

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 3 | Issue 6

2021

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Intellectual Property Rights: Issues and Concerns

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ABSTRACT

IPRs are the rights granted to individuals over their mental inventions. The exponential growth of technology has significantly expanded the opportunity of intellectual property rights. The advancement of tools has also resulted in a rise in instances of intellectual property rights infringement. Residents have generally needed consciousness of their IPRs. Infringement cases arise inferable from absence of sharpness among businesspersons. New revelations like copying machine, typewriter, PC, and so forth are every one of the threat to the protected innovation freedoms. Insights recommend that larger part of IP encroachment cases in India include a little firm being uninformed about the rudiments of IP freedoms. Absence of mindfulness among inhabitants and business people is the significant test which should be investigated by the specialists. Old standards can't address with difficulties presented by arising innovations. New innovation is giving a trouble of keeping a general set of laws where Intellectual Property Rights are kept up with. The public authority needs to build up equilibrium in protecting licensed innovation privileges and restricting the freedom of residents.

Keywords: Intellectual Property Rights, Issues.

I. INTRODUCTION

Intellectual Property Rights (IPRs) are the rights granted to individuals over their mental discoveries. These are the rights granted to individuals in relation to their intellectual property, such as inventions, mental creations, and so forth. IPR is a sort of property that envelops elusive works of the human brain. IPR is certainly not another idea; it has existed for centuries. Intellectual property rights have also

been prevalent throughout history. Since many centuries, there have been laws protecting intellectual property owners' rights. New worries and difficulties in the circle of protected innovation freedoms arise day by day.² Technology is a significant concern when it comes to defending intellectual property rights in the modern world. The outstanding development of innovation has fundamentally extended the extent of protected innovation freedoms. While

¹ Author is an Assistant Professor at Institute of Law, Kurukshetra University, India.

² Pinstруп-Andersen, P., R. Pandya-Lorch *et. al*, *World Food Prospects: Critical Issues for the Early Twenty-First Century* 88 (Washington DC. 1999).

technology has made our survives easier, it has also had a significant impact on intellectual property rights. Raised technological advancements, such as the internet, have increased the potential for intellectual property rights violation. Securing licensed innovation privileges notwithstanding quickly developing innovation, for example, the web is a huge concern.³

The government faces a difficulty in protecting intellectual property rights while also safeguarding individuals' liberties through the use of modern technologies such as the internet. Intellectual property rights protection is critical for a country's development. Businesses and individuals can spend years and a fortune developing a creative or innovative product or service. All of this work might be to no end in the event that licensed innovation proprietors can't secure their resources. Consider the issues and challenges surrounding intellectual property rights in India. For an extensive stretch of time, India's level of intellectual property protection was extremely low. Copying, plagiarism, piracy, and other intellectual property violations were widespread, resulting in enormous losses for intellectual property owners. With India's political, social, also monetary turn of events, scholarly, social, and financial development are basic.⁴

India must conform its permitted innovation laws to the TRIPS agreement as a member of the

World Trade Organization and a signatory to the Agreement on Trade-Related Aspects of Intellectual Property Rights. The test isn't just in creating laws, yet additionally in implementing them, on the grounds that the Indian government should find some kind of harmony between the requirements of the nation's residents and the freedoms of patent holders. The dispute has become significantly touchier considering the way that unfamiliar organizations record by far most of patent applications in India.⁵

For its part, the Indian government has been hesitant to enforce IPR to safeguard the interests of Indian citizens in some instances. For instance, under the compulsory licensing provision, the government can compel the patent holder or a third party to mass-produce an essential drug in an emergency. Another point of contention is S. 3(d) of the Indian Patent Act,⁶ which prohibits large pharmaceutical companies from 'ever greening,' or perpetually renewing a patent by making minor changes to prior patents. In India, IPR protection in agriculture is a touchy subject. Subsidies such as minimum support prices for agricultural products and fertiliser must be phased out under the TRIPs agreement. Given the stakes involved in terms of food security and livelihoods, ideological groups are probably not going to permit this to happen at any point in the near future. Farmers have also expressed some opposition to multinational companies licensing seeds. Patents have been used to protect

³ *Ibid.*

⁴ Available at: <https://iptse.com/impact-of-ipr-in-india/> (last visited on December 09, 2021).

