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### Overview of assets of Intellectual Property Rights: Strategic management option for competitiveness and globalization challenges

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#### Abstract

Intellectual property rights are accepted as the most important asset of many of the world's largest and most powerful organization; it is the foundation for the market supremacy and continuing productivity and profitability of leading corporations. This paper provides the various assets of intellectual property rights and their significance in growth of research and development. IPR can be utilized as strategic management tool in the present scenario of increased competitiveness and globalization challenges. Various IPR forms and mode of protection is discussed in order to increase awareness. It is emphasized that for IPR management it is just beginning and more awareness is required for better growth. Further it is focused to utilize IPR as strategic management tool for sustainable growth.

**Key-Words:** Intellectual property rights, IPR management, Trademarks, Copyrights, Designs, Trade secrets, Geographical indication, Integrated circuits, IP rights

#### Introduction

The Knowledge based community and economy is rapidly changing with new inventions and innovations day by day; hence the need for proper management and protect the knowledge based assets is gaining importance in this competitive global market. Intellectual property rights (IPR) have become mandatory in the face of changing world trade environment which is characterized by global competition and challenges, high innovation and research risks, long product development steps, short product cycle, need for rapid changes in technology, high investments in research and development (R&D), production, marketing and need for highly skilled technical and non technical human resources. Now, globalization has crossed geographical barriers, and hence all goods and services are easily available for utilization in all countries. Hence the need to generate more intellectual property rights, protect and manage them effectively. Further, actions have to be taken to protect our indigenous knowledge systems, primarily through our national policies, supplemented by compassionate international action.

For this purpose, IPR systems, which specially protects technological innovations arising due to human intellect and out of such knowledge has to be designed and implemented. Legislation with regard to patents, copyrights and other forms of intellectual property rights as trademarks, geographical indication, trade secrets and traditional knowledge will have to ensure that maximum compensation is provided for individual inventors, and to our scientific and technological community for there efforts<sup>1</sup>.

With the worldwide opening up of trade in goods and services, IPR have become more susceptible to infringement leading to insufficient reward to the innovator. Developers of such products and technologies would like to ensure that R&D costs and other costs associated with the introduction of new products in the market are recovered and enough profits are generated for investment in R&D to keep up the track of further R&D efforts for more projects. A large number of IP rights should be generated and protected all over the world including India in all areas of science and technology, software and business methods in order to protect the rights of the owner.

An innovative industry in India can gain competitive advantage in the market if it develops the necessary expertise and skills in developing and manufacturing new products, which can be patented. The generation and protection of competitive intellectual property

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from Indian R&D programmes has to be encouraged and promoted. There will be no self-relied novelty without protection of IPRs. Protection of IPRs is must to respect work, respect knowledge, respect talents and respect creation. It is vital to protect IPRs for inspiring domestic self-relied innovation. It is inevitable to encourage technological innovation and also improve IP awareness of the whole society in order to protect individual's rights.

### Intellectual property (IP)

Intellectual property (IP) refers to creations of the intellectual in which human intervention is involved: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

IP is divided into two categories, namely Industrial Property and Copyright. Industrial property, basically includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and Copyright, which covers literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and also to broadcasters in their radio and television programs.

The innovations and creative expressions of indigenous and local communities are also covered under IP, yet because they are "traditional" they may not be fully protected by existing IP systems. Mode of such protection in Indian perspective can be governed by means of plant variety protection act, biological diversity act. Access to such forms and equitable benefit-sharing in, genetic resources also raise IP questions<sup>2</sup>. Various innovative and capacity-building programs are underway at WIPO to develop balanced and appropriate legal and practical responses to intellectual property issues.

