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STATUS OF PATENT LAW IN INDIA AND ITS AWARENESS IN RURAL AREAS

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ABSTRACT

Intellectual property rights (IPR) have become important in the present situation, either in context with the business environment, moreover also with the artistic work and different kinds of works. Legislation regarding such kind of activity is must in the present scenario, as whenever we talk about the intellectual property there are many kinds which are being followed and patent is considered as one of the main intellectual property. As in the research the main aim is to find about the awareness of rights which are given to the people of the country specifically INDIA. The research will provide an insight into the laws related to patent and its administration by the government body.

KEYWORDS: *Intellectual property rights, administration, Awareness*

RESEARCH AIM AND OBJECTIVE

The aim and objective is cleared in such a manner that the study is being focused on the single object to know the awareness about the patent law in INDIA. Awareness is such a big concern as we all know and when it falls under the category of legislation the value of that awareness increases automatically as while discussing the laws regarding patent in INDIA. So by the words itself you can understand what is the main aim, the main aim and objective is to figure out the awareness of patent law and its status in India, awareness in special concern with rural areas.

RESEARCH METHODOLOGY

Problem solving and quantitative research, both kinds of research methodology has been used to figure out the answer to the question. In support of that the primary method of research is also been used in a small part to figure out the 2nd phase of research as a

questionnaire which is being presented in the form of words.

INTRODUCTION

Property and intellectual property

Property is corporal property and incorporeal property or unmistakable property and elusive property. Mortal property demonstrates the material, unmistakable things claimed by the individual, associations, affiliations and so forth they are the physical items and consequently they are distinguishable by contact. While spiritual property is immaterial which, can be a topic of right. Such property does not have a physical presence and henceforth can't be seen by contact. Starting here of view, noteworthy cases, generosity, easementary rights, licensed innovation rights are considered as immaterial or ethereal property.

Intellectual property is a privilege overrunning some material question. The immaterial results of a man's

mind are as profitable as his property, building, products, cash, things and so forth it is very not the same as genuine property or a formal property. In fiction, it is a property. Thus it is called as licensed innovation. The rights identifying with the protected innovation are perceived by law as the topic of privileges of different elusive or insignificant items is human knowledge, abilities and work. In short licensed innovation is essentially a formation of keenness or identifies with mind. Protected innovation rights are lawful rights which oversee the utilization of manifestations of the human personality and work.

The nature of intellectual property is as,

- a) Intellectual property is only a property in fiction or an anecdotal property and not a genuine property however it is invading some genuine property.
- b) Intellectual property incorporates the privilege identifying with logical disclosures, modern plans, trademarks; benefit marks, abstract, imaginative and logical works and every other right coming about because of scholarly movement in the mechanical, logical, proficiency or masterful field.
- c) Intellectual property rights are lawful rights representing the utilization of manifestations of the human personality. Legitimate insurance is allowed to the proprietor or maker of the Intellectual property under various acts, for example, Patents act, Trademarks act and so on.
- d) Intellectual property can be divided mainly into four kinds or types i.e.¹
 - 1. Patent rights
 - 2. Copy rights
 - 3. Trademarks right
 - 4. Design rights
- e) Intellectual property rights are protected under related acts.
- f) The proprietor of a protected innovation can acquire wage by offering the privileges of utilizing the same. Such rights can be confined or extended to some prescribed period according to the provisions of the related acts.

PATENT

Section 2(m) of the Patent Acts, 1970 defines patent as a Patent for any invention granted under this act.²

A grant from the Government to the inventors for a limited period of time, the exclusive right to make use, exercise and vend his invention. After the expiry of the duration of patents, anybody could use the invention.

¹ Dr. GB Reddy, Intellectual Property Rights and the Law, 11th Edition 2015-2016

² Ins. by Act 15 of 2005, s. 2 (w.e.f. 1-1-2005).July 05,2018 6:19p.m

Section 2(j) “invention” means a new product or process involving an inventive step and capable of industrial application³

Reason for a getting a patent

To appreciate the restrictive directly finished the creation, the patent is to guarantee business comes back to the innovator for the time and cash spend in creating another item.