⁵ Available at: <https://www.managingip.com/article/b1kbn12wlgsgt>

⁶ [india-challenges-faced-in-the-protection-and-enforcement-of-patent-rights](#)(last visited on December 09, 2021).

⁶ Indian Patent Act, 1970, s. 3(d).

traditional knowledge and products developed over centuries using indigenous know-how. In the Traditional Knowledge Digital Library, the government has compiled a database of such products and processes.

IPR refers to human-made works such as creations, conceptual and inventive works, and photos, names, photographs, and proposals used in commerce. Copyright includes esoteric and innovative works like publications, couplets, and plays, movies, rhythmic works, inventive works like paintings, art pieces, pictures, and graphs, and responsibility of building; and contemporary real estate includes developments (licenses), brands, advanced plans, and based on geography symbols of origin; and copyright. Copyright liberties recall those of performers for their expositions, phonetic transcription makers for their transactions, and telecasters for their TV and radio programmers. Framework liberties protect creators' desires by granting them ownership rights over their expressions.⁷

The maximum striking differentiation between licensed innovation and dissimilar kinds of property is that protected innovation is elusive, which implies it can't be characterized or distinguished by its own actual boundaries. To be ensured, it should be communicated in some recognizable manner. As a rule, it alludes to four unmistakable kinds of elusive property: licenses, brand names, copyrights, and proprietary innovations, which are alluded to all things considered as "protected innovation." However,

the degree and meaning of licensed innovation are continually advancing as more up to date frames are added to the protected innovation ploy.⁸

II. INTELLECTUAL PROPERTY'S RIGHTS

- IPR freedoms are the privileges allowed to people over their psychological manifestations, like developments, scholarly and creative works, and business images, names, and pictures. They ordinarily award the maker selective freedoms to utilize their creation for a set timeframe.⁹
- These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which states that the option to benefit from the protection of moral and material interests resulting from the commencement of perfectly rational, academic, or inventive creative works is guaranteed.¹⁰
- The importance of innovative work was recognised for the first time in the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1885). (1905). The World Intellectual Property Organization is accountable for the two deals (WIPO).¹¹

⁷Supra note 4.

⁸Ibid.

⁹Ibid.

¹⁰Supra note 3.

¹¹Available at: <https://www.drishtias.com/to-the-points/paper3/intellectual-property-rights>(last visited on December 09, 2021).

Intellectual property rights are usually distributed into two main zones:

III. COPYRIGHT AND RIGHTS RELATED TO COPYRIGHT

Copyright protects the rights of authors of conceptual and inventive works (such as books and distinct combinations, rhythmic agreements, art pieces, mold, PC developments, and films) for at least 50 years after the author's death. Copyright and linked liberties protect the rights of performers (e.g., entertainers, painters, and creative types), phonetic transcription makers, and broadcast television organizations. The essential social objective of copyright and related privileges assurance is to support and reward imaginative work.¹²

Industrial property can be usefully divided into two categories:

- One region is the security of recognizing signs, explicitly reserve (which recognize one organization's labor and products from those of different organizations) and geological signs. The protection of such unique imprints anticipates to energise and ensure reasonable competition, as well as to safeguard purchasers by allowing them to make informed decisions among various labour and goods. The safety may be limitless as long as the symbol in question remains undeniable.¹³

- Various types of modern estate are principally secured to endorse development, planning, and robotic chain of events.
- This category includes patent law inventions, advanced proposals, and patented technology benefits. The social design is to provide insurance to the outcomes of interest in the improvement of new technology, thereby providing an inspiration and implies to fund Research and innovation workouts. A utilitarian protected innovation system ought to likewise work with innovation move through unfamiliar direct speculation, joint endeavors, and permitting. Commonly, security is accommodated a set timeframe (normally 20 years on account of licenses).

