

ISSN: 2582-6433



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed 6th Edition

VOLUME 2 ISSUE 7

www.ijlra.com

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ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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COPYRIGHT AND ITS INFLUENCE OVER THE COURSE OF ECONOMY

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ABSTRACT

This paper explains the term copyright, nature of copyrights, views of researchers on copyright and infringement of copyrights. This paper also explains the Historical Background of Indian Copyright laws in context of Changes in Britain, it highlights the emergence of copyright in the reign of British and how it impacted the protection of copyright in India and analyses the impact of copyright on Indian economy. It discusses the interrelation of copyright and economy, along with impact on trade and foreign direct investment. It will explain a detail study of copyright registrations in last 2-3 years and in this chapter we will analyze current situation In India, as the copyright-intensive industries are primarily the media-entertainment and publishing industries, both of which contribute significantly to the country's economic growth or not.

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INTRODUCTION AND HISTORICAL BACKGROUND

This is a general principle of law that one should not be allowed to extract benefits to him of what has been produced by the skills, labor and capital of someone else. This principle forms the very foundation of copyright law. Copyright is a unique kind of intellectual property. The right that an individual acquires in a work, which is the product of his intellectual labor, is called his copyright. The object of copyright protection is to encourage the authors. Composers, artists, designers etc. to produce original works by rewarding them with the authentic right for a limited span to exploit their creation for monetary gain. Copyright means the exclusive right to do or authorize others to do certain acts in relation to (1) literary dramatic, musical and artistic work, (2) Cinematographic film, (3) sound recordings¹

Copyright may be regarded as a negative right rather than being a positive right since it restricts others from exploiting the work without the consent of copyright owner. In essence, copyright refers to the negative right of prohibiting the duplication of physical material in the fields of literature and art.

Copyright protects the author, writer or creator of the original work from the unauthorized copying, exploitation or mutilation. It also prohibits any individual from exercising any related right attached with the copyright protection. Copyright protection is essential to encourage exploitation of copyright work for the benefit of public. The exploitation is done by the entrepreneurs like publishers, Film producers, sound records etc. to whom the owner of the copyright assigns or licenses the particular rights. These enterprises are basically profit oriented, and therefore if they are unable to extract benefits out of the rights guaranteed to them, they shall not be taking up such projects in their hands.

Therefore, legal protection to such entrepreneurs for a certain period of time is indispensable. There is no copyright protection for ideas. It is immaterial whether the work is wise or foolish or it has or has not any literary or artistic merit.

“Originality” of works here does not refer that the work must be the expression of original or inventive thought. The originality relates to the expression of the thought but the expression does not have to be in an original or novel form, rather the work must not copied from another work, implying it should originate from the author itself.²

¹ Sec.13, The Copyright Act, 1957.

² University of London Press v. University Tutorial Press (1916) 2 Ch. 601.

Copyright holders consequently fear that unauthorized copying and redistribution of their works will cause their economic returns to decline. Copyright is a subset of the larger category of property rights which includes both tangible and intangible assets. Intangible property-- also termed as intellectual property-- includes technological and scientific works, which are protected by patent law as well as creative works, which are protected by copyright law. Well-defined and administered property rights are fundamental to the functioning of market economies. The first owner of traded products and services--and the remedy that the parties have in a conflict resulting from any exchange--must be established for arms-length transactions among individuals to be sensible.

Furthermore, a variety of decisions--on whether to save and invest, or to pursue education, engage in skill growth, or research and development (R & D)—is based on the possibility of being able to claim the wealth produced by those activities.

The debate concerning the economic implications of copyright has gained considerable attention. India, due to agreements integrated under TRIPS has been unable to use TRIPS flexibilities and is under increasing pressure to strengthen its national intellectual property regime. The subject of intellectual property and its protection has become a central issue in economic development, scientific and technological protection.

Evidences suggest that stronger IPRs positively affect the volume of FDI and exports, particularly in countries like India with strong absorptive capabilities. It can also give incentives to firms in developed countries to undertake cross border investments.

