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Integrating intellectual property rights and development policy

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Abstract

Creations of the mind are legally protected by intellectual property (IP) rights. By giving inventors sole authority over their inventions, literary and creative works, designs, and brand identifiers, these rights encourage innovation. The main types of IP protection and their vital importance in contemporary economies are succinctly summarised in this abstract. Trade secrets, trademarks, patents, and copyrights are the four primary pillars of intellectual property law new, non-obvious, and practical inventions are protected by patents, which grant the creator a restricted monopoly to prevent others from producing, utilising, or marketing the invention. This mechanism makes sure that large investments in innovation may be recovered, which promotes research and development. Books, music, movies, and software code are examples of original works of authorship that are protected by copyright, which gives the creator the sole right to reproduce, distribute, and exhibit their creation. Crucially, an idea's expression rather than the concept itself is protected by copyright. Another crucial element is trademarks, which protect names, logos, and slogans used to identify and differentiate goods or services in the marketplace. Their main purpose is to prevent consumer confusion and to protect a company's reputation and goodwill. Lastly, trade secrets protect proprietary business information, including designs, formulas, and practices, provided that the owner takes reasonable precautions to keep it secret. Unlike other types of intellectual property, trade secrets are not registered with the government and are protected for as long as the information is kept secret.

These rights work together to provide a legal framework that strikes a balance between the public's and creators' interests. IP law promotes investment and intellectual activity by giving exclusive rights and temporary monopolies. At the same time, it encourages fair competition and makes it easier for information to spread. Effective intellectual property rights enforcement is essential to promoting innovation, propelling economic expansion, and preserving a competitive global market in a knowledge-based economy.

Keywords: Intellectual property right, rights, development policy, innovation, economic development, legal framework, enforcement and commercialisation, trade secrets

Introduction

The rights attached to intangible property that belongs to an individual or business and is shielded from unauthorised use are known as intellectual property rights, or IPRs. Therefore, intellectual property rights are those that pertain to intellectual property ownership. By enabling the owners of patents, trademarks, and copyrighted works to profit from their creations, these rights seek to safeguard intellectual property, or works of human ingenuity. Under Article 27 of the Universal Declaration of Human Rights (UDHR), which declares that "Everyone has the right to the protection of the moral and material interests resulting from any scientific, literary, or artistic production of which he is the author," intellectual property rights are also mentioned.

A type of knowledge that societies have determined is entitled to particular property rights is known as intellectual property. They resemble ownership rights over real estate or land in certain ways. However, intellectual property is only one aspect of knowledge. People are the embodiment of knowledge, in institutions and in new technology in ways that have long been recognised as a primary generator of economic growth [1]. Alfred Marshall, the "father" of modern economics, thought so in the 19th Century [2]. With the latest developments in science and technology, Knowledge is currently, more than ever, the primary source of competitive.

Corresponding Author: Dr. Amit Singh Head & Dean, Faculty of Legal Studies, MJP Rohilkhand University, Bareilly, Uttar Pradesh India advantage for businesses and individuals, especially in biotechnology and information and communications technologies (ICTs) Nations. One of the areas of international trade that is typically expanding the fastest is the trade of high-tech, knowledge-intensive goods and services, where intellectual property protection is most prevalent. Although there is conflicting data regarding the precise importance of intellectual property in various industrial sectors, there is strong evidence that it is and has been crucial for the advancement of invention in developed nations. For instance, data from the 1980s shows that the petroleum, chemical, and pharmaceutical industries were the first to realise how important the patent system was to innovation [4]. These days, biotechnology and a few information technology components must be added. Additionally, the publishing, film, and music sectors have found copyright to be crucial. The development of indigenous technological competence has proven to be a crucial factor in determining economic growth and poverty reduction for developing nations, just as it was for the developed nations that came before them. This capability establishes how much these nations can absorb and use technology from elsewhere. Numerous studies have found that the early development of an indigenous technological capacity is the most unique factor influencing the success of technology transfer [5].

However, the calibre and capability of scientific and technical infrastructures in emerging nations differ greatly. The amount of patenting activity in the US and through overseas applications under the Patent Cooperation Treaty is a frequently used measure of technological capacity. (PCT) [6]. Less than 1% of US patents were awarded in 2001 to applicants from developing nations, with seven of the more technologically advanced developing nations accounting for nearly 60% of all patents [7]. In 1999-2001, less than 2% of PCT applications came from developing nations, with just five nations China, India, South Africa, Brazil, and Mexico accounting for more than 95% of these applications [8]. Despite their small size, patent applications in these nations are expanding more quickly than PCT applications overall. Although the number of PCT applications increased by about 23% between 1999 and 2001, these countries' contribution of the total climbed from 1% in 1999 to 2.6% in 2001. R&D spending is primarily focused in industrialised nations, as we have seen, and in some of the larger developing nations with advanced technology. Only a small number of developing nations have succeeded in building robust domestic technology capabilities. This indicates that it is challenging for them to either create their own technology or adopt technology from more sophisticated nations. The key topic is whether or if expanding IP regimes helps developing nations access these technology, and if and how intellectual property rights protection could aid in the economic and social advancement of emerging nations and lower.

