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Evocative Analysis of Intellectual Property Rights

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Intellectual property rights are a set of exclusive rights granted by the state to an individual or corporation in exchange for an effort made by a person using his mind, talent, and judgement to produce a physical and intangible property with a distinctive value in society. It is classified into several types, including trademark, goodwill, copyright in original creative, dramatic, musical, literary, or other works, database rights, computer programmes, patent rights in an invention, design rights, trade secrets, and private data. To prevent intellectual property infringements, effective legislative implementation is required. Corporate companies should create, manage, and defend their intellectual property, including domain name registration. To prevent intellectual property infringements, effective legislative implementation is required. To avoid cybersquatting, corporate entities should create, manage, and defend their intellectual property, including registering domain names containing trademarks. This article will go through how to employ intellectual property rights (IPRs) including patents, trademarks, copyrights, and trade secrets to fight against innovation infringement.

Keywords: *intellectual property rights, human rights, relationship, interface.*

INTRODUCTION

In other terms, the legal protections prohibit anybody from using the Intellectual Property for business reasons without first obtaining permission from the IP rights holder. Intellectual property rights include trade secrets, patents, trademarks, layout design of integrated circuits,

industrial design, copyright, and related rights, geographical indications. Intellectual property (IP) is commonly considered to play an essential part in the modern economy.

Patents, industrial designs, copyright, trademarks, know-how, and secret information have all been included in the definition of "Intellectual Property." Patents, designs, and copyright are indisputably the product of intellectual labour and creative endeavour in applied sciences and design, as well as exquisite arts.[1] Individuals who develop new creative ideas are seeking to protect themselves under the umbrella of intellectual property rights, as the reach of intellectual property rights expands quickly. Individuals are allowed intellectual property rights over their intellectual works. They frequently offer the creator exclusive rights to use his or her creation for a specified period of time.[2] The intellectual property of any species is an intangible property in nature. In each case, it consists of a collection of rights pertaining to a specific tangible object produced by the owner. [3]

IPR is a strong tool for safeguarding the IP's inventor/investment, creator's time, cash, and energy since it provides the innovator the exclusive right to use its discovery for a set amount of time. Thus, intellectual property rights (IPR) impact a country's economic growth by promoting healthy rivalry and accelerating industrial and economic advancement. The following study gives a high-level overview of intellectual property rights (IPR), with an emphasis on pharmaceuticals.

MEANING OF INTELLECTUAL PROPERTY

Intellectual property includes mental inventions, innovations, literary and creative labour, symbols, trademarks, and visuals used in commerce. The objective of intellectual property protection is to encourage human mind creativity for the advantage of all and to ensure that revenues from the commercialization of work benefit the creator. This will promote innovative activity while also providing investors with a decent return on their investment in R&D.

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[1] P Narayan, *Intellectual Property Law* (3rd edn, Eastern Law House 2001)
[2] 'WTO | Intellectual Property (TRIPS) - What are Intellectual Property Rights?' (*Wto.org*) <https://www.wto.org/english/tratop_e/trips_e/intel1_e.htm#:~:text=Intellectual%20property%20ri%20ghts%20are%20the,a%20certain%20period%20of%20time.> accessed 24 August 2021
[3] Dr BL Wadhera, *Laws Relating to Intellectual Property* (5th edn, Universal Law Publishing Co Ltd 2016)

Intellectual property can be used by individuals, corporations, and other entities to prevent others from utilising their innovations. Intellectual property can be used by individuals, corporations, and other entities to prohibit others from utilising their ideas without their consent.

Article 2 of the World Intellectual Property Organisation (WIPO) [4] - "Intellectual Property shall have included the rights in relation to literary, artistic, and scientific works, inventions in all areas of human endeavour, scientific discoveries, industrial designs, trademarks, service marks, and commercial names and designations, as well as protection against unfair competition," states the Central Organization for the Protection of Intellectual Property Laws and the United Nations specialist organisations.

