manner of the use of the performance.

• The right to restrain or claim damages in respect of any distortion, mutilation, modification of his/her performance that would be pre-judicial to his/her reputation. Removal of a portion of performance for the purpose of editing is not deemed to be pre-judicial to the performer's reputation.

3.1.2. Copyright Owner

As a general rule, the author of a work is the first owner of copyright in a work. For an original literary, musical, dramatic and artistic work it is the person who created or composed such work and for a sound recording cinematograph film, it is the producer of such work. In case of photography it is the photographer and for computer generated work, the author (first owner of the copyright) is the person who causes the work to be created.

3.1.3. Patent

Patent is an intellectual property right granted to inventor by concerned government office for his novel technical invention. The term invention means solution of any problem in terms of development of product or a process. Among the different types of IPR, patents are considered the most valuable and rightly so. The patentability of any invention needs to fulfill following criteria:

• Usefulness: invention must have industrial applicability or applied for practical purpose.

• Novelty: invention must be new technology which has not been published or available elsewhere in the world before the date of patent filing.

• Non obviousness: Invention which can be done by any ordinary skilled person is obvious and cannot be patentable. Hence invention must

not be obvious for patentability. As per Section 3 of the Patent Act, 1970 the following are not patentable:

• 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.

In patenting process at one hand inventor is granted exclusive rights which give recognition as well as financial benefits but at the other hand inventor has to disclose all the relevant information in descriptive way to the patent office at the time of filing patent application. The information available in patent document can be seen by anybody and no doubt it gives direction to other researchers to innovate further in the relevant field. In India, office of Controller General of Patents Designs and Trademarks govern the patent registration process. This office comes under the Department of Industrial Policy and Promotion, Ministry of Commerce and Industry.

4.0. Trademark

A trademark popularly known as brand name in layman's language is a visual symbol which may be a word to indicate the source of the goods, a signature, name, device, label, numerals or combination of colors used, or services , or other articles of commerce to distinguish it from other similar goods or services originated from another. A trademark provides protection to the owner of the mark by ensuring the exclusive right to use it or to authorize another to use the same in return of payment. Trademark promote initiative and enterprise worldwide by rewarding the owners of trademark with recognition and financial benefit.

Important Criteria of Trademark Registration

As per UK Trademarks Act, 1994, the three main requirements for registering a trademark are as follows:

• The trademark should be a sign or anything that can convey information.

• The sign should be capable of distinguishing products or services of one undertaking from that of another. This is clearly a requirement of distinctiveness of trademarks.

• The trademark is capable of graphical representation to provide precise identification in the trademark registry.

4.1.1. Rules of Trademark Registration

• The word "apple" or an apple device cannot be registered for apple as in this case it is not distinguishable. But it is registered being highly distinctive in case of computers.

• Similarly Camel trademark is registered for cigarettes. The generic term like "furniture" cannot be registered as trademark for chair, table, or similar type of items.

• In case of use of letters or numerals, in certain countries registration is allowed only when at least few numbers of letters and/or numerals are combined or in case of letters the combination of word is pronounceable.

• Similarly, common surnames are not registered in some countries as they are not distinctive in nature.

• Beside these, deceptive sign or trademark which is misleading or violates the public order or morality is not qualified for registration.

• The signs which are reserved for state, public institution, organization or international body cannot be registered as trademark.

4.1.2. Indian Trademarks Act

The Indian trademarks act specifies that any mark which is distinctive i.e. capable of distinguishing goods and services of one

undertaking from another and capable of being represented graphically can be trademarks. Since trademarks do not grant exclusive right that could be exploited, there is no need to limit their validity. But without time limit, trademark validity would lead to unnecessary number of registered trademarks without any applicability. In India, the initial term of trademark registration is for 10 years and thereafter it has to be renewed from time to time. The applicant can apply for trademark registration at Trade Mark Registry Office, Mumbai (head office), Delhi, Kolkata, Ahmadabad and Chennai.

