



A Study on Intellectual Property Rights (IPR) For Micro, Small and Medium Enterprises in India

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ABSTRACT:

Intellectual Property Rights in general refers to the set of intangible assets including invention, creation, and contribution to the contemporaneous field of knowledge which is owned and legally protected by an individual or company from the outside use or implementation without approved consent. The economic growth, financial incentive and motivation for advanced innovations imbedded in the balanced legal protection of Intellectual Property Rights entails proficient, directed and timely updated guidance in the field of Intellectual Property Rights. Intellectual property has increasingly assumed a vital role with the rapid pace of technological, scientific and medical innovation that we are witnessing today. Moreover, changes in the global economic environment have influenced the development of business models where intellectual property is a central element establishing value and potential growth. In India several new legislations for the protection of intellectual property rights (IPRs) have been passed to meet the international obligations under the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

Keywords: Intellectual Property Rights, Industries, India, etc.

Introduction

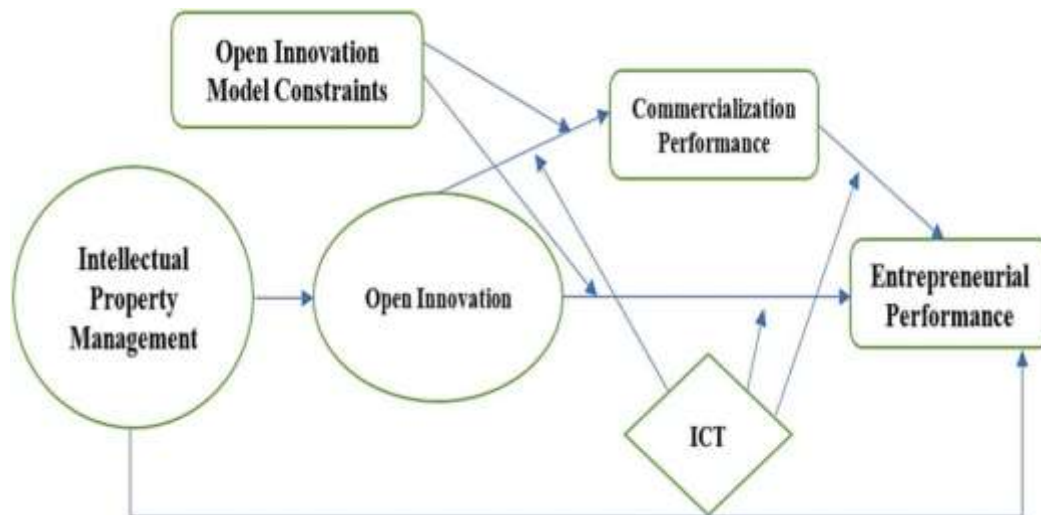
Over the decades, the scope of the subject of Intellectual Property Rights (IPR) has been expanded and grown to a great extent and has risen to a stature wherein it plays a major role in the development of the Global Economy. Since the early 1990s, many developed countries unilaterally strengthened their laws and regulations in this area, and many others were poised to do likewise. At the multilateral level also, the successful conclusion of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) in the World Trade Organization enhanced the protection and enforcement of IPRs to the level of solemn international commitment. The new global IPR system comes with both benefits as well as some costs. The domain of Intellectual Property is vast. Its manifestation in the form of

Copyright, Patent, Trademark and Design as some of the Intellectual Property Rights is very well known to have received recognition for a fairly long period of time. Newer forms of the protections are also emerging particularly stimulated by the exciting developments in scientific and technological activities. This study lesson provides an in-depth understanding to the students about the various forms of the Intellectual Property Rights, its relevance and business impact in the changing global business environment. Besides this, the students will also be acclimatized with the leading International Instruments concerning Intellectual Property Rights.

1. **Patents Patent** is a statutory right granted to the patentee by the Government for a period of 20 years upon complete disclosure of the invention. It is a monopoly right, granted for protecting inventions and processes. There are product patents as well as process patents granted. Even though the right holder does not get right by default to manufacture the patented invention, the holder of the patent has right to prevent others from exploiting the same without the owner's permission. The statutory requirement for an invention to be patentable invention is related either to a product or process that is novel, having inventive step and is capable of industrial application. In India, patents are protected under the Patents Act 1970.
2. **Copyrights** are the rights awarded to protect authorship of original and creative work like literary, musical and dramatic in nature. The rights awarded are exclusive rights and are symbolized as "©". In India, Copyrights are protected by the Indian Copyrights Act, 1957 and various amendments made thereafter.
3. **Trademarks** 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 as return for payment.

4. **Geographical Indications (GI)** 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? Agricultural products typically have qualities that derive from their place of production and are influenced by specific local factors, such as climate and soil. They may also highlight specific qualities of a product, which are due to human factors that can be found in the place of origin of the products, such as specific manufacturing skills and traditions. A geographical indication points to a specific place or region of production that determines the characteristic qualities of the product that originates therein. It is important that the product derives its qualities and reputation from that place. Place of origin may be a village or town, a region or a country. It is an exclusive right given to a particular community hence the benefits of its registration is shared by the all members of the community. Recently the GIs of goods like Chanderi Sarees, Kullu Shawls, and Wet Grinders etc have been registered. 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



HISTORY OF IPR IN INDIA

George Alfred Deepening is supposed to have made the first application for a patent in India in the year 1856. On February 28, 1856, the Government of India promulgated legislation to grant what was then termed as “exclusive privileges for the encouragement of inventions of new manufactures” i.e. the Patents Act. On March 3, 1856, a civil engineer, George Alfred De Penning of 7, Grant’s Lane,

Calcutta petitioned the Government of India for grant of exclusive privileges for his invention - “An

Efficient Punkah Pulling Machine”. On September 2, De Penning, submitted the Specifications for his invention along with drawings to illustrate it’s working. These were accepted and the invention was granted the first ever Intellectual Property protection in India.

