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A Review on Intellectual Property Rights with Special Attention on Patent

Chandrashekhar, Assistant Professor,
Department of Law, Teerthanker Mahaveer University, Moradabad, Uttar Pradesh, India
Email Id- chandrashekhar792@gmail.com

ABSTRACT: ***The goal of intellectual property (IP) is to encourage development and innovation. The most prevalent types of IPRs include patents, copyrights, geographical indications, trademarks, industrial design, and trade secrets. Intellectual property rights (IPR) are legal protections granted to specific innovations or mental works. With today's fast speed of technical, scientific, and medical innovation, intellectual property has become more important. Intellectual property rights (IPRs) are becoming more important in a variety of industries. Patents are a source of legal (ownership, inventors, reassignments, claims, and so on) as well as technologically rich previous art (background, specifications, etc.). Patents provide comprehensive written descriptions of the innovations as well as illustrations of electrical, mechanical, and chemical structures. A patent is granted to an invention that meets the requirements of worldwide novelty, non-obviousness, and industrial applicability. IPR is required for better innovation or creative identification, planning, marketing, rendering, and therefore protection. However, a lack of public knowledge may be a stumbling block to their being deemed of considerable value. As a result, this review article provides a concise overview of the idea of intellectual property rights.***

KEYWORDS: ***Intellectual property, invention, patent, rights, trademark.***

1. INTRODUCTION

Intellectual property (IP) refers to any creative work of the human mind, such as a work of art, literature, technology, or science. Intellectual property rights (IPR) are legal rights granted to an inventor or creator to safeguard his or her work for a certain length of time. Intellectual property is a wide term that refers to a variety of legally recognized rights that stem from intellectual creation or are somehow linked to ideas. The phrase "intellectual property" refers to the notion that the subject matter is a creation of the mind or intellect, and that Intellectual Property rights may be legally protected in the same manner as any other kind of property. Because intellectual property rules differ from one jurisdiction to the next, acquiring, registering, and enforcing IP rights in each area of interest must be sought or acquired individually. In the face of a changing trade environment marked by global competitiveness, high innovation risks, and a short product cycle, intellectual property rights (IPR) have become more essential. Science and technology, the arts and culture, traditional knowledge, and natural resources all benefit from intellectual property. The purpose of this review is to explain the ideas of intellectual property rights and their significance in society[1].

1.1 Intellectual Property's Historical Background:

Intellectual property rights (IPR) are the rights granted to individuals over their mental creations. IPR legislation and administrative processes have their origins in Europe. The practice of issuing patents dates back to the thirteenth century. It was in Italy when the first copyrights were

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discovered. The Indian Patent Act is more than 150 years old. The first was the 1856 Act, which was modeled on the British patent system and established a 14-year patent period, which was followed by a slew of further legislation and revisions[2]. In India, the first patent application was filed in 1856. During the East India Company's reign, copyright legislation was enacted in India in 1847. The duration of copyright, according to the 1847 legislation, was for the author's lifetime plus seven years post-mortem. In 1888, new legislation was enacted to unify and modify the law related to inventions and designs, in accordance with changes in UK law. The Indian Patents and Designs Act, 1911, was enacted in 1911, superseding all prior patent and design laws. For the first time, this Act placed patent administration under the control of the Controller of Patents. This Act was modified in 1920 to allow for reciprocal agreements with the United Kingdom and other nations in order to secure precedence. The Indian Trademarks Law was enacted in 1860. There are many kinds of innovations, such as technology or technical, service innovation, financial innovation, management innovation, organizational innovation, marketing and distribution innovation, cultural innovation, and so on.

Technical and technological inventions or innovations (which may be split into product and process) are patented, but the remainder are not (only supporting technologies utilized may be patentable) (Xu-Kun. A change in ideas, methods, or things including some degree of originality, or any invention based on human creativity, success in applications, and so on, is referred to as innovation[3]. A patent is a legal document that specifies a product or method that has novel functional or technical features. Intellectual property is a broad word that refers to intangible things that gain value mainly via creative activities, such as literary works, artistic creations, scientific discoveries, and blueprints for inventions and designs. Copyrights, Trade Marks, Patents, Semiconductor Integrated Circuits Layout Designs, Industrial Designs, Geographical Indications, and Undisclosed Information are all examples of intellectual property rights that give legal recognition and protection. Copyright (author's rights), patent, and trademark are the three most common legal jurisdictions for intellectual property. They are, in essence, a restricted monopoly. Organizations in the ‘Electrical equipment' sector have the greatest tendency to patent, while those in the ‘Pharmaceuticals' industry have the lowest[4].