Copyright is a stimulant in the national economy but the standard of IP protection is correlated to economic development and its historical and cultural circumstances. For instance, least economically developed have least standard of protection whereas countries moving the development ladder, adopt higher standards of protection because they have more resources devoted to the creation of intellectual property and represent more attractive market for industrial countries. Thus, growing pressure for stronger protection.³

³ Knowledge Gap Widens Between Developed and Developing Countries, (5) Intellectual Property Rights (A Bulletin from Technology, Information Forecasting and Assessment Council – TIFAC) 1999.

World Bank (2002, 2003, 2005,) as well as world intellectual property organization in many publications has asserted that protection of copyrights can help in revenue generation, improve balance of payments (BOP), provide access to international market as well as increase employment opportunities.

India must make a concerted effort to reconstruct its copyright narrative in a way that it balances the requirement for access to creative product against the need to extract commercial value aiding the GDP of the nation. India's copyright laws must be adapted to mirror the economic urgencies of the present.

Copyright exists in industrial design in peculiar way, for the manufacturing of machine and machine parts. This protection is peculiar because if any manufacturing process has been undertaken on the basis of the copyrighted industrial design, even if the person making the product hasn't seen the original drawing and has copied only a machine made in conformity with that drawing⁴. This protection of industrial design is better than that of patent protection in terms of tenure of protection, where copyright protection extends beyond 60 years. Patent protection expires after 14 years besides this acquiring copyright needs no formalities like registration, it comes into existence as the original work is completed whereas acquiring patent is laborious as well as involves considerable expenditure.

Due to the international character of copyright, numerous countries have joined hands to form agreements for the copyright protection owned by its nationals in other countries. The Berne convention and UCC were the result of such joint effort. India is a member of both the conventions whereas most of the countries are member to at least one of three conventions. Thus, India copyright holders can protect their copyright in almost all the countries all over the world.

1.1. Definition of Copyright

The world Intellectual property Organization (WIPO) has defined *Copyright* as “a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculptures, and films, to computer programs, databases, advertisements, maps and technical drawings”.⁵

⁴ The Industrial Designs Act.

⁵[https://www.wipo.int/copyright/en/#:~:text=Copyright%20\(or%20author's%20right\)%20is.%2C%20maps%2C](https://www.wipo.int/copyright/en/#:~:text=Copyright%20(or%20author's%20right)%20is.%2C%20maps%2C)

The Law of copyright confers upon the owner of the copyrighted work a bundle of exclusive rights which are not natural or divine rights but are designed to stimulate activity and progress in intellectual enrichment.

1.2. Nature of Copyright

Copyright is the statutory right of a creator to control and authorize the reproduction of his intellectual creations. When the author limits his creation to his sole possession, the author's absolute control is a mere physical fact but when the work is disclosed to public in large, he makes it possible for them to reproduce the same.

Copyright is not aimed to preclude others from utilizing the ideas or information revealed by the author's work. It pertains to the literary musical graphics or artistic form in which the creator expresses his intellectual conception. It entitles him to prevent others from reproducing his individual expression without his permission for a stipulated period of time as per the law of the land.

IMPACT OF COPYRIGHT ON ECONOMY

Interaction between copyright and economy

“Intellectual property has the potential to boost or stifle economic growth”

Intellectual Property rights (IPR) assume an increasing role in terms of trade and investment. IPR is no longer restricted to being an academic abstraction, in real terms it is a valuable commercial asset and a driving force in technological progress leading to increasing competitive capability and resultant empowerment in market.

The impact of intellectual property rights (IPRS) on the processes of economic development and growth is uncertain and dependent on multiple factors. In this regard, the effectiveness of IPRS is highly depended on specific circumstances of each nation. Although economists are devoting considerable attention to this issue, evidence so far is mixed and conflicting, in part because many of the concepts involved are not readily measured.

The globalization or internationalization of trade and economy, and the multilateral rules that bound nations to accept or adopt an approach through close interaction between government,

industry and the creative segment of the society. Strong IP protection with adequate and modernized legislation plus its effective enforcement undoubtedly helps in transfer of technology and consequently, technological development. It also helps in attracting Foreign Direct Investment.

The intellectual property system is one of the major corner stones of modern economic policy at the domestic level. It is increasing becoming a tool for sustainable development. Understanding and appreciating the foundation of intellectual property and the copyright system, is a condition for analyzing its growing importance and position in national strategies for enhancing competition.