NATURE OF INTELLECTUAL PROPERTY

- Intangible Rights of Tangible Property: Intangibility is the main feature that distinguishes intellectual property from other forms of property. While distinct types of intellectual property have many important distinctions, one thing they all have in common is that they create property protection for intangible objects such as ideas, inventions, signs, and information, so although intangible assets and intimate connections are tangible objects. where they are entrenched It enables creators or owners to benefit from their works when they are used commercially.
- Right to sue: In legal parlance, intellectual property is an asset that may be held and handled. Most types of intellectual property are disputed in rights of action that can only be enforced via legal action and by those who have rights. Because intellectual property is a property right, it may be inherited, purchased, gifted, sold, licensed, entrusted, or pledged. The owner of an IPR has a form of ownership that he may use whatever he wants subject to specific limitations, and he can pursue legal action against anybody who uses his invention without his permission, and he can get damages against the property.

[4] 'Patent Cooperation Treaty (PCT)' (*Wipo.int*) <https://www.wipo.int/pct/en/texts/articles/a2.html> accessed 24 August 2021

- Rights and Duties: The owner of the IP has the right to perform certain functions in relation to his work/product. He has the exclusive right to produce the work, make copies of the work, market work, etc. There is also a negative right to prevent third parties from exercising their statutory rights.
- Coexistence of different rights: Different IPRs could co-exist with reference to a particular function. For example, an invention may be patented, and the invention photograph may be copyrighted. A design can be protected under the Design Act, and the design can also be incorporated into a trademark. There are many similarities and differences between the various rights that can exist together in IP. For example, there are common grounds between patent and industrial design; Copyright and neighbouring rights, trademarks and geographical indications, and so on. Some intellectual property rights are positive rights; the rest of them are negative rights.
- Exhaustion of rights: IPR's are mostly subject to the doctrine of exhaustion. Exhaustion basically means that after the first sale by the right holder or by its exhaustion authority, his right ceases and he is not entitled to stop further movement of the goods. Thus, once an IP rights holder has sold a physical product to which IPRs are attached, it cannot prevent the subsequent resale of that product. The right terminates with the first consent. This principle is based on the concept of free movement of goods which is in force by consent or right of the rights holder. The exclusive right to sell goods cannot be exercised twice in relation to the same goods. The right to restrict further movements has expired as the right holder has already earned his share by the act of placing goods for the first sale in the market.
- Dynamism: Since technology is rapidly evolving in all areas of human activities, the field of IP is also growing. As per the requirement of scientific and technological progress, new items are being added to the scope of IPR, and the scope of its preservation is being expanded. Bio Patents, Software Copyrights, Plant Diversity Protection, are few names that reflect contemporary developments in the field of IPR. The importance of intellectual property and its mobility is well established and reflected at all levels, including statutory, administrative and judicial.

NEED OF IPR

Every invention needs cash, time, the necessary knowledge, energy, and work. As a result, it is critical to identify and appreciate a creator's intellectual works. While many of the legal principles underlying intellectual property rights have evolved over the years, intellectual laws have not. It was not until the twentieth century that it expanded throughout the bulk of the world. The World Intellectual Property Organization (WIPO) was established as a United Nations entity in 1967.

There is an important global system for trying to define, safeguarding, and trying to enforce intellectual property rights, that also includes multilateral treaty schemes as well as international organizations such as Trade-Related Aspects of Intellectual Property Rights (TRIPs), the World Intellectual Property Organization (WIPO), and the World Customs Organization (WCO). As time passed, it became clear that IPR laws were necessary for the protection of creators, to stimulate new creations, to support economic progress, and to generate new employment and businesses. Thus IPR is required to: -

- Safeguard inventors' and other producers' intellectual property
- Products and services by providing them time-limited rights to regulate how created things are utilised
- It fosters innovation and creativity while also making company operations more efficient.
- It also encourages technology transfer through foreign direct investment, joint ventures, and licencing. [5]

KINDS OF INTELLECTUAL PROPERTY RIGHTS (IPR)

Copyright

Copyright is a body of regulations that safeguards the literary and creative creations of writers, painters, and other creators, that are sometimes referred to as "work." Section 14 of the Act defines “copyright” as the exclusive right, pursuant to the provisions of this Act, to

[5] 'Intellectual Property Rights' (*Drishti IAS*, 2019) <https://www.drishtiias.com/to-the-points/paper3/intellectual-property-rights> accessed 25 August 2021

perform or permit the performance of any of the following acts. It is a set of exclusive rights provided to the author or creator of original work, including the right to copy, distribute, and change the work. Copyright is only lawful for a certain period before the work is declared to be in the public domain. Copyright protects the expression of an idea, not the idea itself. For example, numerous writers create physics textbooks that include topics such as mechanics, heat, optics, and so on. Even though identical subjects are handled in several books by various writers, each author retains copyright to the work written for him or her, as long as the work is not a duplicate of another published book previously.

