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IPR: INTRODUCING STUDENT - IP NEXUS FOR LIMITLESS INNOVATION.

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ABSTRACT

Over the past couple of decades, a surge in technological start-ups has been witnessed in the country whose backbone is the youth of the country. Starting from being very small to having the potential of growing into something really large. Growing with the notion of Internet driven lives and Digital India, IPR has become a pillar that is supporting the country commercially. There are concepts of licensing and assignments which are sources of financial profitability, market domination and increased market value. IPR promotes employment creation and opportunities in departments like Scientific organizations and Research and Development institutions. It also creates market differentiation as each form of IP deals with different subject matter. The Authors of the present article have emphasized on the growing need and awareness of IP in a student's life and tried to expound the areas where a student can excel and which are totally protected and safeguarded by the laws of the land.

KEYWORDS - Intellectual Property, Entrepreneur, Innovation, Creativity, Economy, Exclusive Rights, Sustainability.

INTRODUCTION

At the time when IP Law and the importance of providing original ideas, inventing and innovating was not so "significant" as it is in the present day, the great scientist Nikola Tesla said "*Invention is the most important product of a man's creative brain*". The purpose behind invention and innovation is often an underlying problem which at that moment cannot be resolved by the existing alternatives. People who create something original and which at the same time resolves any existing problem are referred to as "Inventors". These inventors need not necessarily be someone who has deep expertise in science, technology, math, etc. but it can also be done by students, studying at the school or university level. As per the latest report by

Government of India (2021-22) there has been a steady increase in the number of applications received as well as Patent granted over the years.¹ The growth in areas covering design, trademark, copyrights has not been steady, however one can see the numbers are on the higher side.² “*Department of Industrial Policy & Promotion (at present known as the Department for Promotion of Industry and Internal Trade), Ministry of Commerce and Industry, Government of India, has been designated as the key department to coordinate, direct, and monitor the adoption of IPRs in India and their further development. The ‘Cell for IPR Promotion & Management (CIPAM)’ , setup under a professional body under the aegis of DIPP, is to be the single point of reference for implementation of objectives of the National IPR Policy.*”³ Astonishingly, two of the top five patent applicants in the said year were two universities, indicating that students are running at par with big MNCs when it comes to research and innovations.⁴ Due to this tendency, many universities are setting up IPR cells in order to protect the interest of their students and also provide a monopoly privilege to the institute as well as the student inventor(s). To safeguard student ingenuity in an era where innovation, international research, and collaboration are increasingly valued, institutions are developing their own policies in the absence of specific IPR Laws for universities, by taking inference from the goals of the National IPR Policy adopted by the Government of India in the year 2016.⁵ However, when it comes to people who are even younger i.e., School students do not tend to receive these benefits, although they also have the ability to strive for inventions and innovations. Therefore, It becomes important to explain the rudimentary concepts pertaining to IP Law and how they can consume the fruits of it. This would in turn ensure that fire inside them to invent something new also gets “protected”, which is very crucial for a developing country like India.

FACETS OF IP LAW: A SIMPLIFIED EXPLORATION

In the present-day scenario, taking possession of land, labour and capital are not just the major concerns for a country to get ahead and succeed. Invention, Creativity and Innovations are the

¹ Department of Industrial Policy and Promotion, ‘Annual Report 2021-2022’ Ministry of Commerce and Industry <https://ipindia.gov.in/writereaddata/Portal/Images/pdf/Final_Annual_Report_Eng_for_Net.pdf> accessed 29 October 2009

² *Ibid.*

³ Cell for IPR Promotion & Management, ‘National IPR Policy’ DIPP, 2016 <<http://cipam.gov.in/index.php/about/national-ipr-policy/>>. accessed 10 July 2023

⁴ Department of Industrial Policy and Promotion, ‘Annual Report 2019-2020’ Ministry of Commerce and Industry <https://ipindia.gov.in/writereaddata/Portal/Images/pdf/IP_India_English_29.08.21_Final_.pdf> accessed 29 October 2009

⁵ Vanessa Viegas, “Colleges are working to protect patent, copyright on student innovations”, Hindustan Times, (New Delhi 11 Dec 2019)

new unique drivers leading to rapid growth in the world economy. In a wide sense, intellectual property refers to the legal rights that result from intellectual activity in the industrial, scientific, literary and artistic fields. Intellectual Property rights are the collection of exclusive rights that an individual holds over the creation of mind, which is both artistic and commercial. One may build their own intellectual property at any age. In actuality, when one produces their own Intellectual Property each time while writing a poem, complete an assignment, or create an original picture or sketch.