Copyright is not an in itself, it is a means to an end, a catalyst for accelerating social, cultural and tech-economic growth in developing countries. Its effective protection and use effects economic growth by providing the necessary incentives for increasing competitive capability. The recognition of the creator, the protection of his rights and the rights of those who invest in the making of his creation, contribute positively to the economic development of the country.

The indispensability of examining intellectual property rights through the economic perspective is an outcome of the concept of intellectual property as a social phenomenon. Both economics and intellectual property, in particular, are explicitly linked to innovation, technology, and growth. The existences of a copyright is also a legal base for contractual arrangement between the creator and the one developing the idea and tone the one hand institutions wishing to use those ideas intheir manufacturing process leading to development.

The economic development of the country determines the growth of intellectual property and vice versa. The economic value of intellectual property, the socio-economic benefits of the works of the mind is not yet a fully tapped potential in India. There needs to be broadcasting of the awareness of the considerable relevance of effective protection of intellectual property in safeguarding the results of technological development, as well as in promoting national creative endeavor.

A much greater and more widespread knowledge and understanding has to be constructed of its economic benefit for the private industry also for natural growth and development in the current generation, also as to how the intellectual property system can be utilized to promote national creativity. Many authors of mental works and innovators are unfamiliar of the basic limitations of intellectual property legislation, and now must sell the products of their

ingenuity. The challenges, particularly for SMEs, are to improve domestic efficiency of creative management of their core industry in an increasingly competitive global economy with potential for investments and exports.

In India, small enterprises account for as much as 35% of the total value of industrial production in diverse fields. They contribute more than 30% of the country's total export trade and provide employment to over 50 million people. However special focus is necessary to be laid to technology inputs, quality promotion and other practices to make them emerge as a vibrant constituent of the national economy. The problems faced by small enterprises particularly in accessing technology and developing export competitiveness have been formidable. Lack of familiarity with new technology options, inability in accessing them and organizing necessary finance for technology up gradation are a few which need to be addressed through institutional support.

The general public must also be made aware of the significant economic importance of successful intellectual property rights, as well as the resulting socio-economic gains from increased qualitative competitiveness in trade and copyright, as well as greater technological innovation possibilities as the world transitions from the industrial to the information age. Both policy makers and researchers require a better understanding of the substantial effect that a country's system of IPR protection has also on transfer of technology especially in high tech industries.

The business environment both domestic and international is becoming more competitive. The increasing market orientation of economic policies in most of our countries coupled with the gradual lowering of tariff barriers is reducing the gap between domestic and international markets, and domestic players have to be internationally competitive.

The process of development is a multifaceted. It seeks to create a broad-based sustainable improvement in the quality of life and the standard of living. The Economic growth is a crucial, though not the only, pre-requisites for development. Removal of barriers and opening up of economics in developing countries had already resulted in an unprecedented flow of funds and investment. Again, in those developing countries which have also used their productive sector to diversify and broad base their manufacturing activities with the use of the IP system for qualitative production for exports, their living standards have shown a steady and distinctive improvement. The challenges lie in invigorating the domestic efficiency innovation management.

There is an increasing recognition in the world over that the IP system provides a balance of interests between the creators of new technology, who spend large outlays and resources creation and development of technology, and consumers of technology who employ it as a valuable tool for enhancing their technological capacity and market competitiveness.

Protection of intellectual property rights is also a necessity for development of the global information infrastructure. In particular the improvement of enforcement procedures is urgent need for helping and fostering creativity and creating activity in a networked era. Well-enforced copyright legislation is essential for providing the necessary market-based incentives and rewards needed to promote creativity in literary and artistic works.

It is an important contribution factor in socio-economic and cultural development of a country, as it encourages, attracts and sustains investment in what has come to be known as the cultural industry. A modern and well enforced copyright system could be a driving force and one of the strong imperatives in the process of economic reform, in further liberalizing and restructuring of the economic and trade policies and in the promotion of national economic growth & development.

In some countries, the so-called copyright industry is the fastest growing sector of the economy, generating significant jobs and raising export performance and potential. The contribution of this industry to the gross national product (GNP) is also bound to increase in the years to come, in a number of rapidly growing developing countries, while addressing both the new challenges and opportunities posed by the increasing borderless nature of trade and economy. Studies have indicated the contribution of copyright or cultural industries to Gross National Product in world's national democracy (India) is 5.06% including their dependent industry.