A portion of the new innovations in innovation which straightforwardly influence the protected innovation freedoms are:

1. **Xerox machine:** A duplicator that creates an unreactive image using a pungent powder and duplicates realistic material through the action of light on an electrical charges photosensitive safeguarding exterior. A Xerox machine can be utilized to copy any kind of realistic work. Copyright encroachment cases have expanded significantly since the advancement of the Xerox machine.

¹² Samaddar S G & Chaudhary B D, "Practical insights into intellectual property strategy for technical institute", *Journal of Intellectual Property Rights*, 13 (2008).

¹³ Sinha B, Joshi H & Ghosh P K, "Challenges in creation and management of knowledge capital in technical educational institutions," *Journal of Intellectual Property Rights*, 14 (2009).

This is on the grounds that a replicating machine can copy any kind of work very quickly, if not seconds.¹⁴

2. **The Personal Computer:** The PC is one of the main mechanical advancements that have changed the direction of mankind's set of experiences. A PC contains a plenty of projects and applications that can be utilized to encroach licensed innovation privileges. Copying and pasting is a capability that is present on all personal computers.
3. **Internet:** The internet is a massive network of computers that spans the globe. It facilitates information exchange and social interaction, and has a plethora of benefits. The internet is replete with characteristics that facilitate intellectual property rights infringement.
4. **Social Media:** Web-based media are intelligent innovations that enable the exchange of data, opinions, professional interests, and various types of explication via network systems and associations. Web-based media makes it harder to find those liable for protected innovation freedoms encroachment. This is because people frequently construct bogus social media profiles.
5. **Computer Software's:** Apart from standard operating system functionality

such as copying and pasting, such as Windows, Mac, and so forth. Numerous tools and software programmes, such as Photoshop, facilitate the violation of intellectual property rights.¹⁵

IV. CHALLENGES AND ISSUES INTELLECTUAL PROPERTY RIGHTS

It is obvious that the majority of individuals in India are unaware of their intellectual property rights. While the majority of people lack information regarding intellectual property rights, there are many literates who even exploit their expertise. Numerous individuals participate in intentional infringing operations for financial advantage. As a result, we must educate our citizens while simultaneously enforcing tight norms and laws to ensure that the education does not go to waste. Numerous multinational corporations abuse their patent rights.¹⁶

In India, IPR protection in agriculture is a touchy subject. Subsidies such as minimum support prices for agricultural products and fertiliser must be phased away under the TRIPs agreement. Given the stakes involved in terms of food security and livelihoods, ideological groups are probably not going to permit this to happen at any point in the near future. Farmers have additionally communicated some resistance to transnational firms protecting seeds. In a political and monetary setting, we should think about the expanding globalization of an assortment of

¹⁴ Narayanan S, "Intellectual property rights economy vs. science and technology" *International Journal of Intellectual Property Rights*, 1(1) (2010).

¹⁵ Sharma D K, "Intellectual property and the need to protect it," *Indian Journal of Science and Research* 9 (2014).

¹⁶ Persley, G. and M. Lantin (eds.), *Agricultural Biotechnology and the Poor. Proceedings of an International Conference on Biotechnology*, Washington DC, 21-22 October 1999. CGIAR, Washington DC, 2000).

viewpoints, including innovation as well as business sectors, organizations, social, financial, and political communications, just as ecological and different difficulties.¹⁷ The issues are as follows:

