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Review Article

A REVIEW OF INTELLECTUAL PROPERTY RIGHTS¹S. Sandeep, ²Dornala Chaitanya Dixit,¹B.Pharmacy 4th year Dr.K.V.Subba Reddy Institute of Pharmacy, Kurnool²Associate Professor, M.Pharm, Dr.K.V.Subba Reddy Institute of Pharmacy, Kurnool.**Abstract:**

Intellectual property rights (IPR) have been noted as research ideas, inventions, innovative works, creative expressions based on which there is a public willingness to bestow the status of property. IPR shows certain exclusive rights to the researcher's, scientific company's, shareholders, inventors or creators of certain property, in order to enable them to reap commercial benefits from their creative efforts or reputation. There are several types of intellectual property protection like patent, copyright, trademark, trade secret, trade dress etc. Patent is a recognition for an invention, which satisfies the criteria of global novelty, non-obviousness, and industrial application. IPR is prerequisite for better identification, planning, commercialization, rendering, and thereby protection of invention or creativity. Each innovative works evolves its own IPR policies, management style, strategies, and so on depending on its area of specialty. currently pharma profession evolving IPR strategy requiring a better focus and approach in the future era. It was mainly published and governed by world trade organisation.

Keywords: intellectual property right, patent, copyrights, trademarks, trade secret, designs, utility models, bio diversity and IPR, geographical indications.

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INTRODUCTION:

Intellectual property (IP) pertains to any original creation of the human intellect such as artistic, research ideas, literary, technical, or scientific creation. Intellectual property rights (IPR) refers to the legal rights given to the inventor or creator to protect his invention or creation for a certain period of time ^[1,2].

These legal rights confer an exclusive right to the inventor/creator or his assignee to fully utilize his invention/creation for a given period of time. It is very well settled that IP play a vital role in the modern economy It has also been conclusively established that the intellectual labour associated with the innovation should be given due importance so that public good emanates from it. There has been a quantum jump in research and development (R&D) costs with an associated jump in investments required for putting a new technology in the market place ^[3].

The stakes of the developers of technology have become very high, and hence, the need to protect the knowledge from unlawful use has become expedient, at least for a period, that would ensure recovery of the R&D and other associated costs and adequate profits for continuous investments in R&D [4]. IPR is a strong tool to protect investments, time, money, effort invested by the inventor/creator of an IP, since it grants the inventor/creator an exclusive right for a certain period of time for use of his invention/creation.

Thus IPR, in this way aids the economic development of a country by promoting healthy competition and encouraging industrial development and economic growth. From History to Current Reality During the early 1800s, the idea of global protection of Intellectual Property rights floated among legislative bodies. And it was in the year 1883 that the Paris Convention brought clarity and cooperation among international jurisdictions. Three years later, the 1886 Berne Convention extended the same protection to written expressions. Within half a decade, trademarks were also granted international protection through the Madrid Protocol ^[5].

Resulting offices from the conventions later merged into a central governing body, the United International Bureaux for the Protection of Intellectual Property. This then became a United Nation office we now know as the World Intellectual Property Organization.

The transformation of Intellectual Property from Divine providence to valuable human talent took complicated detours and pit stops. However, the history of Intellectual Property reveals an imprint of how we evolved as a society. It tells us of our past values, of our collective thought, and of our remarkable capacity to strike a balance among individuality, society, and spirituality. Although the roads we passed were pockmarked with glaring mistakes and surrounded by dark alleys, the fact that we do recognize the imperfections and reinvented today's Intellectual Property tells another thing about us: we can change ^[6].