The economic importance of intellectual property in respect, for instance, of the copyright industry in countries, which are major creators of copyright materials, has been well established. All studies carried out so far indicate that it contributes considerably to national economic wealth.

For developing countries, an important economic indicator of the contribution of the copyright of cultural industry is that it is also a substantial employment provider. The income from exports of intellectual property products has also increased sizably in a number of countries. The significant employment potential of the copyright or cultural industry is an important factor to be considered in developing countries, since quite a number of our countries in different

regions of the world have a very sizeable cultural industry, in terms of its contributions to the GNP. The economic value of the intellectual property rights lies also in increasing competitive capability, which is important in an electronic age, particularly also as copyright protection extends to mass media communication, printed magazines, sound and television broadcasting, films and, in some countries, also computer programs and computer systems for data storage.

A general realization that is lacking is that copyright industries in a number of developing countries such as India are also a sizeable proportion of their respective GNPs and are by no means a negligible proportion of the economy. They are also substantial job providers, hence the necessity to protect them through strict enforcement, the natural copyright laws, which latter should provide for stringent penal provisions.

Employment is a particularly significant consideration in India. One survey revealed that the public perception about employment generation is worse than what it was during the second term of the United Progressive Alliance (UPA). Although another survey showed that job growth had ostensibly been robust during the first two years of the current government, reports suggest that it was mostly in the informal sector. Compounding the issue of jobs is the looming threat of automation, which is poised to do away with many of the employment opportunities available today.

Adoption and use of efficient IP system that encourages creative activity is a sine-qua non in our own larger national interests. Removal of barriers and opening up of economies in a number of developing countries has already resulted in an unprecedented flow of funds and investments. For benefiting from the economic value of the protection of intellectual property rights, it is necessary that business and industry, as well as scientific institutions should be encouraged to consciously promote among their employees, technocrats and scientists the innovative and creative spirit, and to use the IP system as a tool for development.

The impact of intellectual property on growth is determined by nation's level of development. Other factors, which encourage economic growth, are stimulation of creativity and innovation, market deepening, reliable quality, domestic and international knowledge diffusion, composition of global research and development (R & D) Maskus, et al. (2005). The proposed model explains the process of economic growth. It emphasizes the importance of IPRs in theory of endogenous development.

It highlights the growth process centered on IPRs through international trade, foreign direct

investment (FDI), licensing, R&D channels (innovation). The combined effects of IPRs through these channels will boost economic growth. The effect of Intellectual Property Rights (IPRs) on international trade flows when knowledge intensive goods move across national borders.⁶ Patent system promotes technological and business competition, because patent holders and their competitors compete each other to improve inventions and to create new ideas.⁷

The impact of stronger patent rights on trade is indeterminate, according to Raffiquzzaman (2002), since trade volumes rise and fall simultaneously due to market growth and market strength. The net trade result is determined by which effect takes precedence; if the market power effect outweighs the market expansion effect, trade flows will decrease. If the opposite occurs, strengthened IPR protection will lead to trade expansion.

CONCLUSION AND SUGGESTIONS

Conclusion

“The world’s largest democracy remains one of the most difficult economies in context of protection and enforcement of IP”

The principal objective of copyright protection is to encourage the authors, composers, artists, and designers etc. to create original works by rewarding them with the exclusive right for the specified period to exploit the work for monetary gains. The exploitation is done by the entrepreneurs like polishers, film producers, sound recordist etc. to whom the owner of the copyright assigns or licenses the particular right.

It is evident from the historical development of copyright coupled with its recent development that copyright serves a range of industries stability from the production of books to the modern media of instruction and entertainment computer industry (software datasets being regarded as copyrightable material). In this globalized world, what may be better incentive than economic incentive for the “authors” to create new works. Copyright provides the legal foundation upon which monopoly profits can be generated provided the market contains sufficient demand for such product. Copyright works gain the uniqueness / importance

⁶ See, Intellectual Property and Development, World Bank (2005), page 19

⁷ To ascertain the role of patent system in international trade. Schiffel and Kittl (1978) and Bosworth (1980) considered US as recipient and host country respectively. Whereas Maskus and Penubarti (1995) and Raffiquzzaman (2002) considered manufacturing industry in developed countries.

through the dictates of fashion, as molded by advertising, promotion, criticism, reputation of author's previous work, the shortage of new material and may other factors.

