



RELEVANCE OF INTELLECTUAL PROPERTY RIGHTS IN THE 21ST CENTURY AND ITS IMPACT ON GLOBALIZATION

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Abstract

In the world we live in today, the ability to create, commercialise, and most crucially, appropriate (or capture) the economic benefits from scientific and technical (S&T) advances, is what essentially determines the economic well-being of countries and the competitiveness of businesses. The domestic and international frameworks governing intellectual property are significantly impacted by the globalisation of inventions and works of art. Value-driven analysis of these implications and their likely results is unavoidable. This research paper sheds light on the significance of intellectual property rights in the modern era. It also discusses how important intellectual property rights are in the international sphere and how they affect globalisation. This essay also looks at the globalisation of intellectual property rights (IPR) in the twenty-first century and how it affects international trade and innovation. In reality, intellectual property rights have been critical in fostering trust, knowledge sharing, and collaboration among organisations and individuals. During the COVID 19 pandemic, they supported the rapid development of multiple effective vaccines as well as the mass scale-up of manufacturing. Critics of intellectual

property rights (IPRs) have demanded their suspension throughout the COVID-19 issue, arguing that they will obstruct research and development and make vaccines and treatments unaffordable. Thus, this research essay also investigates the role of IPR during the pandemic and its impact on vaccines in India.

INTRODUCTION

The expansion of intellectual property rights in the twenty-first century is massive. The number of creative minds has rapidly increased, as have the number of creative works and inventions. Individuals' intelligence and creativity are being promoted in the newly emerging social media era, and this has given rise to a whole new business. Intellectual property once belonged to a person as a common, unprotected property. The intellectual property of a person is open to appropriation by anyone. Even in today's browser environment, there is a very strong probability that original ideas will be taken without the author's permission. Thus, Intellectual Property Rights were established in order to safeguard, protect, and increase the intrinsic worth of such intangible properties. The Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works were the first agreements to acknowledge the significance of intellectual property (1886).

Intellectual Property Rights allow people to profit from their inventions and creative works while preventing others from unfairly appropriating their ideas or resources. It is one of the means of securing intangible assets that are still accessible to the general public and easily replicable by anyone. Intellectual Property ensures that you are acknowledged as the creator of items such as inventions,



literary and artistic works, designs, and software. It enables consumers to make informed decisions about the safety, dependability, and effectiveness of their purchases. Protection of intellectual property is also equally essential for the promoting innovation and creativity. Businesses and individuals would not benefit fully from their inventions without intellectual property protection, and they would be less inclined to invest in research and development. IP crimes are now a common occurrence in the digital age, which is bad for any existing company. Strong IP laws safeguard IP while boosting the economy of the relevant state. By fostering healthy competition, fostering industrial progress, and fostering economic growth, IPR contributes in its own unique way to the economic development of a nation.

IMPORTANCE OF INTELLECTUAL PROPERTY LAWS IN THE 21ST CENTURY

Innovative and creative ideas are a means of making money in the modern world, particularly in the 21st century. Intellectual Property holds enormous untapped potential for transforming inventions of individuals into marketable goods and services. The Copyright and Patent registration will produce a steady stream of fees and higher income, which will improve the market's overall performance. In the current day, IP brings out more options for exporting goods and services. It also increases a company's productivity in the international market. By obtaining a franchise agreement with the foreign firm or exporting the exclusive goods, an IP right holder may use its logos or designs to market goods and services abroad. In Modern Times, every country's domestic and international trade has benefited greatly

from the protection of intellectual property rights. The IP resources can be made money off of through a deal, authorization, or by using them as security for debt financing. Additionally, IP enrolment is also helpful when applying for government or open subsidies, credits, and endowments.

Today, every nation recognises the value of intellectual property, and as a result, almost all of them have laws laying out regulations for it. The Trade Marks Act 1999, the Copyright Act of 1957, and the Patents Act of 1970 are a few of the significant acts in India that address this. Each of these acts' requirements must be obeyed, and violators may face penalties or fines.

India currently adheres to the Agreement on Trade-Related Aspects of Intellectual Property and is a WTO member (TRIPS Agreement). India is a member of both the World Intellectual Property Organization and the Treaties and Conventions on IPRs, two organisations which are tasked with promoting the protection of intellectual property rights around the globe. The goal of WIPO is to create a fair and open international intellectual property (IP) system that promotes innovation, rewards creativity, and aids in economic growth while protecting the general welfare and India became a member of the WIPO in 1975. WIPO works with the stakeholders to develop the platforms, tools, services, and other resources that help IP institutions operate more effectively and offer superior services. It was developed to stimulate creative endeavours globally and to advocate the protection of Intellectual Property (IP). It is a global organisation body that offers a global forum for IP services, policies, cooperation, and information, to put it simply. The organisation has 192 members, and its



mission is to preserve intellectual property worldwide while promoting creative endeavours.

