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Asserting Ownership of Intellectual Property Rights: Protection under Intellectual Property Law

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ABSTRACT

Intellectual Property Rights (IPR) cover a range of legal rights given to individuals or entities for their creative works, such as inventions, literature, art, logos, trademarks, and commercial designs. The protection of these rights, including patents, trademarks, copyrights, and trade secrets, plays a vital role in promoting innovation, creativity, and economic development in contemporary societies. The idea of intellectual property has a long history, dating back to ancient civilizations. During that time, artisans and craftsmen were acknowledged and compensated for their innovative creations. However, it was only with the rise of the Industrial Revolution and the subsequent boom in technological progress that the importance of establishing legal safeguards for intellectual creations became evident.

This research paper focuses on the intricate issues and obstacles involved in safeguarding Intellectual Property Rights (IPR) within the legal system. This paper aims to explore how legal systems in different jurisdictions handle the complex realm of intellectual property rights, including patents, trademarks, copyrights, and trade secrets.

This research paper explores the complex world of protecting Intellectual Property Rights (IPR), examining the various legal frameworks, enforcement methods, and new obstacles that arise in different jurisdictions. This study analyses the efficacy of intellectual property rights (IPR) legislation in protecting innovations, creative works, and brands. It also explores the delicate equilibrium between IPR protection and the broader interests of the public. Through conducting comparative analyses, exploring case studies, and evaluating enforcement strategies, the dissertation seeks to offer a thorough understanding of the intricate challenges associated with protecting intellectual property rights in an interconnected, digital era. This paper aims to provide valuable insights and recommendations to policymakers, legal practitioners, and stakeholders. It focuses on strategies to strengthen intellectual property rights protection, encourage innovation, and support economic growth, all while considering societal interests and values.

Keywords: *Intellectual property, ownership, innovation.*

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I. INTRODUCTION

Intellectual Property Rights (IPR) are a fundamental aspect of legal systems across the globe. They serve to safeguard and promote innovation, creativity, and economic growth by providing creators and innovators with exclusive rights to their intangible assets. An exploration of IPR laws and principles offers a solid grasp of the legal frameworks that govern the protection of intellectual property. The field of Intellectual Property Rights covers a wide array of legal safeguards that aim to protect intangible assets derived from human intellect and creativity. The main objective of IPR laws is to encourage and promote innovation, creativity, and investment in research and development. This is achieved by granting creators and innovators exclusive rights to their intellectual property assets. Through the provision of legal protection and exclusive rights, IPR laws serve as a catalyst for individuals and organisations to dedicate their time, resources, and effort towards the advancement of new technologies.² The principles governing intellectual property rights (IPR) laws differ among jurisdictions, but their overall objective is to grant creators and innovators exclusive rights to their creations or inventions. The legal frameworks are firmly established in national laws, international treaties, and conventions, along with common law doctrines and equitable principles. As an illustration, patent laws oversee the safeguarding of inventions, copyright laws shield original literary, artistic, and musical works, trademark laws ensure the protection of distinctive signs used to identify goods or services, and trade secret laws offer security for confidential information. Individuals who are involved in the creation and innovation process are able to enjoy a variety of privileges granted by intellectual property rights (IPR) legislation. These privileges encompass the ability to duplicate, distribute, showcase, and modify their works or inventions. The exclusive rights granted to rights holders allow them to have full control over the use and commercialization of their intellectual property assets, which in turn allows them to derive economic benefits through licencing, sales, or other means of commercial exploitation.

II. TYPES OF INTELLECTUAL PROPERTY RIGHTS

1. Patent

Patents play a vital role in safeguarding intellectual property rights (IPR) by providing inventors with exclusive rights to their creations for a specific duration, usually 20 years from the date of filing the patent application. In India, the Patents Act of 1970 plays a crucial role in regulating patent law. This act establishes a comprehensive framework that covers the granting,

² Sharma, Manoj Kumar. *Intellectual Property Rights: Judicial Perspective*. New Delhi: Universal Law Publishing Co., 2019.

enforcement, and safeguarding of patents. This legislation presents a comprehensive framework that focuses on promoting innovation, fostering research and development, and protecting the rights of inventors and the public.³

The definition of "patent" under the Patents Act, 1970, in Section 2(1)(m) refers to a patent for any invention that has been granted under the Act. This definition sets out the extent of patent protection provided by the Act, covering all inventions that meet the legal requirements for being granted a patent. The focus is on the statutory nature of patents granted under the Act and how they differ from other forms of intellectual property rights. Section 3 of the Patents Act, 1970, outlines the exceptions to patentability, defining the types of inventions that do not qualify for patent protection.