Copyright protects the rights of authors of literary and creative works (such as books and other publications, musical compositions, paintings, sculptures, computer programmes, and films) for a minimum of 60 years after the author's death. It also safeguards related rights, sometimes known as neighbouring rights. The rights of performers, such as actors, singers, and musicians, as well as phonogram manufacturers, are examples of neighbouring rights (sound recordings). The primary goal of copyright and associated rights protection is to stimulate the development of a wide range of intellectual goods.

Patent

A patent is an exclusive right granted for an invention, which is a product or process that provides a new method of doing something or a new technical desirable outcome. In order to get a patent, technical details about the innovation must always be made public in a patent application.

- **Protection offered**: In speaking, the patent owner is the exclusive owner of the right to prevent others from monetarily exploiting the protected innovation. In other terms, patent protection means that others cannot economically manufacture, use, distribute, import, or sell the invention without the authorization of the patent holder.
- **Validity:** Patents are, in essence, geographical rights. Exclusive rights are only applicable in the country or area where a patent has been filed and issued in accordance with local law.

- **Expiry date:** The protection is generally granted for a set period of time, usually 20 years from the day the application is submitted

Trademarks

A trademark is a sign that differentiates the goods or services of one firm from those of other companies. Trademarks are protected by intellectual property rights.

- **Procedure for protection**: At the national/regional level, trademark protection can be obtained through registration, by filing an application for registration with the national/regional trademark office and paying the required fees. At the international level, you have two options: either you can file a trademark application with the trademark office of each country in which you are seeking protection, or you can use WIPO's Madrid System.
- **The protection offered**: In principle, a trademark registration will confer an exclusive right to the use of the registered trademark. This means that the trademark can be used exclusively by the owner or leased to another party for usage in exchange for a fee. Registration offers legal clarity and strengthens the right holder's position, for example, in the event of litigation.
- **Expiry date:** The duration of a trademark registration might vary, although it is typically 10 years. It is renewable indefinitely with the payment of extra payments. Trademark rights are private property rights that are enforced by judicial orders.
- **Kinds of trademarks which can be registered:** A trademark might be a single word or a mixture of words, characters, and numbers. However, Trademarks can also be drawings, symbols, three-dimensional components such as product shape and packaging, non-visible signals including such noises or scents, or colour tints used as identifying characteristics – the options are virtually limitless.
- **Industrial Designs:** In a legal sense, an industrial design is the visual aspect of an object. A three-dimensional feature, such as the shape of an object, or a two-dimensional element, such as designs, patterns, or colour, may be included in an industrial design.

- **The protection offered**: In general, the owner of a registered industrial design or a design patent does have the right to prohibit third parties from trying to make, trying to sell, or having to import articles bearing or embracing a design that is a copy, or substantially a copy, of the shielded design when such acts are carried out for business reasons.
- **Kind of products that can benefit**: Industrial designs are used on a wide range of industrial and handcrafted things, ranging from packaging and containers to furniture and home goods, lighting equipment to jewellery, and electrical gadgets to textiles. Graphic symbols, graphical user interfaces (GUI), and logos may also be significant to industrial designs.
- **Procedure for protection**: In most countries, an industrial design must be registered in terms of protection as a "registered design" under industrial design legislation. Industrial designs are protected under patent law in some countries as "design patents."
- Some nations' industrial design laws provide time- and scope-limited protection to so-called "unregistered industrial designs" without requiring registration. Industrial designs could well be protected as works of art under copyright law, based on the particular country's law and the type of design.

GEOGRAPHICAL INDICATIONS

A geographical indicator (GI) is a designation that is applied to products that have a specified geographic origin and have characteristics or a reputation that originate from that origin. To function as a GI, a sign must identify a product as coming from a specific area. Furthermore, the characteristics, traits, or reputation of the product should be largely connected to its place of origin. Because the features differ depending on the geographical area of production, there is a clear link between the goods and their original site of production.