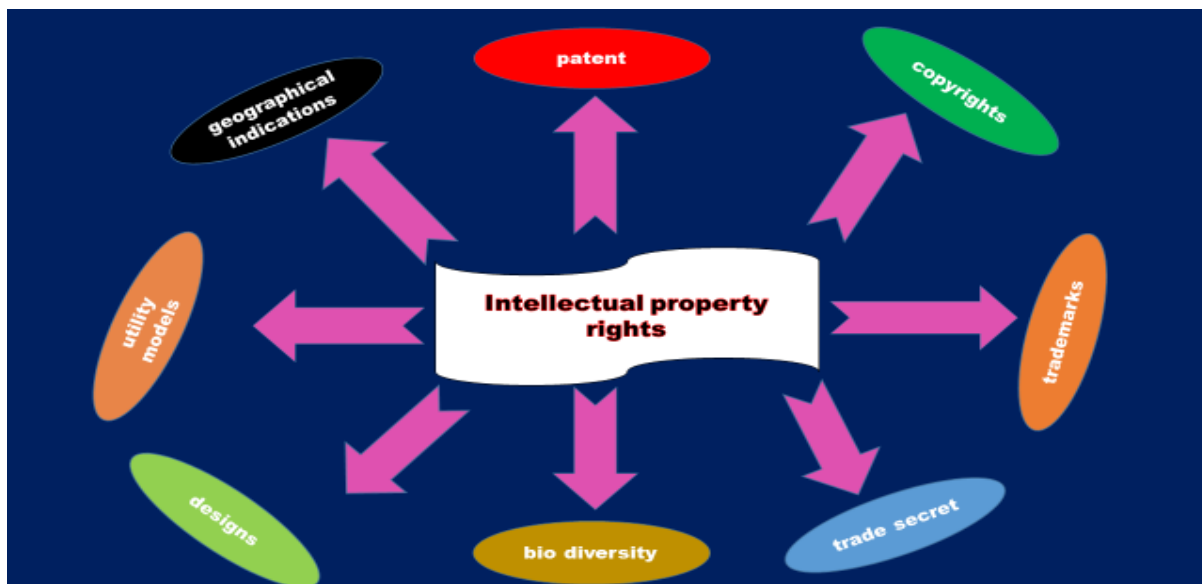


Fig.1. branches in intellectual property rights

1.1 NEED FOR PROTECTING INTELLECTUAL PROPERTY – POLICY CONSIDERATION–NATIONAL AND INTERNATIONAL PERSPECTIVES:

Protection of IPR, from the international perspective, is about the difference in the protection afforded by the developing and developed countries. While, developed countries normally bear the brunt of IPR related policies, developing countries are exposed as vulnerable and sentimental. Developing nations are sensitive to the standards of IPR protection set by the TRIPs and the tendency to extend this bilaterally which involves an element of reciprocity. Therefore, such countries maintain that different economic sophistication calls for different levels of IPR protection.

The stand of developing nations has been that under the norms set by TRIPs, there is a need to include steps that enables the marginalized developing countries to lessen the heavy social cost imposed by the TRIPs standards, and increase the gains accruing from higher international IPR protection. Different thinkers have different views on the subject. Some believe that the key motivation behind introduction of TRIPs was the desire of the developed nations to protect their accrued competitive technological advantage in the face of the threats and opportunities of globalisation. For them, a harmonized IPR regime serves as a powerful political tool enabling the Multi-National Corporates to internationalize the different phases of production without jeopardizing IPR protection ^[7].

Therefore, it is felt that the ultimate and the intended outcome of TRIPs is, to consolidate the global hegemony of a few developed nations. By challenging the political limits of national sovereignty, TRIPs provisions require that member states should provide higher protection to the IPRs thus providing some leverage to the developed states to enhance the standards under their bilateral negotiations. Such a move has been called as a drive to overcome pre-existing territorial limitations on intellectual property rights. An illustrative case herein is the United States. The percentage value of U.S. intellectual property exports skyrocketed in the second half of the twentieth century, and thus U.S. got concerned about erosion of its competitiveness caused by the widespread “piracy” occurring in the developing countries.

Thus, there was a thinking that by reducing piracy, the U.S. would recapture the revenue involved diverting it to enhance profit taking. For most of the developing

nations, adopting a Western-style IPR regime is not a desirable change as the same is not likely to bring in any tangible benefits to it. The term “Intellectual property (IP)” signifies the inventions, devices, new varieties of designs and other intellectual properties that are brought into existence through the exercise of “mental or creative labour” by the human beings. “Intellectual Property Rights (IPR)” is an umbrella term which is employed to describe the legal status and the protection that allows people to own intellectual properties – the intangible products of their creativity and innovation imbedded in physical objects – in the form that they own physical properties.

Under the TRIPs Agreement, IPR refers to copyright and related rights, trademarks, geographical indications, industrial designs, patents, integrated circuit layout designs, protection of undisclosed information and anti-competitive practices in contractual licenses. The reasons behind grant of protection to such intellectual property are twofold. First, to give meaning to the moral sentiment that a creator (such as a craftsman) should enjoy the fruits of his creativity; the Second is to encourage investment of skill, time, finance, and other resources into innovation activities in a manner that is beneficial to the society.

These purposes are achieved through grant of certain time-bound exclusive right and protection in respect of his intellectual property such that he can control the use of such property. IPR as a concept has been discussed and debated throughout since inception and with globalisation the debate has become increasingly controversial and confrontational with different stakeholders voicing their concerns. Thus, there arose a need to settle the disputes by laying down a law for IPR protection which is applicable in the international framework. The scholars have also made their contribution in giving a shape to the IPR law. They have also debated the validity and legitimacy of IPR from different perspectives ^[8].

1.2. IPR And WTO Agreement

The phrase “intellectual property” is a metaphor for a fashionable description of ideas in the form of inventions, artistic Works trade symbols and other aspirants. The traditional legal classification of IPR defines the creative output protected by the law, for example, of patents, copyright and trademarks. Significant social, political and technological developments over the past decades have exerted a considerable influence on how IPR is created, exploited and traded and, as a result, legal protection

of IPR has become a subject of paramount importance and universal interest in not only the research but also the development and commercialization of emerging products ^[9].

Thus, Conventional perceptions from economic perspective tend to believe that a strengthened IPR regime annexed to the WTO is a propeller of economic growth. However, since the establishment of the global trading system, it still remains controversial as to whether and how the introduction of the international IPR regime and its infrastructure would generate significant economic growth as originally expected. Developing countries accepted TRIPs agreement with various policy goals. However, the new regime is asymmetric in the sense that it mainly benefits industrialised countries. IPR can either trigger or stifle innovation, and can either promote or hinder economic growth, depending on different national circumstances.

Evidence also shows that the full interaction between stronger IPR protection and higher-level technology transfer remains untested. From a legal perspective, concern remains about the 'universal' standard of harmonisation which lacks flexibility for developing countries. In a comparative law context, legal transplants of foreign countries have proved practicable over the past decades in some developing countries, but a "fitting-in" process is usually essential to ensure effectiveness of a transplanted law in a unique socioeconomic environment.