In general, the Patents Act, 1970, is a fundamental part of India's intellectual property system, offering a strong legal structure to safeguard and encourage innovation. The Act plays a crucial role in driving economic growth, competitiveness, and development in India by granting inventors exclusive rights to their inventions, fostering technological advancement, and balancing the interests of inventors and the public.⁴

2. Copyright

The field of copyright law has a vital role in protecting the artistic work created by individuals, providing authors with exclusive rights to their unique works of authorship. Let's delve into the legal framework that governs copyrights in India, with a primary focus on the Copyright Act of 1957. Copyrights provide legal protection for original works of authorship, such as literature, art, and music. They grant authors exclusive rights to reproduce, distribute, and perform their creations. According to the Copyright Act of 1957, Section 13 provides a clear outline of the various types of works that are eligible for copyright protection. These include literary works, dramatic works, musical works, artistic works, cinematographic films, and sound recordings. This section defines the extent of copyright protection provided by the Act, covering a broad spectrum of creative works. Overall, the Copyright Act of 1957 in India establishes a strong legal framework to safeguard the artistic works and intellectual property of authors and creators. Having a thorough grasp of the laws and regulations that govern copyrights is crucial for individuals in the fields of writing, art, and creation, as well as for legal professionals. This knowledge is necessary in order to successfully safeguard and uphold their rights to intellectual

³ Ghosh, Anindita, and Gobinda G. Chowdhury. "Intellectual Property Rights in India: Issues and Perspectives". New Delhi: Springer, 2020.

⁴ Cornish, William R., and David Llewelyn. Intellectual Property: Patents, Copyrights, Trademarks & Allied Rights. London: Sweet & Maxwell, 2013.

property in a wide range of creative works.

3. Trademark

Trademarks play a crucial role in helping businesses differentiate their products and services from competitors, establishing brand awareness and consumer confidence in the market. Trademarks play a crucial role in protecting unique signs, symbols, or designs that are used to differentiate goods or services in the marketplace. The definition of a "trademark" under Section 2(1)(zb) of the Trade Marks Act, 1999, states that it is a mark that can be visually represented and has the ability to differentiate the goods or services of one individual from others. This definition covers a broad spectrum of marks, including words, logos, symbols, slogans, and even unconventional marks like colours, sounds, and smells.

Trademark registration under the Trade Marks Act, 1999, requires compliance with the distinctiveness requirement outlined in Section 9. This provision disallows the registration of trademarks that lack uniqueness or describe the goods or services. In order to be eligible for registration, trademarks must possess the ability to differentiate the products or services of one business from those of its competitors. Trademarks that are considered generic, descriptive, or commonly used in the industry are generally not eligible for protection unless they have gained distinctiveness through extensive use and a strong reputation.⁵

Overall, the Trade Marks Act, 1999, establishes a strong legal framework in India for the registration and safeguarding of trademarks. Having a comprehensive grasp of the laws and regulations surrounding trademarks is crucial for businesses, brand owners, and legal professionals in order to safeguard and uphold their intellectual property rights with utmost efficiency.⁶

4. Trade secret

Protecting trade secrets is crucial for businesses aiming to secure their confidential information and maintain a competitive advantage in the market. In India, the protection of trade secrets is not governed by specific legislation. Instead, it is upheld through a combination of common law doctrines and contractual agreements. Let's explore the complexities of trade secret protection, examining its legal framework and essential mechanisms:

Trade secrets cover a wide array of confidential information, such as formulas, algorithms, manufacturing processes, customer lists, and business strategies, which give businesses a competitive edge. In contrast to patents, trademarks, or copyrights, trade secrets are safeguarded

⁵ Goldstein, Paul. "Copyright: Principles, Law, and Practice." New York: Wolters Kluwer, 2019.

⁶ Gopalakrishnan, J., and S. Narayanan. Textbook on Law of Intellectual Property. Mumbai: LexisNexis, 2020.

through the maintenance of confidentiality rather than through formal registration or public disclosure. Trade secrets are valuable assets for businesses as they rely on their confidentiality to stay ahead in the competitive marketplace.

To summarise, India does not have specific laws regarding trade secrets. However, the country does recognise and uphold the principles of trade secret protection through common law doctrines and contractual agreements. Gaining a comprehensive grasp of the legal framework and mechanisms surrounding the protection of trade secrets is crucial for businesses aiming to safeguard their valuable intellectual assets and uphold their competitive advantage in the marketplace.

