



INTELLECTUAL PROPERTY RIGHTS: AN OVERVIEW

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ABSTRACT –

Intellectual property rights (IPR) are the rights given to persons over the creations of their minds. IPR have been defined as ideas, inventions and creative expression based on which there is a public willingness to bestow the status of property.

Intellectual property rights are frequently mentioned in discussions and debates on such diverse topic as human rights, agriculture, health, education, trade, industrial policy, public health, biotechnology, information technology, the entertainment and media industries and the widening gap between the income levels of the developed countries and developing countries.

IPR provide certain exclusive rights to the inventors or creators of that property, in order to enable them to reap commercial benefits from there creative efforts or reputation. There are several type off intellectual property protection like Patent, copyright, trademark etc.

KEYWORDS –

Intellectual property, copyright, Patent, trademark, creations & innovation.

INTRODUCTION –

Intellectual property right has a key role in the development of each country. IPR contributes enormously to individual state and national development. IPR are like any other property rights. IPR was first recognized in the Paris convention for the protection of industrial property (1883) and the Berne convention for the protection of literacy and artistic works (1886). Both treaties are administered by the world intellectual property organization.

The main purpose of intellectual property law is to encourage the creation of a wide variety of intellectual goods. To achieve this the law gives people and businesses property rights to the information and intellectual goods they create usually for a limited period of time.

It is very well settled that intellectual property play an important role in the modern time. It has also given conclusively established that the intellectual labor associated with the innovation should be given due importance so that public good emanates from it. There has been a quantum jump in research and development costs with an associated jump in investments required for putting a new technology in the market place.

INTELLECTUAL PROPERTY RIGHTS(IPR) IN INDIA -

IPR are legal rights governing the use of creations of the human mind. The recognition and protection of these rights is of recent origin. Patents, designs and trademarks are considered as industrial property.

The protection of industrial property has as its object Patents, utility models, industrial designs, trademarks, service marks, trade names, indications of sources or appellations or origin and the repression of unfair completions when copyrights, Geographical indicators layout designs and confidential information were included to industrial property they all become intellectual property.

TYPES OF IPR -

The intellectual property rights are –

- * Trademarks
- * Patents
- * Copyrights and related rights
- * Geographical indications
- * Industrial designs
- * Trade secrets
- * Layout design for integrated circuits
- * Protection of new plant variety

TRADEMARKS –

A trademark is consisting of a recognizable sign, design or expression which identifies products or services of a particular source from those of others. A trademark is a distinctive sign that identifies certain goods or services as those produced or provided by a specific person or enterprise. It may be one or a combination of words, letters and numerals. They may consist of drawings, symbols, three dimensional signs such as the shape

and packaging of goods, audible signs such as music or vocal sounds, fragrances or colors used as distinguishing features.

It provides protection to the owner of the mark by ensuring the exclusive right to use it to identify goods or services or to authorize another to use it in return for payment. It helps consumers identify and purchase a product or service because its nature and quality, indicated by its unique trademark, meets their needs.

PATENTS –

A Patent is an exclusive right granted for an invention, which is a product or a process that provides a new way of doing something or offers a new technical solution to a problem. It provides protection for the invention to the owner of the patent. A patent gives its owner the legal right to exclude others from making, using or selling an invention for a limited period of years in exchange for publishing an enabling public disclosure of the invention.

It provides protection for the invention to the owner of the patent. Patent protection means that the invention cannot be commercially made, used, distributed or sold without the patent owner's consent.

A Patent owner has the right to decide who may or may not use the patented invention for the period in which the invention is protected. The patent owner may give permission to or license other parties to use the invention on mutually agreed terms. The owner may also sell the right to the invention to someone else who will then become the new owner of the patent. Once a patent expires the protection ends and an invention enters the public domain that is the owner no longer holds exclusive rights to the invention which becomes available to commercial exploration by others. All patent owners are obliged in return for patent protection to publicly disclose information on their invention in order to enrich the total body of technical knowledge in the world. In this way patents provide not only the protection for the owner but valuable information and inspirations for future generations of researchers and innovators.

COPYRIGHTS AND RELATED RIGHTS -

Copyright is a type of intellectual property that gives its owner the exclusive right to make copies of a creative work, usually for a limited time. Copyright is a legal term describing rights given to creators for their literary and artistic works. The kinds of works covered by copyright include literary works such as novels, poems, plays, reference works, newspapers and computer programs, databases; films, musical compositions and choreography; artistic works such as paintings, drawings, photographs and sculpture; and advertisements, maps and technical drawings.

Copyright protects two types of rights- economic rights and moral rights. Economic rights allow right owners to derive financial reward from the use of their works by others. Moral rights allow authors and creators to take certain actions to preserve and protect their link with their work. The duration of copyright begins from the moment the work is created or under some national laws, when it is fixed in tangible form copyright protection continues in general, until a certain time after the death of the author.