What can be patented?

In order to be patentable an invention must pass four tests:

- ❖ The invention must fall into five statutory clause:
 - Processes
 - Machines
 - Manufactures
 - Composition of matter
 - New uses of any of the above
- ❖ The invention must be useful
- ❖ The invention must be novel
- ❖ The invention must be non-obvious

Different types of patents

- An ordinary patent
- A patent of convention
- A patent of addition

A second type of classification

- Product patent
- Process patent

HISTORY OF PATENT LAW IN INDIA

- The first enactment in India identifying with licenses was the Act VI of 1856. The target of this enactment was to support innovations of new and valuable makes and to prompt designers to reveal mystery of their developments. The Act was in this manner canceled by Act IX of 1857 since it had been instituted without the endorsement of the British Crown . Crisp enactment for giving 'select benefits' was presented in 1 859 as Act XV of 1859. This enactment contained certain adjustments of the prior enactment, to be specific, allow of elite benefits to helpful innovations just and expansion of need period from a half year to a year. This Act rejected shippers from the meaning of innovator. This Act depended on the United Kingdom Act of 1852 with specific takeoffs which incorporate enabling chosen ones to make application in India and furthermore taking earlier open utilize or distribution in India or United Kingdom to ascertain curiosity.
- In 1872, the Act of 1859 was solidified to give insurance identifying with plans. It was

³ Subs. by s. 3 Ins. by Act 15 of 2005, s. 2 (w.e.f. 1-1-2005)).July 05,2018 6:21p.m

renamed as "The Patterns and Designs Protection Act" under Act XIII of 1872. The Act of 1872 was additionally altered in 1883 (XVI of 1883) to acquaint an arrangement with ensure curiosity of the innovation, which preceding making application for their insurance were revealed in the Exhibition of India. An elegance time of a half year was accommodated documenting such applications after the date of the opening of such Exhibition.

- This Act stayed in constrain for around 30 years with no change yet in the year 1883, certain adjustments in the patent law were made in United Kingdom and it was viewed as that those alterations ought to likewise be joined in the Indian law. In 1888, an Act was acquainted with unite and correct the law identifying with innovation and plans in congruity with the alterations made in the U.K. law.
- The Indian Patents and Designs Act, 1911, (Act II of 1911) supplanted all the past Acts. This Act brought patent organization under the administration of Controller of Patents out of the blue. This Act was additionally altered in 1920 to go into corresponding courses of action with UK and different nations for anchoring need. In 1930, advance alterations were made to fuse, between alia, arrangements identifying with concede of mystery licenses, patent of expansion, utilization of creation by Government, forces of the Controller to redress enroll of patent and increment of term of the patent from 14 years to 16 years. In 1945, an alteration was made to accommodate documenting of temporary particular and accommodation of finish detail inside nine months.
- After Independence, it was felt that the Indian Patents and Designs Act, 1911 was not satisfying its goal. It was discovered attractive to sanction far reaching patent law inferable from generous changes in political and monetary conditions in the nation. As needs be, the Government of India constituted a board of trustees under the Chairmanship of Justice (Dr.) Bakshi Tek Chand, a resigned Judge of Lahore High Court, in 1949 to survey the patent law in India with a specific end goal to guarantee that the patent framework is helpful for the national intrigue. The terms of reference included⁴ —

