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## PROPERTY LAW

### Abstract

Mainly, this research paper explores the dynamic sphere of intellectual property law - its manifold facets, challenges, and contemporary relevance. The study analyzes how intellectual property rights are changing dynamics in the digital age by use of patent, copyright, trademark, and trade secret laws. The assessment of the effectiveness of the available existential legal frameworks in regard to intellectual property protection and prospects of reformation into fostering further effectiveness is harboured, with a global impact emphasized. Through the synthesis of legal doctrines, case studies, and emerging trends, this research insight adds its voice to the ongoing discourse on intellectual property in order to offer a first-hand perspective for the formation of policies, legal practitioners, and scholars.

Rights relating to intellectual property only granted to people who have invented something new or created something original that is capable of being physically reproduced or transmitted. While the scope of intellectual property rights varies from country to country type, but generically any expression which falls within the ambit of copyright law and patent law is deemed as protected intellectual property (refer section 20(1)(b) of the Copyright Act 1957) The paper offers an insight into the emerging technologies, such as artificial intelligence and block chain changing traditional legal paradigms. In doing so, and in addressing the intricate intersection of innovation, ethics, and the law, this research

## **INTRODUCTION**

The intellectual property (IP) term is very broad and can be applied to exclusive rights concerning diverse creations. Intangible assets cover inventions, any types of literary and artistic works, designs, phrases, symbols, images may be protected under the IP law. The latter is made attainable through the various types of Intellectual property rights which include, among others patents, trademarks, designs, and copyrights . Historically built on this notion of granting privilege to innovation, IP law has been built to accommodate things like communication and digital technology and even the complexities of a global economy. Yet as creators and innovators push the envelope of what is possible, legal frameworks must thread a fine line – promoting progress while ensuring that fair access to knowledge and cultural expressions is not compromised. Intellectual Property (IP) law acts as the indigenous legal base for protection of the fundamentals of nourishing innovation while protecting their creative fruits. From the rapid changing pace of technology to the globalization of information, this era has necessitated the need for protection in relation not only to the improvement in quality but also other aspects of intellectual creations. This paper embarks to unravel the complexities clouding intellectual property law; a dynamic and ever-evolving field ranging from patents, copyrights, trademarks, to trade secrets. In most E-commerce, goods or services are often transferred in exchange for licensed intellectual property. For instance, such intellectual property could include music, photos, Graphics, software, content, and so much more. These are given out or transferred to Through an e-commerce site in the domain of digital products. IPR is extremely required in each of these cases as it needs to make Sure of the value of goods. Mechanisms like intellectual property law and the measures of security technology that provide the assurance. IPR in e-commerce is Chiefly high on the agenda, as one can potentially kill an online firm if IP thefts are Common.. This analysis will venture in the historical foundations of the intellectual property, seeks to understand the philosophy behind the concept, and also view it in light of the wider society. The essay will also consider contemporary issues in the intellectual property law, recent legal developments, and old as well as new challenges associated with new technologies. Seeking to shine a light on the myriad aspects of intellectual property law, this paper attempts in contribute to a deeper

## REVIEW OF LITERATURE

1. **Rindu Rika Gamayuni (2015).** In this study, the author described a path analysis of relationship Between intangible assets and financial policies towards financial performance to firm value at going-public. Companies in Indonesia from 2007 to 2009. Although they have positive and considerable impact for Financial performance ROA and firm value, however intangible assets have little impact for financial policies.
2. **Ravi Kiran (2016).** In this article, the author discusses how the pharmaceutical industry has adapted culturally to IPR techniques and how it has affected both domestic and international expansion of the company. Previous research done for the same article stipulates the status of IPR in certain businesses, hence Findings indicate a clear rising trend, implicative of need for more awareness and implementation across the industry.
3. **Lalit Jajpura, Bhupinder Singh and Rajkishore Nayak (2016).** The present paper discusses an array of IPR Concepts that include patents, trademarks, industrial designs among others, geographic indications, copyrights, and many Others along with its attendant laws, directives, requirements, outlays, and purposes especially under India perspective. Brief description of the various IPR-affiliated concepts is further provided such as the licensing agreement and the like. The current status of India's concern in the IPR affairs around the world is also being abridged.
4. **Sagar Kishor Savale and Varsha Kishor Savale (2018).** This software is important for safeguarding the Invention of the inventor and maintaining high standards in quality and performance set by the inventor. IPR Aims, types of IPR (Patents, Trademarks, Copyrights And Related Rights, Geographical Indications, Industrial Designs, Trade Secrets, Layout Designs for Integrated Circuits, Protection of New Plant.
5. **Punam Kumari (2018).** The ideas, innovations and creative expressions on the basis of which there Are public desire to grant the status of property are referred to as intellectual property rights (IPR). For theProfit commercially from his inventive effort or reputation for inventors or developers of that property, Assuming it has passed intellectual property protection, IPR provides the exclusive rights. The types of being intellectual properties protection include the copyright, trademark, and patent.