Copyright law and industrial property are the two main divisions of intellectual property in general.⁶ The former protects creative works such as books, novels, poems, sculptures, movies, music, paintings, photographs, software or any computer programs and any architectural design, giving the copyright holder the exclusive right to control reproduction and adaptation of such creative work for the prescribed period of time as per The Copyright Act, 1957.⁷

While the latter are typically created and used for industrial or commercial purposes, which includes Patent governing under The Patent Act, 1970, Trademarks governing under The Trademark Act, 1999, Geographical Indication governing under The Geographical Indicators of Goods(Registration and Protection) Act, 1999, Industrial Design governing under The Design Act, 2000, trade secret, Protection of Plant Varieties and Farmers' Rights Act, 2001, Semiconductor Integrated Circuits Layout-Design Act, 2000 and Biological Diversity Act, 2002.⁸ Therefore, IPR plays an important role in an increasingly broad range of areas, ranging from basic health care sector to nearly all aspects of science and technology, literature and the arts.

The Convention Establishing the World Intellectual Property Organization (WIPO), concluded in Stockholm on July 14, 1967 (Article 2(viii)) provides that “*intellectual property shall include rights relating to:*⁹

⁶ WTO, *What are intellectual property rights?*, TRIPS <https://www.wto.org/english/tratop_e/trips_e/intell_e.htm> accessed Jul 31 2022

⁷ Dipak Rao, Sonil Singhania and Sana Singh, 'Indian Copyright Laws', (2020) Lexology, <<https://www.lexology.com/library/detail.aspx?g=e963324a-4b62-49ab-bd90-aeddb1aee2b0>> accessed Jul 31 2022

⁸ *Understanding Industrial Property* (2nd edn, World Intellectual Property Organization (WIPO) 2016) <https://www.wipo.int/edocs/pubdocs/en/wipo_pub_895_2016.pdf> accessed Jul 31, 2022

⁹ Summary of the Convention Establishing the World Intellectual Property Organization (WIPO Convention) (1967), WIPO, <https://www.wipo.int/treaties/en/convention/summary_wipo_convention.html> accessed Jul 31, 2023

- *literary, artistic and scientific works,*
- *performances of performing artists, phonograms and broadcasts,*
- *inventions in all fields of human endeavour,*
- *scientific discoveries,*
- *industrial designs,*
- *trademarks, service marks and commercial names and designations,*
- *protection against unfair competition, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.”*

NATIONAL IPR POLICY

The Department of Industrial Policy and Promotion (at present known as the Department for Promotion of Industry and Internal Trade) under the Ministry of Commerce published the National IPR Policy on May 12, 2016.¹⁰ An all-encompassing IPR Policy which expounds the government's comprehensive vision for a robust IPR ecosystem which accelerates towards shaping a more innovative and creative Bharat. Similarly, the mission statement provides for stimulating a dynamic, vibrant and balanced intellectual property rights system in India, which covers fostering innovation and creativity and simultaneously enhancing the access to health, food security, environmental protection and so on so far. The rationale is to spread awareness to the creative minds of dynamic India about the importance of IPRs which can be utilized as an economic tool as well as a marketable financial asset. The Policy has seven broad objectives as follows -

1. IPR Awareness: Outreach and Promotion
2. Generation of IPRs
3. Legal and Legislative Framework
4. Administration and Management
5. Commercialization of IPR
6. Enforcement and Adjudication
7. Human Capital Development

¹⁰ Department of industrial Policy and Promotion, National IPR Policy, Ministry of Commerce and Industry (12 May 2016) <https://www.meity.gov.in/writereaddata/files/National_IPR_Policy.pdf> accessed on 23 October 2023

SCOPE OF IPR IN DEVELOPMENT OF STUDENTS

Intellectual property rights (IPR) can offer students a number of advantages. The following are some ways that IPR can benefit students:

1. **Original Work is Protected:** Students can benefit from IPR protection when students produce original works, upon subject matter such as any research papers, inventions, artistic works, or development of any software. They have the right to safeguard their work against unauthorized use, duplication, imitation or exploitation by others through intellectual property laws including copyright, patents, and trademarks.
2. **Ownership and Recognition:** IPR protection ensures that the owner or producer are given due credit for their original or innovative ideas. Indian youth actively contribute to scientific research, academic publications, and innovation. It gives students the opportunity to to claim ownership of their work, which is beneficial for both academic and professional growth which include seeking potential future employment and also providing potential employment opportunities to others in order to curb unemployment.
3. **Incentive for Innovation and Creativity:** Students inspired on matters covered under IPR are likely to devote time, energy, and resources to research, invention, and artistic endeavors when they are aware of the very fact that their work can be safeguarded and rewarded through IPR. It provides incentive for students who then get motivated and engage in innovative and creative activities.
4. **Economic Possibilities:** IPR is a way of commercial gain. Students with economic possibilities and stable income. For instance, securing a patent grants exclusive right to a student to commercially exploit an innovation if they discover a novel technique or new method to curb and existing problems of society. This can lead to licensing and assignment of patents, collaborations with various players of markets, or even the establishment of startup ventures, thereby creating potential income streams.
5. **Collaborative Ventures:** IPR facilitates students and other potential stakeholders who see the potential in youngsters and their enthusiasm in such Industry to collaborate and work together by forming partnerships. It enables students to collaborate and engage themselves on projects, exchange knowledge, and safeguard individual contributions through an agreement. This encourages innovation to grow deeper, fostering sharing of knowledge, and group development of all.
6. **Innovation and Entrepreneurship:** India has witnessed a surge in startups especially in the technology industry. The concept of the innovation "*valley of death*" refers to the period from the time the invention has been prototyped to the official launch of the new

product in the market. Taking a product to market is typically the key challenge for inventors, entrepreneurs, and businesses. The majority of inventions collapse during this time caused by a lack of support from outside sources or because they are not economically feasible.¹¹ IP ownership enhances a company's negotiating position when looking for investment partners and increases its worth to investors. The ability to access early-stage funding is through potential investors, who may act as a lifeline to help an invention reach the market, and funding is needed to grow at this stage and can be made possible only by IP, particularly patents.

7. ***Creative Industries:*** India has a thriving creative market and a rich cultural history. Copyright protection can help youth who work in creative industries like music, cinema, literature, art, and fashion to protect their original works. Copyrights provide creators an economic incentive and protect their artistic expression by allowing them to regulate the reproduction, distribution, and public performance of their works.
8. ***Traditional Knowledge and Folklore:*** India has a rich heritage of traditional knowledge and folklore. Geographical Indications operate as a strategy for preserving Traditional Knowledge and inspire the communities that already practice it to further preserve it and promote it to their future generation.¹² It aids in eliminating the generational gap between the society's older and younger generations. Protection mechanisms, such as geographical indications, can help preserve and promote traditional cultural expressions, handicrafts, textiles, and local products. This can provide economic opportunities for youth engaged in traditional arts and crafts.

STORIES OF SUSTAINABILITY WITH INTELLECTUAL PROPERTY ACROSS THE WORLD.

There are various examples and stories across the world where people have thought out of the box and tried to contribute to sustainable development which are set as benchmarks for other people, to take inspiration from.

1. ***Low-Cost Electronic Speed-breaker:*** Krishna Kant, an engineering student, is considered the youngest in the country to receive a patent certificate for his invention

¹¹ WIPO Magazine, 'IP & Business: Intellectual Property, Innovation and New Product Development' (2005) <https://www.wipo.int/wipo_magazine/en/2005/04/article_0002.html> accessed July 7 2023