III. REGULATING FRAMEWORKS OF INTELLECTUAL PROPERTY RIGHTS

Patents grant inventors the sole rights to their innovations, safeguarding them for a finite duration (usually 20 years from the date of application) to stimulate creativity and incentivize investment in research and development. The patent system exhibits variations across different countries,

An innovation must possess the quality of being new and not having been previously known or disclosed to the public. This criterion guarantees that only really novel ideas are eligible for patent protection.

The innovation must possess a practical application or purpose, clearly proving its usefulness in addressing a specific problem or fulfilling a particular demand.⁷

The process of registering a patent starts with the submission of a formal application, which must include a comprehensive description of the invention. The patent office scrutinizes the application to ascertain if it fulfils the requirements for patentability. Upon approval, the inventor is awarded a patent certificate that confers upon them exclusive rights. Patent enforcement refers to the initiation of legal proceedings against acts of infringement, which include the unlawful utilization, production, or commercialization of the patented innovation. Possible remedies for infringement may encompass financial compensation, court orders to cease the infringing behaviour, and, in some legal regimes, criminal sanctions. In order to preserve their exclusive rights and fully capitalize on their ideas, patent holders must diligently oversee and protect their patents.⁸

Trademarks are a type of intellectual property that safeguard unique symbols or signs used to

⁷ David Lange & H. Jefferson Powell, No Law: Intellectual Property in the Image of an Absolute First Amendment, 30 *CARDOZO L. REV.* 1731 (2009).

⁸ Daniel J. Gervais, "The TRIPS Agreement: Drafting History and Analysis", 4(1) *CARDOZO L. REV.* 9 (1999).

distinguish and set apart goods and services from those of other entities. A trademark must possess distinctiveness, which implies that it has the ability to singularly identify the origin of products or services and differentiate them from others. Trademark owners have the option to officially register their marks with a trademark office in order to secure legal protection. Registration grants individuals with distinct entitlements and ensures legal assurance. The protection of a trademark can continue indefinitely as long as the mark is being used and the owner regularly renews the registration.

In order to get trademark protection, the proprietor must submit an application for registration to the appropriate trademark authority. The application procedure often encompasses: A comprehensive investigation is carried out to verify that the proposed trademark does not clash with any previously registered trademarks. The application is thereafter scrutinized to ensure adherence to legal prerequisites.

Trademark infringement happens when a person unlawfully utilizes a mark that is either identical or closely resembles a registered trademark, resulting in possible confusion among consumers.

Financial reparation for the harm incurred by the proprietor of the trademark. Legal directives issued by a court to halt the unauthorized behaviour. In some instances, the court may issue an order for the destruction of counterfeit merchandise. Trademark proprietors must proactively uphold their legal entitlements in order to safeguard their businesses and preserve the uniqueness of their trademarks. This may entail the surveillance of any violations and initiating legal proceedings when deemed necessary. Comprehending the legal structures around trademarks is crucial for businesses to maintain their brand identities and protect their investments in marketing and advertising.

Copyright protection is granted to works that are original, meaning they must be developed independently and demonstrate a certain level of inventiveness. Copyright protection is immediately granted as soon as a work is created in a tangible medium, such as by writing, recording, or drawing. Copyright protection often extends for the duration of the author's life, along with an extra time, such as 70 years, in most jurisdictions. The duration of works made by businesses may be shorter. While copyright protection is granted automatically, registering with a copyright office offers further legal advantages, including the opportunity to initiate legal action for copyright infringement and claim statutory damages in some jurisdictions. The registration process generally entails the submission of a duplicate of the work and the completion of an application form.

Copyright infringement refers to the unauthorized use of a copyrighted work. Restitution for economic harm experienced by the copyright holder. Directives to cease the infringing action and avert subsequent transgressions. In certain legal jurisdictions, instead of real damages, statutory damages may be awarded, which are predetermined sums for each instance of infringement. The advent of the digital age has brought forth further obstacles in safeguarding copyright, such as internet piracy and the unlawful dissemination of digital works. Digital rights management (DRM) technology and regulatory procedures are designed to thwart illicit replication and dissemination of copyrighted content on the internet. Copyright laws contain provisions for fair use (or fair dealing), which permit restricted utilization of copyrighted materials for purposes such as criticism, commentary, news reporting, and education. Comprehending the legal structures governing copyrights is essential for artists to safeguard their creations and for consumers to understand the limits of acceptable use. The purpose of copyright laws is to achieve a balance between the rights of creators and the public's interest in having access to information and culture. The challenges in protecting intellectual property rights (IPR) are becoming increasingly intricate as a result of technological breakthroughs, globalization, and developing legal norms. These issues necessitate ongoing adjustment and inventive tactics to guarantee the efficient safeguarding and implementation of intellectual property rights.

