

IPR: AWARENESS CHanneled BY NGOS AND INSTITUTIONS

-Ashutosh Singh¹

ABSTRACT

Intellectual property law is the law that deals with that kind of property which has something to do with the intellect of the human being and is different from the concept of general property dealing in transfer of property act. These rights are generally intangible in nature and are of the latest development. They have come into existence formally after the establishment of the World Intellectual Property Organisation (WIPO) the role of institutions and NGOs, local communities, individual as a whole to raise awareness of the implications of Intellectual Property Policy for development. Acts of NGOs for emphasising the importance of Intellectual identification for an innovation and protection of ideas along with the inventor's integrity for motivating future innovators, investors and futurists. This paper further assess the acts done by the organizations so far in the respect of promotion of Intellectual Property rights and possibly provide ideas to broaden the scope of efforts and dwell in the same stream as the World Trade Organization (WTO), World Intellectual Property Organisation (WIPO), the efforts which need to be made for the outspread of information to all possible area including major organizations keeping the concept of Intellectual Property as per the National Intellectual Property Protection norms. Concluding with the ideas for tactical and operational changes by the method of Statistical research.

Key words – Wipo, Wto, Ngo, Ip, Indigenious Knowledge, Ipindia, Trade Mark, Patent, Copyright.

INTRODUCTION

India being a very innovative society, Indians are very inventive in nature, but the system in which we secure those inventions, discoveries, acts are not well protected. This is partly because we don't have a very robust system to enforce the necessary actions which is required to protect the IPs. The confidence level of those people who innovate will be high only if they know that their product is secure. As we know we are innovative, at the same time we are good in

¹ Amity Law School, Amity University, Lucknow.

innovating the work that somebody has already done. We try to copy many things, and people think that copying things is very easy, thinking its easy they chose the unethical path.

At the same time we are also conscious that the innovators and creators to be able to enforce their IPRs, the enforcements and adjudication mechanisms in the Country has to be strengthened, have to be sensitized, in that regard we are organizing a national IPR enforcement workshop which was inaugurated by the Hon'ble Home Minister of India on 22nd of August, 2017.

Hoping to sensitize police officers across the country and create a kind of movement where people are able to Enforce their IPR, enjoy the benefits of their IPRs without fear and with having the full rule of law behind them. At the same time we are also acutely aware to create awareness on IPRs in school children and college students and the general public and industries so that they can recognize their own IPRs protect their IP and also respect other's IP.

And this awareness program has started, we must cover more number of schools, colleges and industrial clusters, In the days and months to come, we must see the Intellectual property landscape of India changing and changing for the better.

To be honest research and development is not looked as very lucrative on priority in the country we always look at things that can be acquired easily by paying or by illegal means, some unfair practices. There are many things which we see in different parts of India, like in the north east, a type of Orange is found which is pretty unique in terms of taste looks and all different things, its called Wakhro Orange, like the lichi of Tezpur, Meghalaya's Khasimandarin, Large cardamom of Sikkim, Bird eye chilli of Missoram Assam's bhujalakya, Nagaland's Nagasilk mircha, tripura's queen pineapple, there are many things which is pretty normal.

In recent years India has taken a number of ground breaking initiatives both at national and International levels in the area of IPR these initiatives have been creating an empowering environment for Intellectual Property in order to support in particular the PM initiatives for Make In India, Digital India, Start-up India, for IP to be an empowering mechanism it has to provide business and industry with the tools to enable them to convert the fabled intellectual and cultural richness of India into economic wealth. It also has to provide the tools to enable the industries and commerce to refrain unfair and predatory practices that deprives creators innovators and

entrepreneurs of this possibility of converting the intellectual and cultural richness of India into commercial assets into economical wealth. All this is passed of a fair balanced and effective intellectual property system. IP is taken seriously and attention is paid to IP at the highest level of the Indian government.

ROLE OF INSTITUTIONS AND NGOS

NGOs have had a prominent impact, targeting the debate on intellectual property rights and development policy. NGOs need to be vigilant to ensure that they do not become donor driven, either implicitly or explicitly. Donor dependence can lead to pressures for NGOs to glorify particular issues or to swap attention away from IP rights towards more tangible issues of immediate concern. Engaging with IP issues needs long-term strategies on the part of NGOs. This must be garnished by long-term commitment on the part of donors. Over time the significance of contributions that NGOs have made to intellectual property policy-making and norm-setting activities in multilateral institutions will become more apparent, but this is not a limited day process.