While legal transplants are feasible, cultural adaptation is essential. In the arena of world intellectual property, intellectual property law has posed as a radically new form of legal transplant in developing countries since it usually has no counterpart in the indigenous legal traditions. However, the success of transplanted IPR infrastructure depends largely on how indigenous tradition of that imported law is remade in the image of its original model. This reception process in launching a brand-new legal system is, to a great extent, a process of indigenization of the foreign law, and this process cannot be simplified when a cultural gap is significant. In the context of political economy, the TRIPs Agreement represents a successful culmination of several attempts by developed states to consolidate their monopoly position over the global economy. The role of developing states within the TRIPs regime has been vulnerable and the concessions they have made should be enumerated in appropriate ways, such as providing financial aid and offering technical assistance [9].

1.3. INTELLECTUAL PROPERTY TRANSACTIONS

In the global markets today, the nature of products bought and sold has undergone a very significant change. Intellectual Property which is an intangible form of property is now often one of the most significant and valued assets that a company holds, and as such, intellectual property plays a very critical role in the commercial transactions. Drafting, negotiating, interpreting and advising on intellectual property agreements require a special set of legal skills to effectively commercialize, exploit, secure, and license Intellectual Property Rights ^[6].

Thus, to ensure that one capitalizes on his/her IP to its fullest extent, one needs to be cognizant of the value of different IPs and also be familiar with the nuances of it. Generally, big businesses prefer to outsource the drafting as well as settling payment terms in all their Intellectual Property transactions to the legal experts, who being familiar with such transactions and with a wide range of commercial law subjects as well as relevant provisions of IP law, various regulations applicable to the transaction and well as the commercial best practices in the relevant industry sector, they are the people who are in the best position to suggest on such transactions.

The apparent complexity involved in Intellectual Property transactions is on account of lack of recognition of intangible assets (by certain sections) as something of very high monetary value. Thus, one needs to be made aware of the value of such intangible assets in order to properly comprehend the nature of transaction. One needs assistance in identifying and solving intellectual property-related issues that arise throughout intricate transactions related to the licensing and/or transfer of IP in a merger or acquisition. Assistance is needed in negotiating transfer and licensing of interests in:

- Patents • Trademarks • Copyright

1.4. Licensing:

A licensing agreement is in the nature of a partnership agreement between the licensor and the licensee and there is a need for assistance in negotiating the terms of licensing of different IPs, for instance licensing of Patent, licensing of Trademark and Copyright interests. To draft contracts for such transactions, one needs to have experience in:

- Negotiating and drafting licenses as both intellectual property owner and licensee;
- Drafting licenses meticulously to avoid perils that often occur if contingencies are not considered, such as invalidity, transfer and competitive activities [10].

1.5. Acquisitions

: Intellectual property is the centre piece of many mergers or acquisitions transactions. It is critical in such transactions to ensure that a detailed due diligence is performed, and the transaction documents adequately address IP ownership, transfers and licensing issues. Therefore, one needs to have experience with all aspects of merger and acquisition transitions, including:

- Negotiating the transfer and licensing of patent, trademark and copyright interests
- Transactional advice and assistance related to the licensing of IP
- Document drafting and review
- Ensuring a complex transaction proceeds smoothly [6].

DEVELOPMENT OF INTELLECTUAL PROPERTY RIGHTS.

2.COPYRIGHTS:

It is a type of intellectual property that gives its owner the exclusive right to copy, distribute, adapt, display, and perform a creative work, usually for a limited time. The concept of copyright first developed in England. In reaction to the printing of "scandalous books and pamphlets", the English Parliament passed the Licensing of the Press Act 1662, which required all intended publications to be registered with the government-approved Stationers' Company, giving the Stationers the right to regulate what material could be printed [11].

The Statute of Anne, enacted in 1710 in England and Scotland, provided the first legislation to protect copyrights (but not authors' rights). The Copyright Act of 1814 extended more rights for authors but did not protect British from reprinting in the US. The Berne International Copyright Convention of 1886 finally provided protection for authors among the countries who signed the agreement, although the US did not join the Berne Convention until 1989 [12].

In the US, the Constitution Grants Congress the right to establish copyright and patent laws. Shortly after the Constitution was passed, Congress enacted the Copyright Act of 1790, modelling it after the Statute of Anne. While the national law protected authors' published works, authority was granted to the states to protect authors' unpublished works. The most recent major overhaul of copyright in the US, the 1976 Copyright Act, extended federal copyright to works as soon as they are created and "fixed", without requiring publication or registration. State law continues to apply to unpublished works that are not otherwise copyrighted by federal law. This act also changed the calculation of copyright term from a fixed term (then a maximum of fifty-six years) to "life of the author plus 50 years". These changes brought

the US closer to conformity with the Berne Convention, and in 1989 the United States further revised its copyright law and joined the Berne Convention officially [12].

Copyright laws allow products of creative human activities, such as literary and artistic production, to be preferentially exploited and thus incentivized. Different cultural attitudes, social organizations, economic models and legal frameworks are seen to account for why copyright emerged in Europe and not, for example, in Asia. In the Middle Ages in Europe, there was generally a lack of any concept of literary property due to the general relations of production, the specific organization of literary production and the role of culture in society.

The latter refers to the tendency of oral societies, such as that of Europe in the medieval period, to view knowledge as the product and expression of the collective, rather than to see it as individual property. However, with copyright laws, intellectual production comes to be seen as a product of an individual, with attendant rights. The most significant point is that patent and copyright laws support the expansion of the range of creative human activities that can be commodified. This parallels the ways in which capitalism led to the commodification of many aspects of social life that earlier had no monetary or economic value per se [13].