### Business competition and IP system

Intellectual Property rights create and attaches value to the inventions and innovations thereby creates a market, enhances quality, improves goodwill, and creates publicity. IPR promotes business competition by creating intellectual. Utilization of IP information paves way for new inventions and also creates opportunity for new idea generation and improvement<sup>3</sup>. The IPR exists to protect all inventions and innovations in terms of research, technology, process, products and information including a formula, pattern, compilation, program, device, method, or technique that provides the owner with an advantage over his business competitors who do not know or use it and is of significance or importance to the business of the

company holding the information. Value addition and creation of wealth through reassessment, redistribution and repositioning of our intellectual, capital and material resource has to be achieved.

Patent Rights	=	New Technology
Design Rights	=	New Designs
Trademark Rights	=	Marks
Copyrights	=	Copyright Works

### Remuneration of Intellectual Property Rights is

- To get profits from exclusive use of technology
- To provide information disclosed by others
- To judge the ability to demand injunctions against infringers
- To reduced developmental risks and promotes technical advancement
- To get income from royalties or assignments
- To get resources for cross-licensing
- Ability to demand compensation for damages and infringement
- Evaluation of Researchers

### General overview of Intellectual Property Rights

IPR are basically territorial rights except copyright, which is inclusive in nature in the sense that it is immediately available in all the members of the Berne Convention. These rights are awarded by the State and are monopoly rights implying that no one can use these rights without the approval of the right holder. It is important to know that these rights have to be renewed from time to time for keeping them in force except in case of copyright and trade secrets<sup>4</sup>.

IPR have fixed term except trademark and geographical indications, which can have indefinite life provided these are renewed after a stipulated time specified in the law by paying official fees. Trade secrets also have an infinite life but they don't have to be renewed. IPR can be assigned, gifted, sold and licensed like any other property. Unlike other moveable and immoveable properties, these rights can be simultaneously held in many countries at the same time<sup>5</sup>.

IPR can be held only by legal entities i.e., who have the right to sell and purchase property. These rights especially, patents, copyrights, industrial designs, IC layout design and trade secrets are associated with something new or original and therefore, what is known in public domain cannot be protected through the rights mentioned above. Improvements and modifications made over known things can be protected. It would however, be possible to utilize geographical indications for protecting some agriculture and traditional products<sup>6,7</sup>.



Intellectual property rights as a collective term includes below mentioned independent IP rights which can be collectively used for protecting different aspects of an inventive work for multiple protection:-

Patents

Copyrights

Trademarks

Industrial Design

Protection of Integrated Circuit (IC) layout design,

Geographical indications, and

Protection of undisclosed information

### Patents

Patent means any useful invention which satisfies the criteria of patentability relating to a new method, product or process of manufacture, operation or publicity of any material or a combination of materials, or that made on the basis of a new theory or formula for a limited period of time to the patentee by the Government. It is a statutory right for an invention granted for an exchange of full disclosure of his invention for excluding others, from making, using, selling, exporting or importing the patented product or process for producing that product for those purposes without his consent<sup>8</sup>. Patent protection is territorial right and therefore it is effective only within the territory of that state in which protection is required. However, filing a patent application in India enables the applicant to file a corresponding application for same invention in convention countries, within or before expiry of twelve months (filing of complete specification) from the filing date in India<sup>9</sup>. Therefore, separate patents should be obtained in each country where the applicant requires protection of his/her invention in those countries<sup>10</sup>.

### Copyrights

Copyright is available for creating an original literary or dramatic or musical or artistic work. Cinematographic films including sound track and video films and recordings on discs, tapes, perforated roll or other devices are covered under copyrights. Copyright provides protection for the expression of an idea and not for the idea itself.

The instant moment an original work is created, the creator can start enjoying the copyright. However, an unquestionable record of the date on which a work was created must be kept. When a work is published with the power of the copyright owner, a notice of copyright may be placed on publicly dispersed copies<sup>11</sup>. The use of copyright notice is not obligatory for the protection of literary and artistic works. It is, however, a good thought to incorporate a copyright notice.