Countries with strong intellectual property laws recognise the significant impact that creative works have on the global economy despite the fact that intellectual property rights vary from one country to another. Also every nation that relies on international trade takes significant steps to safeguard its intellectual property rights.

GLOBALIZATION OF INTELLECTUAL PROPERTY LAW

In the world we live in today, the ability to create, commercialise, and most crucially, appropriate (or capture) the economic benefits from scientific and technical advances, is what essentially determines the economic well-being of countries and the competitiveness of businesses. The process of integration and interaction between individuals, organisations, and governments on a global scale is known as globalisation. Different countries place different values on protecting intellectual property. Nearly all countries that rely on international trade are now taking serious steps to defend intellectual property rights. A strong IP legal framework contributes to a country's overall economic expansion. Intellectual Property Rights are becoming a major topic of discussion and the main concern for international innovation policy. Patents and copyrights are two examples of intellectual property rights that can be utilised to safeguard the investments in invention. Governments have utilised these legal tools for millennia to promote economic expansion and industrial progress. Despite India's relatively low degree of IPR protection, it is growing, especially since foreign businesses increasingly view India as an important

market for their goods and services. As they create more inventive goods and services, Indian businesses will also profit from improved patent protection.

Innovation, creativity, and branding make up a large amount of the value shared in today's global trade. The idea of commerce and what makes trade beneficial for nations have evolved beyond simply moving things across borders. Development and trade policy now heavily weigh strategies for boosting this value and facilitating the cross-border movement of innovative goods and services. With the "Trade Related Aspects of Intellectual Property Rights" (TRIPS) Agreement an effort is being made to impose a western system of IPRs globally and thus Intellectual Property Rights (IPRs) have emerged as the central concern of global innovation policy. This agreement is an official declaration of the value of economic connections and intellectual property. It offers a uniform level of preservation and protection for the public and the inhabitants of all member nations' intellectual property. It demands that there be no distinction made between intellectual properties produced by citizens of member nations and TRIP's. It offers a minimal level of IP protection; however, a country's internal laws may offer a higher level of protection on their own.

Every day, the world becomes more technologically advanced. Patents in particular contribute to increased innovation and the spread of technology. Additionally, IPR has become essential for the global transfer of technology and for fostering innovation. It also encourages innovation and the development of new technologies, which would boost domestic investment, industrial or agricultural production, and technological advancement, all of which are important



drivers of economic growth. But ultimately, it is crucial to remember that the onus of protecting one's intellectual property against infringement rests solely with the owner because no one else will make an effort to alert you to someone else violating your IP rights.

Intellectual Property Aids in the Development of Ground-Breaking Solutions to Global Challenges. The 300 drugs on the WHO's Essential Drug List, which are vital to saving or enhancing people's lives all around the world, were almost entirely developed by the R&D-heavy pharmaceutical sector, which is based on patent protections. Innovative agricultural businesses are developing innovative products to assist farmers in producing more and superior commodities for the world's hungry while minimising the impact of agriculture on the environment. IP-driven advancements in green technology and renewable fuels will assist to increase energy security and combat climate change. In order to share the protected knowledge that is essential to the first, patented invention, IP rights promote the free flow of information. This procedure ultimately results in fresh inventions as well as advancements on current ones.

Many people in developing nations believe that it may not be in their best interests for intellectual property rights to become more globally recognised. They believe that such protection might prevent its population from having access to goods produced in the developed world. For instance, the patent protection of some medications may result in their becoming unavailable and more expensive. In India, people worry that IPR protection will drive up the price of generic medications. Compulsory licencing does

offer a solution in India for ensuring that life-saving medications are available. The Doha Declaration also permits considerable latitude in patent protection to ensure that everyone has access to important medications. Food security is still another issue. Recently, Indian courts have protected patented genetically engineered seeds, which has alarmed some sections of the farming community.

EVOLUTION OF INTELLECTUAL PROPERTY RIGHTS IN INDIA

Most European nations' patent laws were formed between 1880 and 1889 and incorporated into intellectual property laws. The Act of 1856 was the first piece of patent-related legislation in India. The objective was to publicise inventions and persuade inventors to reveal their ideas' trade secrets. Later, a new law known as Act XV of 1859 was adopted to grant exclusive privilege. However, in 1872 the law was renamed The Patterns and Designs Protection Act. The only alteration to the statute during its 30-year existence was in 1883. The Indian Patent Act of 1856, which was passed and was in effect for more than 50 years, was then amended and altered to become the "Indian Patents and Designs Act, 1911." Following Independence in 1970, a comprehensive patent rights measure known as "The Patents Act, 1970" was passed.