Copyright has developed into a concept that has a significant effect on nearly every modern industry, including not just literary work, but also forms of creative work such as sound recordings, films, photographs, software, and architecture. The creative work may be in a literary, artistic, educational, or musical form. Copyright is intended to protect the original expression of an idea in the form of a creative work, but not the idea itself. A copyright is subject to limitations based on public interest considerations, such as the fair use doctrine in the United States [14].

Copyrights can be granted by public law and are in that case considered "territorial rights". This means that copyrights granted by the law of a certain state do not extend beyond the territory of that specific jurisdiction. Copyrights of this type vary by country; many countries, and sometimes a large group of countries, have made agreements with other countries on procedures applicable when works "cross" national borders or national rights are inconsistent. Typically, the public law duration of a copyright expires 50 to 100 years after the creator dies, depending on the jurisdiction. Some countries require certain copyright formalities to establishing copyright, others recognize

copyright in any completed work, without a formal registration. When the copyright of a work expires, it enters the public domain [15].

2.1. Copyright Infringement:

for a work to be considered to infringe upon copyright, its use must have occurred in a nation that has domestic copyright laws or adheres to a bilateral treaty or established international convention such as the Berne Convention or WIPO Copyright Treaty. Improper use of materials outside of legislation is deemed "unauthorized edition", not copyright infringement [16].

Statistics regarding the effects of copyright infringement are difficult to determine. Studies have attempted to determine whether there is a monetary loss for industries affected by copyright infringement by predicting what portion of pirated works would have been formally purchased if they had not been freely available [17]. Other reports indicate that copyright infringement does not have an adverse effect on the entertainment industry, and can have a positive effect. In particular, a 2014 university study concluded that free music content, accessed on YouTube, does not necessarily hurt sales, instead has the potential to increase sales [18].

According to the IP Commission Report the annual cost of intellectual property theft to the US economy "continues to exceed \$225 billion in counterfeit goods, pirated software, and theft of trade secrets and could be as high as \$600 billion [19]."

A 2019 study sponsored by the US Chamber of Commerce Global Innovation Policy Centre (GIPC), in partnership with NERA Economic Consulting "estimates that global online piracy costs the U.S. economy at least \$29.2 billion in lost revenue each year." An August 2021 report by the Digital Citizens Alliance states that "online criminals who offer stolen movies, TV shows, games, and live events through websites and apps are reaping \$1.34 billion in annual advertising revenues."

This comes as a result of users visiting pirate websites who are then subjected to pirated content, malware, and fraud. Rights granted by According to World Intellectual Property Organisation, copyright protects two types of rights. Economic rights allow right owners to derive financial reward from the use of their works by others. Moral rights allow authors and creators to take certain actions to preserve and protect their link with their work. The author or creator may be the owner of the economic rights or those rights may be transferred to one or more copyright owners.

Many countries do not allow the transfer of moral rights.

Duration of copyright subsists for a variety of lengths in different jurisdictions. The length of the term can depend on several factors, including the type of work (e.g. musical composition, novel), whether the work has been published, and whether the work was created by an individual or a corporation. In most of the world, the default length of copyright is the life of the author plus either 50 or 70 years. In the United States, the term for most existing works is a fixed number of years after the date of creation or publication. Under most countries' laws (for example, the United States and the United Kingdom), copyrights expire at the end of the calendar year in which they would otherwise expire [20].

The length and requirements for copyright duration are subject to change by legislation, and since the early 20th century there have been a number of adjustments made in various countries, which can make determining the duration of a given copyright somewhat difficult. For example, the United States used to require copyrights to be renewed after 28 years to stay in force, and formerly required a copyright notice upon first publication to gain coverage. In Italy and France, there were post-war-time extensions that could increase the term by approximately 6 years in Italy and up to about 14 in France. Many countries have extended the length of their copyright terms (sometimes retroactively). International treaties establish minimum terms for copyrights, but individual countries may enforce longer terms than those [21].

In the United States, all books and other works, except for sound recordings, published before 1928 have expired copyrights and are in the public domain. The applicable date for sound recordings in the United States is before 1923. In addition, works published before 1964 that did not have their copyrights renewed 28 years after first publication year also are in the public domain. Hirtle points out that the great majority of these works (including 93% of the books) were not renewed after 28 years and are in the public domain [22]. Books originally published outside the US by non-Americans are exempt from this renewal requirement, if they are still under copyright in their home country [23].

But if the intended exploitation of the work includes publication (or distribution of derivative work, such as a film based on a book protected by copyright) outside the US, the terms of copyright around the world must be considered. If the author has been dead

more than 70 years, the work is in the public domain in most, but not all, countries.

In 1998, the length of a copyright in the United States was increased by 20 years under the Copyright Term Extension Act. This legislation was strongly promoted by corporations which had valuable copyrights which otherwise would have expired, and has been the subject of substantial criticism on this point. Limitations and expectations of copyrights in many jurisdictions, copyright law makes exceptions to these restrictions when the work is copied for the purpose of commentary or other related uses. United States copyright law does not cover names, titles, short phrases or listings (such as ingredients, recipes, labels, or formulas). However, there are protections available for those areas copyright does not cover, such as trademarks and patents [24].

3. PATENT

The word patent originates from the Latin *patere*, which means "to lay open" (i.e., to make available for public inspection). It is a shortened version of the term *letters patent*, which was an open document or instrument issued by a monarch or government granting exclusive rights to a person, predating the modern patent system. Similar grants included land patents, which were land grants by early state governments in the US, and printing patents, a precursor of modern copyright [25].