The protection offered: A geographical indication right enables those who have the right to use the indication to prevent its use by a third party whose product does not conform to the applicable standards. For example, in the jurisdictions in which the Darjeeling geographical indication is protected, producers of Darjeeling tea can exclude the use of the term

"Darjeeling" for tea not grown in their tea gardens or not produced according to the standards set out in the code of practice for the geographical indication.

However, a protected geographical indication does not enable the holder to prevent someone from making a product using the same techniques as those set out in the standards for that indication. Protection for a geographical indication is usually obtained by acquiring a right over the sign that constitutes the indication.

Kind of products that can benefit: Geographical indications are typically used for agricultural products, foodstuffs, wine and spirit drinks, handicrafts, and industrial products.

Procedure for protection: There are three main ways to protect a geographical indication:

- so-called sui generis systems (i.e., distinctive protection regimes);
- use of collective or certification marks; and
- techniques focused on business processes, such as administrative product approval schemes.

These perspectives diverge on important topics such as the prerequisites for protection and the breadth of protection. On the other hand, two forms of protection — sui generis systems and collective or certification mark systems — share some characteristics, such as the formation of collective use rights by persons who satisfy certain conditions.

In general, geographical indicators are preserved in different nations and regional systems using a variety of ways, which generally include two or more of the measures listed above. These approaches were developed in accordance with diverse legal traditions and in response to certain political and geographical situations.

TRADE SECRETS

Trade secrets are private information intellectual property (IP) rights that may be acquired or rented. To qualify as a trade secret, the information must be:

- Because it is confidential, it is commercially valuable.

- Be known solely to a small set of people, and
- Be subject to the legitimate holder of the information making reasonable measures to keep its secrets, such as using non-disclosure agreements with business partners and staff.
- Improper collection, usage, or release of such knowledge by others in a manner inconsistent with fair business practises is deemed unfair conduct and a violation of trade secret protection.

The protection offered: In general, any confidential business information which provides an enterprise a competitive edge and is unknown to others may be protected as a trade secret. Trade secrets encompass both technical information, such as information concerning manufacturing processes, pharmaceutical test data, designs, and drawings of computer programs, and commercial information, such as distribution methods, a list of suppliers and clients, and advertising strategies.

A trade secret may be also made up of a combination of elements, each of which by itself is in the public domain, but where the combination, which is kept secret, provides a competitive advantage. Other examples of information that may be protected by trade secrets include financial information, formulas and recipes, and source codes.

- **Procedure for protection**: Depending on the legal system, the legal protection of trade secrets forms part of the general concept of protection against unfair competition or is based on specific provisions or case law on the protection of confidential information.
- While a final determination of whether trade secret protection is violated or not depends on the circumstances of each individual case, in general, unfair practices in respect of secret information include industrial or commercial espionage, breach of contract, and breach of confidence.
- A trade secret owner, however, cannot stop others from using the same technical or commercial information, if they acquired or developed such information independently by themselves through their own R&D, reverse engineering, or marketing analysis, etc. Since trade secrets are not made public, unlike patents, they do not provide "defensive"

protection, as being prior art. For example, if a specific process of producing Compound X has been protected by a trade secret, someone else can obtain a patent or a utility model on the same invention, if the inventor arrived at that invention independently.

- **Obtain certified proof of existence for my confidential information:** WIPO PROOF may be used as a step to preserve the confidentiality of your information. With a special digital encryption system, it time stamps your confidential information without being stored outside your sphere. The encrypted proof, which cannot be modified, can certify the existence of the work at a certain point in time, thus providing a complementary protective measure for your trade secrets.