The simplicity of replicating and disseminating digital content presents substantial obstacles for safeguarding copyright. The utilization of artificial intelligence (AI) in the production of creative works and innovations gives rise to inquiries on the identification of the creator, the possession of rights, and the eligibility for patent protection. The technology of 3D printing allows for the reproduction of designs that are protected by patents or copyrights, which makes it more difficult to enforce these protections.

IV. CASE LAWS

Alice Corp. v. CLS Bank International (U.S. Supreme Court, 2014):

The 2014 United States Supreme Court judgment in *Alice Corp. v. CLS Bank International* had a significant impact on the patentability of software and business techniques. Alice Corporation has patents pertaining to a computerized system designed to reduce settlement risk in financial transactions. CLS Bank International disputed the legitimacy of these patents, contending that they were not eligible for patent protection since they encompassed theoretical concepts executed on a computer. The Supreme Court utilized a two-step evaluation, sometimes referred to as the Alice test, in order to determine the validity of a patent:

The Court assessed whether the claim pertained to an abstract concept, such as a fundamental economic activity or basic business process. If the claim pertains to an abstract notion, the Court evaluates whether the parts of the claim go beyond the abstract idea and include a novel and creative concept, therefore making it eligible for a patent.⁹

The Court determined that Alice Corp.'s patents were deemed invalid due to their absence of an innovative concept and their mere execution of an abstract notion on a standard computer. This ruling has had a significant impact on the ability to get patents for ideas linked to software, since it now necessitates a really innovative thought that goes beyond just automating a theoretical concept. Patent applicants and practitioners are now subject to heightened examination under the Alice test, which highlights the importance of significant and innovative advancements beyond current technology.

Myriad Genetics v. Association for Molecular Pathology (U.S. Supreme Court, 2013):

The United States Supreme Court's 2013 decision in **Myriad Genetics v. Association for Molecular Pathology** dealt with the issue of whether naturally occurring genetic sequences can be patented. Myriad Genetics possessed patents on isolated DNA sequences linked to the BRCA1 and BRCA2 genes, which are correlated with heightened susceptibility to breast and ovarian cancer. The Association for Molecular Pathology and other parties contested the patents, asserting that the isolated DNA sequences were not eligible for patent protection as they were natural.¹⁰

The Supreme Court's ruling made a clear distinction between several types of DNA: The Court determined that isolated DNA sequences, even when separated from the human genome, cannot be patented.

The Court determined that cDNA, which stands for complementary DNA, can be patented because it is not found in nature. cDNA is generated in the laboratory by the process of reverse transcription of mRNA, resulting in the absence of introns that are present in the original DNA sequence. The verdict established a definitive differentiation between naturally occurring compounds, which are not eligible for patents, and artificially created substances like cDNA, which can be granted patents. This ruling has had extensive consequences for the biotechnology sector, including patent processes and the extent of intellectual property protection in genetic research and development. When applying for patents in the field of genetics, patent applicants and practitioners need to carefully evaluate the consequences of this opinion

⁹ Alice Corp. Pty. Ltd. v. CLS Bank Int'l, 573 U.S. 208 (2014).

¹⁰ Ass'n for Molecular Pathology v. Myriad Genetics, Inc., 569 U.S. 576 (2013).

V. CONCLUSION

Finally, the study of many facets of intellectual property rights (IPR) in this law dissertation reveals a complicated and changing legal landscape. The examination of the criteria for determining patentability, the procedures for registering trademarks, the types of subject matter eligible for copyright protection, the comparative comparison of different legal systems, and the current legislative developments emphasize the complexities and difficulties involved in safeguarding intellectual property. The dissertation highlights the significance of safeguarding the rights of artists while also guaranteeing public access to information and cultural works. The results emphasize the necessity of implementing strict yet equitable standards for determining patentability, which aim to encourage authentic innovation and technical advancement. The emphasis on uniqueness in the trademark registration procedure aids in preserving brand authenticity and customer confidence, while copyright safeguarding guarantees that inventors may reap the rewards of their innovative creations. The comparative examination of different jurisdictions provides insight into the diverse methods to intellectual property rights (IPR) protection, which are impacted by cultural and historical factors. This necessitates careful attention and attempts to achieve harmonization.

The conclusions of the dissertation have substantial ramifications for legal practice and policy. Legal professionals must be knowledgeable about changing legal interpretations and precedents in order to offer precise and current guidance to their clients. Policymakers are confronted with the task of reconciling the concerns of artists with the greater benefit of the public, especially in light of the emergence of new technologies and digital dissemination.