In modern usage, the term patent usually refers to the right granted to anyone who invents something new, useful and non-obvious. A patent is often referred to as a form of intellectual property right, [26] an expression which is also used to refer to trademarks and copyrights, and which has proponents and detractors (see also Intellectual property § The term "intellectual property") [27].

Some other types of intellectual property rights are also called patents in some jurisdictions: industrial design rights are called design patents in the US [28], plant breeders rights, and utility models and *Gebrauchsmuster* are sometimes called petty patents or innovation patents. The additional qualification utility patent is sometimes used (primarily in the US) to distinguish the primary meaning from these other types of patents [29].

Particular types of patents for inventions include pharma, biological patents, business method patents, chemical patents and software patents. Although there is some evidence that some form of patent rights was recognized in Ancient Greece in the Greek city of Sybaris [30,31]. the first statutory patent

system is generally regarded to be the Venetian Patent Statute of 1474. However, recent historical research has suggested that the Venetian Patent Statute of 1474 was inspired by laws in the Kingdom of Jerusalem that granted monopolies to developers of novel silk-making techniques [32]. Patents were systematically granted in Venice as of 1474, where they issued a decree by which new and inventive devices had to be communicated to the Republic in order to obtain legal protection against potential infringers [33]. The period of protection was 10 years. As Venetians emigrated, they sought similar patent protection in their new homes. This led to the diffusion of patent systems to other countries [34].

3.1. Patent Enforcement

Patents can generally only be enforced through civil lawsuits (for example, for a US patent, by an action for patent infringement in a United States federal district court), although some countries (such as France and Austria) have criminal penalties for wanton infringement. Typically, the patent owner seeks monetary compensation (damages) for past infringement, and seeks an injunction that prohibits the defendant from engaging in future acts of infringement, or seeks either damages or injunction. To prove infringement, the patent owner must establish that the accused infringer practises all the requirements of at least one of the claims of the patent [35].

An accused infringer has the right to challenge the validity of the patent allegedly being infringed in a counterclaim. A patent can be found invalid on grounds described in the relevant patent laws, which vary between countries. Often, the grounds are a subset of requirements for patentability in the relevant country. Although an infringer is generally free to rely on any available ground of invalidity (such as a prior publication, for example), some countries have sanctions to prevent the same validity questions being reiterated. An example is the UK Certificate of contested validity.

Patent licensing agreements are contracts in which the patent owner (the licensor) agrees to grant the licensee the right to make, use, sell, or import the claimed invention, usually in return for a royalty or other compensation [36,37]. It is common for companies engaged in complex technical fields to enter into multiple license agreements associated with the production of a single product. Moreover, it is equally common for competitors in such fields to license patents to each other under cross-licensing agreements in order to share the benefits of using each other's patented inventions. Freedom Licenses like the Apache 2.0 License are a hybrid of

copyright/trademark/patent license/contract due to the bundling nature of the three intellectual properties in one central license. This can make it difficult to enforce because patent licenses cannot be granted this way under copyright and would have to be considered a contract [38].

3.2. Patent Ownership

In most countries, both natural persons and corporate entities may apply for a patent. In the United States, however, only the inventor(s) may apply for a patent, although it may be assigned to a corporate entity subsequently [39] and inventors may be required to assign inventions to their employers under an employment contract.

In most European countries, ownership of an invention may pass from the inventor to their employer by rule of law if the invention was made in the course of the inventor's normal or specifically assigned employment duties, where an invention might reasonably be expected to result from carrying out those duties,

if the inventor had a special obligation to further the interests of the employer's company Applications by artificial intelligence systems, such as DABUS, have been rejected in the US, the UK, and at the European Patent Office on the grounds they are not natural persons [40].

The ability to assign ownership rights increases the liquidity of a patent as property. Inventors can obtain patents and then sell them to third parties. The third parties then own the patents and have the same rights to prevent others from exploiting the claimed inventions, as if they had originally made the inventions themselves [41].

3.3. Patent Application and prosecution

Before filing for an application, which must be paid for whether a patent is granted or not, a person will want to ensure that their material is patentable. Patentable material must be synthetic, meaning that anything natural cannot be patented. For example, minerals, materials, genes, facts, organisms, and biological processes cannot be patented, but if someone were to apply an inventive, non-obvious, step to them to synthesize something new, the result could be patentable.

That includes genetically engineered strains of bacteria, as was decided in *Diamond v. Chakravarty* [42]. Patentability also depends on public policy and ethical standards. Additionally, patentable materials must be novel, useful, and a non-obvious inventive step [43].

A patent is requested by filing a written application at the relevant patent office. The person or company filing the application is referred to as "the applicant". The applicant may be the inventor or its assignee. The application contains a description of how to make and use the invention that must provide sufficient detail for a person skilled in the art (i.e., the relevant area of technology) to make and use the invention.

In some countries there are requirements for providing specific information such as the usefulness of the invention, the best mode of performing the invention known to the inventor, or the technical problem or problems solved by the invention. Drawings illustrating the invention may also be provided.

The application also includes one or more claims that define what a patent covers or the "scope of protection". After filing, an application is often referred to as "patent pending". While this term does not confer legal protection, and a patent cannot be enforced until granted, it serves to provide warning to potential infringers that if the patent is issued, they may be liable for damages [44,45].