NATIONAL INSTITUTIONS RELATING TO IPRS

IPRs are controlled by a country's national laws and norms. International treaties and organisations only guarantee minimal rights and offer specific mechanisms for contracting governments to protect their rights. IPRs are a collection of rights that include reproduction, public communication, adaptation, and translation of the work. There are various laws regulating IPR in India, such as:

- Copyright Act, 1957
- Patent Act, 1970
- Trademark Act,1999
- Geographical Indication Act
- Biological Diversity Act, 2002
- Semiconductor Layouts Designs Act, 2000
- Designs Act ,2000

Copyright Act 1957

The copyright owner might profit not just from exploitation, but also by exchanging it with others for common benefit. This can be achieved through copyright assignment and licensing. Section 19 of the Act requires that assignments be in writing and that the owner define the right that he is prepared to transfer to another person, as well as the term and geographical

extent of such assignment. The Appellant Board is the dispute resolution body that will hear the complaint. When a person knowingly or accidentally violates the copyright holder's rights, the holder may be liable to the following remedies provided under this Act.[6]

The copyright Act confers protection in the following two ways:

Economic Rights - Section 14 of the aforementioned Act grants the creator of the work economic rights. Economic rights typically include the right to reproduce the work in any material form, including retention on any medium, to make copies accessible to the public, to complete the tasks in public, and so on. The author also has the right to sell, contract, or offer for sale his or her work.

Moral rights - Section 57 [7] of the Act gives us majorly two rights. The right to paternity refers to the right to claim authorship of one's own work as well as the right to prohibit others from claiming authorship of one's own work. On the other hand, the author's right to integrity protects him against distortion, mutilation, and change of his work, which would be detrimental to his honour and reputation.

Patent Act, 1970

Section 2(m) contains the legislative definition of a patent. In several decisions, the Supreme Court has emphasized that the purpose of granting a patent is to stimulate research, development, and innovation. Patent registrations confer on the legal owner an enforceable right, namely the right to prohibit others from exploiting the innovation for a stated amount of time. The owner has had a monopoly on the patented right for 20 years, after which it is accessible to exploitation by others.[8] For the specified term, a patent grants the right to manufacture, use, offer for sale, sell, or import the invention. Section 3(d) of the Indian Patent Act 1970 (as modified in 2005) prohibits patenting innovations involving new forms of a

[6] Shalu Gothi, 'An Overview of the Copyright Act, 1957 - Ipleaders' (*iPleaders*) <https://blog.ipleaders.in/an-overview-of-the-copyright-act-1957/amp/> accessed 26 August 2021
[7] Mahendra Kumar Sunkar, 'Copyright Law in India - Copyright Office, Copyright Act' (*Legalserviceindia.in*) <http://legalserviceindia.in/article/l195-Copyright-Law-in-India.html> accessed 26 August 2021
[8] Patent Act 1970, s 53

known chemical unless they differ considerably in characteristics with regard to effectiveness, i.e. it does not permit patent greening. The legislation also specifies certain products are not patentable. It also includes a method for copyright infringement.[9]

Conditions for grant of Patent in India:-

- The patent application will be filed in the Indian Patent Office.
- A Patent Application can be filed by anybody, whether an Indian or foreigner, an individual, a corporation, or the government.
- The applicant must be the original and authentic creator of the invention. A joint patent application can also be filed.[10]
- The application must specify the applicant's preferred method of carrying out the invention for which he is requesting protection. [11]
- The applicant must also specify the scope of the invention.

Trademark Act,1999

One form of intellectual property is a trademark. The legislation defines a trademark as a mark capable of being graphically expressed and capable of distinguishing one person's service or product from those of another, that may include the shape of things, their packaging, and colour scheme. These marks are designed for use in trade to identify one's goods. It is regarded as a brand name. It is a mark capable of differentiating one's goods or services from those of others. The owner of a trade mark has the right to sue for violation of his rights. The legislation includes a number of remedies, including:

- Injunction
- Damages
- Account of profits

[9] 'The Basics of Patent Law in India' (*Vakilno1.com*, 2019) <https://www.vakilno1.com/bareacts/%20laws/the-basics-of-patent-law-in-india.html> accessed 27 August 2021
[10] Patent Act 1970, s 6
[11] Patent Act 1970, s 10

In the case of *Hearst Corporation vs Dalal Street Communication Ltd,* [12] The court decided that a trademark is violated when a person in the course of business displays a mark in relation to the items that are identical to or substantially similar to the registered trademark.

