



Intellectual Property Rights in India: Emerging Laws

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Intellectual Property Rights in India: Emerging Laws Abstract - The article elaborated the background of emerging law pertaining to IPR and the also the legislation that has been made by the parliament to protect and encourage the same. In this article author also express the issues relating to IPR and give the suggestion for the enforcement of the IPR.

Abstract

The article elaborated the background of emerging law pertaining to IPR and the also the legislation that has been made by the parliament to protect and encourage the same. In this article author also express the issues relating to IPR and give the suggestion for the enforcement of the IPR. Author also discuss the different kinds of Intellectual property laws.

Key Words

Intellectual, parliament, Enforcement, Offences, Patent, Copy Rights, Industrial Design, trademark, Geo-geographical Indication.

Introduction

Intellectual property has progressively assumed an important role with the speedy pace of technological, scientific and medical innovation that we tend to square measure witnessing nowadays. Moreover, changes within the international economic surroundings have influenced the event of business models wherever intellectual property could be a central part establishing worth and potential growth. In India many new legislations for the protection of holding rights (IPRs) are passed to satisfy the international obligations underneath the World Trade Organization Agreement on Trade-Related Aspects of intellectual property Rights (TRIPS). The significance of intellectual property may be derived to the traditional use of stamps on bricks by Roman brick-makers for the aim of identification, and even before that once the leaders of the ancient Greek town of Sybaris granted monopoly for one year on cooking a delicious dish to its creator. Obviously, abundant has modified since then with

the advancement of science and technology and international business. Intellectual property (IP) refers to the creations of the human mind like inventions, literary and creative works, and symbols, names, pictures and styles employed in commerce. Intellectual property is split into 2 categories: Industrial property, which incorporates inventions (patents), trademarks, industrial styles, and geographic indications of source; and Copyright, which incorporates literary and creative works like novels, poems and plays, films, musical works, creative works like drawings, paintings, pictures and sculptures, and bailiwick styles. Right related to copyright embody those of acting artists in their performances, producers of phonograms in their recordings, and people of broadcasters in their radio and TV programs. Belongings rights shield the interests of creators by giving them property rights over their creations.

Brief Histroy

The laws and body procedures concerning IPR have their roots in Europe. The trend of granting patents started in the fourteenth century. In comparison to different European countries, in some matters England was technologically advanced and accustomed attract artisans from elsewhere, on special terms. the primary renowned copyrights appeared in Italian Republic. Venice may be thought of the cradle of IP system as most legal thinking during this space was done here; laws and systems were created here for the primary time within the world, and different countries followed in due course¹. Patent act in Asian country is more than 150 years old. The inaugural one is the 1856 Act, that is predicated on British legal system and it's provided the patent term of fourteen years followed by various acts and amendments.² the International intellectual property system additionally began to take shape with the setting up of the Paris Convention for the Protection of industrial Property in 1883 and also the Berne Convention for the Protection of Literary and artistic Works in 1886. With the establishment of the World Trade Organization (WTO), the importance and role of the intellectual property protection has been crystallized within the Trade-Related intellectual property Systems (TRIPS) Agreement.

Nature of IPR

IPRs square measure the territorial rights that have a set term and may be revived when a stipulated time as laid out in the law by manner of creating payment toward official fees. Exceptionally, trade secrets have an infinite life however they do not get to be renewed. Apart from this, trade secrets have another nature of being allotted, gifted, sold and licensed like all different tangible property. in contrast to different transportable and unmovable properties, these rights may be individually command in several countries at identical time. IPR may be held solely by legal entities i.e., who have the right to sell and buy property. In the alternative method, any non-autonomous establishment does not have rights to have intellectual property. These rights are protected by their individual sections and rules³.

Types of Intellectual Properties

Patents

Patents are one amongst the foremost necessary forms of IPR. It's outlined as "A government authority or license conferring a right or title for a set period, particularly the only right to exclude others from creating, using, or commercialism an invention". When individuals or organizations invent or come up with a new approach of doing something, they approach the patent office, give them details about the product or process, and get protection for their 'property' for a fee. This is justified because these individuals invest years and extensive resources developing something, and would like to be compensated for their efforts. Patents act as an incentive for inventing new products and processes and form an important part of a culture of innovation and growth. Patent protection is given only for a partial period, say 10 or 20 years.

