

HISTORY OF INTELLECTUAL PROPERTY RIGHTS AND ITS ROLE

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Introduction:

The rapidly changing scenario and India's continuing progress towards economic upliftment and globalization through liberalized policy make it imperative that the potential beneficiaries of the Intellectual Property Right (IPR) system familiarize themselves with basic elements of IPR to maximize their exploitation.

According to Dr. R. A. Mashelkar, the director General, CSIR (India) in his article published in journal of chartered Secretary (Jan. 2002) felt that "Twenty first century will be the century of knowledge. A nation's ability to convert knowledge into wealth and social good through the process of innovation, will determine its future. In this context, Issues like generation, valuation, protection and exploitation of intellectual property (IP) are going to become

critically important all around the world. Exponential growth of scientific knowledge, increasing demands for new forms of intellectual property protection as well as access to IP related information, increasing dominance of the new knowledge economy over the old brick and mortar economy, complexities linked to IP in traditional knowledge, community knowledge and animate objects, will pose a challenge in setting the new 21 century IP agenda.

An ideal regime of intellectual property rights strikes a balance between private incentives for innovators and the public interest of maximizing access to the fruits of innovation. This balance is reflected in Article 27 of the 1948 Universal Declaration of Human Rights, which recognizes both that "Everyone has the right to the protection of the moral and material interest

resulting from any scientific, literary or artistic production of which he is the author” and that “Everyone has the right... To share in scientific advancement and its benefits.” The burning questions seems to be balancing the interest of the inventor and that of the society in an optimum way.

Intellectual property right(IPR) was started initially in 1474 in the Italian city states, IPR in Knowledge, information or reputation is a capitalist innovation. IP is a category of property that includes intangible creation of the human intellect. IP encloses two types of rights i.e. industrial property rights (it includes trademarks, patents, designations of origin, industrial designs and models etc.) and copyright which includes : literary and artistic works, namely novels, poems, films, music's, photographs, paintings, cartoons, statues and plays etc.

Need for Protection of Intellectual property (IP):

New ideas and inventions, which keep on emerging in every conceivable field of science and technology, are the outcome of manipulation of human intelligence is known as intellectual property. It is therefore essential to protect such intellectual property so that nobody else can enjoy the fruits of other's efforts. There are several ways to protect this intellectual property. Patent rights can protect inventions. A new design, similarly, can be safe-kept by properly registering it. New logos and labels as trademark, on the other hand, can also be protected as registered trademarks. A piece of art, literature, cinematographic film,

musical record and computer programmes can be registered for their legal protection under copyright law. Biological wealth and cultural heritage can be protected under geographical indications by properly documenting them (Kumar, 2004).

Importance of Intellectual Property Right (IPR):

It is essential that in the interest of the individual, country and society at large scientific inventions, new technologies and creative achievements be protected so that the respective innovators, designers and other professionals can gain rewards, which they deserve. There has been a growing realization that with the rapid progress of information technology, evolution of global media and communication revolution, there has been phenomenal increase in copying, counterfeiting and similar other malpractices and owners of intellectual property are severely affected by Such piracies (Kumar,2004).

Importance of intellectual property right was first recognized in Paris convention for the protection of industrial property (1883) and Berne convention for the protection of literary and artistic works (1886) both treatises are administrated by the world intellectual property organization (WIPO).

Protection of IPR allows the innovator, brand owner, patent holder and copyright holder to benefit from his/her work, labor and investment, which does not mean monopoly of the intellect. Such rights are set out in the international Declaration of Human Rights, which

provides for the right to benefit from the protection of the moral and physical interests resulting from the right holder's work, literal or artistic product.

Intellectual Property Rights can be defined as the rights given to persons over the creations of their minds. They usually give the creator an exclusive legal right over the use of his/her creation for a certain period of time and thus protect the owner against unauthorized copying or imitation.

Reason for promotion and protection of IP:

Following are several compelling reasons

- 1) The, progress and well being of humanity rest on its capacity to create and invent new works in the area of technology and culture.
- 2) The legal protection of new creations encourages the commitment of additional resources for future innovation.
- 3) The promotion and protection of intellectual property spurs economic growth rate new jobs in industries and enhance the quality & enjoyment of life.

Benefits of IPR:

- Intellectual property rights reward, creativity and human endeavor, which fuel the progress of human kind
- The multibillion dollar film recording, publishing and software industries which bring pleasure to millions of people

worldwide would not exist without copyright protection.

- Without the rewards provided by the patent system, researcher and inventors would have little incentive to continue producing better and more efficient products for consumers.
- Consumers would have no means to confidently buy a products or services without reliable international trade mark protection and enforcement mechanism to discourage counterfeiting and piracy. (WIPO, 2008).

Types of IPR:

- 1) Patents
- 2) Copy rights and Related rights
- 3) Geographical indications
- 4) Industrial designs
- 5) Trademarks
- 6) Integrated circuits
- 7) Trade secrets

Patents: Patent is an exclusive right granted by law to an inventor or assignee to prevent others from commercially benefiting from his/her patented invention without permission, for a limited period of time in exchange for detailed public disclosure of patented invention.

Copyright: The concept of copyright that is the outcome of the hard labour of a creative person has been difficult for people to understand. Not long ago, people thought that they could use and enjoy the writings of an author , the music of a composer and the paintings of an artist freely

without realizing that the creator had to be compensated. In the modern world where everything has to be acquired by paying some amount of compensation to the owner, the fact that a creative work has also to be paid for is much less understood in developing countries than in advanced countries.

Copyright, which includes: literary and artistic works, namely novels, poems, plays, films, musicals, cartoons, paintings, photographs, statues, and architectural designs. Related Rights is a term in copyright law, used to include the rights of performers in their performances, the rights of producers of phonograms in their recordings and the rights of broadcasting organizations in the radio and television programs they air.

Geographical Indications: A geographical indication is basically a notice stating that a given product originates in a given geographical area.

Industrial Design: It is the aesthetics and ergonomics of a product. It consists of three-dimensional elements, such as the creation of the products shape, or two-dimensional ones, such as graphics, patterns and colors.

Trademark: A trademark is a sign that individualizes the goods or services of a given enterprise and distinguishes them from those of competitors. To fall under law protection, a trademark must be distinctive, and not deceptive, illegal or immoral.

Integrated Circuit: A product, in its final form or intermediate form, in which the elements, or at least one of which is an active element, and whereby the interconnections are integrally formed in and/or on a piece of material, which is intended to perform an electronic function.

Trade Secret: A trade secret is any information of commercial value concerning production or sales operations which is not generally known. The owner of a trade secret must take reasonable measures to maintain its confidentiality. (www.dubaicustoms.gov.ae)

Conclusion:

The intellectual property system helps strike a balance between the interest of innovators and the public interests, providing an environment in which creativity and invention can flourish, for the benefit of all. An efficient and equitable intellectual property system can help all countries to realize intellectual property's potential as catalyst for economic development and social as well as cultural well being.

References:

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