6. **Dr.Arun Gaikwad (2020)**. The history, goals of the company as well as several kinds of IPR is also covered in this paper. Ideas, innovations and creative expressions on the basis which public is ready to intellectual property rights (IPR) are honestly called the property. IPR grant to inventors or developers of that property certain exclusive rights in order to draw from that commercially, their creative endeavors or reputation.

7 **Sreeragi R. G.(2021)**. It shall be filed for grant of rights under local laws in order to gain Privilege over innovations. The present study takes a look into the various forms of intellectual property and the Duration such registered are legally protected.

### **BASIC CONCEPT IN IPR**

Intellectual property means the intangible creation of mind of man, which is usually expressed or translated into a tangible form that is assigned some rights of the property. For instance, as following an example of what qualifies as an intellectual property, a copyright on a book or article that is owned by an author, a distinctive logo design representing a soft drink company and its products, unique design elements of a web site, or else a patent on the process to manufacture chewing gum. Intellectual property rights (IPR) have been defined as the rights given to people over creation of their minds. They usually give the creator an exclusive right, for given period, on use of his/her creations. Intellectual property (IP) relates to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

### **OBJECTIVES OF IPR**

Intellectual property Right (IPR) is a term referring to the various legal entitlements that attach to the certain type of information, ideas or other intangibles in their expressed form. The holder of this legal entitlement usually owns the right to exercise a suite of exclusive rights in relation to the subject matter of Intellectual Property. The term intellectual property reflects the idea that this subject matter is the product of the mind or the intellect and therefore Intellectual Property rights may be protected at law in the same manner as any other form of property. The intellectual property laws differ such that the intellectual property must be pursued or obtained on a jurisdiction-by-jurisdiction basis, territory by territory of interest, as well as each of and within all the divisions within an international scheme.

### **Origin of Patents and their History**

**Origin in India:** Country's first piece of law pertaining to patents was the Act VI of 1856. Its main Aim was the promotion of inventions; to get the innovators to expose the secrets of their inventions. The new piece afterwards, a law concerning exclusive privilege in the form of an act had been issued. In 1872 The measure has been renamed The Patterns and Designs Protection Act, though. Throughout its 30-year History, the only one amendment made to the law was in 1883. The Indian Patents and Design Act repealed all past laws in India. The act initiated Provisions for the granting of secret patents, addition patents, and extending its duration to 14-16 Years. After the independence, several committees were constituted to review the changes in the law And thereafter a bill was moved in the Lok Sabha during 1965 and remained unapproved. Although it lapsed in 1965, Revised bill was introduced in the year 1967 and on the recommendation of the last committee, the Patents Act, 1970, which is presently in force in India, Came into being.

### **Origin and History of Copyright**

The current copyright law in India was initially formulated way back during the year 1847 under an East India Company-era ordinance. The term of the copyright then was 42 years + 7 years post-mortem. If the copyright holder declines to Copyright may be granted to derive benefits in government work after the demise of the author, the compulsory licence may be bestowed by the government. Copyright was required for enforcing rights under this act. Under the rule of British Raj, the Indian government of that era passed a new copyright law in 1914 which is Strikingly similar to United Kingdom Copyright Act, 1911. There were not several important Differences, however. One of the most important is that it created sections 7 to 12 which established the Criminal penalties for copyright infringement. The 1911 Act suffered several modifications up to 1957 and therefore Independent India enacted that year the Copyright Act to bring itself in conformity with the norms of the Berne Convention. The most recent amendment of 1957 Act has been in the year 2012.