IPR Status of India

The World Bank carried out survey concerned to Knowledge Economy Index (KEI) of 140 countries across the world on the basis of their knowledge-based initiative, policy frame work, economy incentive and institutional regime, information and communication technologies (ICT) infrastructure in 2007. India ranked at 101st position due to lack in aforesaid parameters.^{3, 49} Similarly, India ranked at 14th, 9th and 13th position in patents, marks and designs respectively based on total (resident and abroad) IP filing activity by origin in 2014.⁵⁰ Rankings are based on the total numbers of applications filed by origin. India’s worldwide participation in IPR filing activity is mere 1.6%, 3.14% and 0.82 % for patent, trademarks and industrial designs, respectively. The participation is even less if only resident applicants are considered due to Unawareness amongst youth, academicians, researchers, industrialists and traders in India about IPR and its benefits is the main reason for lagging behind in IPR participation. Even, Micro, Small and Medium Enterprises (MSME) that constitute around 95% of all units; 40 % of total value addition; nearly 80% of the employment of the total manufacturing sector; and 35 % of total exports are also lacking in IPR edge.



HOW IP HELPS MICRO, SMALL & MEDIUM ENTERPRISES

In India, Intellectual property plays an important role in MSMEs development and protection. They should identify various prospects viz. how best to use an IP structure for their own payback and profits? IP may support MSMEs in every part of business development and competitive strategy which ranges from product development to product design, product marketing to service and from raising financial resources to export or mounting business abroad through IP assignments i.e. franchising and licensing. MSMEs can identify various potential such as improvement in the market values and competitiveness of MSMEs by generating an income for MSMEs through IP assignments of IP protected products. IP helps in enhancing the value or worth of the company in the eyes of investors and financial institutions. At the time of sale or merger and acquisitions of assets IP play an important role in increasing the MSMEs value to certain level which cannot be achieved without considering IP assets. A successful IP management enables companies to recover their IP system properly and in a profitable way. In a very initial stage acquiring IP may sometimes crucial and costly but if started in a systematic way profits a lot for a company. It involves company's ability to commercialize their inventions, market their brands and license them know how to other companies.

COMPETITIVE ADVANTAGE

Protecting an MSME's IP may also result in a competitive advantage. A competitive advantage is crucial for an MSME's growth and expansion pursuits. For instance, getting a trademark for an MSME's products or services may reflect the quality that it accounts for. This would establish trust and goodwill associated with the brand among consumers. Additionally, this may also accelerate consumer loyalty. Thus, protecting an MSME's IP is an effective strategy to set it apart from other businesses in a particular industry. Furthermore, this protection of an MSME's IP can later translate into an asset for their business. Upon legally registering their IP, MSME owners may also license, sell, assign or franchise their IP for monetary benefits. For instance, if an MSME comes up with an innovation that has been patented, they may disclose the innovation and possibly license the patent to investors who may be interested in investing in the MSME. This could significantly accelerate the growth of an MSME.

LEGAL PROTECTION FOR MSMEs INVOLVED IN THE MANUFACTURING OF GI PRODUCTS

In a broad sense, Geographical Indications (GIs) can be defined as signs that are used on specific products that possess certain qualities, that arise as a result of being from a particular region. Some of the most popular examples of GIs in India include Salem Fabric, Chanderi Sarees, Navara rice, Darjeeling tea, and Mysore Silk. GI products are largely manufactured by MSMEs. Granting a GI tag on a product that is produced by an MSME could facilitate their trade-in in numerous ways. For one, this could add to the goodwill and reputation of that product which may result in profitability for an MSME that manufactures a product that has acquired a GI tag. Moreover, by acquiring a GI tag for a popular regional product, the MSME may also take legal actions against entities who counterfeit and sell unoriginal versions of the product on online or physical platforms.

CONCLUSION

Micro, Small and Medium Enterprises form the bedrock of economies of all major nations. The significance of IPR for MSMEs lies in the fact that IPR provides competitive advantage of MSMEs through technological gain. There are different forms of IPR, namely, patents, trademarks, copyrights, geographical indications, industrial designs, trade secrets, integrated circuits, and new plant variety. Registration of patent involves a process consisting of five steps, namely, document disclosure, patent search, patent application, patent examination, and patent grant. IPR is needed for MSMEs to prevent competitors from copying or closely imitating a company's products or services; create organizational identity, increase market value of the company, and access new markets. IPR can be made more effective for MSMEs by organizing awareness and sensitization programs at different paces on regular basis. MSMEs can be encouraged to use IPR by providing them the required consultancy services and technical and financial support. Those MSMEs which make use of IPRs should be recognized and rewarded to further disseminate the relevance of IPR for MSMEs. IPR are considered to achieve economic, social and technological advancement that protects the idea and stimulates innovation, design and helps create of technology.

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