4.1.3. Industrial Design

The creative activity of achieving an ornamental or aesthetic appearance of mass produced products or articles is covered under industrial design. The design can be expressed either by two dimensional or by three dimensional forms. The Design Act 1949 of the United Kingdom refers to feature of shape, configuration, pattern or ornament. Broadly, shape, surface, pattern, lines, color, etc appearance related features of industrial products such as watches, vehicles, mobiles, laptops, different home appliances, buildings, textile designs or handicraft products are covered under industrial design. The aesthetic value or how a product appeals is the main concern in selling besides its technical quality and other aspects. To be protected under most national laws, an industrial design must be new or original and nonfunctional.

Hence industrial design is only applied and are not protected by the design registration. Although the technical features, if are novel could be protected by getting the patent. Beside these, design which is literary or artistic in character such as cartoon, label, leaflet, map, dressmaking pattern, etc is protected under copyrights instead of industrial design. The term of industrial design rights vary from country to country from 10 to 25 years. In India as per Design Act, 2000 duration of protection of industrial design is for 10 years. This duration can be extended further for 5 years. An industrial design encourages creativity and skill development amongst the individual and manufacturing sector by promoting more aesthetically pleasing products for the society. The design and shape of the product not only create aesthetic appearance but in case of machine, furniture, automobile, etc design is also indirectly associated with ergonomics and plays a major role in customers' comfort.

Geographical Indications

Applications of geographical or locality origin to identify goods for trade purpose is not a new phenomenon. Certain agricultural products have especial qualities that are influenced by geographical climate or soil. "The term Geographical Indication (GI) has been chosen by WIPO includes all existing means of protection of such names and symbols, regardless of whether they indicate that qualities of a given product are due to its geographical origin (such as appellations of origin), or they merely indicate place of origin of a product (such as indication of source). The Champagne, Havana, Darjeeling tea, Arabian horses, Alphanso Mango, Nagpur orange, Basmati, etc are some well known examples for names which are associated throughout the world for their product having specific quality and registered as GI.

Similarly in the field of handicrafts, textiles, etc., specific qualities of the products are related with human factors and their skills. The reputation of products is built up and maintained by masters or creators of that skill belonging to a particular region or locality in best suited climate. The skill is passed traditionally from one generation to the next with great cautions and compromises by particular tribe or region. The, Dhaka muslin, Venetian glass, China silk, Mysore silk, Chanderi sari, Kanchipuram silk saree, Kullu shawls, Solapur chaddar, Solapur Terry Towel, Kashmiri handicrafts, etc are well known examples of Geographical indications for state of the art craftsmanship.

In India, registration of such products can be done under Geographical Indication of goods (registration and protection) Act 1999 and Geographical Indication of goods (registration and protection) rules 2001. The GI act is 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 right holders from all Indian jurisdictions can register their GI. Under these rules protection under GI is granted for 10 years and renewal is possible time to time for further 10 years.

5.0. Conclusions

• Intellectual Property protection is critical to fostering innovation, without protection of ideas, business and individuals would not reap the full benefits of their invention.

• IPR is very important from the artistic point of view as the artists would not be fully compensated for their creations and cultural vitality would suffer as a result.

• It is beyond doubt that the progress of the economy and society largely depends upon IPR protection.

• In an era of progressive globalization, IPR becomes an integral part of globalized competitive trade and the dissemination of IPR knowledge becomes absolutely essential.

• IPR knowledge should be a part of basic educational system and special impetus must be laid on its promotion and registration which encourages the innovators.

• India is blessed with abundant resources, cheap raw material, labor, technical manpower. Efforts must be to explore IPR and its effective implementation.

References:

• Intellectual Property Law, P.Narayan

• Intellectual Property Rights in India, V.K.Ahuja

• Intellectual Property Rights, Neeraj Pandey, Khushdeep Dharni

• WIPO Manual: What is Intellectual Property

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