Geographical Indications Act, 1999

Geographical indications are any signs that indicate commodities as coming from the territory of a country, a region, or a specific location within that territory, provided that the product's quality, reputation, or other characteristics are connected to its geographical origin. [13] Geographical indicators are used to identify the area of origin of specific items. Any manufacturer who fulfills the GI owner's standards can utilize GI. Registered GI gives the registered proprietor and authorized user-specific rights, and they may also sue for its violation. Some instances of GI are Basmati Rice, Darjeeling Tea, Kanchipuram Saree, Nagpur Orange Kolhapur Chappal, Agra Petha, and so on. Occasionally, friction occurs between two distinct areas due to similar use. As a result, many argue that these names should not be limited to a single set of customers in a single geographical region.

The conditions which must be complied with before filing the application:

1. A declaration of how the GI helps to distinguish items coming from the concerned region in terms of quality and reputation that are owed only to others.
2. The kind of products to which the GI applies.
3. A geographical map of the nation, area, or locale in which such items are made.
4. Specifics on the GI's look.

The registration of GI grants the authorized user the right to seek redress for infringement as well as exclusive rights to use the GI in connection to the items for which it is registered. [14]

Design Act, 2000

[12] *Hearst Corporation v Dalal Street Communication Ltd* 1996 PTR 1 (Cal)
[13] Akaersh Verma, 'Geographical Indication- Intellectual Rights' (*Legalservicesindia*, 19 January 2021) <http://www.legalserviceindia.com/articles/geoind.htm> accessed 28 August 2021
[14] *Ibid*

Products that are artistically designed attract the attention of customers. When people go for their purchase may it be textile, electronic item, etc. they get attracted by the shape and design of goods. So the creative originality of a design needs legal protection against copying. Paris convention and Berne Convention, Hague Conventions to some extend gives protection to the designs. In India, the first law on Design was formulated in British times named as Patent and Design Act, 1872. When a separate Patent Act was enacted in 1970, the provisions related to the patent were repealed and the Act was renamed as Design Act,1911. This Act continued till Design Act,200 was enacted.

Salient Features of Design Act

The legislation not only encourages the development of innovative and unique product designs but also seeks to balance conflicting interests by giving a time-limited monopoly on the use of such registered designs. The following are the highlights of the Acts: -

- It includes mechanisms for identifying non-registrable designs.
- It replaces the Indian categorization system with a globally accepted one.
- It offers a register for computer design.
- It includes provisions for restoring expired designs.
- It revokes a registered design's two-year period of confidentiality.
- It also increased the penalties for design violations.
- It has particular requirements to safeguard India's security.[15]

Biological Diversity Act,2002

Biodiversity is critical to the long-term protection of nature and the growth of the biotechnology sector. Biodiversity is essential for advances in increasing plant, animal, and fish productivity, among other things. India has a wealth of traditional and indigenous knowledge, both codified and not coded. As a result, there is a need to safeguard biodiversity in India against biopiracy. The primary goals of the Act are as follows: to control access to the

[15] WTO (n 2)

country's biological resources, safeguard the sustainable use of biodiversity, and protect and rehabilitate vulnerable species.

Salient Features of the Act:

- It suggested the formation of a National Biodiversity Authority, State Biodiversity Boards, and a Biodiversity Management Committee.
- It is proposed to set biodiversity funds at central, state, and local levels.[16]

INTERNATIONAL INSTITUTIONS REGULATING THE IPRS

The foundation of international institutions of IPRs has been laid bricks by bricks through various conventions, treaties, and agreements. The establishment of WIPO has made the task of implementation of various international agreements etc.

World intellectual property Organisation (WIPO) - is a landmark establishment in the history of intellectual property rights. WIPO's headquarters are in Geneva. The primary goals of establishing the WIPO are to promote intellectual property protection throughout the globe and to offer a worldwide application for IPRs. WIPO membership is accessible to any state that is a member of the Union. Currently, the organization manages 11 treaties that provide internationally agreed-upon rights and uniform standards for their protection. [17]

TRIPS - Trips agreement for the first time creates a multilateral framework for the enforcement of all IPSs. It is a mandatory agreement. TRIPS provisions must be followed by every WTO member. TRIPS promotes sufficient IPR protection, which helps to eliminate distortions and barriers to intellectual trade. It provides a multilateral framework of principles, rules relating to IPRs. It also provides a different level of dispute resolution mechanism. TRIPS show that the world community has realized the greater need to create a global legal regime of intellectual property rights with an effective mechanism. [18]

