

INTELLECTUAL PROPERTY RIGHTS**Daud Ahmad^{*1}, Shipra Omar², Dr. S. M. Patil³**

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ABSTRACT

Algorithmic decision-making based on profiling may significantly affect people's destinies. As a rule, however, explanations for such decisions are lacking. What are the chances for a "right to explanation" to be realized soon? After an exploration of the regulatory efforts that are currently pushing for such a right it is concluded that, at the moment. Patent is a 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.

INTRODUCTION

Intellectual property (IP) pertains to any original creation of the human intellect such as artistic work, literary, technical, computer programmes. 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.^[1] While all of them deserve societal scrutiny, profiling/scoring applications that significantly affect people's life chances, choices, and opportunities deserve it in particular. Such identification of behavioural patterns based on processing personal data is used by insurance companies, banks, tax departments, police, security forces, schools, and public authorities generally. In those instances, irrespective of whether public or private institutions are involved, full accountability to the members of society should urgently be put on the agenda.^[2] These Intellectual property rights (IPR) are

territorial rights that can be registered with a legal authority in some presentable or tangible form which can be sold or bought or licensed, similar to physical property.^[3]

Historical background of intellectual property

Intellectual property rights (IPR) can be defined as the rights given to people over the creation of their minds. The laws and administrative procedures relating to IPR have their roots in Europe. The trend of granting patents started in the fourteenth century. The first known copyrights appeared in Italy. Patent act in India is more than 150 years old (Singh, 2004). The inaugural one is the 1856 Act, which is based on the British patent system and it has provided the patent term of 14 years followed by numerous acts and amendments. George Alfred DePenning have made the first application for a patent in India in the year 1856. Copyright law entered India in 1847 through an enactment during the East India Company's regime. According to the 1847 enactment, the term of copyright was for the lifetime of the author plus seven years post-mortem. In 1888, new legislation was introduced to consolidate and amend the law relating to invention and designs in conformity with the amendments made in the UK law.^[4] In 1911, the Indian Patents and Designs Act, 1911 was brought in replacing all the previous legislations on patents and designs. This Act brought patent administration under the management of Controller of Patents for the first time. This Act was amended in 1920 to provide for entering into reciprocal arrangements with UK and other countries for securing priority. India's statutory Trademarks Law dates back to 1860. Prior to 1940 there was no official trademark Law in India. Numerous problems arouse on infringement, law of passing off etc and these were solved by application of section 54 of the Specific Relief Act, 1877 and the registration was obviously adjudicated by obtaining a declaration as to the ownership of a trademark under Indian Registration Act 1908.^[5]

Importance of I P R

Public relations builds relations with a multitude of audiences depending on your business' focus. Form building relationships with the media investors government, community PR gets a targeted message to your preferred audiences in impactful ways.

Classification of intellectual property rights

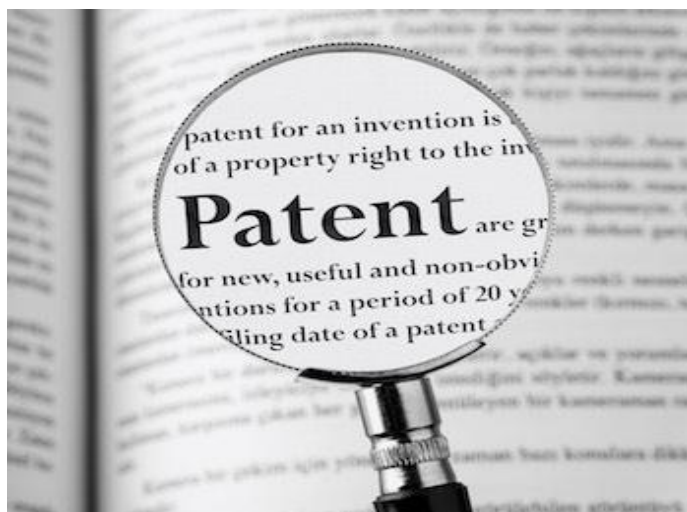
Intellectual property is divided into two categories. Industrial property which includes invention (patent) trademarks industrial designs and models and geographical indications of source.

Patent

A patent is a type of IPR which protects the scientific inventions (product or process) which shows technical advancement over the already known products it must be new i.e. it should not already exist in the current knowledge anywhere in the world, i.e. not in public domain in any form before the filling of novelty.^[6]

A patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or offers a new technical solution to a problem. Patentability of any invention needs to fulfill certain criteria such as Usefulness.^[7]

A patent is an intellectual property rights relating to invention and is the grant of exclusive right for limited period provided by the government to the patentee in exchange of full disclosure of his/her invention for excluding others from making using, selling, importing the patented product producing that product for those purpose.^[8]



Copyright:

Copyright means creation of things of authors in various fields such as literary musical and artistic works, cinematograph film, sound recordings and computer software. After certain time copyright work is public domain. The primary function of a copyright law is to protect the man's original work and its rights. It also consists of the right to works derived from the original works; certain rights such as the right of public performance, the recording right and broadcasting rights.^[9]