3.4. Patent Costs

The costs of preparing and filing a patent application, prosecuting it until grant and maintaining the patent vary from one jurisdiction to another, and may also be dependent upon the type and complexity of the invention, and on the type of patent.

The European Patent Office estimated in 2005 that the average cost of obtaining a European patent (via a Euro-direct application, i.e. not based on a PCT application) and maintaining the patent for a 10-year term was around €32,000. Since the London Agreement entered into force on May 1, 2008, this estimation is however no longer up-to-date, since fewer translations are required [46].

In the United States, in 2000 the cost of obtaining a patent (patent prosecution) was estimated to be from \$10,000 to \$30,000 per patent. When patent litigation is involved (which in year 1999 happened in about 1,600 cases compared to 153,000 patents issued in the same year), costs increase significantly: although 95% of patent litigation cases are settled out of court, those that reach the courts have legal costs on the order of a million dollars per case, not including associated business costs [47].

3.5. Non-national treatment in the application procedure

Non-national treatments in national patent offices had been prevalent among the Northern countries until they were prohibited after the negotiation of

the Paris Convention for the Protection of Industrial Property. According to Articles 2 and 3 of this treaty, juristic and natural persons who are either national of or domiciled in a state party to the Convention shall, as regards the protection of industrial property, enjoy in all the other countries of the Union, the advantages that their respective laws grant to nationals.

In addition, the TRIPS Agreement explicitly prohibits any such discrimination. TRIPS Agreement Article 27.1 states that 'patents shall be available and patent rights enjoyable without discrimination as to the place of invention, the field of technology and whether products are imported or locally produced'.

3.6. PATENT BENEFITS

Patents provide incentives for economically efficient research and development (R&D). A study conducted annually by the Institute for Prospective Technological Studies (IPTS) shows that the 2,000 largest global companies invested more than 430 billion euros in 2008 in their R&D departments. If the investments can be considered as inputs of R&D, real products and patents are the outputs. Based on these groups, a project named Corporate Invention Board, had measured and analysed the patent portfolios to produce an original picture of their technological profiles.

Supporters of patents argue that without patent protection, R&D spending would be significantly less or eliminated altogether, limiting the possibility of technological advances or breakthroughs. Corporations would be much more conservative about the R&D investments they made, as third parties would be free to exploit any developments [48].

Primary incentives embodied in the patent system include incentives to invent in the first place; to disclose the invention once made; to invest the sums necessary to experiment, produce and market the invention; and to design around and improve upon earlier patents. The logical consequence of more efficient R&D is a more efficient national economy: An increase in patenting has proven to be linked with an increase of national income.

A 2009 study on patent effects in various countries around the world finds, for instance, that a 10% increase in patenting in 1910 led on average to a 9 to 11% higher level of per capita GDP in 1960. The positive effects of patenting on national income were found to be particularly strong in the U.S., Switzerland and Sweden. However, patenting is obviously not the only factor influencing GDP growth: among others, schooling also plays a big role [49].

"The patent internalizes the externality by giving the [inventor] a property right over its invention. "In accordance with the original definition of the term "patent", patents are intended to facilitate and encourage disclosure of innovations into the public domain for the common good. Thus, patenting can be viewed as contributing to open hardware after an embargo period (usually of 20 years).

If inventors did not have the legal protection of patents, in many cases, they might prefer or tend to keep their inventions secret (e.g., keep trade secrets).

Awarding patents generally makes the details of new technology publicly available, for exploitation by anyone after the patent expires, or for further improvement by other inventors. Furthermore, when a patent's term has expired, the public record ensures that the patentee's invention is not lost to humanity.

One effect of modern patent usage is that a small-time inventor, who can afford both the patenting process and the defence of the patent, can use the exclusive right status to become a licensor. This allows the inventor to accumulate capital from licensing the invention and may allow innovation to occur because he or she may choose not to manage a manufacturing buildup for the invention.

Thus, the inventor's time and energy can be spent on pure innovation, allowing others to concentrate on manufacturability [50].

Another effect of modern patent usage is the social benefit(s) of technology disclosure. Although patentees usually end up not reaping benefit from their patent monopoly, the society still benefits from patent disclosures. Also patents both enable and incentivize competitors to design around (or to "invent around" according to R S Praveen Raj) the patented invention. This may promote healthy competition among manufacturers, resulting in gradual improvements of the technology base [51].

4. TRADE MARK

A trademark is a type of intellectual property consisting of a recognizable sign, design, or expression that identifies products or services from a particular source and distinguishes them from others [52,53]. The trademark owner can be an individual, business organization, or any legal entity. A trademark may be located on a package, a label, a voucher, or on the product itself. Trademarks used to identify services are sometimes called service marks [54].

The first legislative act concerning trademarks was passed in 1266 under the reign of Henry III of England requiring all bakers to use a distinctive mark for the bread they sold. The first modern trademark laws emerged in the late 19th century. In France, the first comprehensive trademark system in the world was passed into law in 1857.

The Trade Marks Act 1938 of the United Kingdom changed the system, permitting registration based on "intent-to-use", creating an examination-based process, and creating an application publication system. The 1938 Act, which served as a model for similar legislation elsewhere, contained other novel concepts such as "associated trademarks", a consent to use the system, a defensive mark system, and a non-claiming right system.

The symbols TM (the trademark symbol) and ® (the registered trademark symbol) can be used to indicate trademarks; the latter is only for use by the owner of a trademark that has been registered.