1. **Patent ever greening Prevention:** One of the most significant intellectual property rights issues is preventing multinational corporations from ever greening their patents. As we all know, firms cannot perpetually renew their patents merely by making minor modifications. Consequently, sec. 3(d) of the Indian Patent Act (IPA) presents one of the most genuine worries as far as licensed innovation privileges (IPR). This demonstration denies the allowing of licenses for novel substance compounds.¹⁸
2. **Subsidies & IPR Issues:** The government pays subsidies to individuals, particularly farmers, in order to alleviate their burden. Subsidies in a variety of forms include food subsidies, fertiliser subsidies, and education subsidies, among others. However, in order to fully execute TRIPS agreements, these subsidies must be reduced or eliminated.¹⁹
3. **The Product Patents Process:** An item patent defends a development. It gives the first designer broad security, thus

lessening contest for a similar item. While an interaction patent secures the technique by which a thing is fabricated, not simply the item. It decreases the market's monopolistic person. As a signatory to the TRIPS arrangement, India is needed to change its patent system from process over to item licenses. This continues to be a problem for India, as process patents would be more beneficial to a developing country like India. This is because India is a developing country, and regular people struggle to meet basic needs such as food.²⁰

4. **Protecting traditional knowledge:** Traditional knowledge, particularly in the field of medicine, is worth its weight in gold. The Indian government is obligated to safeguard traditional knowledge by prohibiting MNCs from obtaining patents on traditional culture. Above all, the government established the Traditional Information Digital Library (TKDL) to safeguard traditional knowledge against patenting. Thus, this is one of the challenges concerning intellectual property rights in India.
5. **Compulsory Licensing & Drug Price Control Order:** Compulsory licencing is one of the most critical intellectual property rights concerns that the

¹⁷ *Ibid.*

¹⁸ Negi A & Thakuria B J, "Principles governing damages in trademark infringement", *Journal of Intellectual Property Rights*, 15, 374-379 (2010).

¹⁹ *Ibid.*

²⁰

Available at: <https://yourpatentteam.com/challenges-faced-by-intellectual-property-rights-issues/>(last visited on December 09, 2021).

government must handle. It is a TRIPS-related relaxation available to developing countries, which organisations occasionally abuse. Additionally, under certain conditions, a firm may get a compulsory licence for “private commercial usage” under Sec. 84 of the Indian Patent Act. The Drug Pricing Control Order requires the corporation to justify the drug's price in terms of investment. When someone commits a crime, the government has the authority to interfere. Multinational corporations have petitioned the government to repeal this law. However, the government is not relinquishing its demands to safeguard the public interest.²¹

6. **Backlog & time for final decision:** The essential trouble in upholding patent freedoms is the period of time it takes for the court to settle on an ultimate choice. Assuming the other party challenges the patent, it normally requires 5 to 7 years to arrive at an ultimate choice after preliminary. With case the board hearings and planned preliminaries, the Commercial Courts Act is assisting with accelerating the interaction. Be that as it may, the court's overabundance of cases and a lack of legal officials influence the time it takes for a ultimate conclusion on a case.

7. **Subject matter specialists:** Sec. 115 of the Indian Patent Act accommodates the arrangement of a logical counsel to help courts in delivering suppositions on specialized parts of a case. Courts have not habitually summoned the arrangement. The hiring of a specialised expert in patent litigation suits will not only improve the quality of the decision, but will also shorten the time frame for final decision.

V. INTERNATIONAL REGIME OF INTELLECTUAL PROPERTY RIGHTS

A. World Intellectual Property

Organization: The subsequent are the subjects secure by intellectual property rights, according to the 1967 Convention Establishing the World Intellectual Property Organization:²²

- scholarly, creative, & logical works;
- performing craftsman exhibitions, phonograms, and broadcasts;
- creations in all fields of social responsibility;
- reasonable revelations;
- recent plans;
- brand names, organization traces, and commercial titles and projects; safety against indefensible challenge; and
- Any remaining privileges coming about because of intellectual program in the

²¹ *Ibid.*

²² Prescott L. and M. Vitoria, *The Modern Law of*

Copyright and Designs 79 (LexisNexis, 2011).

modern, reasonable, abstract, & creative grounds.