What are Intellectual Property Rights?

The rights granted by society to people or organisations primarily over creative works include inventions, literary and artistic works, as well as names, symbols, pictures, and designs used in trade. These rights are known as intellectual property (IP) rights. They grant the author the authority to stop others from using their property without permission for a little time. IP is divided into two categories: artistic and

literary property (creations of culture) and industrial property (functional commercial developments). This difference is becoming somewhat hazy due to current technology advancements, and certain hybrid sui generis systems are appearing [8].

An intangible asset created by human mind is known as intellectual property (IP). It describes the works of human intellect or the products of the mind, including innovations, designs, literary and creative productions, and names, symbols, and pictures used in trade.

"Intellectual property" includes the following rights, according to the "Convention Establishing the World Intellectual Property Organisation [9]":

- Works of literature, art, and science.
- Broadcasts, phonograms, and performing artists' performances.
- Innovations in all human endeavours.
- Scientific findings
- Designs for industry
- Business names and designations, service marks, trademarks
- Defence against unfair business practices, and
- Any additional rights arising from creative, scientific, literary, or industrial intellectual activity.

Need for legal protection of intellectual property

The following are some of the many justifications for protecting intellectual property by passing appropriate Intellectual Property (IP) laws:

- To incentivise inventors and enable them to profit financially from their achievements in order to promote inventions and creations that advance society's social, economic, scientific, and cultural development.
- To provide intellectual works legal protection.
- To stop others from taking pleasure in the results of someone else's imagination.
- To make fair trading easier.
- To encourage the spread of creativity.
- Acknowledging inventors' efforts.

Advantages and disadvantages of Intellectual Property Rights

Advantages of Intellectual Property Rights

- Your company has a competitive edge over other firms of a similar nature thanks to IPR protection.
- You can stop illegal usage of your works and intellectual property by obtaining IPR protection.
- IPR raises the worth of your business and creates prospects for partnerships and revenue-generating activities, such signing license contracts to use the innovation or work.
- IPR builds your brand value and helps you draw in customers. For instance, customers begin to recognise your goods by their distinctive logo or registered brand.

Disadvantages of Intellectual Property Rights

- Obtaining IPR protection comes with extra expenses, such as legal fees and other charges.
- You may still have a lot of trouble preventing unauthorised use and duplication of your work even after you have obtained intellectual property rights.
 Furthermore, an effort to protect intellectual property rights may occasionally result in fewer customers.

 IP rights are not unqualified. For the sake of the public, the law places restrictions and requirements on the exercise of certain rights, such as a time limit on protection and requirements for mandatory licensing.

Instead of merely enforcing developed-country norms that can impede access to necessary technology and the eradication of poverty, Integrating Intellectual Property Rights (IPRs) with development policy entails developing IPR systems that support a nation's unique development objectives. This calls for a well-rounded strategy that supports the preservation of traditional knowledge and genetic resources, encourages local innovation and wealth creation, and addresses possible growth roadblocks including rising medical and agricultural input costs [10].

Considerations for Integration

- Balancing Costs and Benefits: IPRs cost users money, but they also encourage innovation. To make sure they support development objectives and the public interest, development-focused policies must carefully weigh these costs and benefits [11].
- Flexibility for Developing Countries: According to the Commission on Intellectual Property Rights (CIPR), developing countries require specially designed IPR systems that can support their particular development needs because developed countries have historically used IP as a flexible instrument for industrialisation.
- Resolving Particular Development Issues: Policies ought to take into account how IPRs impact food security and access to necessities like medications and agricultural inputs [12].
- Encouraging Innovation and Local Capacity: By bringing together government, business, academia, and research organisations, IPR integration can support the development of an innovative ecosystem that promotes patenting and commercialisation.

Strategies and Frameworks

- National IPR Policies: To provide a comprehensive ecosystem that fosters innovation and economic expansion while striking a balance between the needs of development and the public interest, nations such as India have enacted national IPR policies.
- Knowledge Capacity and Skill Building: Creating Technology Innovation Support Centres (TISCs) and IPR chairs in academic institutions aids in advancing IPR education, increasing filings, and strengthening commercialisation initiatives [13].
- International Framework Adaptation: To make sure national laws are created to support their economy within the framework of these international regulations, developing nations must participate in international agreements such as the TRIPS Agreement.