4.1. USAGE

A trademark identifies the brand owner of a particular product or service. Trademarks can be used by others under licensing agreements; for example, Bully land obtained a license to produce Smurf figurines; the Lego Group purchased a license from Lucasfilm to be allowed to launch Lego Star Wars; and TT Toys is a manufacturer of licensed ride-on replica cars for children. The unauthorized usage of trademarks by producing and trading counterfeit consumer goods is known as brand piracy.

The owner of a trademark may pursue legal action against trademark infringement. Most countries require formal trademark registration as a precondition for pursuing this type of action. The United States, Canada, and other countries also recognize common law trademark rights, which means action can be taken to protect any unregistered trademark if it is in use. Still, common law trademarks offer to the holder, in general, less legal protection than registered trademarks.

As the purpose of the trademark is to identify a particular source of the product, rather than the product itself, it is widespread legal advice that trademark owners should always use their trademarks as adjectives modifying a generic product name, and set off with capitalization or a distinctive typeface, as a guard against the trademark becoming the generic name of the product. Thus "LEGO bricks" rather than "some Lego" or "Legos". The name of the producer

itself is a "trade name" rather than a trademark and can be used as a noun [55,56].

4.2. Trade mark Styles

A trademark is typically a name, word, phrase, logo, symbol, design, image, or a combination of these elements. There is also a range of non-conventional trademarks comprising marks which do not fall into these standard categories, such as those based on colour, smell, or sound (like jingles). Trademarks that are considered offensive are often rejected according to a nation's trademark law.

The term trademark is also used informally to refer to any distinguishing attribute by which an individual is readily identified, such as the well-known characteristics of celebrities. When a trademark is used about services rather than products, it may sometimes be called a service mark, particularly in the United States.

4.3. Sale, Transfer and Licensing:

In various jurisdictions, a trademark may be sold with or without the underlying goodwill which subsists in the business associated with the mark. However, this is not the case in the United States, where the courts have held that this would "be a fraud upon the public". In the U.S., trademark registration can therefore only be sold and assigned if accompanied by the sale of an underlying asset. Examples of assets whose sale would ordinarily support the assignment of a mark include the sale of the machinery used to produce the goods that bear the mark or the sale of the corporation (or subsidiary) that produces the trademarked goods.

4.4. Licensing

Licensing means the trademark owner (the licensor) grants a permit to a third party (the licensee) to commercially use the trademark legally. It is a contract between the two, containing the scope of content and policy. The essential provisions to a trademark license identify the trademark owner and the licensee, in addition to the policy and the goods or services agreed to be licensed.

Most jurisdictions provide for the use of trademarks to be licensed to third parties. The licensor must monitor the quality of the goods being produced by the licensee to avoid the risk of the trademark being deemed abandoned by the courts. A trademark license should therefore include appropriate provisions dealing with quality control, whereby the licensee provides warranties as to the quality and the licensor has rights to inspection and monitoring.

5. UTILITY MODELLING

A utility model is a patent-like intellectual property right to protect inventions. This type of right is available in many countries but, notably, not in the United States, United Kingdom or Canada. Although a utility model is similar to a patent, it is generally cheaper to obtain and maintain, has a shorter term (generally 6 to 15 years), shorter grant lag, and less stringent patentability requirements. In some countries, it is only available for inventions in certain fields of technology and/or only for products. Utility models can be described as second-class patents [57].

While no international convention requires countries to protect utility models (unlike copyright, trademarks or patents) and they are not subject to the TRIPS agreement, they are subject to the Paris Convention for the Protection of Industrial Property, which means that countries that do protect utility models are required to comply with rules such as national treatment and priority.

Utility models are also available (in countries that have a utility model system) via the Patent Cooperation Treaty (PCT) system of international patent applications [58].

Kind codes for utility models begin with U, Y, and Z for the first, second, and third levels of publication, respectively.

5.1. Requirements for grant

Most countries having utility model laws require that the invention be new. However, many patent or utility model offices do not conduct substantive examination and merely grant the utility model after checking that utility model applications comply with formalities. This is why for a utility model the granting process is sometimes called simply registration of the utility model [59].

Furthermore, some countries exclude particular subject-matter from utility model protection. For example, in some countries, methods (i.e., processes), chemical substances, plants and animals are barred from utility model protection. The law in Australia provided for the grant of a utility model known, between 2001 and 2021 when it was phased out, as an innovation patent. From 1979 to 2001, a similar regime existed under the name "petty patent".

For an innovation patent to be valid the invention claimed must be novel and involve an innovative step. An invention will lack novelty if it has already been disclosed to the public through prior publication or prior use anywhere in the world. Publication within a

"grace period" of 12 months prior to the filing date of an innovation patent with the consent of the applicant is not considered to form part of the prior art for the assessment of novelty.

The innovative step requirement is supposedly a lesser requirement than the inventive step required for a standard patent under Australian law [60]. An invention will involve an innovative step if there are differences between the invention and the prior art, that make a substantial contribution to the working of the invention [60].

An innovation patent is granted automatically after formalities check without substantive examination; however, infringement proceedings cannot be instituted unless and until the innovation patent has been certified, which requires a substantive examination. Examination cannot proceed until the innovation patent has been granted.

Innovation patents have a maximum term of eight years' subject to payment of annual renewal fees payable from the second anniversary of the date of filing. Innovation patents are available to persons outside Australia, but an Australian address for service must be provided. Innovation patent specifications must be prepared by a registered patent attorney unless the application proceeds as a Convention application or as a divisional application.