Related rights also referred to as neighboring rights, protect the legal interests of certain persons and legal entities that contribute to making works available to the public or that produce subject matter which, while not qualifying as works under the copyright systems of all countries contains sufficient creativity or technical and organizational skills to justify recognition of a copyright like property right.

The law of related rights deems that the productions that result from the activities of such persons and entities merit legal protection as they are related to the protection of works of authorship under copyright.

GEOGRAPHICAL INDICATIONS –

Geographical indication (GI) is a name or sign used on products which corresponds to a specific geographical location or origin. GI are signs used on goods that have a specific geographical origin and possess qualities or a reputation that are due to that place of origin. The use of a GI as an indication of the products source, acts as a certification that the product processes certain qualities is made according to traditional methods, or enjoys a good reputation due to geographical origin. It is an exclusive right given to a particular community hence the benefits of its registration are shared by the all members of the community keeping in view the large diversity of traditional products spread all over the country, the registration under GI will be very important in future growth of the tribes / communities/ skilled artisans associated in developing such products.

INDUSTRIAL DESIGNS -

Industrial design is a process of design applied to physical products that are to be mass manufactured by mass production. Industrial designs refer to creative activity, which result in the ornamental or formal appearance of a product and design right refers to a novel or original design that is accorded to the proprietor of a validly registered design. Industrial designs are an element of intellectual property. The essential purpose of design law is to promote and protect the design element of industrial production. It is also intended to promote innovative activity in the field all industries.

TRADE SECRETS -

Trade secrets are comprise formulas, practices, processes, designs, instruments, patterns or completions of information that have inherent economic value. It may be confidential business information that provides an enterprise edge may be considered a trade secret. Usually these are manufacturing or industrial secrets and commercial secrets. These include sales methods, distribution methods, consumer profiles that except by the use of improper means, there would be difficulty in acquiring the information, considering the vast availability of traditional knowledge in the country the protection under this will be very crucial in reaping benefits from such type of knowledge.

LAYOUT DESIGN FOR INTEGRATED CIRCUITS –

Layout design to mean a layout of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in a semiconductor for integrated circuits layout designs act, 2000 a semiconductor integrated circuit has been defined as a product having transistors and other circuitry elements which are inseparably formed on a semiconductor material or an insulating material or inside the semiconductor material and design to perform an electronic circuitry function.

Integrated circuits layout design act 2000 is to provide protection of intellectual property right (IPR) in the area of semiconductor integrated circuit layout designs and for matters connected there to. The main focus of SICLD act is to provide for routes and mechanism for protection of IPR in chip layout designs created and matters related to it. The SICLD Act empowers the registered proprietor of the layout design an inherent right to use the layout design commercially exploit it and obtain relief in respect of any infringement. The initial term of registration is for 10 years.

PROTECTION OF NEW PLANT VARIETY -

Plant variety protection provide legal prediction of a plant variety to a breeder in the form of Plant Breeders Right (PBR). PBR are intellectual property rights that provide exclusive rights to a breeder of the registered variety. The objective of this act is to recognize the role of farmers as cultivators and conservers and the contribution of traditional, rural and tribal communities to the country's agro biodiversity by rewarding them for their contribution and to stimulate investment for R&D for the development new plant varieties to facilitate the growth of the seed industry. The plant variety protection and farmers rights act 2001 was enacted in India to protect the new plant variety. Initially 12 crop species have been identified for register. India has opted for sui-generic system instead of plants for protecting new plant variety department agriculture and cooperation is the administrative ministry looking after its registration and other matters.

CONCLUSION –

Intellectual Property Right is important for every sector. It is security and protection of intellectual property and it creates the innovation in various sectors. IP and its associated rights are seriously influenced by the market needs, market response, cost involved in translating IP into commercial venture and so on. In other words trade and commerce consideration are important in the management of IPR. Different forms of IPR demand different treatment, handling, planning and strategies and engagement of persons with different domain knowledge such as science, engineering, medicines, law, finance, marketing and economics. So intellectual property rights are not only important for individual but it also contributes the growth of every nation. Intellectual property rights are monopoly rights that grant their holders the temporary privilege for the exclusive exploitation of the income rights from cultural expressions and inventions. The intellectual property right has a key role for in fostering research and innovations of every nation. It has crucial influence on international and national trade.

Always, the unique expression of ideas of products is being important in all commercial endeavours . In today's digital world there are more chances of stealing trade secrets or illegal use of registered properties, as the entire world is connected with networks. Lose of intellectual properties may be detrimental for the overall development of the whole nation itself. For protecting the wealth of the nation stringent laws should be enacted in all fields associated with handling intellectual properties.

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