Trademarks

Trademarks Among the different kinds of intellectual property rights, the trademark holds an important position as a unique identifier of a company or a product. It is representative of a brand/ company's standing to consumers- an assurance of a certain standard and quality. Intellectual property protection is vital for trademarks because companies invest a lot of time and money to develop brands. The last thing they want is some imposter selling products or services using their trademarks, deceiving consumers and leading to loss of money and reputation. Trademarks can include names, logos and designs used in packaging or the products themselves.

Copyright

You may come across the phrase 'All Rights Reserved' while watching a movie, buying a book or a DVD. This is just a way of protecting the contents of the movie, book or DVD, indicating that the copyright is held by the publisher, and no one can copy or use the material in any form without their consent. Copyright is granted to an original work - whether it's a movie, book, music, computer software or a painting. There are two aspects to copyright - moral and economic. Moral rights give authors the power to be identified as authors of a particular work and to object if it is presented in a distorted or mutilated form. The economic right is more tangible and gives the author to control the use of his or her creation and reap economic rewards from it.

Industrial Design

Industrial design is a production technique of a certain product or article. For example, a furniture company could come up with a new way of making a sofa-cum-bed and may want to protect it from being copied by someone else. In many countries, the industrial design must be registered to get protection under industrial design law. In other countries, patents may as well do the trick.

Geographical Indication

Certain products are tied to a certain geographical location, and producers may want intellectual property protection to ensure that products from other areas do not misuse this indicator. For instance, Basmati rice has been registered under the Department of Commerce in India as a product with a Geographical Indication. This tag is given only to this range of rice grown in seven states in the hills of the Himalayas.

Legislation relating to IPR in India

Intellectual property rights accepted under various laws are:

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

Intellectual property rights (IPRs) play a key role in each sector and have become the idea for crucial investment choices. IPRs are exclusive rights and thus there's continuously a challenge to strike a balance between the interests of innovators and also the interests of the society at large. Another necessary issue has an adequate legal framework to shield the interests of innovators and encourage confidence that their holding are going to be protected, successively triggering more innovation.

Steps taken by the Government to improve enforcement of IP

To make IP work for countries and business organizations, the Governments of respective countries must take strong positive action and impose stringent punishment on the infringers. Some of the measures that could be taken to protect IP would include the provision of a transparent and enforceable IP rights ownership, irrespective of nationality. The accessibility of national and global IP systems has to be enhanced by ensuring that the costs of applying, maintaining and enforcing IP rights are minimal; by simplifying the procedures; and by harmonizing the IP systems globally and reducing the costs of obtaining IP rights in multi-countries. The Government has to patronize and implement effective IP policies with proper financial management and infrastructure of IP institutions. It has to take up the task of educating local communities, business enterprises, and general public on the potential benefits of an efficient IP system. The Government should offer assistance to innovators, producers, and creators on the use, protection and commercialization of IP. It has to take rigorous steps against counterfeiting and piracy and strengthen the legal framework to ensure effective implementation and enforcement against IP theft.

IPR Protection – Some More Issues

India has enacted fully TRIPS compliant Patents Act, Trademarks Act, Copyright Act, Designs Registration Act and such other acts related to fields of IPR. However, though most acts have been TRIPS acquiescent, in the Patents Act there are areas where substantive or procedural amendments could be considered for comply with the TRIPS. Business models or computer programmes comprising only mathematical or scientific principles are not patentable under the present act. Thus safeguard could be provided, under the Patents Act, for business methods qualifying as technology. On the other hand, in certain sectors the need is being felt for getting a patent protection for certain software in addition to the copyrights. Copyright protects the coded expressions of software, while patent protection can protect the qualifying features of the software, such as its sequence, structure and organization or its functional elements.

Conclusion

The Indian IP regime has taken great strides towards the increased protection and enforcement of IP rights. Today possession of land, labour and funds are just not sufficient for a nation to succeed. Creation and Inventiveness are the latest drivers of the Global market. The policies should be made keeping in view, the well being of the nation. Development of a country's intellectual assets is the most important duty in these regards. An effective IP rights system lies at the core of the countries development strategies. Although India has complied with the obligations of TRIPS by amending the laws relating to IPR, some issues are still needed to be taken be concerned. And there is a need for a constant thinking over the issues relating to IP protection in order to deal with the situations arising out of international competition.

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