An East India Company-era order in India led to the establishment of the country's first copyright laws in 1847. At the time, the copyright had a 42-year term plus a 7-year post-mortem period. The government might grant a compulsory licence if the copyright holder refused to permit the publishing of a work after the author's passing. To assert rights under this statute, one had to register their copyright. The first trademark-related



law in India was the Trademark Act of 1940, which was derived from the British Trademark Act of 1938. The Trade and Merchandise Act, 1958 was also passed after independence. Numerous changes were made up until December 30, 1999, when the Trade Mark Act, 1999, which is currently in effect in India, was established. Additionally, India also passed the Geographical Identification of Goods (Registration and Protection) Act 1999, which calls for the registration and improved protection of G.I. relating to products that would make it easier to identify goods linked to a location of production, quality, quantity, or other distinguishing qualities of such goods.

Since joining the WTO, the Indian government has worked tirelessly to ensure that Indian laws relating to intellectual property rights are respected on a worldwide scale. It began with the Indian government updating the Trade and Merchandise Marks Act, 1958 with the Trade Marks Act, 1999 to bring Indian trademark law into line with international practise and to ensure India was adhering to the TRIPS agreement and some modifications were made. Through registration, service marks were given legal protection for the first time. The definition of trademark was modified to include graphic representations, geometric shapes, and colour schemes. The Indian government offers programmes to teach judges in subjects like intellectual property rights (IPR). Laws are also changed and amended to give citizens prompt and effective legal representation. A government agency in India called the Cell for IPR Promotion and Management (CIPAM) works with WIPO and the National Judicial Academy (NJA) to plan IPR training sessions and awareness-raising events for judges on the High Court and District Court. As a result, the legal system will comprehend

topics like intellectual property rights and how they are asserted in society better. The Indian government created the National Intellectual Property Rights (IPR) Policy in 2016 as a visionary effort to direct the future growth of Intellectual Property and its Rights in the nation. It appeared to establish a formal system for carrying out and keeping track of changes in both national and international intellectual property rights.

To ensure that the Indian IP ecosystem in the nation keeps improving, numerous steps have been done. In order to accomplish this, the Department of Industrial Policy and Planning (DIPP), Ministry of Commerce & Industry, Government of India, developed a multifaceted strategy to create an intellectual property regime in the nation that will encourage creativity and foster a culture of respect for innovations and creativity called "Make in India". "Make in India" became official on May 12, 2016. The strategy was developed following extensive consultation with approximately 300 stakeholders and individuals, 31 Indian government ministries, and 5 foreign governments. Its goals are to promote creativity, encourage innovation, and guarantee that India has adequate IPR protection. The vision of this strategy describes an India where intellectual property fosters innovation and creativity for the benefit of all; an India where traditional knowledge, traditional arts, and biodiversity resources are advanced by intellectual property and an India where knowledge is the primary engine of development and knowledge owned is shared. The campaign slogan is "Creative India; Innovative India" and by this IPRs in India are being implemented and will continue to develop under the direction of the Department of Industrial Policy & Promotion (DIPP), Ministry of Commerce, Government of India.



IPR's ROLE DURING THE COVID-19 PANDEMIC IN INDIA

On December 31, 2019, unexplained incidents of pneumonia were discovered in Wuhan, Hubei Province, China. The clinical diagnosis was identified as a new coronavirus (2019-nCoV) on January 7, 2020, and the disease was subsequently renamed as COVID-19 by the World Health Organisation. The virus spread rapidly in China's Wuhan region and infiltrated over 210 countries and territories. And while experts presumed that the virus was transmitted from animals to humans, there were conflicting reports on the virus's origin. During the rapid action to the COVID-19 pandemic, much-needed medical supplies were developed and manufactured. Medical device manufacturers, as well as new entrants, stepped up to meet the demand. As pharmaceutical companies increased their sales, the importance of intellectual property (IP) in protecting their products became clear and thus began IP's role during the pandemic.