[16] *Ibid*
[17] *Ibid*
[18] *Ibid*

ARTIFICIAL INTELLIGENCE & IT'S RELATION TO INTELLECTUAL PROPERTY RIGHTS

AI and Patent: It is challenging to patent AI systems and platforms. In actuality, an AI system will frequently imitate human behavior. Microsoft's Inner Eye project is an example of an AI system that aids oncologists in more precisely targeting cancer therapy. It achieves this aim by analysing magnetic resonance imaging pictures of patients and utilising machine-learning algorithms to identify tumors from surrounding healthy tissue and bone. Previously, the oncologist finished this task by hand-drawing contours on 3D images.

If a patent application is made for this task done by the machine, it will be denied since one of the basic requirements of patentability, which explains how the invention works, is not met in this case. Inventions and novel ideas are at the center of societal transformation. Inventions have historically been protected by a system of intellectual property law, with patents at its heart. While patent law is still heavily influenced by the industrial revolution, it has been able to adapt to succeeding revolutions such as computing, albeit with major challenges. The world is presently undergoing an unprecedented transition, the implications of which for patent law, in particular, are so far-reaching that their impact is still unknown.

AI and Copyright

Traditional copyright law does not recognise works created by artificial intelligence. It only protects a person's one-of-a-kind inventions. The United States Copyright Office emphasized in the famous Monkey-Selfie copyright issue that a work must be made by a human being in order to be covered by copyright law.[19] This judgement raised concerns about the copyrightability of AI-generated works.

However, the law in the United Kingdom is a little different. The UK Copyright Act contains a provision that stipulates that if a work is computer-generated, the author is deemed to be the

[19] Sana Singh and Sonil Singhania, 'India: Redefine Intellectual Property with Artificial Intelligence' (*Mondaq*, 15 February 2021) <https://www.mondaq.com/india/patent/1036180/redefine-intellectual-property-with-artificial-intelligence> accessed 29 August 2021

person who aided in the development of the work. Similarly, we may deduce that the author of AI-generated work is the person who made the necessary preparations for work production.

In terms of Indian legal principles, Section 2 (d) of the Copyright Act, 1957 defines "author" "in relation to any literary, dramatic, musical or artistic work which is computer-generated, the person who causes the work to be created;" When AI grows more powerful and totally autonomous and has the freedom to make its own judgments, it may become even more difficult to say with confidence who made the arrangement required for the production of work performed. At the moment, only human authors of creative works are protected by copyright. Some academics, however, have pushed for the notion of extending copyright to non-human writers. They propose that the definition of "authorship" should be expanded to include both human and non-human writers.

COMPETITION ACT, 2002 AND IPR

Though the IPR laws in India fail to mention "competition", the Competition law in India explicitly excludes from its ambit the reasonable conditions imposed by an IPR holder in protecting his IPR. The legislative intent behind the Competition Act, 2002 is not to hamper IPR protection. The Act vide S. 3(5) excludes the right of IP holders to prevent infringement or to impose "reasonable conditions" for the protection of their IPRs from the ambit of anti-competitive agreements. [20]

The IP-Competition interface is complicated by a mixed reading of Section 3(5), 60, and 62 of the Competition Act. Section 60 contains the non-obstante clause, which states that the provisions of the Act have precedence over any other legislation. Section 62, on the other hand, states that the Act's provisions are in addition to, and not in derogation of, any other law's provisions. This contradiction makes determining the true nature of the interventions permissible under the Competition Act challenge. However, the court determined that the CCI has jurisdiction over IPR cases. [21]

[20] Competition Act 2002, s 3(5)(i)
[21] *Aamir Khan Productions Pvt Ltd v Union of India* (2010) 112 Bom L R 3778

The lack of definition for "reasonable conditions" indicates that the competition law in India permits an IPR holder to hamper competition to protect his IPRs. This implies favoritism towards IPRs, at the cost of competition in the market. Hence there is nothing wrong in saying that the Indian legal system prioritizes the IPR laws and their objectives over that of the competition law. Nevertheless, the CCI has identified some practices that are unreasonable viz. patent pooling, tie-in arrangements, restricting research and development, etc. It should be noted that the exclusion of reasonable use of IPR from the scope of competition law is limited to the purposes specified in S. 3 (5).