Results of Integration

- Wealth production and Employment: By assisting creators and inventors in realising their potential and growing their firms, an efficient IPR policy may support the production of wealth and new job possibilities [14].
- Innovation-Conducive Environment: IPR integration can foster an environment that is favourable to innovation in a variety of industries, including MSMEs

- and start-ups, by enhancing legislative frameworks with effective administrative procedures [15].
- Sustainable Development: Reducing poverty and achieving more general economic and sociocultural development objectives can be accomplished with an approach to IPRs that is development-focused.

Development policy depends on intellectual property rights (IPR) because they safeguard designs, innovations, and creative works, which encourages innovation and boosts economic growth by compensating creators and encouraging fair competition. The goal of national policies, such as India's National IPR Policy, is to establish a balanced IPR ecosystem that promotes the creation and commercialisation of intellectual property while taking into account the need to safeguard the public interest and offer access to information. Enhancing IP administration and enforcement, raising public awareness, and encouraging innovation and entrepreneurship including in emerging nations' unorganised sectors are some of the main goals.

How IPR Contributes to Development

- Encourages Innovation: IPR grants authors the temporary exclusive rights to their creations, guaranteeing their success and promoting additional innovation and investment in fresh concepts.
- **Promotes Economic Growth:** By safeguarding inventions and developments, IPRs increase industry competitiveness, draw in investment, and open up new markets and product lines, all of which support a country's overall economic growth.
- **Encourages Fair Competition:** By barring others from exploiting intellectual property, IPRs provide an environment in which companies and inventors may compete on an equitable playing field.
- Supports Local Industries: By safeguarding their ideas in the cutthroat global marketplace, IPR protection enables new and existing companies, particularly those with little funding, to survive and expand.
- Balances Access and Protection: By utilising the flexibilities provided by international frameworks such as the TRIPS Agreement, a smart development policy balances the need to guarantee access to critical information, especially in developing nations, with intellectual property rights.

Components of a Development-Focused IPR Policy

A balanced IP ecosystem is one that strikes a balance between the rights of creators and the requirement for the general public to have access to information and knowledge. Raising public awareness and educating people about the cultural, social, and economic advantages of intellectual property rights for all facets of society.

- **Simplified Management:** updating and fortifying the adjudicatory, enforcement, and IP administration processes to guarantee efficient operation and prevent violations
- Establishing organisations and programs that support the development, marketing, and commercialisation of intellectual property and knowledge transfer is known as commercialisation support.
- **Integration of the Informal Sector:** Acknowledging the important role played by the informal sector in

- developing nations and creating more adaptable protection measures to supplement official intellectual property rights systems
- IPR and development policy in India: Strategies that connect intellectual property rights (IPR) to a country's larger economic, social, and cultural development objectives are referred to as IPR and development policy. These strategies frequently seek to strike a compromise between the protection of intellectual works and public interests like access to healthcare and information. An example is India's National IPR Policy 2016, which outlines goals to strengthen the legal system, encourage entrepreneurship, encourage innovation, and use intellectual property as a vehicle for socioeconomic development [16].
- Balancing Interests: One of the main goals is to provide a framework that safeguards the rights of creators and inventors while also guaranteeing that the general public has access to necessities like software, medications, and educational resources.
- **Promoting Innovation and Creativity:** Through incentives and protection for entrepreneurs, artists, and inventors, IPR regulations seek to promote the production of new intellectual works, which is thought to be essential for a knowledge economy.
- Commercialisation of IP: Policies frequently incorporate tactics to assist companies and artists in commercialising their intellectual property, which creates economic value and promotes development.
- Development of Human Capital and Awareness:
 Policies aim to accomplish these objectives by
 increasing public knowledge of the advantages of IPRs
 and establishing institutional and human resources for
 IP education, research, and skill development.
- Adjudication and Enforcement: Strong mechanisms to uphold IPR laws and resolve conflicts are part of a strong policy framework, which fights infringement and guarantees the protection of rights.
- India's National IPR Policy (2016): The National IPR Policy 2016, which aims to promote a "Creative India, Innovative India" by raising IPR awareness, encouraging IPR generation and commercialisation, modernising IPR administration, and fortifying the legal and enforcement framework for IPRs, serves as the main framework governing India's IPR development policy. Initiatives for startups (such as the SIPP scheme), lower fees for specific businesses, accelerated patent review, and the creation of a Cell for IPR Promotion and Management (CIPAM) to carry out the policy are some of its salient aspects. The policy is in line with global accords such as the WTO TRIPS Agreement and promotes the Make in India, Startup India, and Digital India initiatives [17].