Innovation patent applications cannot proceed as national phase of an international patent application (see Patent Cooperation Treaty), but can proceed as a divisional application from an international patent application that is open to public inspection. In Russian Federation Unlike patent claims, which can be issued in Russia on processes and compositions-of-matter, Russian utility model claims are limited to devices only. Other requirements include novelty and industrial applicability.

Noteworthy, although in assessing novelty any printed material anywhere in the world constitutes prior art for both utility models and patents, public use outside of Russia is considered as prior art only for patents, but not for utility models [61].

Unlike in most other countries, having a patent and a utility model for the same invention is not allowed in Russia. However, it is possible to have a Russian utility model and a Eurasian patent for the same invention. The main advantage of a utility model in Russia is a very short prosecution time (usually, no more than 6 months) and a low cost. The duration of a utility model is 10 years from the priority date, and this term cannot be extended (since 2014).

During an infringement litigation in Russia, the doctrine of equivalence can be used with patents, but not with utility models. Also, it is not possible to convert an issued patent into a utility model to avoid the revocation of the patent in the post-issuance proceedings before Ros patent or courts, although the law to correct this situation has been considered by the Duma [61,62].

6. GEOGRAPHICAL INDICATION

A geographical indication (GI) is a name or sign used on products which corresponds to a specific geographical location or origin (e.g., a town, region, or country). The use of a geographical indication, as an indication of the product's source, is intended as a certification that the product possesses certain qualities, is made according to traditional methods, or enjoys a good reputation due to its geographical origin [63].

6.1. Areas Covered

The use of geographical indications is not limited to agricultural products. A geographical indication may also highlight specific qualities of a product that are due to human factors found in the product's place of origin, such as specific manufacturing skills and traditions. For example, handicrafts, which are generally handmade using local natural resources and usually embedded in the traditions of local communities [64].

6.2. Appellation of origin

Appellations of origin are a special kind of geographical indication. The term is used in the Paris Convention and defined in the Lisbon Agreement. Article 2 of the Lisbon Agreement defines appellations of origin as "the geographical denomination of a country, region, or locality, which serves to designate a product originating therein, the quality or characteristics of which are due exclusively or essentially to the geographical environment, including natural and human factors.

This definition suggests that appellations of origin consist of the name of the product's place of origin. However, a number of traditional indications that are not place names, but refer to a product in connection with a place, are protected as appellations of origin under the Lisbon Agreement (for example, Reblochon (cheese) and Vinho Verde (green wine))'

It is sometimes argued that products with a certain reputation, but no other quality due to their place of origin are not considered appellations of origin under the Lisbon Agreement. However, this interpretation is not universally accepted [64].

7. TRADE SECRET

A trade secret is an intellectual property that has inherent economic value because it is not generally known or readily ascertainable by others, and which includes formulas, practices, processes, designs, instruments, patterns compilations of information [65]. Intellectual property law gives the owner of a trade secret the right to restrict others from disclosing it. In some jurisdictions, such secrets are referred to as confidential information [65].

7.1. TRADE SECRET VALUES

Trade secrets are an important, but invisible component of a company's intellectual property (IP). Their contribution to a company's value, measured as its market capitalization, can be major. Being invisible, that contribution is hard to measure. Still, research shows that changes in trade secrets laws affect business spending on R&D and patents. This research provides indirect evidence of the value of trade secrecy [66,67,68].

7.2. TRADE SECRET PROTECTION

In contrast to registered intellectual property, trade secrets are, by definition, not disclosed to the world at large. Instead, owners of trade secrets seek to protect trade secret information from competitors by instituting special procedures for handling it, as well as implementing both technological and legal security measures [69]. The most common reason for trade secret disputes to arise is when former employees of trade secret-bearing companies leave to work for a competitor and are suspected of taking or using valuable confidential information belonging to their former employer [70]. Legal protections include non-disclosure agreements (NDAs), and work-for-hire and non-compete clauses.

In other words, in exchange for an opportunity to be employed by the holder of secrets, an employee may agree to not reveal their prospective employer's proprietary information, to surrender or assign to their employer ownership rights to intellectual work and work-products produced during the course (or as a condition) of employment, and to not work for a competitor for a given period of time (sometimes within a given geographic region). Violating the agreement generally carries the possibility of heavy financial penalties, thus disincentivizing the revealing of trade secrets. Trade secret information can be protected through legal action including an injunction preventing breaches of confidentiality, monetary damages, and, in some instances, punitive damages and attorneys' fees too.

In extraordinary circumstances, an ex parte seizure under the Defend Trade Secrets Act (DTSA) also allows for the court to seize property to prevent the propagation or dissemination of the trade secret.

However, proving a breach of an NDA by a former stakeholder who is legally working for a competitor or prevailing in a lawsuit for breaching a non-compete clause can be very difficult. A holder of a trade secret may also require similar agreements from other parties, such as vendors, licensees, and board members [70,71].

8. CONCLUSION:

IPRS are the monopoly rights that provide the holders privilege of the exclusive rights on their inventions, innovative ideas and research works. In this digitalized era, it is more important that IP holders are expected to know the benefits arising out the intellectual property rights. The national IPR policy replicates the extent to which government engage in educational campaigns promoting IPR awareness which is noteworthy. India continuously examined the accession to some multilateral treaties which are in India's interest and engage itself constructively in the negotiation of international treaties and agreements. It is crucial to develop IPR policy and law, idea, strategy, administration and its enforcement policy in order to harness the full potential of IPRs for economic growth.

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