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INTELLECTUAL PROPERTY RIGHTS IN BUSINESS ORGANIZATIONS

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Abstract

Intellectual property rights (IPR) have been defined as ideas, inventions, and creative expressions based on which there is a public willingness to bestow the status of property. IPR provide certain exclusive rights to the inventors or creators of that property, in order to enable them to reap commercial benefits from their creative efforts or reputation. There are several types of intellectual property protection like patent, copyright, trademark, etc. Patent is recognition for an invention, which satisfies the criteria of global novelty, non-obviousness, and industrial application. IPR is prerequisite for better identification, planning, commercialization, rendering, and thereby protection of invention or creativity. Each industry should evolve its own IPR policies, management style, strategies, and so on depending on its area of specialty. Pharmaceutical industry currently has an evolving IPR strategy requiring a better focus and approach in the coming era. Recently, intellectual property rights (IPRs) has become one of the hottest, most significant issues of trade negotiations. Despite the continued claim that IPRs facilitate research activities and encourage technology transfer, the impact of IPRs on socio-economic development process of developing countries has evidently reflected in many areas, including health, agriculture and education. IPRs will no doubt continue to have a significant impact on developing countries for many years to come. The developing countries have faced the challenge of constraint optimization on how to implement the WTO TRIPS Agreement in such a way to minimize the socio-economic costs and maximize the national benefits. The third world states are now facing increased pressure toward higher standards of IPRs protection (i.e. the so-called TRIPS-plus). The attempts of the developed countries to evolve the TRIPSplus regime, which appears in the form of free trade agreement (FTA), provide opportunities for those countries to negotiate rules and commitments that go beyond what was not possible on the multilateral level. By entering into an FTA with the developed countries, the developing countries see some advantages in tariff

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reductions of agricultural, clothing and other products, but at the same time it closes down the opportunity for the latter to put forward the issues of their concern through the WTO including the harmonization of TRIPS and CBD, access to medicines, and protection of genetic resources, farmers' rights and traditional knowledge. .

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Introduction:-

Intellectual property (IP) pertains to any original creation of the human intellect such as artistic, literary, technical, or scientific creation. Intellectual property rights (IPR) refers to the legal rights given to the inventor or creator to protect his invention or creation for a certain period of time. These legal rights confer an exclusive right to the inventor/creator or his assignee to fully utilize his invention/creation for a given period of time. It is very well settled that IP play a vital role in the modern economy. It has also been conclusively established that the intellectual labour associated with the innovation should be given due importance so that public good emanates from it. There has been a quantum jump in research and development (R&D) costs with an associated jump in investments required for putting a new technology in the market place. The stakes of the developers of technology have become very high, and hence, the need to protect the knowledge from unlawful use has become expedient, at least for a period, that would ensure recovery of the R&D and other associated costs and adequate profits for continuous investments in R&D. IPR is a strong tool, to protect investments, time, money, effort invested by the inventor/creator of an IP, since it grants the inventor/creator an exclusive right for a certain period of time for use of his invention/creation. Thus IPR, in this way aids the economic development of a country by promoting healthy competition and encouraging industrial development and economic growth. Present review furnishes a brief overview of IPR with special emphasis on pharmaceuticals.

Need For The Study

For an effective development of the trade activities and to protect, manage, operate and control all the things we have to maintain and implement the Intellectual Property Rights. The way how Intellectual Property Rights are helping to protect the rights using and with the help of Trademarks, Copyrights, Patents and Trade Secrets. In this process it can generate sense for which on his own capability to achieve simultaneously both individual and organizational objective.

Scope Of The Study:

The globe today is a globalization changes. It gives us a change to scan the century to century new challenges in various field are being accepted. The improvements of the technologies along with the industrialization in India demands of the traders and business people are more highly motivated, and enhanced and developed in all aspects of how to safeguarding the business activities and their trade rights.

Objective Of The Study:-

1. To understand the relationship between Business and Intellectual Property Rights.
2. To know the Rights taken or using by the traders
3. to improve the standards and how to protect the Trademark rights law.
4. To know how the impact and use of Copyrights in Business and individual purpose.
5. To know the relationship between Consumers and Trademarks

Importance Of The Study:

Why is it important to protect intellectual property rights? Your IP rights are important because they can:

1. set your business apart from competitors
2. be sold or licensed, providing an important revenue stream
3. offer customers something new and different
4. form an essential part of your marketing or branding

5. be used as security for loans.

