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IPR in India: An overview

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• Introduction:

Faith is a bird that feels dawn breaking and sings while it is still dark : Tagore

Intellectual property rights (IPR) are the rights given to persons over the creations of their minds and give the creator an exclusive right over the use of his/her creation for a certain period of time. Intellectual Property Right (IPR) in India was imported from the west. Intellectual Property Rights are of great importance for modern industry and commerce and, in many cases, they have a very important effect on the economy and on the very existence of a business entity. These comprise the right to control the use of technology and creative material, including rights in artistic, musical and literary work, and the right to prevent others from misusing certain marks, symbols and drawings and in distinguishing one from the other. Intellectual Property Rights provide means by which an owner or an innovator can protect his innovation etc. from being imitated and safeguard the fruits of his valuable labour and investment. Basically, an Intellectual Property Right gives a remedy to its owner against those persons who want to reap the fruits of his ideas or work. The value of Intellectual Property cannot be defined in monetary terms; it is an intangible asset of any corporate entity. The scope of IPR coverage can also have a salient impact on the nature of invention and innovation.

IPR definition:

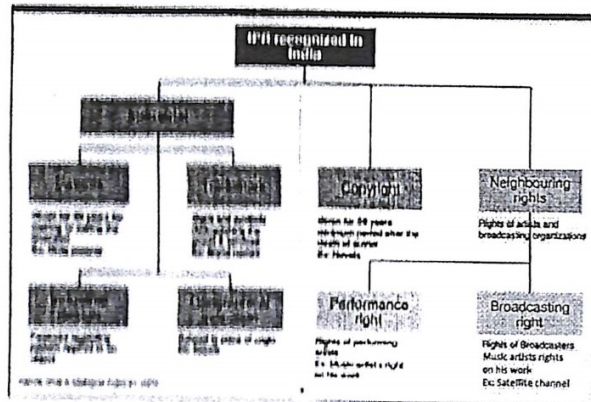
- **Intellectual property (IP) is a legal concept which refers to creations of the mind for which exclusive are recognized** Under intellectual property law, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs. Common types of intellectual property rights include copyright, trademarks, patents, industrial design rights, trade dress, and in some jurisdictions trade secrets. (Wikipedia)
- Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce. (WIPO)
- Intellectual property includes the ownership and use of creative works, including copyrights, patents, trademarks, service marks, trade secrets; mask works (computer chips) and plant variety protection certificates. (McDonald, CIAT, 2001)

Brief history IPR development in India :The Indian Trade and Merchandise Marks Act 1884, was the first Indian Law regarding IPR. The first Indian Patent Law was enacted in 1856 followed by a series of Acts being passed. They are Indian

Patents and Designs Act in 1911 and Indian Copyright Act in 1914. Indian Trade and Merchandise Marks Act and Indian

Copyright Act have been replaced by Trade and Merchandise Marks Act 1958 and Copyright Act 1957 respectively. Based on the Rajagobala Ayyangar Committee report, a Bill was introduced in the year 1965 and the bill was passed in the Lok Sabha but it lapsed in the Rajya Sabha and once again lapsed in Lok Sabha in the year 1966 due to dissolution of Lok Sabha. But it was reintroduced in 1967 and passed in 1970; the draft rules were incorporated in Patent Act and passed in the year 1971.

Importance of IPR in Developing Countries: There are reasons to believe that the enforcement of IPRs has a positive impact on growth prospects. On the domestic level, growth is spurred by higher level of innovations although this result tends to be fairly insignificant until countries move into the middle income bracket. It also notes that the growth effects of IPRs are at different times and in different regions of the world, countries have realized high rates of growth under varying degrees of IPR protection. There are certainly short term costs for poor countries from stronger IPRs, like higher prices for technology and protected products.



Society reaps the following four benefits from granting such monopoly rights to innovations:

- The stimulation of innovations by private agents, the primary social benefits of IPR.
- The use of new knowledge in productive activity.
- The greater dissemination of new knowledge to other agents.
- The stimulation of innovations by other enterprises.

The TRIPS Agreement provides for norms and standards in respect of following areas of intellectual property:

1. Patents
2. Copyrights and related rights
3. Trade Marks
4. Geographical Indications
5. Industrial Designs

6. Layout Designs of Integrated Circuits
7. Protection of Undisclosed Information (Trade Secrets)
8. Plant varieties

- **Conclusion:**

IPR are considered to achieve economic, social and technological advancement that protects the ideas and stimulates innovation, design and helps to the creation of technology. The various types of IPR were designed to provide the formal basis of ownership of developed knowledge with benefit sharing between partners in innovation to create a niche of themselves. It also leads to wealth creation. The function of IPR regime is also to facilitate the transfer of technology in the form of joint ventures and licensing.

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