Indians by nature are innovator and creator, and for recognizing the streak, the Govt. Of India adopted the IPR policy. Ever since we have come through a lot of programs for our young innovators creators, entrepreneurs of India to utilize and to gain economic benefits out of it. Sadly the assault on the quality becomes so prominent, the knowledge has to be valued, it can only be valued if its protected. It should not be easy available, unless you pay for it. When we talk about quality, we need to ensure the originality and the skill used to make that particular product. The home ministry deems to look into means and ways to ensure the enforcement system works in a robust manner otherwise the knowledge will die, innovation will rendered useless, face marketing and the counterfeiting of currency and counterfeiting of these valuable goods will dig up the roots of innovation.

The duty of the NGOs falls in the right place as to uplift the confidence by providing much necessary knowledge. By the promotion and widespread of Intellectual Property Rights' importance through seminars, workshops, training sessions, education to common people, organizations, Federal departments, institutions, Students and Investors.

THE GLIMPSE OF STEPS ONWARDS – INSTITUTIONAL EFFORTS

The Cell for IPR Promotion and Management(CIPAM) kicked off the IPR Awareness campaign for schools across the country in New Delhi at Kendriya Vidyalaya, RK Puram.

The IPR Awareness campaigning was launched in collaboration with the **International Trademark Association (INTA)**.

The National Intellectual Property Rights (IPR) Policy, which was approved by the Union Cabinet on 12th May 2016, is a significant move forward to encourage creativity and stimulate innovation in the country.

Joint Secretary Rajiv Aggarwal from DIPP said that “outreach and Promotion is the first and foremost objective of the National IPR Policy and is critical to shaping an IP environment that is conducive to fostering creativity & innovation in the country.”

He said that one of the key focus areas is children in schools, as it is essential to nurture creativity and the ability to innovate from a young age.

A streamlined system is being worked out to conduct over 3500 awareness programmes in schools, universities and the industry across the country including Tier 1, Tier 2, Tier 3 cities as well as rural areas along with translating the content to various regional languages for a wider reach.

The programme was an hour long interactive session with a presentation delivered by the INTA Working Group which included various games and activities to keep the kids engaged. Along with the presentation, colourful and vibrant posters on different IPs were put up and mementos including a brochure on IP designed for kids was given to all students.²

As per recent updates,

² The Times of India (April 17, 2017) Last visited 08th September, 2018.

WIPO is setting up two centers, One in Punjab Innovation support Center called as TISC Technology and Innovation Support Center, and IPAB Intellectual property Appellate board In Tamil Nadu, where the academes together with the industry will provide the technological support, and therefore the centers, for greater traction and bringing the benefit of support mechanism which is needed whether in institution or the stake holders.

Confederation of Indian Industry (CII) in association with the **Ministry of Micro Small & Medium Enterprise**, Government of India has established an **Intellectual Property Rights Facilitation Centre (IPFC)** Indore, Mysore and Gandhinagar.

This is the first of its kind in the state of Madhya Pradesh, Karnataka & Gujarat to be launched with a primary objective to “Boost IP Culture” which would enhance the Intellectual capital that is vital for the economic development of the state.³

The IP facilitation cell includes the numerous services and highlights which facilitates and provides solutions with recognitions and rewards. The following if further explains the same,

- a) IP Policy inputs to the state administration,
- b) Training & Capacity development,
- c) IP commercialization support with due-diligence & valuation,
- d) IP Protection & informative services,
- e) Recognition & reward,
- f) Investor’s counseling & Advisory services.

UNDERSTANDING THE RESPONSIBILITIES IN RELATION WITH TRADE RELATED ASPECTS

TRIPS or Trade Related Aspects of Intellectual Property Rights is an agreement international in nature which is administered by the World Trade Organization (WTO) setting down minimum parameters for the many forms of intellectual property (IP) rules and regulations which thereby applies to all others nations following the WTO code of conduct. This agreement on TRIPS was

³ <http://www.cii.in/uploads/IPFC-CII%20website.pdf> last visited, 19th September, 2018

negotiated at the end of the Uruguay Round of the GATT in 1994. GATT stands for General Agreement on Tariffs and Trade which was a multilateral agreement regulating international trade, starting the first round in 1947 at Geneva and ending with Doha in the year 2001.