B. The TRIPS Agreement: The TRIPS Agreement, which went into power on January 1, 1995, is the most exhaustive multilateral settlement on licensed innovation to date. It covers the following areas of intellectual property:²³

- Copyright and linked liberties (for instance, performance artists', audio account creators', and broadcast television organization' freedoms);
- Trade names, including administration marks;
- Geomorphological indications, including categorizations of starting;
- Advanced proposals;
- Licenses, including assurance for new plant assortments;
- Coordinated circuit format plans (geologies);
- Undisclosed data, including proprietary innovations and test information;

C. Paris Convention: Show on the law and insurance of licensed innovation freedoms, (for example, licenses, plan brand names, and bogus signs of beginning) is the most established show of its sort. Public treatment, which expresses that each part state ought to give similar degree of assurance to

nationals of other part states as it does to its own, is the foundation of the settlement. The right of need gave to every individual from the association that has presented a patent application in any nation of the world. To guarantee the base degree of security for modern property privileges, every part state should stick to similar arrangement of principles. Since the old Romans utilized stamps on blocks to recognize them, and even before that, the specialists of the old Greek city of Sybaris conceded a one-year restraining infrastructure to a dish's originator for cooking, protected innovation has assumed a significant part in the public arena. With the development of science and innovation and global business, much has changed from that point forward. Human inventiveness produces protected innovation, and the privileges gave to the proprietor of that property permit that proprietor to receive the benefits of their work by setting up a restraining infrastructure over it. To get this benefit, it should be conceded by a law.²⁴

D. Madrid Agreement: This agreement relates to the registration of trademarks in other countries. It has undergone five revisions to date. In order to avoid having to file a multi-national application for a trademark, this helps. It

²³ Torremans P., *Intellectual Property Law* 134 (6th edn., OUP 2010).

²⁴ *Ibid.*

offers a streamlined registration process with a single point of entry.²⁵

VI. INDIAN LAWS FOR PROTECTION INTELLECTUAL PROPERTY RIGHTS

A. Patent Act, 1970

The Patents Act, 1970 was corrected in 1995, 1999, 2002, & 2005 to meet India's commitments in the TRIPS arrangement, which is essential for the Agreement setting up the World Trade Organization (WTO) to diminish mutilations and obstacles to worldwide exchange and advancing powerful and sufficient assurance of protected innovation freedoms. The Patents Act has been altered to mirror India's developing innovative ability, just as the need to incorporate the licensed innovation framework with worldwide practices and licensed innovation systems. The corrections were likewise planned to make the Act more present day, orchestrated, and easy to understand to satisfactorily secure public & public interests while meeting India's global commitments in the TRIPS Agreement.²⁶ Consequently, the Patent Act's rules were amended, and they became effective in May 2003. Patents (Amendment) Rules 2005, effective January 1, 2005, amended these rules further. As a result, the Patent Amendment Act of 2005 is now completely in force and operational.²⁷

B. Trade Mark Act, 1999

Brand name law has likewise been modernized because of the Trademarks Act of 1999. A brand name is an extraordinary image used to recognize one merchant's merchandise available to be purchased or in any case set available from those of another. Brand names in India have been secured for over forty years under the arrangements of the Trade and Merchandise Mark Act, 1958. India joined the WTO very quickly after its initiation. India approved the Paris Convention in December 1998.²⁸

- It expands the meaning of encroachment of an enrolled brand name to incorporate activity against the unapproved utilization of a confusingly comparable imprint, not just in regard of the labour and products covered by enlistment, as was already the situation, yet additionally in regard of labour and products that are comparable that a probability of duplicity or disarray exists.
- An activity for encroachment will likewise be accessible against the unapproved utilization of an imprint corresponding to dissimulation.
- The new law likewise fortifies the solution for brand name encroachment by allowing police the authority to seize encroaching articles without a warrant.

C. The Designs Act, 2000

²⁵ *Ibid.*

²⁶ Matthews, Duncan, "Globalising Intellectual Property Rights: The TRIP s Agreement" *Journal of Economic Issues*, 37(3), 836-838 (2003).

²⁷ Nair M D, "TRIPS, WTO and IPR – World

Patents", *Journal of Intellectual Property Rights*, 15 151-53 (2010).

²⁸ Mishra N, "Registration of non-traditional trademarks", *Journal of Intellectual Property Rights*, 13, 43-50(2008).