The history of copyright law is a long and a complicated one. Even after more than 100 years, it is still in a developing stage. This is due to the fact that technology is evolving at a rapid pace. With new technologies, old law seems to be falling behind, especially in case of non-literal work.

T.B. Macaulay observed copyright as "tax on the readers for the purpose of giving a bounty to authors". This very much indicates the economic shoals of copyright. The very purpose of copyright is to allow recoupment for the initiative of creating the material and the investment risked in producing and marketing it. Therefore "tax on readers" should be broadly proportion to the objective of copyright law.

If there had been no restraint from the copyright laws, a copyist could produce a directly competition product at a much lower cost and shall be deterrent to the author and prouder both.

A relevant question that arises in the process of interpretation of the different intellectual property laws in whether the copyright duration should be for a relatively shorter period (as the case of patents or industrial design) or there is some rational justification for the same. Statute of Anne provides an interesting suggestiveness. As it first gave a 14 years protection from the date of publication, considering the entrepreneurs need, coming to an analogy of patents for invention but then the statute accorded a further interest of the author and gave him further 14 years protection if he was still swerving. But in subsequent enactments the pattern had been to provide a undivided period of entitlement of protection, contrary to the statute of Anne, and the publishers wren left to free to take an exclusive assignment a or license of the whole form the author.

The justification commonly offered for this is that it induces entrepreneurs to take greater risks in promoting works for which there may be sufficient demand. It is also contended that copyrighted material is supplied to public through the cooperation of entrepreneur and author and therefore the long duration of protection makes it north an author while to embark upon a particular project.

Modern day economist as that the elision of undivided interest of author and entrepreneur have greater disadvantage for authors. At the copyright system leaves it up to the entrepreneur the choice of what to select from the pool of works.

These entrepreneurs calculate how much to risk in a particular venture, well in advance, by reference to likely returns over more than a few years.

Therefore, they argue that to shatter the present copyright period is unlikely to produce any noticeable effect upon the among of copyright material which are produced by them for consumption.

Thus, the ongoing debate as to the period of protection granted by copyright suggests that there shall be no entrepreneurial loss by shorting the period but no to the author and the readers it shall be a huge loss where the authors could not use their creation for monetary gains for long time and if they have to be compensated any ways for that loss the reader shall have to pay a huge among for the same. Therefore, it is the public interest to continue with the existing system of protection.

Copyright, basically, is a legal protection granted to the entrepreneurs of different industries, for the exploitation of rights assigned to them by the author / creator of such original work which qualifies for copyright protection. Copyright can be viewed as a negative right which prohibits anyone from duplicating physical material existing in the fields of arts and literature. The socio-economic development of a nation always depends on the creativity and invention of people, which is not possible without effective and adequate implementation of copyright laws. Creativity and innovation are the new path of the world finance development.

In the rapidly advancing technology, the main question that arises is whether such advancement is going to benefit the works, which are under copyright protection or shall have an adverse effect on the same.

Although the advancement in technology has served as a morale booster to the authors creators of new work as they can create new works with the help of such technology is less time, effort and expenses. These technologies have themselves qualify for copyright protection as in the case of computer program, computer generated programs etc.

But what has been the real threat to the existing copyrighted material is the same technology which helps in making exact copies of the copyrighted material without any significant loss in the quality or the content, this technology has also contributed to the large scale distribution of such material with the upsurge of computer software technology coupled with the Internet, the different industries have been affected a lot, especially the music industry, film industry, publishing industry.

Although the existing enforcement techniques when such rights are infringed, have served a purpose to a great extent till date. It is impossible to presume that they shall be as effective after few years in this ever-changing technological world.

The United States representative yearly special 301 report of 2021 held that “India has remained inconsistent in its progress on intellectual property (IP) protection and enforcement”⁸

It must be noted that while India’s enforcement in the digital sphere has improved over time, there is still shortage of tangible benefits for innovators and creators.