¹² Dr Carolina Vásquez-Arango, 'Protection of Traditional Knowledge and Biodiversity Through a Higher Protection of Geographical Indication : A Review of Colombia's Position at the WTO' (2014), Volume 5, WIPO-WTO Colloquium Papers <https://www.wto.org/english/tratop_e/trips_e/colloquium_papers_e/2014/chapter_5_2014_e.pdf> accessed 13 August 2023

i.e., 'Low-Cost Electronic Speed-breaker' that was invented by him when he was just 14 years old in the year 2005. As the process of granting patent involves several steps, he successfully received his patent in the year 2010 from Office of the Patent, confirming the patent with retrospective effect from the date of the submission of application on April 11, 2005. The product comprises three fundamental units: a solenoid valve, an electrical control, and a sensor unit. The sensor device is mounted on the gearbox to track the vehicle's speed. To regulate fuel supply, the valve unit which consists of a typically closed solenoid valve is installed on the fuel line between the fuel injection pump and fuel filter.¹³ In addition, there are two buzzer-based warning units: the first alerts the driver to excessive speeding, while the second sounds when there is a problem with the speed control mechanism. Lastly the electronic control is used to control the flow of the fuel in the injector. The Product works by giving warning sounds when drivers try to over speed their vehicles or if someone tries to do rash driving above the preset limit. The first warning sound comes from the buzzer unit when the preset limit is crossed. However, if the speed is not decreased to the preset limit, then the microprocessor sends signals to the valve unit which automatically blocks the fuel flow ultimately bringing down the speed of the vehicle.

2. ***Vigormin a powder for Treating Wastewater:*** *“With funding from the Department of Science and Technology through the Philippine Council for Industry, Energy, and Emerging Technology Research and Development (PCIEERD), Dr. Palencia developed Vigormin, a white powder comprising several organo-minerals, which are abundant in the Philippines.”*¹⁴

The powder is organic and eco-friendly alkaline powder which has a blend of all natural components and minerals which are available in huge quantities in the Philippines. They all are non-toxic, odorless and soluble in water. In 2004, the Government of the Philippines enacted *the Philippine Clean Water Act of 2004*, to restore the water bodies as they were severely polluted and damaged and they needed protection. The very purpose was to the rehabilitation of water resources.

To use Vigormin, all that is required is to dispense the powder into, say, the used water

¹³ Indian Patent, 'Low Cost Speed Breakers' Patent Number- 241834,(30 July 2010) <<https://www.allindianpatents.com/patents/241834-low-cost-electronic-speed-breaker>> accessed 28 October 2023

¹⁴ Lidia Kleshchenko, 'Women in Green: Inclusivity in Treating Wastewater', WIPO Green, (24 March 2021) <https://www3.wipo.int/wipogreen/en/news/2021/news_0002.html#:~:text=Prof.,the%20treatment%20accessible%20to%20everyone> accessed 16 September 2023

in house cleaning or contaminated water. One can possibly see the outcome within the first 30 minutes after adding the powder. The water will clear noticeably in three to four hours. The treated water that would otherwise be wasted can be used safely for drip irrigation of crops after frequent application of Vigormin for at least 60 days.

3. ***ABS Recycling for Waste Management:*** The company came into picture in the year 2006, and their journey began when it opened the first plastic recycling plant in Moldova.¹⁵ They administer the country's first integrated waste management system. Acrylonitrile butadiene styrene, or "ABS," is a popular engineering thermoplastic that is typically chosen for its inexpensive cost and high impact resistance (though to a somewhat lesser extent than polycarbonate). Because it is an amorphous thermoplastic, it can be melted and extruded several times at relatively low melting points, even after it has solidified. ABS is also highly inert, which leads to its almost ubiquitous use in goods ranging from automobile dashboards and steering wheel coverings to children's toys (such as Lego bricks®), keyboard keycaps, plastic guards on power outlets, and many more applications. This whole process of ABS is registered under Trade secrets. Hence, totally protected and enjoys IP advantages.

4. ***Waste Pulp Transformed into New Feedstock for use in Chemical Industry:***

*“Researchers from Stellenbosch University, Western Cape, South Africa have developed a method of depolymerizing phenolic polymers to convert waste pulp into a new feedstock for the chemical industry. The researchers are Helen Pfukwa, Ndumiso Sibanda and Harald Pasch.”*¹⁶

*“Lignin (Latin lignum ‘wood’) is a polyphenolic polymer deposited directly in the cell wall of specialized cells. Lignin deposition depends on the cell type, the developmental stage and the species.”*¹⁷

Lignin can be transformed to useful compounds with aromatic functions that are valuable building blocks in the chemical and polymer industries using appropriate and selective processes such as oxidative depolymerization. The industries associated with chemical and polymer manufacturing totally rely on extraction of all raw materials mostly from non-renewable resources such as fossil fuels such as petroleum and coal.