This Law follows TRIPS prerequisites and is in this way straightforwardly applicable to worldwide exchange. The style or unique plan of a modern item is tended to by Industrial Design law. A modern item normally contains components of both workmanship and specialty, that is, both creative and practical components. The plan law prohibits from its degree the useful elements of an article and just secures those with a tasteful allure. For example, a teacup should have an empty container for tea and manage to hold the cup. These are altruistic highlights that are not legally registered. A flamboyant shape or embellishments on it, on the other hand, would be eligible for registration. A table, for example, would have a level ground on which various items could be placed. This is its primary capability. Regardless, its shape, shading, or the manner in which it is supported by legs or in any case are all strategy or inventive elements and thus application of data if extraordinary and fiction.

Currently, modern plan has turned into a basic piece of shopper culture, with rival articles viewing for the customer's consideration. Accordingly, it has become basic to give satisfactory assurance to a unique modern plan. It isn't in every case simple to isolate the style of a completed item from its capacity. In any case, as indicated by the law, just the feel or plan component can be enlisted and secured. For instance, when planning furniture for send out or in any case, when one duplicates plans from an index, one should guarantee that no other person has a plan solidly in that specific plan. When

trading furniture, it is particularly critical to guarantee that the plan has not been enrolled as a patent or plan in the nation of product. If not, the exporter might become associated with superfluous case and face harm claims. In the event that, then again, ethnic furniture is being sent out and the plan is a unique plan that meets the prerequisites of the Designs Act's meaning of 'plan,' it would be advantageous to have it enlisted in the country to which the item is being traded so others don't copy it and deny the creator of that plan of the business advantages of his plan.²⁹

D. The Geographical Indications of Goods (Registration and Protection) Act, 1999

As long as there was no statutory protection for Indian geographical indications outside of the country, things not originating in the stated location in India were falsely labelled as "Indian" when they weren't. There have been some current eminent patenting cases involving the herb turmeric, the plant Neem, and the rice variety Basmati. It should be noted that other countries are not required to give reciprocal protection under the Agreement on Trade Related Aspects of Intellectual Property Rights unless a geographical indicator is protected in the country of origin. A formal legislation governing geographical indications of goods was lacking in India, making it impossible for producers to have their interests fully protected. Because of these conditions, the Parliament passed the Geographical sign of Goods (Registration and Protection) Act, 1999, which gives far reaching

²⁹ *Ibid.*

guidelines to the enrolment and insurance of geological signs. Topographical Indication Registry is under the overall control of the Controller General of Patents, Designs and Trademark.³⁰

E. Copyright Act, 1957

The Copyright Act, 1957 directs all aspects of copyright in India. In order to keep up with the times, this law has undergone numerous revisions. Copyright is approved to the writer for the rest of his or her life, as well as 60 years after the author's death, under this Act. Individual or group creativity is the source of copyright and linked intellectual property rights on traditional commodities, produces, and facilities. The term "works eligible for copyright protections" refers to any unique intellectual creations that are expressed in a form that can be reproduced. Creative works, such as fictional, creative, and melodic arrangements (sound recordings & cinematograph films), are each given their own unique level of protection under copyright rules. Regardless of the quality of the work, it is protected, even if it has little in common with recognised literary or artistic traditions. Owners of copyrighted works can use administrative and court enforcement methods to defend their rights by inspecting premises for evidence of illegally created "pirated" goods relating to those works.³¹ Obtaining court orders and suing for compensations for the loss of economic rewards and public recognition are both options open to the business owner. The computer industry receives copyright security. When the Copyright

Act of 1957 was revised in 1984, the term "literary work" was added to encompass computer programming. A new definition of "computer programme" was created in 1994, which denotes a set of instructions written in any form, such as computer internet, competent of facilitating a computer to handle the work or accomplishing a particular outcome. Pirated of copyright material, such as novels, musical compositions, movies, TV programs, and software applications and datasets, is the digital rights industry in terms greatest fear and source of conflict.³²

Copyright (Amendment) Act, 1994 added a new sec. 63B to recognise the unique character of computer programme copyright infringement. The new clause states that anyone who knowingly uses an infringing copy of a computer programme on a computer might face up to three years in prison and a fine of not less than 50,000 rupees or more. It is possible for a court to impose a punishment up to 50,000 rupees if a computer programme has not been utilised for profit or in the course of trade or business, as provided in the proviso to section 63 B of Indian Penal Code.