You may be surprised at how many aspects of your business can be protected - its name and logo, designs, inventions, works of creative or intellectual effort or trademarks that distinguish your business can all be types of IP. Explore the different types of IP in detail in our guides:

1. Trademarks
2. get patent protection for your business
3. copyright for your business
4. protecting and handling your design

Some IP rights are automatically safeguarded by IP law, but there are also other types of legal protection you can apply for.

1. To exploit your IP fully, it makes strong business sense to do all you can to secure it. You can then:
2. protect it against infringement by others and ultimately defend in the courts your sole right to use, make, sell or import it
3. stop others using, making, selling or importing it
4. without your permission earn royalties by licensing it
5. exploit it through strategic alliances
6. make money by selling it

What is IPR

A right that is had by a person or by a company to have exclusive rights to use its own plans, ideas, or other intangible assets without the worry of competition, at least for a specific period of time. These rights can include copyrights, patents, trademarks, and trade secrets. These rights may be enforced by a court via a lawsuit. The reasoning for intellectual property is to encourage innovation without the fear that a competitor will steal the idea and / or take the credit for it.

Concept, Scope and Nature of Intellectual Property

Rights Intellectual Property in General

The division of property as movable and immovable, if it is tangible, was known in Roman law and has been adopted by modern Civil Codes. This kind of classification is also provided under art.1226 of the Civil Code. However, as a result of the industrial revolution and the rapid development made in the fields of science, technology and culture, new kinds of property came into existence. New rights and properties like patents, copyright and industrial designs, which came to be known as intellectual property rights (IPRs) received attention due to their unique characteristics.

Intellectual property is so broad that it has many aspects. It stands for groupings of rights which individually constitute distinct rights. However, its conception differs from time and it to time. It is subject to various influences. The change in information technology, market reality (globalization) and generality have affected the contents of intellectual property. For instance, in olden days because of religion creation of life, say plants or animals were not protected. Thus, defining IP is difficult as its conception changes. It is diverse, challenging and has application in own day today life.

Intellectual property, as a concept, was originally designed to cover ownership of literary and artistic works, inventions (patents) and trademarks. What is protected in intellectual property is the form of the work, the invention, the relationship between a symbol and a business. However, the concept of intellectual property now covers patents, trademarks, literary and artistic works, designs and models, trade names, neighboring rights, plant production rights, topographies of semi conductor products, databases, when protected by a sui generis right, unfair competition, geographical indications, trade secrets, etc. Those types of intellectual property have been characterized

as pieces of information which can be incorporated in tangible objects at the same time in an unlimited number of copies at different time and at different locations anywhere in the world. In other words, intellectual property rights are intangible in nature, different from the objects they are embodied in. The property right is not in those copies but in the information which creates in them.

In today's world, the international dimension of intellectual property is of ever increasing importance for three compelling reasons. First, the composition of world trade is changing. Currently, commerce in intellectual property has become an even greater component of trade between nations. The value of information products has been enhanced greatly by the new technologies of the semi-conductor chip, computer software and biotechnology. Second, the world commerce has become even more interdependent, establishing a need for international cooperation. No longer can a single country impose its economic will on the rest of the world. Accordingly, countries have recognized this interdependence and have called for a broadening of international agreements/arrangements involving intellectual property. Third, new reprographic and information storage technologies permit unauthorized copying to take place faster and more efficiently than ever, undermining the creator's work. There is a general feeling in the developed countries that much of this sort of copying takes place in the third world due to the relaxation of legal standards. All these factors have prompted the international community as a whole to accord due recognition to intellectual property and intellectual property regime.

The expression industrial property covers inventions and industrial designs. Simply stated, inventions are new solutions to technical problems, and industrial designs are aesthetic creations determining the appearance of industrial products. In addition, industrial property includes trademarks, service marks, commercial names and designations, including indications of source and appellations of origin, and protection against unfair competition. Hence the aspect of intellectual creations - although existent - is less prominent, but what counts here is that the object of industrial property typically consists of signs transmitting information to consumers, in particular, as regards products and services offered on the market, and that the protection is directed against unauthorized use of such signs which is likely to mislead consumers and misleading practices in general.

Types of Intellectual Properties and their Description

Originally, only patent, trademarks, and industrial designs were protected as 'Industrial Property', but now the term 'Intellectual Property' has a much wider meaning. IPR enhances technology advancement in the following ways:

1. It provides a mechanism of handling infringement, piracy, and unauthorized use
2. It provides a pool of information to the general public since all forms of IP are published except in case of trade secrets.

