



Intellectual Property Rights

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Abstract: *Intellectual property is rewarded for creativity. IP is created as result of human intellect. It includes patent, trademark, industrial design, copy right. My paper will discuss meaning if intellectual property, types, objective, geographical indications. Geographical indications are important because few things gives reputation and takes that thing beyond boundaries. This paper of mine will put emphasis on why we need intellectual property rights. Implementation of IPR is important at global level because every country is having different laws regarding IPR. Few countries keep infringement of IPR under criminal law others consider it a civil offence. There are major IPR issues between USA and India. It is major irritant between both the countries. What are the major challenges?*

Keywords: *human intellect, geographical indications, laws, issues, variations, challenges.*

I. INTRODUCTION

Intellectual property right is rewarded for their creativity. Intellectual means creation of human mind; it is intangible, which cannot be touched. It includes patent, trademarks, industrial design, copying, IPR is contributing in the national economy. IPR prohibits the theft of one's intellect work and person is punished if found guilty. We see IP is created as a result of human intellect thoughts. Any innovation or discovery, patents trademarks, industrial designs, piracy, trade secret theft comes under the umbrella of intellectual property rights. In zest we can say that intellectual property rights are rights relating to intellect of human mind.

We can say that IPR gives ownership monopoly for limited period of time. It is useful because owner is having ownership which includes exclusive right to use.

II. HISTORY

There is a common belief that IP is having roots in Jewish law. In the 17th century patent laws can be traced. US constitution is having combination of patent and copyright law. In the 17th century even patent laws can be traced. If we want to go to the roots of intellectual property rights. We will have to go into 18th century.

In 1867 we find German confederation, in which its law granted legislative power over the protection of intellectual property to the confederation.

Berne in Germany two conventions named as Paris convention and Berne convention both were combined in the year 1893. Term intellectual property under title "United International Bureax for the protection of intellectual property "was adopted.

In 1960 organization relocated to Geneva. WIPO (world intellectual property organization) was born on in 1967. but in Bayh Dole Act in 1980 it became famous.

In case of Davoll vs Brown term IP was used in October, 1845.

"Only in this way we protect intellectual property, the labors of mind, products and interests are as much as a man's own.....as the wheat he cultivates or the flocks he rears".

Justice Charles L. Woodbury

We can say in others words intellectual property rights are rewards for the intellectual works. They must enjoy the fruits of the tree which have grown by him.

It is encouragement for the authors of any work or discovery. Now in the global era right's re protected at the ground level.



III. GEOGRAPHICAL INDICATIONS

It is an indication that certain things are prepared and originated in certain country.

In IPR this right is not having any fixed period but we pay official fees and we can renew this right. In India few things like Darjeeling tea, petha Agra, silk of Mysore, chapels of Kolhapur are geographical indications.

Geographical indications are important because few things gives reputation and takes that thing beyond boundaries .Thus right is protected under Geographical Indications Act 1919.

IV. WHY WE NEED TO PROTECT IPR?

Creation of mind is intellectual property so other people take advantage over the work of anybody. We can protect patents by registering of new designs we can protect one's works, movies, patent, trademark, artistic works, songs comes under legal protection.

V. TYPES OF INTELLECTUAL PROPERTY RIGHTS

PATENTS:

It is also type of IP .Government grants certain exclusive rights to the investors.It is a sort of legal document. It is for 20 years. It helps in preventing commercial exploitation. Industrial property is protected to encourage innovations and discoveries, designs and thing which is created by technology. This type of categories is having inventions, designs by industries and secrets of trade.

This law gives exclusive rights to the investors so others cannot make ,use or sell for limited duration.

COPYRIGHT:

Original material which is copyright must be original. There something must be original. There something must be original because expression of individual is protected. Under the copyright merit of the work is subject to copyright protection. Simple design cannot be copyrighted if anybody if anybody adds some exceptional works only then it can be copyrighted.

We can in fact scope of protection is limited to original work which is in writing.