The Copyright (Amendment) Act, 1999 allows a buyer of a gadget or piece of equipment to resell it if that item isn't the primary subject of the Copyright Act's protections. Software that is integrated into an object, such as a computer, can be sold without authorization from the copyright holder. This change also assures that 'broadcasting,' which has grown in popularity

³⁰ *Ibid.*

³¹ *Ibid.*

³² *Ibid.*

due to the expansion of the Internet, is treated fairly.³³

The Copyright Act of 1957 was revised in 2012 to address new challenges presented by computers and the internet, as well as to keep improving reduction operations and maintenance barriers. A major reason for changing the law is that, in our knowledge-based society, it is critical to foster an entrepreneurial and innovative spirit among our citizens in order to meet the ever-increasing demands of a rapidly evolving modern environment.

F. Trade Secrets

A trade secret can be defined as any confidential commercial information that gives an organisation an advantage over its competitors. Trade secrets include both commercial and manufacturing secrets. Using such knowledge without the permission of the proprietor is considered a violation of the trade secret and an unfair practise. In contrast to patents, trade secrets do not need to be registered in order to protect them.³⁴

G. Protection of Biological Diversity

Biological Diversity Act preamble explicitly addresses traditional knowledge. Additionally, it addresses conventional knowledge challenges as part of the Biological Diversity Act of 2002's broader definition of "associated knowledge." The benefit claimants are biological resource

conservationists, as well as the developers and holders of facts and information about biological resources.³⁵

VII. JUDICIAL RESPONSES REGARDING IPR'S ISSUES

In *Bajaj Auto Ltd v. TVS Motor Company Ltd*³⁶ this patent case is based on disputes between two countries over twin spark plug engine design. When this case was brought to light, a larger issue arose: the long-awaited pendent IPR cases were just being added to the list by the minute, before really trying to clear the top cases. The Supreme Court of India also developed a rule requiring high courts to set having heard date and time for these cases within four months of registration.³⁷

In *The coca-cola company v. Bisleri International Pvt.Ltd*³⁸ this particular instance, the Hon'ble High Court of Delhi mentioned that if a challenge of infringement is made, the court will take jurisdiction. The second point noted in conjunction with the preceding one was that sales of products overseas would equate to sales inside the nation from which the products are exported. Bisleri Ltd. managed to sell off Mazza's IPR, goodwill, formulation rights, and so on for India via a terms and conditions in this case. In addition, they implemented for trademark application for Mazza so that it can be started to sell in Turkey under same name. The court

³³ Thomas, Zakir, "Overview of changes to the Indian Copyright law" *Journal of Intellectual Property Rights* 17, 224-334 (2012).

³⁴ Harshwardhan & Keshri S, "Trade secrets: a secret still to unveil," *Journal of Intellectual Property Rights*, 13, 208-17 (2008).

³⁵ Venkataraman K & Latha S S, "Intellectual

property rights, traditional knowledge and biodiversity of India", *Journal of Intellectual Property Rights*, 13, 326-335, (2008).

³⁶ 2009 (12) SC 103.