The TRIPS agreement was introduced to govern the legal parameters for intellectual property law into the international trading system and it remains an important and comprehensive agreement on intellectual property to date. The Doha Declaration in the year 2001 was a result of the concern of the developing countries towards the developed countries who were insisting on a narrow reading on the agreement; henceforth the Doha Declaration came into force which clarified the scope of TRIPS providing the agreements goal as “to promote access to medicines for all.” Specifically the WTO has set governing rules for which are complied by the members providing copyright, covering contents, geographical indications, confidential information which are necessarily required by TRIPS.

The agreement lays down norms and standards for the countries which are in consideration with GATT. TRIPS have laid down norms for seven types of intellectual property namely: -

- ✓ Copyrights and related rights.
- ✓ Trademarks
- ✓ Geographical indications
- ✓ Industrial designs
- ✓ Patents
- ✓ Undisclosed information
- ✓ Lay out design of integrated circuits
- ✓ Control of Anti-Competitive Practices in contractual Licenses

TRIPS have been divided into VII parts, each dealing with a specific provision thereto governing the rules and regulations for the agreement. The Parts in which it is divided are

- ✓ PART 1, which deals with the General Provisions and basic principles.
- ✓ PART 2 deals with the standards concerning the availability, scope and use of IPR
- ✓ PART 3 deals with enforcement of IPR

- ✓ PART 4 deals with the acquisition, maintenance of IPRS and related procedures
- ✓ PART 5 deals with the disputes prevention and settlement
- ✓ PART 6 deals with transitional arrangements
- ✓ PART 7 deals with final provisions and institutional arrangements.

TRIPS have always been the most arguable international agreement on IPRS. The members who are in consideration with WTO are automatically bound by the agreements of TRIPS. It has always been as a controversial topic however it has had many effects too. One of the prime effects of the agreement is the amalgamation of trade and IPRS. This amalgamation has been opposed by many developing nations, which they may see as a threat to them as preventing them to carry out free trade between nations such as trade on bio diversity etc. This in turn has always landed the TRIPS agreement into many controversies which are usually inconsistency and the perceptions of the international agreement, which has put restrictions on fertilizer and pharmaceuticals etc. Many states have also reported IPR's have eroded many plant varieties especially agriculture.

As per the stats the transition period was extended up to 2013 and until 2016 the pharmaceutical patents have also to be extended. Since the TRIPS coming into force it has been criticized from both developed as well as developing countries and many academicians and many NGO's. Some many have also criticized the WTO regulations as a whole. The Drawbacks as suggested by them are: -

- ✓ Central Vigilance System
- ✓ No amendments
- ✓ Not defined patent, copyright, trade marks
- ✓ The resale right depends upon reciprocity

There are certain draw backs of the TRIPS agreement but as a whole the TRIPS agreement has been able to guide and direct the trade and IPRS of nations in a well mannered way and with a hope to guide it all along unless there is some new law or Declaration in concern with the IPRS

CONCLUSION

Bringing certain level of credibility build awareness amongst people the IPR holders and Institutions which should know actually where they have to intervene in order that the Rule of Law plays its full role, to create confidence bring value to people who hold these rights.

The role of Institutions and NGOs in relation with IPR in conclusion to this research is further presented in points as -

- I. Target must be to conduct Intellectual Property awareness workshops/seminars in collaboration with industry organizations, academic institutions and stakeholders across the country.
- II. Educate the Enforcement agency in respect with the recent development of Intellectual Property.
- III. It should also offer to undertake training programmes to create a resource pool of trainers who would conduct the Intellectual Property Awareness workshops/seminars for the public.
- IV. Take necessary steps to further educate and alert the Judiciary
- V. Awareness programmes to be tailored for Primary School (up to Grade 8),
- VI. Secondary School (Grade 9 to Grade 12),
- VII. University/ College and Industry, including MSMEs and Startups.
- VIII. Workshops/Seminars for the Industry, the goal must be to cover vital Intellectual Property topics including all facts pertaining to inter-alia, Patents, Copyrights, Trademarks, Genetic Resources, GIs, Plant Varieties, Designs, which must include international filing procedures in accordance with PCT (Patent Co-operation Treaty, 1970) and Madrid protocol (among Start-ups, MSMEs, R&D Department, other IP generating sector-specific industries, Startups, various IP generating sector-specific industries and R&D.
- IX. Conduct Intellectual Property training and sensitization programmes for enforcement agencies (Police, Customs) and Judiciary.
- X. Seminars and workshops to highlight the ill effects of piracy and counterfeiting (as mentioned in the National IPR Policy).