For example if anybody made a sculpture of sun that does not means others cannot be create same work but sculpture can stop exact copy of his work.

Person who is in possession of copy right can reproduce his/her work to others, give public performance and show his work.

If any person firstly reproduce work which is copyrighted secondly derivative works are created from original work they will be considered as infringed whether they are done privately or publically.

Any body gives copies of work, publically display anybody else work or give performance of work publically will be considered as violation but substantial number of people should be included in it. Violation will be accepted if he/she is doing without creator of work permission.

Fair use of work is added exception. Violation will not be considered if they are using it for educational purpose and it is not for commercial purpose.

TRADEMARKS:

It is a 1.Name 2. Anyword,3.3. symbols or signs to recognize things or services offer by particular manufacturer. Trade work through which name ,word, symbol makes recognized place in public.

Manufacturer of any goods gets trademark identify of goods so others cannot copy goods because as a result reputation of manufacture will suffer or hampered.

Trade works include following four things:

1.Logos



- 2.Symbols or Signs
- 3.Name
- 4.Words

Consumer of goods may get confused because of name, words, symbols, signs, logos etc. so reputation of manufacture will suffer.

Lanham Act, 15 U.S.C protects trademarks both federal statute under the Lanham Act 15 U.S.C.1051-1127 and states statutory and /or common laws.

INDUSTRIAL DESIGN:

Only visual designs are protected under the industrial design right shape, color or configuration and 3D type which is having aesthetic value.

TRADE SECRETS:

Trade secrets come under the purview of intellectual property rights. It is a formula, a pattern, process, design or information which is known otherwise comes under trade secrets. In US it is considered as a crime under Espionage Act 1996 under this theft or misappropriation is considered as theft. There are two important parts in it first is theft to give advantage to foreign powers second is for commercial or economic purpose.

VI. OBJECTIVES

Aim of IPA is promotion of program by giving limited exclusive rights to the owner of original work will be incentive for him. Efforts, hard work, creativity of someone must not be misused. Aim of absolute protection because it will encourage the creator of original work. There is financial benefit is also involved in it for the person who created it.

We have entered in the era of information explosion and information revolution. till information is published it becomes old sometimes useless. Challenges are more even we compare it with the hundred years old when Berne convention was held. As a result of the advent of information technology. We can say it is much more difficult and challengeable to protect IPR. With the advent of the internet and www knowledge spreads very fast US is paying a lot of money for the spread of basic research with one exception defense technology and encouraged its dissemination.

In India there are laws they protect the intellectual rights moreover we have many law firms in India for various states.

Our Prime Minister Mr Narendra Modi in US assured a dialogue mechanism for issues related to IPR with US president Mr. Obama I intellectual property is considered as a major irritant between two countries. India is expected to launch comprehensive policy in 2015. US international Trade communism trying to study India IPR collectively with national association of manufacturers.

Implementation of intellectual property rights at the global level is very complex because every country is having different laws and political environment which is having deep impact on it. Laws vary from country to country. There are separate laws and legislation, convention for each country. GATT (general agreement on trade and tariff IP were amended or changed in 1994. Under WTO (world trade organization) are required to apply particular laws for the implementation of rights and remedies for disputes related with IP under this trademark and copyright privacy for commercial purpose are kept under crime.

REFERENCES

1. <http://www.wipo.int/about-ip/en/>
2. http://www.wto.org/english/tratop_e/trips_e/intell_e.htm
3. http://www.esa.int/About_Us/Industry/Intellectual_Property_Rights/What_is_intellectual_property
4. <http://nopr.niscair.res.in/handle/123456789/45>
5. <https://www.iprhelpdesk.eu/node/34http://legal->
6. http://en.wikipedia.org/wiki/Intellectual_property
7. dictionary.thefreedictionary.com/Intellectual+Property
8. <http://education-portal.com/academy/lesson/what-is-intellectual-property-law-definition-and-rights.html#lesson>