1.2 Industrial Property & Copyright

Industrial Property and Copyright make up the majority of intellectual property. Inventions (patents), trademarks, trade secrets, industrial designs, and geographic indicators are all examples of industrial property. Literary and creative works such as books, poetry, and plays, films, musical works, artistic works such as drawings, paintings, photos, and sculptures, and architectural designs all fall under the umbrella of copyright. Copyright includes performing artists' rights in their performances, phonogram makers' rights in their recordings, and broadcasters' rights in their radio and television shows. Intellectual property is also known as intellectual accomplishment ownership. It is considered a new field since intellectual property has never been a study object completely covered by any discipline. Patents are a kind of intellectual property protection that protects innovations or discoveries of any new and useful method, machine, manufacturing, or composition of matter, as well as any new and useful improvement thereof. The innovation must be novel, creative, and practical.

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In areas where the cheap cost of duplicating an innovation is expected to restrict the economic incentives for creativity, patents may also be viewed as a tool to encourage technical progress[5]. Given that intellectual contributions may be utilized by an unlimited number of people at the same time, one of the purposes of patents is to guarantee that information producers do not lose their rights to the information by revealing it. A patent may last up to 20 years from the date of submitting the application, but there are only limited rights to prosecute infringers between the time the application is submitted and when the patent is issued. The patent becomes the holder's personal property once it is granted and before it expires, and it may be sold, given away, or leased to whomever the patent holder chooses.

When a patent expires, the patent becomes part of the public domain. There are three different kinds of patents. A utility patent is for a novel and beneficial improvement to a method, machine, item of production, or composition of matter. A design patent protects the decorative design of a manufactured item. A plant patent covers the invention, discovery, and asexual reproduction of any new and unique plant variety. The Indian government enacted the Protection of Plant Varieties and Farmers' Rights Act in 2001. In 1994, India became a signatory to the TRIPS Agreement (Trade Related Aspects of Intellectual Property Rights). Patents are awarded for a period of up to 20 years after the application is filed. Design patents are valid for 14 years from the date of issuance of the patent[6]. If an idea fulfills three requirements, it may be patented: originality, usefulness, and non-obviousness.

• *Novelty:*

There is nothing that is fundamentally the same as the claimed innovation; thus, the invention must be brand new. It is important to note that if the invention was known or used in this country more than one year before the application date, or if the invention was sold, offered for sale, or used commercially (even if hidden from public view, such as a secret machine on an assembly line), the invention would not be novel, and the application would be denied[7].

• *Usefulness:*

The innovation must have substantial societal advantages, but this criterion is usually less stringent than it seems.

• *Lack of obviousness:*

The invention must have a unique feature that is not already known in the field and is not apparent to a person with ordinary knowledge of the field at the time the application is submitted. An inventor should learn as much as possible about what has previously been developed (the "prior art") before starting the patent application procedure. The patent application must demonstrate how the invention works, which usually includes comprehensive technical drawings and textual instructions explaining how to utilize the item (and for some types of inventions, manufactured). Utility patent applications also include a series of claims that serve as a legal definition of the claimed invention. The inventor must pay an application fee and may be required to pay a separate

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examination charge as part of the application. If the patent application is granted, the inventor (or other patent owner) must pay a monthly maintenance fee, which is typically payable every few years[8]. The application procedure requires a comprehensive understanding of both the technical and procedural elements of the patent. The creator may be able to get intellectual property rights on his or her own in certain circumstances. However, since the procedure is time-consuming and laborious, it is frequently preferable to use a licensed attorney or patent agent. Furthermore, a poorly written application may fail to describe the invention or express it in such a wide way that it is rendered worthless. The ultimate objective is to acquire a patent with wide enough claims to prohibit anyone from duplicating your idea lawfully[9].

1.3 Inventive+ Inventive+ Inventive+ Inventive+ Inventive

Patent search is not only a necessary stage in the patenting process, but it is also necessary work in combination with a variety of commercial activities, such as research, production, and marketing. Patent search is the process of searching for and analyzing relevant patents throughout the product development stage or prior to filing a patent application. A patent search is necessary to prevent duplicating research and to spend money in a market that is free of patent-related legal issues. Inventors, historians, attorneys, students, educators, government agencies, and engineers are among those that perform patent searches.

1.4 Patent search type:

The following are some examples of patent searches: Theme Search, Patentability Search, Infringement Search, Invalidity Search, Family Patent / Legal Status Search, and Bibliographic Search.

1.4.1 Theme Lookup:

Theme searches provide you a quick summary of patents in your area of interest. These searches are useful for detecting current technological trends and determining R&D directions.

1.4.2 Search for Patentability:

The search for patentability is the first stage in the patenting process. A patentability search looks through patents filed in each national intellectual property office to see if there are any comparable innovations that haven't been filled yet.

1.4.3 Infringement Search:

An infringement search determines whether or not patents that may be violated by a newly released product in a given country exist.

1.4.4 Invalidity Search:

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When a patent's inventor wants to invalidate parts of its claims, an invalid search may provide previous art references that reveal claims that are violated by the subject disclosure.

1.4.5 Search for a family patent or legal status:

A patent family search returns a list of all countries where a specific patent was filed. The legal status of a patent may be found via a legal status search.

