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IPR MANAGEMENT PRINCIPLES FOR ACADEMIC INSTITUTIONS IN INDIA

AUTHORED BY - SHIVAM PATEL

ABSTRACT

There are laws regarding IPR in India, but managing them within academic institutions has become a significant challenge, as IPR constitutes individual rights in a digital India. Our research paper will explore how IPR can be effectively managed at the institutional level. The paper also provides an overview of how academic institutions in India establish dedicated IPR management cells, implement clear IPR policies, offer training and support for researchers, and forge partnerships with industry and government agencies to fully unlock the potential of their intellectual assets.

KEYWORDS: Intellectual Property Rights (IPR), Geographical Indications (GI), National IPR Policy, Educational Institutions, Choice-Based Credit System (CBCS), IPAB (Intellectual Property Appellate Board), Legal Reforms, Monitoring and Enforcement.

INTRODUCTION

"'Rachnatmak Bharat, Abhinav Bharat' (Creative India; Innovative India) is the slogan focused on a government policy launched on 12 May 2016." This policy find out in the reports that Creativity and innovation have been constants in the growth and development of any knowledge economy.¹ One of the reasons for this is the growing importance of knowledge.² To safeguard intellectual property, we have established laws that outline the process for registering innovations and creative works. These laws not only provide protection for these registered creations but also impose penalties for any violations or infringements. However, when we measure the speed of growth in innovation and creativity, we find that India ranks 39th in the Global Innovation Index 2024. Through this research, we aim to understand India's position in the field of IPR management.

¹ National Intellectual Property Right Policy, 12 may 2016, Executive Summary at pg. 1

² Intellectual property rights in innovation management research: A review, *Technovation*, Volume 32, Issues 9–10, September–October 2012, Pages 502-512

The policy focuses on universities, educational institutions, and law and technical institutions to manage IPR.³ Accordingly, the University Grants Commission (UGC) and All India Technical Education Council (AICTE) have issued circulars and letters to integrate IPR into the academic curriculum across all educational streams, in line with the Choice-Based Credit System. AICTE has also developed a model curriculum for engineering and management courses that includes IPR as an elective option.⁴ To evaluate the effectiveness of these courses and the National IPR Policy, The National Assessment and Accreditation Council (NAAC) and the National Institutional Ranking Framework (NIRF) have introduced criteria that focus on the implementation of IPR awareness workshops and the acquisition of IPRs (such as patents and designs). These criteria are now part of their accreditation and ranking systems. (1) The purpose of this research is to explore the potential for universities and institutions to offer courses focused on effectively managing and regulating IPR.

This research paper examines various government schemes aimed at managing IPR, such as the Intellectual Property Management System and Patent Facilitation Centers. These schemes actively promote IPR, fostering innovation and creativity while reaching out to often overlooked IP creators and holders, particularly in rural and remote areas. Through targeted campaigns, they address the unique needs of small businesses, farmers, holders of traditional knowledge, cultural expressions, designers, and artisans. The paper will assess the effectiveness of these initiatives and propose improvements to expand their reach and impact. IPR issues are complex and multifaceted, involving various rights such as patents, copyrights, trademarks, industrial designs, geographical indications, and trade secrets, with legislation differing from country to country.⁵ However, it remains unclear how effectively existing research addresses these complexities. Therefore, this study aims to explore how IPR research has evolved, particularly in the context of geographical indications tied to specific locations or origins, and to identify current trends in IPR management. (2)

³ National Intellectual Property Right Policy, 12 may 2016, Objective 2, Generation of the IPR, Pg. 7

⁴ Intellectual Property Rights for Educational Institutions in India; Dr. Nithyananda K.V, Pursuit of Quality in Higher Education: An Indian Perspective, July 2020 pg 191

⁵ Intellectual property rights in innovation management research: A review, Technovation, Volume 32, Issues 9–10, September–October 2012, Pages 502-512

RESEARCH QUESTIONS

The structure of this paper is organized as follows:

1. Discuss the impact of the National IPR Policy 2016 on IPR management and how useful it is for creators and inventors.

Before the National IPR Policy of 2016 in India, there was no unified framework for governing Intellectual Property Rights (IPR) in a streamlined manner. Instead, IPR management was carried out through a series of individual laws and policies. Each type of intellectual property was governed by its own specific legislation. For example, patents were regulated under the "Patents Act, 1970", which covered innovations that qualified for patent protection. This Act underwent several amendments, particularly to align with the requirements of the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement. Trademarks were governed by the Trade Marks Act, 1999, while copyrights were protected under the Copyright Act, 1957. Similarly, protection for geographical indications was provided under the Geographical Indications of Goods (Registration and Protection) Act, 1999. However, there was no comprehensive policy in place to raise awareness about IPR or to inform individuals that they had the right to protect their own inventions and creations.