- To review and give an account of the working of the patent framework in India;
 - To inspect the current patent enactment in India and to make proposals for enhancing it, especially with reference to the arrangements worried about the avoidance of mishandle of patent rights;
 - To consider whether any extraordinary limitations ought to be forced on patent in regards to nourishment and medication;
 - To propose ventures for guaranteeing powerful reputation to the patent framework and to patent writing, especially as respects licenses got by Indian designers;
 - To consider the need and plausibility of setting up a National Patents Trust;
 - To think about the attractive quality or generally of controlling the calling of patent specialists
 - To look at the working of the Patent Office and the administrations rendered by it to the general population and make reasonable proposals for development; and
 - To report for the most part on any change that the Committee thinks fit to suggest for empowering the Indian Patent System to be more helpful for national enthusiasm by empowering innovation and the business advancement and utilization of developments.
- The board of trustees presented its break give an account of fourth August, 1949 with proposals for counteractive action of abuse or mishandle of patent right in India and recommended corrections to areas 22, 23 and 23A of the Patents and Designs Act, 1911 on the lines of the United Kingdom Acts 1919 and 1949. The panel additionally watched that the Patents Act ought to contain clear sign to guarantee that nourishment and solution and careful and therapeutic gadgets are made accessible to the general population at the least expensive cost equivalent with giving sensible remuneration to the patentee..
 - Based on the above proposal of the Committee, the 1911 Act was revised in 1950(Act XXXII of 1950) in connection to working of developments and obligatory permit/disavowal. Different arrangements were identified with support of the patent with the words 'permit of appropriate' on an application by the Government so the Controller could give licenses. In 1952 (Act LXX of 1952) a change was made to give

⁴ Dr. GB Reddy, Intellectual Property Rights and the Law, 11th Edition 2015-2016

mandatory permit in connection to licenses in regard of sustenance and meds, bug spray, antiseptic or fungicide and a procedure for creating substance or any development identifying with careful or healing gadgets. The obligatory permit was additionally accessible on warning by the Central Government. In light of the suggestions of the Committee, a bill was presented in the Parliament in 1953 (Bill No.59 of 1953). In any case, the Government did not press for the thought of the bill and it was permitted to slip by.

- In 1957, the Government of India selected Justice N. Rajagopala Ayyangar Committee to look at the subject of modification of the Patent Law and prompt government in like manner. The report of the Committee, which contained two sections, was submitted in September, 1959. The initial segment managed general parts of the Patent Law and the second part gave itemized note on the few statements of the passed bills 1953. The initial segment likewise managed shades of malice of the patent framework and arrangement with proposals concerning the law.

The board of trustees suggested maintenance of the Patent System, in spite of its inadequacies. This report suggested real changes in the law which framed the premise of the presentation of the Patents Bill, 1965. This bill was presented in the Lok Sabha on 21st September, 1965, which anyway slipped by. In 1967, again a corrected bill was acquainted which was alluded with a Joint Parliamentary Committee and on the last suggestion of the Committee, the Patents Act, 1970 was passed. This Act revoked and supplanted the 1911 Act so far as the licenses law was concerned. In any case, the 1911 Act kept on being pertinent to plans. The greater part of the arrangements of the 1970 Act were brought into compel on 20th April 1972 with production of the Patent Rules, 1972.

- This Act stayed in compel for around 24 years with no change till December 1994. A law affecting certain adjustments in the Act was issued on 31st December 1994, which stopped to work following a half year. Consequently, another mandate was issued in 1999. This law was thusly supplanted by the Patents (Amendment) Act, 1999 that was brought into drive reflectively from 1st January, 1995. The changed Act given to documenting of uses for item licenses in the zones of medications, pharmaceuticals and agro synthetic compounds however such licenses were not permitted. Be that as it may, such applications were to be inspected simply after 31-12-2004. In the interim, the candidates could be permitted Exclusive Marketing Rights (EMR) to offer or circulate these items in India, subject to satisfaction of specific conditions.⁵
- The second change to the 1970 Act was made through the Patents (Amendment) Act, 2002 (Act 38 Of 2002). This Act came into drive on 20th May 2003 with the presentation of the new Patent Rules, 2003 by supplanting the prior Patents Rules, 1972
- The third change to the Patents Act 1970 was presented through the Patents (Amendment) Ordinance, 2004 w.e.f. 1st January, 2005. This Ordinance was later supplanted by the Patents (Amendment) Act 2005 (Act 15 Of 2005) on 4th April, 2005 which was brought into drive from 1-1-2005