³⁷ *Ibid.*

³⁸ (2009) 164 DLT 59.

concluded that the purpose to use trademark protection, whether overt or covert, can give the high court local authorities or power relationships in the present case.³⁹

In *Bayer Corporation v. Union of India*⁴⁰ in a landmark decision, the Delhi High Court ruled that “export” of a patent holder for experiments is also protected by Sec. 107A of the Patents Act of 1970 (India's Bolar exclusion) and so does not constitute patent infringement. It thus permitted Natco to export to China Bayer's patented drug 'Sorafenib Tosylate' (for which it had been granted a compulsory licence in 2012) for the purpose of performing improvement research and experiments. Even so, the sequence was remained two months later by a Division Bench, which directed Natco to file a separate process asking approval to extract the drug for testing purposes and noted that it would be allowed to outsource only a small supply of the drug.⁴¹

In *Patel Field Marshal Agencies Ltd. v. PM Diesels Ltd. & Ors.*⁴² A leading case, the Supreme Court definitively resolved an absolutely crucial matter: as to if, upon the organisation of a suit for infringement under the Trademarks Act, the solutions for rectifying of a trademark under Sections 47 & 57 are still accessible to the petitioner, even if the appropriate litigant has decided to abandon the direct appeal of authenticity. The Supreme Court considered the contradictory judgements of the numerous High Courts and determined that

where the issue of authenticity has not been addressed by the court, the statutory provision has the authority to determine the litigant's rectifying allegation. Even so, if the court comes to a prima facie conclusion on authenticity, the only recourse is an appeal.⁴³

In *Neetu Singh v. Rajiv Saumitra*⁴⁴ The judgement shed light on the comparatively uncharted territory of Sec. 17(c) of the Copyright Act, clarifying because when copyright possession is challenged between an employees and the employer, the terms of employment must be considered. The Court went on to confirm what should be considered when determining work conditions. For example, in the case of a Director, it is any existing arrangement, or the company's Memorandum of Incorporation or Memorandum of Agreement. Based on this idea, the Court determined that, while the Plaintiff was a Director of the Defendant No. 2 company from 2012 to 2014, the Defendants had failed to demonstrate that the work of literature was written and published as part of her duties and responsibilities as a Director, and given an injunctive relief in favour of the Plaintiff.⁴⁵

In *Dashrath B. Rathod & Ors. v. Fox Star Studios India Pvt. Ltd. & Ors.*⁴⁶ in another masterful performance from Justice Patel, the learned judge slammed the practise of parties approaching the court at the eleventh hour to seek injunctions against incipient film releases. The judgement stated unequivocally that tries to

³⁹ *Ibid.*

⁴⁰ 2014 (60) PTC 277 (Bom).

⁴¹ *Ibid.*

⁴² AIR 2017 SCC 1388.

⁴³ *Ibid.*

⁴⁴ CS (COMM) 935/2016.

⁴⁵ *Ibid.*

⁴⁶ 693 of 2017 in Suit (L) No. 196 of 2017.

obtain last-minute injunctive relief at the expense of putting both the opposing party and the court industrial equipment under undue stress should not be considered acceptable, particularly when the Plaintiff in the present case failed to establish even a sufficient evidence of copyright infringement. In a double blow to the Plaintiff, who decided to seek an injunctive relief against the discharge of the Defendant's film Phillauri, Justice Patel imposed a cost of Rs. 5,00,000 lakhs on the Plaintiff, citing arrangements of the Commercial Courts Act, 2015.⁴⁷

VIII. CONCLUSION

As technology advances and new technologies are introduced to improve our lives, so are the associated downsides. The same is true for intellectual property rights. As new technology emerges on a daily basis, preserving individuals' intellectual property rights becomes increasingly complex and difficult. The internet is the government's primary source of contention. New advancements such as the photocopier, typewriter, and computer all pose a challenge to intellectual property rights. The greatest obstacle that authorities must address is a lack of understanding among residents and entrepreneurs. To protect one's or a company's intellectual property is essential. It's possible for one business to profit from another's ideas if proper safeguards are not implemented. In addition, a company's trade secrets can be protected by putting safeguards in place. In order to protect the company's secrets, a non-disclosure agreement with a non-competition clause can be

used. When a business is contractually obliged, it is possible for the contract to be breached. Using employee input and mediation, the breach can be resolved in a timely manner. Use some of these methods to keep a company's intellectual property (IP) safe.

⁴⁷ *Ibid.*