Several amendments were made to align India's IPR laws with the TRIPS Agreement. However, The Indian government introduced the National IPR Policy 2016, accompanied by the slogan "Rachnatmak Bharat, Abhinav Bharat," meaning Creative India, Innovative India. The purpose of this policy was to rapidly raise awareness about IPR among the public, enabling people to protect their innovations and creations while also generating income from them. The policy outlined seven key objectives, which include the following: The first objective focuses on promotion and dissemination so that it can reach everyone. A detailed action plan was developed to implement the policy, identifying the various ministries and departments responsible for its execution.⁶ The policy developed its own curriculum to reach a wide audience, ensuring that knowledge about intellectual property was accessible to everyone. Through targeted campaigns, the curriculum aimed to educate institutions, innovators, industries, and the general public about the importance of IPR, helping them understand how to protect their innovations and creations. The policy aims to connect with those often overlooked, such as less visible and silent IP creators and holders, particularly in rural and remote areas. It does so through tailored campaigns that address their specific needs and

⁶ Dr. Nithyananda K.V, Overview of the Policy Context on IPR for Educational Institutions in India, July 2020 pg 192

concerns. This includes reaching out to small businesses, farmers and users of plant varieties, holders of traditional knowledge, traditional cultural expressions and folklore, designers, and artisans.⁷

The policy outlines that Intellectual Property Day will be celebrated in industries and educational institutions, with various activities organized in different cities. The state will provide support to ensure the success of these celebrations, promoting awareness and understanding of intellectual property rights.⁸

The Government of India has undertaken numerous policy initiatives to implement the National IPR Policy, focusing on raising awareness about intellectual property rights among its citizens. Additionally, it aims to promote the creation and commercialization of IPRs within the country.⁹

2. We will explore the management of intellectual property rights (IPR) within the context of education, focusing on institutions and universities.

The second objective aimed to focus on educational institutions and universities to advance the first objective of the National IPR Policy. Organizations such as the UGC, AICTE, NIRF, and NAAC established a framework to integrate IPR into a Choice-Based Credit System (CBCS) across all courses. As part of this initiative, universities were instructed to conduct awareness programs, workshops, debates, and other activities related to intellectual property rights.¹⁰

When this policy was introduced, numerous workshops were conducted to discuss it, resulting in significant changes in the education system regarding IPR. As a result, institutions like the UGC and NAAC took major steps toward integrating IPR by implementing a Choice-Based Credit System (CBCS), which brought IPR into the core of education and greatly contributed to achieving the objectives of the National IPR Policy, 2016.

For example, during the 107th Executive Committee meeting of the AICTE held on May 31, 2017,¹¹ the agenda was to include the IPR subject in undergraduate and postgraduate

⁷ National Intellectual Property Right Policy, 2016, Objective 1, Pg. 5

⁸ National Intellectual Property Right Policy, 2016, Objective 1, Pg. 5 For more information visit ipindia.gov.in

⁹ Dr. Nithyananda K.V July 2020 pg 196 quick review of the data mentioned in the paper

¹⁰ National IPR, 2016, Objective 2, Pg. 7

¹¹ A.I.C.T.E, 'All India Council for Technical Education Approval Process Handbook (2018-19)', at pg.18

engineering courses. After a thorough review, the IPR and Patent Act were incorporated into the (3) curriculum.