⁵ <http://www.mondaq.com>

AWARENESS

Table 1. Statistics of Different Types of IPs Granted in India⁶

Year	IPs Granted/Registered			
	Patents	Designs	Trademarks	GIs
1992-1993	1272	747	5364	
1993-1994	1746	1203	5290	
1994-1995	1759	1430	6209	
1995-1996	1533	1851	5310	
1996-1997	907	1765	4686	
1997-1998	1844	1879	4120	
1998-1999	1800	2219	5300	
1999-2000	1881	1382	8010	
2000-2001	1318	2430	14202	
2001-2002	1591	2426	6204	
2002-2003	1379	2364	11190	
2003-2004	2469	2547	39762	
2004-2005	1911	3728	45015	3
2005-2006	4320	4175	184325	24
2006-2007	7539	4250	109361	3
2007-2008	15316	4928	100857	31
2008-2009	16061	4772	102257	45
2009-2010	6168	6025	67490	14
2010-2011	7509	9206	115472	29

⁶ http://ipindia.gov.in/cgpdtm/ar_2001_02.pdf

http://ipindia.gov.in/cgpdtm/AnnualReport_English_2008_2009.pdf

http://ipindia.gov.in/cgpdtm/AnnualReport_English_2009_2010.pdf

Awareness programs

Awareness programs on IPRs are directed all the time by the Government at the national level to make mindfulness on IPRs, including patents

These programmes are conducted by various departments of the Government of India in collaboration with industry associations, universities and various other organizations.

Also, Rajiv Gandhi National Institute of Intellectual Property Management (RGNIIPM), Nagpur conducts various such programmes. In the year 2015-

16, it conducted a total of 53 training and awareness programmes in IPRs. This included 20 Awareness programmes for various stakeholders and 33 training programmes on IPRs for 1 to 5 days duration.

After appropriation of the National IPR Policy on 12.5.2016, the Government, in relationship with different industry affiliations, sorted out 19 mindfulness programs on IPRs, including licenses, crosswise over different states in the long periods of June-July, 2016, for which an arrangement of Rs. 6.6 lakhs has been made.

The details of these 19 programmes are as follows:-⁷

Sl. No.	Date	Location
1.	5 th June, 2016	Patna, Bihar
2.	16 th June, 2016	Jaipur, Rajasthan
3.	17 th June, 2016	Guwahati, Assam
4.	18 th June, 2016	Hyderabad, Telengana
5.	20 th June, 2016	Visakhapatnam, Andhra Pradesh
6.	21 st June, 2016	Imphal, Manipur
7.	22 nd June, 2016	Puducherry
8.	24 th June, 2016	Amritsar, Punjab
9.	25 th June, 2016	Bhubaneswar, Odisha
10.	28 th June, 2016	Srinagar, Jammu & Kashmir
11.	28 th June, 2016	Ludhiana, Punjab
12.	29 th June, 2016	Kochi, Kerala
13.	1 st July, 2016	Panaji, Goa
14.	2 nd July, 2016	Tiruchirappalli, Tamil Nadu
15.	5 th July, 2016	Surat, Gujarat
16.	6 th July, 2016	Haridwar, Uttarakhand
17.	7 th July, 2016	Indore, Madhya Pradesh
18.	8 th July, 2016	Lucknow, Uttar Pradesh
19.	9 th July, 2016	Mangalore, Karnataka

⁷ http://dipp.gov.in/English/Schemes/Intellectual_Property_Rights/IPR_brief_27July2012.pdf

SUGGESTION

The schemes which is been promoted and the programmes which is been performed in the metro cities only must also visit the rural areas as the individuals in such areas are not been even aware about such terms. As the research in his conversation with an individual in the district Shivpuri (M.p.) talks about the term patent, the reply is (what's that..?). the government should also remember the human being is the source of invention either he resides in rural or urban areas doesn't matter. The government must focused on the education regarding the knowledge of such thing in rural areas also.

CONCLUSION

Yes, Government of India is exercising programmes in the different areas but as seen with the reports presented by the government officials only it has been seen as they only visit the places which is been categorized as a big cities where majority of the area is being covered is urban. While talking about the rural areas the individual residing in such areas are even unaware about the term called patent. So what's the use of such legislature in the country when an individual is unaware about the term. It's the duty of the state to educate the individuals regarding the laws which are being provided to them in the form of rights.

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