¹⁵ WIPO, ‘ABS Recycling, the Pioneer of Waste Management in Moldova’ Case Study, 21 Nov 2021. <<https://www.wipo.int/ipadvantage/en/details.jsp?id=12313>> accessed 7 July 2023

¹⁶ WIPO, ‘Transforming Waste Pulp into a New Feedstock for the Chemical Industry’, WIPO Magazine, <https://www.wipo.int/wipo_magazine/en/ip-at-work/2021/transforming_pulp.html> accessed 7 July 2023

¹⁷ Barros J and others, ‘The Cell Biology of Lignification in Higher Plants’ (2015) 115 Annals of Botany 1053 <<https://doi.org/10.1093/aob/mcv046>>

The usage of these raw materials is not sustainable because they are being exhausted, and their extraction and conversion to desirable functionalized compounds has major repercussions for the environment. This technology has been protected and under the Patent in South Africa.

CASE STUDY

Before the release of his well-known Indian movie, "Simmba," director Rohit Shetty and his crew had a slight contretemps with Sona Beverages Pvt. Ltd. Chhattisgarh-based Company named Sona Beverages Co. Ltd owned the trademark 'SIMBA' and used that for a variety of their products, including mineral water, aerated water, and other alcoholic and non-alcoholic drinks. Sona Beverages claimed that the aforementioned trademark has been in use since 2015, and therefore, they objected to the film's title "Simmba" using their trademark "Simba." Prior to the film's release, the producers were capable of reaching a timely agreement with Prabhtej Singh Bhatia. And on 10th December 2018, both the parties entered into a Trademark License Agreement for the production. As per the conditions stipulated in the agreement, "a disclaimer had to be shown in the title slides/credits of the film that the trademark 'SIMBA' actually belongs to 'Sona Beverages Co. Ltd' and the production house is using it under a trademark licensing agreement between both the parties."¹⁸ The Delhi High Court took notice of the same and ordered that the addition of the disclaimer shall be done on an urgent basis since the film is likely to be released on 28th December, 2018.

CONCLUSION

India is a place of diversity, rich in culture, traditional knowledge and golden heritage, having a booming economy. India is now emerging as one of the fastest growing economies in the world. The growth inter alia is the result of the ability to think beyond boundaries and out of the box as demanded, based on needs of the society with an urge to do something new with every new day. With the presence of a robust IPR framework complying with the TRIPS Agreement and other international conventions India also encourages and fosters an environment which is knowledge driven economy. Moreover, it also attracts investors and foreign collaborations. As financing is a major impediment for entrepreneurs there arises the need to connect the investors with the creative minds. The IPR ecosystem built is going to provide the investors' confidence that their assets will be adequately protected resulting in

¹⁸ *M/s Sona Beverages Pvt. Ltd. vs Rohit Shetty Picturez LLP*, [CS(COMM) 1224/2018]

strengthening the work relation. The MNCs are now actively taking part in partnership and doing ventures in order to grow and boost themselves further by working with skilled talented and entrepreneurial spirits of the nation. While being a member country of various conventions India has set up an IPR Ecosystem, Department of Industrial Policy & Promotion (presently known as the Department for Promotion of Industry and Internal Trade), Ministry of Commerce, Government of India, the nodal department looks after IP which has largely contributed in development of IP offices and infrastructure, providing exclusive rights and safeguarding the inventors or creators through legal remedies, proving a fast processing mechanism, avoiding delays in getting the invention registered and supporting the innovation driven entrepreneurship. It is quite clear that Intellectual property is of crucial importance, when it comes to moving humanity forward, making lives easier and enhancing creative instinct among individuals. The laws protecting such creations make sure that a person's developing novel things or techniques are served with their interest in the rightful manner which they deserve. However, IPR is quite intricate in its functioning with multi-level nuances inhibiting its reach to the masses. If the knowledge of IPR is imparted widely, mostly at schools and colleges, and at the same time the legal framework surrounding it is simplified for a layman to understand, then it will undoubtedly invite a boost in novel inventions being protected by IPR.