NAAC has also established parameters for assessing IPR when ranking institutions. (4) The NIRF evaluates three components, totaling 100 marks: Publications (45 marks), Citations (45 marks), and IPR (10 marks). Within the IPR component, the framework assesses three aspects that contribute to the total of 10 marks: Patents granted (4 marks), patent applications filed (2 marks), and patents licensed (4 marks).¹² In the 2018 framework, the weightage for IPR and patents was set at 15 marks for engineering institutions, 10 marks for medical institutions, and 15 marks for pharmacy institutions. However, for institutions in fields such as architecture, law, and management, there are no specific requirements for IPR and patents; instead, research output is evaluated based on the number of publications, citations, and their overall impact. This structured approach emphasizes the importance of IPR in academic performance and innovation.¹³

When the author examines the data on the management of national IPR in educational institutions, he realizes that there is a need to strengthen our IPR framework, as the current IPR Act has limitations in some areas. The author notes that Indian education places significant emphasis on IPR, which will enhance the education system in India regarding innovation and creativity, ultimately raising awareness within our society and nation.

3. We are focusing on the analysis of Geographical Indications (GI) and their management concerning intellectual property rights.

A Geographical Indication provides protection to products that originate from a specific geographical area. Several factors determine GI products, including the place of origin, climate, topography, and the traditional skills or craftsmanship of people from a specific geographical region.¹⁴ In India, the protection of Geographical Indications (GI) is governed by the Geographical Indications of Goods (Registration and Protection) Act, 1999, which came into effect in 2003. This Act establishes a framework for the registration and safeguarding of GI,

¹² N.J.R.F, A Methodology for Ranking of Universities and Colleges in India (National Institutional Ranking Framework, 2017 [cited 3rd April 2019]);

¹³ <https://www.11rfindia.org/Docs/Ranking%20Framework%20for%20Universities%20and%20Colleges.pdf>. Atpg.31

¹⁴ GEOGRAPHICAL INDICATIONS IN INDIA, February 2022, Authors: Anita Moudgil, D.A.V.College for Girls. Yamunanagar

ensuring the recognition and promotion of products that are uniquely tied to specific regions. According to Section 2(1)(e) of the Geographical Indications of Goods (Registration and Protection) Act, 1999, “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 characteristic 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.” (5)

India has seen a growing number of products receiving GI status. Regions such as Kashmir, Punjab, Kerala, and Haryana, known for their unique skills and distinctive products, offer India significant opportunities for economic growth and global recognition through the protection and promotion of GI.

In 2003, The Law Commission of India published Report titled “The Functioning of the Intellectual Property Appellate Board (IPAB)”.¹⁵ This board was created to adjudicate appeals against decisions made by the Registrar under the Trade Marks Act, 1999, (6) and the Geographical Indications of Goods (Registration and Protection) Act, 1999. (5) All pending appeals in various High Courts will be transferred to the Intellectual Property Appellate Board (IPAB). New Rectification Applications related to the Patents Act of 1970 will also need to be submitted to the IPAB for consideration. But this could signal a turning point for the board, which has faced significant challenges since its establishment in 2003, including the failure to appoint key members, leading to over 4,000 pending cases.¹⁶ According to Ranjan Narula, founder and managing partner of RNA, the board has struggled for more than 15 years to develop the necessary infrastructure and appoint a technical member and chairman, resulting in a growing backlog of cases. In August 2021, the Indian government officially moved to dissolve the IPAB as part of broader reforms in the intellectual property rights framework in India.

When the author focuses on the management of Geographical Indications (GI), he recognizes numerous challenges. However, it is important not to overlook the academic aspects, as there

¹⁵ The Intellectual Property Appellate Board: Power & Constitution, by Intepat Interns, Intellectual Property, June 11, 2017

¹⁶ I pleaders, An overview of the government’s proposal to shut down the Intellectual Property Appellate Board, July 19, 2021

are established mechanisms for managing GI. Several steps can be taken to secure protection for GI.

Eligible Products: To Identifying products that are eligible for protection.

Application for Registration: Once a product is identified, the producers need to apply for registration under the Geographical Indications Act. This involves providing detailed documentation proving the link between the product and the geographical area, as well as evidence of its uniqueness.

Awareness and Promotion: One of the challenges in GI management is raising awareness among producers and consumers.

Monitoring and Enforcement: After registration, GI holders must actively monitor the market to ensure that unauthorized products are not sold under the GI label.

Renewal and Maintenance: GIs need to be renewed every 10 years.