Objectives of the Policy

Seven main goals are outlined in the National IPR Policy:

- **IPR Awareness:** To inform people of the benefits that intellectual property rights (IPRs) offer on an economic, social, and cultural level.
- **IPR Generation:** To promote and incentivise the development of new intellectual property.
- Legal and Legislative Framework: To ensure robust and effective IPR laws that balance the interests of owners and the public.

- **-Administration and Management:** To improve and modernise the service-oriented management of intellectual property rights.
- **IPR commercialisation:** To increase the IPRs' market worth.
- Strengthening the processes for preventing IPR violations is the goal of enforcement and adjudication.
- Human Capital Development: To increase training, research, and human resources in the area of intellectual property rights.
- Case laws 1: Novartis AG v. Union of India (2013, Supreme Court of India) by the Supreme Court of India is a pivotal decision in the field of patent law, particularly concerning pharmaceutical products. The case centred on a patent application filed by the Swiss pharmaceutical company Novartis for its anti-cancer drug, Glivec (known as Gleevec in some countries) [18].
- Case 2: Entertainment Network (India) Ltd. v. Super Cassette Industries Ltd a prominent FM radio broadcaster operating under the brand "Radio Mirchi," was found to be broadcasting music from Super Cassette Industries Ltd. (SCIL), a leading music company, without a proper license. ENIL had mistakenly believed that SCIL was a member of the Phonographic Performance Ltd. (PPL) copyright society, to which ENIL was paying royalties.
 - Upon realizing their error, ENIL attempted to negotiate a direct license with SCIL, but the negotiations failed. Consequently, SCIL filed a lawsuit in the Delhi High Court to restrain ENIL from playing its music, leading ENIL to file an application with the Copyright Board for a compulsory license under Section 31 of the Copyright Act, 1957 [19].
- Case 3: The Bayer Corporation v. Union of India-case, decided by the Bombay High Court in 2014, was a significant legal battle concerning the intersection of intellectual property rights, particularly patents, and public health in India. The case centred on the compulsory license granted to Natco Pharma for Bayer's patented drug, Sorafenib Tosylate (marketed as Nexavar), used for treating liver and kidney cancer [20].
- Case 4: Diamond v. Chakrabarty, is a landmark U.S. Supreme Court case that established the patentability of a genetically engineered living organism. The Court ruled that a human-made microorganism is patentable subject matter under the U.S. Patent Act because it constitutes a "manufacture" or "composition of matter". This decision was a significant turning point, paving the way for the modern biotechnology industry [21].
- Case 5: Eastern Book Company v. DB Modak (2007, Supreme Court of India) he case involved a dispute between Eastern Book Company (EBC), a well-known law publisher of the "Supreme Court Cases" (SCC) law reports, and D.B. Modak, a software company. EBC claimed that Modak's software, which contained Supreme Court judgments, had copied the copy-edited versions of the judgments published in the SCC reports. EBC argued that the additions they made to the raw judgments such as headnotes, paragraph numbering, and the arrangement of cases constituted an "original literary work" eligible for copyright protection. Modak countered that court judgments are in the public domain and that EBC's additions were not creative enough to warrant copyright [22].

National Intellectual Property Rights Policy

The Policy outlines seven goals, each of which is further explained with actions that the designated nodal Ministry or Department must take. The goals are succinctly discussed below.

IPR Awareness: Promotion and Outreach

To raise awareness among all societal segments of the economic, social, and cultural advantages of IPRs the knowledge economy propels the twenty-first century, which is a part of the knowledge period. To raise awareness of the advantages of IPRs and their worth to the public and rights holders, a national marketing campaign should be started. Such a program will create an environment that fosters innovation and creativity in the public and private sectors, R&D facilities, business, and academia, which will result in the creation of commercially viable, protectable intellectual property.

Reaching out to the less well-known IP creators and owners is also essential, particularly in rural and isolated places. The program's main call would be the holistic tagline "Innovative India; Creative India [23].

IPR generation

Encourage the creation of IPRs India boasts a vast reservoir of scientific and technological expertise dispersed throughout R&D facilities, businesses, technological schools and universities. It is necessary to encourage the development of IP assets and access this rich knowledge base. In order to develop and execute focused programs, it will be possible to examine and evaluate the potential in certain sectors through a thorough baseline survey or IP audit across sectors. Facilitating researchers and innovators in areas of national concern will be the main focus. The creation and use of IPRs by the corporate sector must also be promoted. Additionally, measures must be taken to create systems to ensure that all inventors, particularly MSMEs, start-ups, and grassroots innovators, benefit from the IPR framework [24].