### **Origin and History of Trademark**

The first law on trademarks in India was the Trademark Act of 1940 which again was adapted From the British Trademark Act of 1938. The Trade and Merchandise Act, 1958 was also legislated after independence. Until the 30<sup>th</sup> of December in 1999, several changes were realized whereby the establishment of The Trade Mark Act, 1999, currently in force, was set. This act serves to two major needs being:

a) protection of the owner from confusion and Competitor mark replication. b) protect the company, commerce, and goodwill that the trademark owner has built up.

## **TYPES OF IPR**

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

## **TRADEMARKS**

The notion of a trademark involves a certain distinguishing sign which identifies certain services or goods as provided or made by a definite person or enterprise. This notion can be one or a combination of words, letters, and numerals. These signs can be in the form of drawings or symbols, three-dimensional signs, such as the shape or packaging of goods, audible signs, such as music or vocal sounds, smells, or colours, provided they are capable of distinguishing the goods or services. It gives the owner of the mark protection in having the exclusive right of using the mark to identify goods or services or to authorize another to use it in consideration for payment. It helps the consumers to know and purchase a product or service because it serves the needs of the consumers by its nature and quality, as indicated by its unique trademark. Registration of trademark is prima facie proof of its ownership giving statutory right to the proprietor. The right to the trademark may be held in perpetuity. The initial term of registration is for 10 years; thereafter it may be renewed from time to time

## **INDUSTRIAL DESIGNS.**

Industrial designs mean creative activity resulting in ornamental or formal appearance of a product, and design right means a novel or original design that is accorded to the proprietor of a validly registered design. The industrial designs are an element of intellectual property. The TRIPS Agreement has provided for minimum standards of protection of industrial designs. India, as a developing country, has already amended its national legislation to provide for these minimal standards. 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 of industries. The existing law on industrial designs in India is contained in the New Designs Act, 2000 and the said Act will serve its purpose well in the rapid changes in technology and international developments. The industrial designs regime is also relatively new to India. This is also a field that has matured and in view of globalization of the economy the present legislation is aligned with the changed technical and commercial scenario and made to conform to international trends in design administration. This replacement Act is also aimed at detailing the classification of design in conformity with the international system and take care of the proliferation of design-related activities in various fields.



## **PATENTS**

A patent is a grant of exclusive right for an invention that is a product or a process that provides in general a new way of doing something or a new technical solution to the problem. It extends protection towards the owner of the patent against the invention. The protection is extended for a limited period, i.e. 20 years. Patent protection means that the said invention can't be commercially manufactured, used, distributed, or sold by others without consent from the patent owner. A patent owner has the right to say who may – or may not – use the invention for the period that 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. When a patent is no longer in force, the protection will expire, and the invention will be in the public domain in a way in which it can no longer be protected by a patent, so the owner of the invention will not be able to claim exclusive rights to it, and it will be made available to anybody else for its commercial exploitation. Patents thus require all patent owners, in return for the patent protection, to make a public disclosure on their invention in order to add to the total body of technical knowledge in the world. Such an ever-increasing body of public knowledge promotes further creativity and innovation in others. In this manner, patents give protection to the owner and impart very precious information and inspiration to the future generations of researchers and inventors.

**COPYRIGHTS AND RELATED RIGHTS** Copyright is an expression of a term of law that describes a form of protection provided by the law in regard to the rights of authors. The types of works which may be protected 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; architecture; and advertisements, maps and technical drawings. Copyright subsists in a work through way of creation and therefore it is not a necessary procedure to register a copyright. However, registration of a copyright provides evidence that copyright subsists in the work & creator is the owner of the work. Creators often sell the rights to their works to people or firms best placed to be able to market the works in return for payment. These payments are usually made contingent on the actual use of the work and are thus usually termed “royalties.” These economic rights are time-limited. (other than photographs is for life of author plus sixty years after creator's death

## **GEOGRAPHICAL INDICATIONS**

GI means indications which identify a good as originating in a place, where a given quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin. The agricultural products usually carry features of the territories where they were produced and are affected by the relevant local conditions, such as climate and soil. A geographical indication is the name of a specific place or region of production from where the characteristic qualities of the product that originates therein are determined. The product should derive its qualities and reputation from that place.