In *UOI v Cyanamide India Ltd. & Others* [22], In terms of the pricing element, the court determined that overpricing of life-saving medications falls under the purview of CCI. The court reasoned the same way, stating that a lack of alternatives leads to the formation of monopolies, which reduces market economic efficiency. Also, in the light of the present COVID-19 pandemic, if the price of the COVID-19 vaccine is unregulated in the name of patent rights over it, the same will be unaffordable to a large section of the society and at the same time, patent rights over the vaccine would prevent others to enter the market and provide the same at a cheap rate. Therefore, grant of jurisdiction to CCI in matters of overpricing of life-saving drugs is a step in the right direction.

BLOCKCHAIN TECHNOLOGY AND INTELLECTUAL PROPERTY RIGHTS

Blockchain would be an integral part of any technology and in any industry. The entire structure and ecosystem of a blockchain are based on the following prime objectives:

- Accountability
- Security
- Transparency
- Identification
- Chain linked events

[22] *Union of India v Cyanamide India Limited & Anr* AIR (1987) SC 1802

IP rights are authenticated by third parties like the government or administration of the geographical regions, with the inherent physical limitations, it has started to be getting penetrated and cracked. With globalisation and digitization, concerns of piracy of protected literary, theatrical, and musical works are escalating. With giants establishing and having a significant piece of their industrial structure via the internet, in situations of E-commerce, the geographical limits are lessening. Blockchain is projected to be the replacement for this insufficient "Physical System." The magnitude of the possibilities that blockchain provides to the IP ecosystem is enormous.

1. IP Registries: The current registration which is a centralized database can be replaced by a decentralized blockchain, which is the most prominent application of blockchain technology. IP offices may explore using a centralised, Blockchain technology-based repository to document the life cycle of IP rights. Because blockchain is in the form of a chain, the user may track it back to the origin of the data or the date of its application. Useful for dealing with "Non-use Revocation" accusations, as well as audits, assignments, Mergers, and Acquisitions.

2. Smart Contracts and Digital Rights Management (DRM): Smart Contracts could be used to perform fundamental functions, though they need constant updating and reviewing with time. They have the capacity to act and execute on their own when certain circumstances are satisfied, without the need for manual involvement, and with suo-moto authority.

In a case study scenario, a person might licence a copyright-protected work using Smart Contract, and the corresponding royalty payment could be delivered to the licensor in real-time once the work was utilised. Licensing of copyrighted material might be done efficiently with the use of such contracts.

3. Anti-Counterfeiting and Supply Chain Management: Offering numerous untapped potential in the aspect of off-line ecosystems in IP rights. Tags and imprints that are linked to the blockchain may now be scanned and used to track products on an immutable blockchain. The ledger would reflect relative ownership or authorised licensees, and it would assist all

parties in the supply chain, including customers and authorities, in distinguishing real items from counterfeit goods.

4. Trade Secrets: With upcoming new small and medium businesses, there is a growing concern over the trade secrets of the new inventions made. These trade secrets can be stored in a private blockchain platform system where the entire and detailed information is encrypted and would also be secure from third-party intervention.

CONCLUSION AND SUGGESTIONS

Market demands, market reaction, the expense of turning IP into a commercial enterprise, and so on all have a significant impact on IP and its related rights. In other words, trade and commerce factors are vital and advantageous in IPR management. Diverse types of IPR need different treatment, handling, planning, and tactics, as well as the involvement of professionals with specialised understanding in fields such as research, engineering, medical, law, finance, marketing, and economics. The present regime's IPR effect is heavily influenced by its knowledge and intellect. Furthermore, many individuals are still uninformed of IPR and the benefits of acquiring rights to their intellectual property. In such instances, the government should raise awareness of IPR in outlying areas.

The present IP rules require significant improvement in order to keep up with the ever-increasing artificial intelligence. If they are not improved, artificial intelligence will continue to become smarter, to the point where present laws will no longer be able to fulfill human requirements.