International copyright laws

International level the copyright are protected under conventions are as follows, as per the rule of WTO Agreement, the implementation of the TRIPS patent regime was the primary requirement in order to enable participation in multilateral trading system. Copyright of nationals countries who are members of the Berne Convention 1886, Universal Copyright Convention 1952 and the TRIPS Agreement 1994 are protect the Literary and Artistic Works at International level. Rome convention, 1999 this convention protects the rights of performers, producers of phonograms, and broadcasting organizations. WIPO Copyright Treaty, 1996 this treaty specifies that protection extends to expressions and not to ideas, procedures, and methods of operation or mathematical concepts. The treaty recognizes the computer programmers as literary work. WIPO Performances and Phonograms Treaty, 1996 declares that the protection of the performers and producers of phonograms.^[10]

Copyright law in india

The Copyright Act of 1957 came into force from January 1958. The Copyright Act has been amended in 1983, 1984, 1992, 1994 and 1999, 2012. The Copyright Act, 1957 consists of 79 sections fewer than 15 chapters while the Copyright Rules, 1958 consists of 28 rules under 9 chapters and 2 schedules.

The landmark amendment in copyright act 1957, in 1994 which is related to computer software, according to section 14 of this Act, making and distribution of copyright software without proper or specific permission is illegal.^[11]

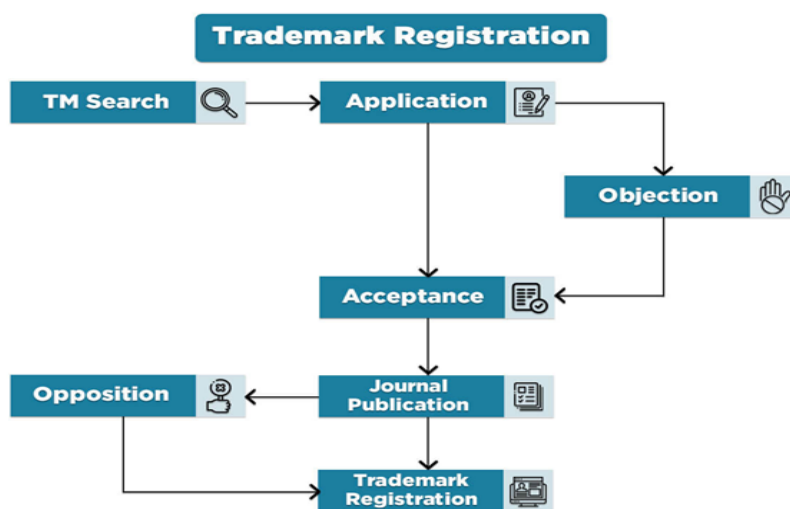


Trademark:

A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises trademarks are protected by intellectual property rights.^[12]

A trademark is any word, name, symbol that lets us identify the goods made by an individual company, organization etc.^[13]

The registration of trademark is not mandatory under the trademark Act 1999, but registration of trademark helps establish exclusive rights over the mark. A registration trademark is only valid for 10 years.^[14]



Geographical indication

A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. In order to function as a GI a sign must identify a product as originating in a given place.^[15]

GI promotes economic prosperity of producers of goods produced in a geographical territory.^[16]

Importance of geographical indication

Geographical indications are important as source identifiers.

Also may be indicators of quality which depends on the place of production.

Also may be important business interests.

Also important as intellectual property under TRIPS.^[17]

REFERENCES

1. Algorithmic Accountability Act of 2019. (2019). House Resolution 2231. [https://www.congress.gov/bill/116th-congress/house-bill/2231/text\[1\]](https://www.congress.gov/bill/116th-congress/house-bill/2231/text[1])

2. Algo: aware. Raising awareness on algorithms. Procured by the European Commission's Directorate-General for Communications Networks, Content and Technology. Version, 2018; 1.0: 2018. <https://AlgoAware-State-of-the-Art-Report.pdf> (actuary.eu).
3. Singh R. Law relating to intellectual property (A complete comprehensive material on intellectual property covering acts, rules, conventions, treaties, agreements, case-Law and much more). New Delhi: Universal Law Publishing Co. Pvt. Ltd, 2004; 6.
4. Bainbridge DI. Intellectual property. New York: Longman, 2002.
5. Anonymous. The Trademarks Act 1999 along with trade Marks Rules 2002. New Delhi: Commercial Law Publisher (India) Pvt. Ltd, 2004.
6. Anonymous. The Patents Act, 1970 as amended by Patents (amendment) Act 2005. New Delhi: Commercial Law Publisher (India) Private Ltd, 2005.
7. Beier FK, Schriker G. IIC studies: Studies in industrial property and copyright law, from GATT to TRIPS – the agreement on trade related aspects of intellectual property rights. Max Planck Institute for Foreign and International Patent. Munich: Copyright and Competition Law, 1996.
8. Anonymous. WIPO intellectual property handbook. policy, law and use. New York: WIPO Publication, 2001.
9. Anonymous. The Copyright Act 1957 as amended up to 1999 along with Copyright Rules 1958 and International Copyright Order 1999. New Delhi: Commercial Law Publisher (India) Pvt. Ltd, 2005.
10. Myneni S. Law of intellectual property 6th edition. Asia: law House Hyderabad publish, 2012; 13.