As violation of copyright is a cognizable offence, the matter can be reported to a police station. It is advised

that registration of copyright in India would help in establishing the possession of the work. The registration can be done at the Office of the Registrar of Copyrights in New Delhi. It is also to be noted that the work is open for public inspection once the copyright is registered.

### Coverage provided by copyright

(a) Literary, dramatic and musical work  
(Computer programs/software is covered within the definition of literary work)

(b) Artistic work

(c) Cinematographic films, which include sound track and video films.

(d) Recording on any disc, tape, perforated roll or other device.

### Trademarks

A trademark is a distinctive sign, which identifies certain goods or services as those produced or provided by a specific person or enterprise. Trademarks may be one or combination of words, letters, and numerals. They may also consist of drawings, symbols, three dimensional signs such as shape and packaging of goods, or colors used as distinguishing feature<sup>12</sup>. Collective marks are owned by an association whose members use them to identify them with a level of quality. Certification marks are given for compliance with defined standards. (Example ISO 9000).

### Term of a registered trademark

The initial registration of a trademark shall be for a period of ten years but may be renewed from time to time for an unlimited period by payment of the renewal fees.

### Industrial design

Design as per the Indian Act<sup>13</sup> means the features of shape, configuration, pattern, ornament or composition of lines or colors applied to any article - whether in two dimensional or three dimensional or in both forms - by any industrial process or means, whether manual, mechanical or chemical, separate or combined, which in the finished article appeal to and are judged solely by the eye; but it does not include any mode or principle of construction or anything which is in substance a mere mechanical device.

### Geographical indications

The term GI has been defined as "Geographical Indications", in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristics of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of

the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be<sup>14</sup>.

#### **Punishment for falsifying GI**

A sentence of imprisonment for a term between six months to three years and a fine between fifty thousand rupees and two lakh rupees is provided in the Act. The court may reduce the punishment under special circumstances.

#### **Term of GI protection**

The registration of a GI shall be for a period of ten years but may be renewed from time to time for an unlimited period by payment of the renewal fees.

#### **Protection of integrated circuit layout design (IC)**

It provides protection for semiconductor IC layout designs. India has now in place Semiconductor Integrated Circuits Layout Design Act, 2000 to give protection to IC layout design<sup>15</sup>. Layout design includes a layout of transistors and other circuitry elements and includes lead wires connecting such elements and expressed in any manner in a semiconductor IC. Semiconductor IC is a product having transistors and other circuitry elements, which are inseparably formed on a semiconductor material or an insulating material or inside the semiconductor material and designed to perform an electronic circuitry function. The term of the registration is 10 years from the date of filing.

#### **Protection of undisclosed information**

Undisclosed information, generally known as trade secret / confidential information, includes formula, pattern, compilation, programme, device, method, technique or process. Protection of undisclosed information is least known to players of IPR and also least talked about, although it is perhaps the most important form of protection for industries, R&D institutions and other agencies dealing with IPRs<sup>16</sup>.

A trade secret is a valuable piece of information with the essential requirement that the information be treated as such, i.e. as a secret. The value of a trade secret resides in the fact that competitors or other interested parties do not have access to it. Therefore, a trade secret must be kept secret so that no one could, without the consent of the owner, acquire it<sup>17</sup>.

#### **Conclusion**

Intellectual property rights is definitely a boon for the all the industry across the globe in order to fight against global competition. In Indian scenario, there is still a long way to go for creating awareness among the business people and encouragement from the government for effective understanding and proper utilization of IP. Government has to compensate with adequate incentive and awards for innovations and

inventions. This would help in filing more applications for patents in order to prevent for misuse of IP. Simplified, customer user friendly process, adequately trained human resources, sufficient facilities (hardware and software), create and promote an enabling environment for generating, protect and manage intellectual property for progress of science, technology and arts will definitely lead to growth of trade and industry and well being of the society. Any physical process, including development, has to absorb some finite time before taking a shape. IPR Management in India is the beginning and we have to go a long way.

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