The “priority watch list” which is a category for the worst intellectual property violators included India as one of the nine US trading partners. India has made a “meaningful” progress in promoting IP security, and regulations in some areas but it has failed to address recent and long-standing challenges.

Suggestions

- a) Therefore, the need of the hour is draft new enforcement techniques through which the aggrieved party can make good of their losses and which goes parallel to the technological advancement. The concept of fair use should be defined properly as to what acts shall constitute fair use and what shall not be considered a fair use.
- b) While the preceding sections of this chapter set out the various legal remedies for infringement, given the magnitude and dimensions that piracy has attained in recent times, the only efficient remedy would be a consolidated response by self-regulation.

⁸<https://www.hindustantimes.com/world-news/us-retains-india-on-list-of-ipr-violators-101619802589272-amp.html>.

- c) There is also a need for organized action from the film industry including through the setting up of a piracy prevention fund to tackle piracy both in India and overseas through litigation, through government and inter-government co-operation in ensuring enforcement of copyright laws. One possibility for the purposes of supplementing finances for this fund is to have the government contribute a small portion of the service tax collected from the entertainment and media industries to the piracy prevention fund. The government itself loses out on huge amounts of revenue on account of piracy and it would therefore make practical economic sense to ensure that the government itself contributes to the piracy prevention fund. This fund should be employed towards initiating law suits against the offenders both in India and abroad.
- d) With the globalization of the economy round the corner these legal discrepancies that exist in different copyright laws should be remarked as to foster the global economy.
- e) It is difficult to determine what is similar to the extent of copyright infringement as it is a very subjective question. Thus, more specific laws must be enacted to lessen the area of subjectivity and the need of interpretation.
- f) Efforts should be made to make TRIPS provisions more flexible. This view was supported by the Indian Finance Minister, Nirmala Sitharaman while addressing the Asian Development Bank's annual meet of 2021.

BIBLIOGRAPHY

Statue:

1. The Copyright Act, 1957
2. The Berne Convention, 1887.
3. The Rome Convention for protection of performers, producers of phonographs and broadcasting organizations, 1961.
4. The WIPO Copyright Treaty, 1996.
5. The Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement.
6. Beijing Treaty on Audiovisual Performances, 2012.
7. Universal Copyright Convention, 1952.

Books:

1. Cornish, W. R., Intellectual Property: Patents, Copyright, Trademarks and Allied Right, Universal Law Publishing Co. Pvt. Ltd., 4th Edition, 2004.
2. Gorman, Robert A.; Ginsburg, Jane C., Copyright: Case & Material, Lexis Law Publishing, 8th Edition, 2008.
3. Narayanan P., Intellectual property Law, Eastern law House, 7th Edition, 2009.

4. Wadhera, B. L., Law relating to Patent, Trademark, Copyright, Designs and Geographical Indication, Universal Law Publishing Co. Pvt. Ltd., 4th Ed. 2007.
5. Yatendra Singh, Justice Cyber Law, 9th Ed. 2008
6. Alka Chawla, Copy Right & Related Rights (International & National Prospective), 2007, Ed.
7. Lexisnexis, (Intellectual Property Right), 2008 Ed.
8. Ahuja, Law of Copyright & Neighboring Right (International & National Prospective), 2008, Ed.

Articles:

1. Vijay Pal Dalmia, “Copyright law in India- Everything you must know”, Mondaq, 14 December 2017.
2. All Answers Ltd, “Conflict between Author and Owner of Copyright” (Lawteacher.net, May 2021) <<https://www.lawteacher.net/free-law-essays/commercial-law/conflict-between-author-and-owner-law-essays.php?vref=1>> accessed 6 May 2021.
3. Charul Tripathi, “ Historical Development of Law of Copyright”, Mondaq, 25 August 2020.
4. Lucy Rana and Shubhankar Shashikant, “ Copyright Growth in India and Developed Economies: A Study”, Mondaq, 7 January 2020.
5. Khurana & Khurana Advocates and IP Attorneys, The role of Intellectual Property in Economic Development, 10 March 2021.

Websites:

1. www.ipwatchdog.com

2. www.fairuse.stanford.edu

3. www.cbo.gov

4. www.spicyip.org

5. www.legalserviceindia.com

6. www.Bananaip.com