Compulsory licences like licences of patented technology embedded in essential medical supplies and medicines, as well as the use of exceptions in relation to cultural and educational works are just a few of the policy measures provided by international and national IP law to handle and alleviate emergencies and disasters. These measures ensure the availability of crucial data, information, and knowledge for the purposes of combating and containing the virus, reducing human suffering. During the epidemic, the globe was in critical need of specialised and precise, safe, and effective medications and therapies. Transparent and properly implemented IP rules aided in minimising the problem of counterfeit pharmaceuticals, which was also a threat to

India. The pandemic-fighting vaccines, treatments, and technologies are the result of an already-existing innovation ecosystem that depends on IP rights to allocate resources, create collaborations based on trust, and encourage the voluntary transfer of technology under mutually beneficial, commercial terms. The US and India have been instrumental in keeping the pandemic under control. US research organisations and Indian vaccine producers have worked together to create COVID-19 vaccinations that are both safe and inexpensive. Covavax was created by the Serum Institute of India (SII) in collaboration with the US Maryland-based company Novavax. Molnupiravir, a Merck COVID-19 medication, being made more cheaply by Indian businesses. The major medical centre, Houston, has numerous businesses and enterprises working with Indian firms to share innovations, manufacture products, and collaborate on supply chains. More than 60% of the vaccinations delivered to developing nations are produced by Indian pharmaceutical corporations, who are also important producers of vaccines for low-income countries.

Role of IPR on Indian Vaccines:

Patent, trademark, copyright, and industrial design restrictions are loosened by an intellectual property rights waiver. A manufacturer of vaccines is prohibited from exporting large quantities of its vaccines to another nation under the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement, and the majority of the vaccine manufacturing must be kept for the home nation. Only a small number of countries produce vaccines, making it challenging for the vaccine maker to export vaccines in large quantities to other nations during times of



crisis. With the IPR waiver, vaccine producers will be permitted to divulge their trade secrets to regulatory agencies in other nations, enabling local production there and enhancing vaccine equity, accessibility, and affordability across countries.

The first countries to propose a TRIPS waiver in 2020 were South Africa and India, and this proposal received support from more than 100 other countries. Over the course of the last 20 months, there have been many discussions and changes made to the document requesting the TRIPS waiver. The United States, the United Kingdom, Switzerland, and a number of European Union nations opposed the waiver at the ministerial meeting that took place between June 12 and June 16, 2022. The USA had voiced its reservations about providing China with its cutting-edge vaccine technology. Finally, the proposal was changed, and the revised text no longer covered diagnosis and treatment. The meeting decided to wait another six months before deciding whether to apply a waiver on the creation and distribution of diagnostics and therapeutics. The lack of a waiver on diagnostics and therapeutics suggests that many low- and middle-income nations may still not be able to afford the price and availability of treatment medications and testing kits.

But negotiations stalled a year after India and South Africa proposed at the WTO to temporarily waive intellectual property rights on COVID-19 vaccines and treatments due to resistance from several industrialised nations. The Indian branches of Western pharmaceutical corporations that make up the Organization of Pharmaceutical Producers of India criticised the waiver. They claim that because IP is not a barrier to sufficient vaccine availability in India, waiving of IP

rights won't result in an increase in vaccine manufacturing, deployment, or effective ways to combat the COVID-19 virus. If intellectual property rights are waived, it could compromise patient safety by allowing fake vaccines to enter the supply chain. They added that the production of vaccines, medicines, and diagnostics, which are crucial for the treatment, prevention, and control of the ongoing pandemic, should be increased while addressing supply side restrictions, particularly IP hurdles. As of right now, India, South Africa, and Brazil, together with almost 80 other nations, have requested a broad extension of the global patent waiver for Covid-19 diagnostics and therapies, ahead of the World Trade Organization's deadline for making a decision on the relaxation.

CONCLUSION

Global concerns with intellectual property rights can be complicated. Governments in developing nations must strike a careful balance between improved IPR protection and upholding the interests of their citizens. Some contend that since India's level of development is still fairly low and innovation is constrained, we need more time before enabling foreign corporations to patent necessary goods. Others, on the other hand, some contend that improved IPR protection is necessary in order to foster an environment conducive to innovation and research. All people and enterprises should register their intellectual property since it is becoming more and more important and has a global reach. Doing so will enable them to increase their income and prevent others from stealing their original ideas and innovations. The problem, though, is that most IP systems are still regional or national in scope. The possibility that rights granted in one



jurisdiction may not be applicable another is another significant problem IP faces. This highlights the necessity for all nations to have strong laws protecting intellectual property. For both individuals and businesses, the government must create appropriate intellectual property (IP) rules that are neither overly severe nor overly lax. The government must also strengthen the entire framework if it wants to ensure the long-term social and economic progress of a nation. So it stands to reason that IP protection is essential nowadays. Consequently, it may be concluded that IP protection is crucial and that all countries must have stringent laws in place to protect intellectual property rights. It is past time for all nations to publicly recognise the property rights held by their own people and companies. In order to finally improve the structure of IP laws in international trade and to ensure the long-term social and economic development of society, countries must find the optimal balance when it comes to protecting the intellectual property rights of individuals or businesses. Neither the law should be either permissive nor overly strict.