IP protection can be sought for a variety of intellectual efforts including

1. Patents
2. Industrial designs relates to features of any shape, configuration, surface pattern, composition of lines and colors applied to an article whether 2-D, e.g., textile, or 3- D, e.g., toothbrush
3. Trademarks relate to any mark, name or logo under which trade is conducted for any product or service and by which the manufacturer or the service provider is identified. Trademarks can be bought, sold, and licensed. Trademark has no existence apart from the goodwill of the product or service it symbolizes
4. Copyright relates to expression of ideas in material form and includes literary, musical, dramatic, artistic, cinematography work, audio tapes, and computer software
5. Geographical indications are indications, which identify as good as originating in the territory of a country or a region or locality in that territory where a given quality, reputation, or other characteristic of the goods is essentially attributable to its geographical origin

A patent is awarded for an invention, which satisfies the criteria of global novelty, non-obviousness, and industrial or commercial application. Patents can be granted for products and processes. As per the Indian Patent Act 1970, the

term of a patent was 14 years from the date of filing except for processes for preparing drugs and food items for which the term was 7 years from the date of the filing or 5 years from the date of the patent, whichever is earlier. No product patents were granted for drugs and food items. A copyright generated in a member country of the Berne Convention is automatically protected in all the member countries, without any need for registration. India is a signatory to the Berne Convention and has a very good copyright legislation comparable to that of any country. However, the copyright will not be automatically available in countries that are not the members of the Berne Convention. Therefore, copyright may not be considered a territorial right in the strict sense. Like any other property IPR can be transferred, sold, or gifted.

Importance of IPR in business World

The Important forms of intellectual property are copyright, patents, trademarks, industrial designs. Apart from these there is one more form known as Trade Secret. A trade secret is any information that allows you to make money because it is not generally known. A trade secret could be a formula, process, method other non-public information. One of the famous examples of trade secret is of the giant fast food chain KFC which has a trade secret of not disclosing its ingredients of its delicious chicken.

The forms of Intellectual Property allow you and your products to be distinguished individually from others. They are a seal of authority in the respect to the quality, product, services and expectations put forth by the buyer or the user. IP is a wealth creating machine which gives you legitimate ownership with image of a trustworthy organization. Every business house relies on intellectual property rights, spending millions of dollars to secure their intellectual properties.

Tips for Protecting Your Intellectual Property

Every great business starts with a "perfect" idea. In the fast moving, dog-eat-dog world of corporate business, however, ideas are stolen, duplicated and imitated as soon as they are conceived. If you have that million dollar idea, how can you go about protecting it while still attracting the attention of prospective investors? Be aware, however, that companies often have their own teams of lawyers whose sole purpose is to circumvent nondisclosure agreements and patent laws, modifying your design just enough to avoid litigation. In this case, your lawyers can first serve a cease-and-desist letter, followed by a lawsuit, if the company does not cease production. Taking on an alleged copycat in court can be extremely costly and time consuming. In many cases, the court will not rule in your favour unless you can prove monetary damages as a result of the copycat's actions, which can be difficult if your product's sales have been rising. This can also be difficult to prove if your idea is still in the nascent phase, and has still yet to turn a profit.

Findings:

1. Maximum firms/companies/organizations are not at register as registered companies
2. The study reveals that majority of respondent felt that the foreign companies are interested to come and work in India
3. Half of the respondents responded that analogy processes are patentable and the remaining half of the respondent units responded that they have no idea about the analogy processes.
4. The highlight of the study is that the large companies are also not maintaining systematic trademarks, trade activities and trade secrets.
5. The majority of respondents felt that the Government has acted deliberately as regards product patent for pharmaceutical products and 10 units responded that they have no idea.

Suggestions:-

1. It is suggested that the Government protects the interest of not only the common man but also the pharmaceutical companies in regard to product patents.
2. Separate intellectual property right cells should be created in all the pharmaceutical companies to deal with product patent related issues.

3. It is suggested that small and medium pharmaceutical companies ensure good quality research, make sizeable investment in research, exports and up- gradation.

Conclusion & Summary:-

Four major intellectual property rights issues have been addressed in this document:

1. ownership of intellectual property;
2. rights to use intellectual property;
3. procedural issues; and
4. special considerations involving copyright.

Given the different nature and culture of universities and industry, the scenarios and corresponding contract language represent compromises that university and industry representatives on the Task Force believe will provide negotiators with reasonable options for dealing with these issues and with a framework for the general consideration of intellectual property rights within research agreements. The objective of the Task Force was to facilitate the negotiation of intellectual property rights in research agreements between universities and industry. To the extent this document is helpful in those endeavours; the Task Force will have accomplished its main objective.

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