



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

AN EVOLVING LANDSCAPE OF INTELLECTUAL PROPERTY RIGHTS IN INDIA

~Gaurishaa Khot

As one of the fast-growing economies in the world, India has taken great strides in the Intellectual property rights (IPR) area. The country has been tailoring its IPR regime keeping in tune with the global trends but also aligning them with its domestic requirements of protecting IP and balancing innovation with public interest.

- Legislative Framework

India is signatory to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) and its IPR regime is based on statutes that implement their international obligations. First thing that comes under his responsibilities is the legislation they ban.

1. Patents Act, 1970 (as Amended): It relates to the grant of patents for inventions and the holdings of the rights conferred by such patents.

2. Trade Marks Act, 1999 – Protects trademarks and service marks which are vital to brand identity and consumer protection.

3. Copyright Act, 1957 (as amended), providing rights in literary, dramatic, musical and artistic works and the cinematographic films and sound recordings.

4. The Designs Act, 2000: A statute that aims at protecting the aesthetic design of objects, and in providing for creativity in industrial design.

5. The Geographical Indications of Goods (Registration and Protection) Act, 1999 which provides for the registration and better protection of geographical indications relating to goods.

They are supported by an array of rules and regulations that make them actionable.

- Institutional Framework

Controller General of Patents, Designs and TradeMarks (CGPDTM) is the agency which deals with the administration of IPR in India. The CGPDTM is the administrator of patent offices, trademark registries, and design offices in India. The Copyright Office also administers copyright registrations and similar matters.

- Recent Developments

Over the years, India has considerably improved upon its IPR regime:

- National IPR Policy, 2016: This overarching policy looks to create an updated and efficient IPR regime, inclusive of modernized legal framework, robust enforcement mechanisms, and high general public awareness of IPR. It focuses on enhancement of the legal and on the institutional infrastructure, fostering innovation and creativity and reinforcing enforcement of IPRs.
- GOI Digitized IP Process: There have been major digitization initiatives by the Government of India (GOI) to standardize IPR application as well as registration stages. It is worth noting that reduced processing time and transparency has been achieved through e-governance interventions and online filing systems.
- International Collaboration: The Indian intellectual property rights regime also relies on international arrangements for its modernization. One can see that the world intellectual property organization and other global treaties such as patent cooperation treaty (PCT) and Madrid protocol among others are important in this context.

- Challenges and Criticisms

However, there are several challenges that confront India's IPR regime:

- Patent Backlog: The key concern here is a backlog of patent applications awaiting examination resulting in significant delays in granting patents. The government has been trying to address this through increased human resource power and technology-driven approaches.

- Enforcement: IPR remains an issue with counterfeiting and piracy rampant across different sectors. Better enforcement mechanisms and increased penalties for infringement are required to satisfactorily address these challenges.

- Access to Medicines: The international community has debated the manner in which India handles its pharmaceutical patents. Sometimes the country grants compulsory licenses to ensure affordable medicines, which have been praised as promoting public health but criticized for undermining patents by some quarters.

- Awareness and Education: More knowledge about IPR is needed amongst inventors, companies, and ordinary people. By creating IPR literacy it may be possible to facilitate better protection as well as use of intellectual property.

Recent Initiatives and Future Outlook

- Recent Initiatives and steps taken by the government

India has been steadily working towards strengthening its IPR regime. The National IPR Policy was released in 2016 with the objective of promoting a “Creative India; Innovative India” by encouraging creativity and innovation and protecting IPR in India . Some of the important initiatives under this policy are:

- Strengthening IP Administration: Attempts have been made to organize IP administration by moving towards digitization, minimizing the pendency of applications and enhancing overall efficiency of the IP offices .

- IPR Awareness Campaigns: The government has undertaken massive IPR awareness programs, including targeting schools, universities and industries so as to create awareness among various stakeholders about the significance of protecting intellectual property .
- Capacity Building: Training modules for the enforcement agencies including police and judiciary are being organized with a view to bring about awareness and improve their dealing with IPR related cases .

- Conclusion -

The intellectual property rights (IPR) landscape in India is dynamic and evolutionary, with both legislative reforms, institutional enhancements and international cooperation driving it. However, patent backlogs, enforcement issues and balancing of public interest versus private rights remain challenging despite the fact that considerable amount of progress has been achieved. Development of IPR will play a key role in stimulating creativity, innovation and economic growth in India.