1.4.6 Bibliographic Search:

This is the simplest and fastest method since the searcher already knows the patent number or the name of the inventor. The goal of this kind of search is to determine what was covered by a certain patent number or to see how many patents a single inventor has. Historical, biographical, archaeological, or product research may all benefit from bibliographic searches.

1.5 Patent Search Tools:

Information is gathered from main and secondary sources such as websites dedicated to Internet patents, newsletters, and the websites of patent offices. For Patent Search, there are a variety of free and commercial databases to choose from. The following is a list of some significant databases. Databases that are available for free online as the world embraces new innovations, it becomes more important to establish technical standards to guarantee product quality uniformity. On the second page of the paper, there is a technical description. It contains a technical issue the invention addresses, the state of the art, and a technical explanation of the invention in a description that may span several pages. The designs, claims (which give a clear explanation of what is legally protected), and ultimately a search report make up the third component[10].

2. DISCUSSION

Trademarks: Trademarks are a method for companies to distinguish their products as their own. A term, phrase, symbol, or design, or a combination of words, phrases, symbols, or designs that identifies and differentiates the source of one party's products from those of others is referred to as a "trademark." Their worth stems from the fact that they identify the source and quality of the goods they refer to. A service mark is similar to a trademark, except it is used to identify and differentiate the provider of a service rather than a product. Both trademarks and service marks are frequently referred to as "trademarks" and "marks." Trademarks (and service marks) may be obtained in one of two methods (aside from purchasing rights in a mark from a rightful owner).

The mark may be acquired in two ways. First, it can be acquired by using it in trade. Obtaining a trademark only via usage restricts the mark owner's protection to the geographic region in which the mark is used. However, if the mark is used in connection with products or services provided via the Internet, the mark owner may have exclusive rights to use the mark nationally in certain situations. Second, applicants may reserve, or "register," a trademark under federal law (as well as state law). Names, titles, or certain categories of comparable words, as well as generic terms, are not allowed to be used as trade or service marks. A trademark cannot be identical to or confusingly similar to an existing trademark. To find out, you'll need to examine federal registrations—and,

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ideally, state registrations and other databases holding brand names for products and services, including Internet domain names. The trademark must be used on products sold in the course of business to be registered. If the products are exclusively sold in one state, the trademark laws of that state will apply. Protect 3D items or designs applied to them, such as laboratory equipment, a teapot design, or a wallpaper pattern. They may appear on their own or be registered with the IPO.

Companies should establish trade secret protection procedures to preserve important knowledge. Trade secrets are legally fragile and may be lost due to accidental disclosure or a failure to protect them properly. Geographical Indications of Goods are described as an element of industrial property that relates to a geographical indication designating a nation or a location within that country as the country or place of origin of a product. Copyright refers to a set of rights that protects original "Works of Authorship" that are fixed in any physical medium of expression, now known or subsequently created, from which they may be seen, reproduced, or otherwise transmitted, whether directly or via the use of a machine or technology. Course materials such as syllabi, lesson plans, assignments, and lecture notes are examples of "Works of Authorship," as are desktop programs and applications; literary assignments of the any length; musical compositions, along with any associated lyrics; dramatic works, along with any musical accompaniment; pantomimes and choreographic works; sound and visual recordings; works of visual art; and architectural motifs. As soon as a work is produced, it is considered protected by copyright. The work is deemed copyrighted if it has been placed into a fixed form, such as written down or recorded. While there is no need to register. Copyright protection generally lasts for the lifetime of the author for works produced after 1978.

3. CONCLUSION

Plus 70 Years the protection period for works produced for hire (a technical term that does not always cover independent contractors) is 95 years from the date of publication or 120 years from the date of creation, whichever is shorter. The author may use a copyright notice, such as the symbol or the phrase "Copyright," to inform users that a work has been copyrighted (i.e., produced and fixed in a physical medium of expression). These symbols should be used with the year of production and the copyright owner's name. Intellectual property rights are one of the most important components of contemporary economic policymaking at both the national and international levels. In today's knowledge-based culture, it's becoming an increasingly essential instrument for long-term growth. Creativity and innovation have always been a part of every knowledge economy's growth and development.

Intellectual property encourages creativity and innovation for the benefit of everyone. With Intellectual Property Rights (IPRs) increasingly impacting commerce at both the national and international levels, the degree of protection enjoyed by IPR owners is critical to reaping trade advantages. Geographical Indications (GI) is one of the World Trade Organization's (WTO) six Trade-Related Intellectual Property Rights (TRIPS) that aims to offer comprehensive and effective protection to products registered as GI commodities. GIs may be found in agricultural, manufacturing, or industrial products. Handicrafts, jewelry, textiles, and other non-agricultural goods usually qualify for GI protection. The presence of IPR regulations is critical for the protection and management of research findings. To adequately safeguard patentable innovations, countries must raise knowledge of intellectual property laws and their functions at both the national and international levels.

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