Framework for Law and Regulation

To establish robust and efficient IPR regulations that strike a balance between the rights holders' interests and the general welfare. The current intellectual property laws were completely consistent with the TRIPS Agreement and were either passed or amended following it in India. These laws offer a reliable and efficient legal framework for the defence and advancement of IPRs, as do numerous court rulings. India will continue to uphold the Doha Declaration on Public Health and the TRIPS Agreement. However, India has a wealth of traditional medical knowledge that is available in many forms throughout the nation, and it is crucial to safeguard it against infringement [25].

Administration and Management

To enhance and modernise service-oriented IPR management the foundation of an effective system is the offices that oversee the various Intellectual Property Rights (IPOs) and an IPR system that is balanced. In addition to increasing workload and technological complexity, Initial Public Offerings (IPOs) now face the dual challenges of improving user-friendliness through the development and provision of value-added services to the user community and streamlining, cost-effective, and efficient operations. In

addition to establishing a Cell for IPR Promotion and Management (CIPAM), DIPP is responsible for administering the Copyright Act of 1957 and the Semiconductor Integrated Circuits Layout-Design Act of 2000. In addition to promoting, creating, and commercialising IP assets, this will enable more efficient and cooperative collaboration amongst different IP offices.

IPR-commercialisation

Obtain IPR value through commercialisation the primary source of value and financial gain for IP rights owners is their commercialisation. In order to capture the financial value of IPRs, entrepreneurship should be promoted. Linking investors and IP creators is essential. Valuing intellectual property and evaluating its potential for marketing purposes are further limitations. A public platform should be developed in order to link innovators and creators with possible customers, investors, and funding sources.

Adjudication and Enforcement

To improve the adjudicatory and enforcement systems for preventing IPR violations Respect for IPR must be fostered. Among the general public and to educate IP creators and inventors on how to safeguard and uphold their rights. Simultaneously, it is necessary to develop IPR cells within state police forces and increase the capability of enforcement authorities at all levels. It is also necessary to identify and implement measures to prevent piracy and counterfeiting. Effective resolution of IPR disputes would be facilitated by regular IPR workshops and colloquia for judges. It would be preferable for expert commercial courts to decide IPR disputes. Another option is to investigate an alternative dispute resolution process [26].

Enhancing and growing human resources

Organisations, and capabilities for instruction, training, research, and skill development in IPRs is the goal of human capital development.

Develop a growing pool of IPR specialists and experts in areas including policy and law, strategy creation, administration, and enforcement in order to fully utilise IPRs for economic growth. An expert pool of this kind will help the nation produce more intellectual property assets and use them for development.

Conclusion

Development policy and intellectual property rights have a complicated and multidimensional interaction that calls for a nuanced and balanced approach. Even while robust IPR laws are frequently praised for being crucial for encouraging innovation and drawing in foreign direct investment, developing countries may find it difficult to implement them universally. The "one-size-fits-all" approach, which was primarily influenced by developed economies' objectives, might impede local innovation, limit technological transfer, and make it more difficult to obtain necessities. IPRs must be more strategically integrated in order to achieve truly sustainable development. This entails abandoning a strict, protection-first approach in favour of a more adaptable framework that takes into account the unique developmental stage, economic priorities, and public health requirements of each nation. To guarantee access to reasonably priced medications and technology, for example, developing

countries must be given the authority to take use of flexibilities found in international accords such as the TRIPS Agreement, such as parallel importation and compulsory licensing. Additionally, the establishment of a local innovation ecosystem must be actively supported by development policy. This involves more than just putting IPR rules into practice; it also entails funding research and development, education, and the strengthening of local institutions' ability. Developing nations can move from being passive recipients of foreign technology to active contributors to the global innovation scene by fostering their own talent and technological capacities. In conclusion, choosing between protection and access is not a straightforward option when it comes to the successful integration of IPRs and development policy. It involves a methodical and calculated approach that maximises the advantages of intellectual property while minimising any potential disadvantages. IPRs are a tool for progress, not a requirement for it, as acknowledged by a truly helpful framework. We can create a future where intellectual property promotes prosperity and equal progress rather than obstructs it by adjusting regulations to local situations and putting the public interest first.

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http://www.uspto.gov/web/offices/ac/ido/oeip/taf/cst_al l.pdf 8 Information provided to us by WIPO. 4816 applications in 1999-2001 were from these five countries out of total developing country applications of 5014. Total applications were 268918 in 1999-2001. Korea (4622) and Singapore (640) were also major applicants

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