When examining Geographical Indications (GIs) from an academic management perspective, several challenges emerge, including issues related to awareness and the legal framework. However, the academic study of GIs spans multiple disciplines, such as law, economics, cultural studies, and environmental science. This multidisciplinary approach allows for a comprehensive understanding of GIs and their significance in various contexts.

STATEMENT OF PROBLEM

Despite the establishment of the National IPR Policy 2016, which aims to promote creativity and innovation through effective intellectual property rights (IPR) management, significant challenges persist in the implementation of IPR frameworks within academic institutions in India. The policy emphasizes the integration of IPR education into curricula across universities and technical institutions; however, there is a lack of standardized practices for IPR management and awareness programs, leading to inadequate understanding and application of IPR principles among students and faculty.

The fragmented nature of existing IPR laws and the absence of a cohesive strategy for IPR education contribute to the ineffective protection of innovations and creative works generated

within academic settings. While initiatives such as the Choice-Based Credit System (CBCS) and the assessment criteria set by the National Assessment and Accreditation Council (NAAC) and the National Institutional Ranking Framework (NIRF) have been introduced, the actual impact of these measures on enhancing IPR management remains uncertain.

Geographical indications (GI), which represent significant economic opportunities for regions in India, face challenges in awareness, registration, and enforcement, particularly in rural and underserved areas. There is a pressing need to evaluate how well current IPR management practices address these complexities and to identify the gaps that hinder the effective promotion and protection of intellectual property.

LITERATURE REVIEW

The management of Intellectual Property Rights (IPR), particularly Geographical Indications (GI), has gained significant attention in recent years due to its implications for economic development, cultural heritage preservation, and the promotion of innovation. Various scholars and organizations have highlighted the importance of a robust IPR framework in fostering creativity and entrepreneurship.

Research emphasizes the critical role educational institutions play in fostering IPR awareness and knowledge. Jha and Poonam (2016) conducted a study showing that incorporating IPR into academic curricula significantly enhances students' understanding of IP laws and their importance in innovation.

A key aspect of the National IPR Policy is its focus on educational institutions as vital players in IPR management. Research by Gupta and Agarwal (2019) indicates that integrating IPR into the curriculum of universities and technical institutions enhances students' understanding of intellectual property, thereby preparing them to become informed creators and innovators. The study emphasizes that educational institutions should not only teach the legal aspects of IPR but also highlight its practical applications in various industries.

Geographical Indications serve as a vital link between culture and commerce, providing protection to products unique to specific regions. According to Raj and Singh (2020), GIs are essential for preserving traditional knowledge and promoting local crafts, thereby contributing to sustainable economic development.

In summary, the literature indicates that while there have been significant advancements in the management of IPR and GIs in India, challenges remain in terms of awareness, legal frameworks, and effective implementation. The integration of IPR education in universities and technical institutions is crucial for fostering a culture of innovation. Future research should explore innovative strategies to enhance GI awareness and management, particularly in rural and remote areas, to fully realize the potential benefits of intellectual property for economic and cultural development.

CONCLUSION

The management of Intellectual Property Rights (IPR) and Geographical Indications (GI) in India has undergone significant transformation with the introduction of the National IPR Policy 2016 and the establishment of relevant frameworks in educational institutions. The policy, encapsulated in the slogan "Rachnatmak Bharat, Abhinav Bharat," aims to enhance awareness of IPR among the public, facilitating the protection and commercialization of innovations. By focusing on integrating IPR into academic curricula, the policy encourages universities and institutions to engage actively in IPR management, fostering a culture of innovation and creativity.

Despite the progress made, challenges remain, particularly in raising awareness, addressing the complexities of IPR legislation, and ensuring effective enforcement. The growing emphasis on GI protection highlights the need for a tailored approach that recognizes the unique cultural and traditional significance of products tied to specific geographical regions. By developing strategies that promote education and understanding of GIs, India can better support local producers, protect traditional knowledge, and enhance economic opportunities for communities.

As this research has shown, the landscape of IPR management in India is evolving, but continuous efforts are needed to strengthen legal frameworks, enhance educational initiatives, and improve outreach to underrepresented IP creators. Future research should focus on assessing the effectiveness of existing policies and programs while exploring innovative approaches to IPR management that can adapt to the rapidly changing global landscape. Ultimately, fostering a robust IPR ecosystem will be essential for advancing India's position as a leader in creativity, innovation, and economic growth.