The benefits of such a registration are shared by the all members of that particular community. Place of origin may be village or town, a region or a country. 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

## **TRADE SECRETS**

These are all the information which may give an enterprise competitive advantages and are generally considered to be confidential business information. Usually, these are manufacturing or industrial secrets and commercial secrets. This is called 'inside information' and includes means of sale, means of distribution, customer profile and advertising, the lists of suppliers and clients, manufacturing processes. Country's huge availability of traditional knowledge, protection under this will be very crucial in reaping benefits out of such type of knowledge. The geographical indications are also linked to the traditional knowledge of secret of trades.

## **LAYOUT DESIGN FOR INTEGRATED CIRCUITS**

Semiconductor Integrated Circuit shall mean a product having transistors and other circuitry elements which are formed on a semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function inseparably. The intent of the Semiconductor 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 therewith or incidental thereto.

Thus, the major focus of SICLD Act is providing for routes and mechanism for protection of IPR in Chip Layout Designs created and the matters related to it. The SICLD Act gives the registered proprietor an inherent right to the layout-design, an inherent right to use the layout design, and also an inherent right to commercially exploit the layout-design and also to obtain relief in respect of any infringement. The initial term of registration is for 10 years; thereafter it may be renewed from time to time. Department of Information Technology Ministry of Communication and Information Technology is the administrative ministry taking care of its registration and other matters.

## **NEW PLANT VARIETY PROTECTION**

This act has its main object to recognize the role of the farmer as cultivators and conservers and contribution of traditional, rural and tribal communities to the agro-biodiversity of the country 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 has been enforced in India to protect the New Plant Variety; act came into force on 30.10.2005 through Authority. Initially 12 crop species have been identified for regt. i.e. Rice, Wheat, Maize, Sorghum, Pearl millet, Chickpea, Green gram, Black gram, Lentil, Kidney bean etc. "India has opted for sui- generis system instead of patents for protection of new plant variety. The department Agriculture and Cooperation is the administrative ministry looking after its registration and other matters"

## **ELEMENTS PROTECTED UNDER IPR IN E- COMMERCE**

IPR is related to retail and e-commerce by the buying and selling of goods through a physical Shop and an online shop respectively. Retail and online business owners have to protect a number of properties. The issues IPR in E-commerce covers are enlisted below in different models and legislation.

Patents and utility models: Patenting technology, a business process, protection of Search engines, e-commerce platforms, and other important technologies online. The software, along with the text-based HTML code used on websites, is also protected under the Patent Law or the Copyrights Act as per the IPR rules of a country. The entire design of an e commerce website is also covered under the protection provided by the Copyright laws. According to the Copyright Law, all written or visual information, all films, images, or any other graphics posted on the website is protected. Under e-commerce in IPR, firms may opt to protect databases through copyright laws or through country-specific database legislation. Likewise, retail firms can use the Trademark Law in order to protect the name of their brand, name of their product, and any similar indications such as indications on their websites.

## **CONCLUSION**

Without a doubt, intellectual property laws are necessary for the fair and ethical compliance of digital practices and operations, most especially within an industry as wide and vibrant as e-commerce and retail. IPR in ecommerce assists in defending companies that make use of online platforms. Intellectual property rights assist businesses in preserving and protecting their covert business operations as the internet retail market expands exponential. IPR owners can realize their share of company revenue due to IP rights on ecommerce. For this reason, it has to be stipulated that IPR in ecommerce secures ecommerce activities. However, the very success rate of the same completely depends upon the practical application of IP Rights. The rise of E-business then plunged the level of the retail activity to almost the lowest on the society that has become more dependent on. A search on the Internet showed that there is a great deal of commerce on the Internet, just as the E-commerce ravaged economy where it grew with E-commerce sparked rapidly increasing the variety and vitality of the online market.

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