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RESEARCH ARTICLE

RETROSPECTIVE AND PROSPECTIVE VIEW- TOWARDS THE STRATEGIC MANAGEMENT OF INTELLECTUAL PROPERTY WITH SPECIAL REFERENCE TO INDIA.

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Abstract

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Introduction:-

Intellectual Property (IP) are the creations of the human minds for which elite rights are recognized , granted certain exclusive rights to Innovators, artistes and business for a wide range of intangible assets for a specified period of time. Every country assigns IPR to its citizens with a particular time frame. It is a right for their creative and innovative work. These rights include Industrial Property Rights (e.g. Industrial designs trademarks and patents) and Copyright (right of the creator or /and author) and other related Rights (rights of the producers, performers and broadcasting organisations). In today's globalised scenario of expanding multilateral trade and commerce, it has become inevitable for any country to protect its intellectual property by providing statutory rights to the creators and inventors and thus help them fetch adequate commercial value for their efforts in the world market. Our country has also developed a national framework for creation and protection of IPRs, which is constantly developing and is pacing for matching with global standards. International commerce and trade is combination of diverse assortment of products in which ideas and knowledge plays a very important role. These products may be high-technology goods such as medicines and computer processors, movies, music albums variety of books as well as low-technology goods which are associated with a newer inventions and designs, such as branded apparels, bags, and even the new varieties of vegetation.

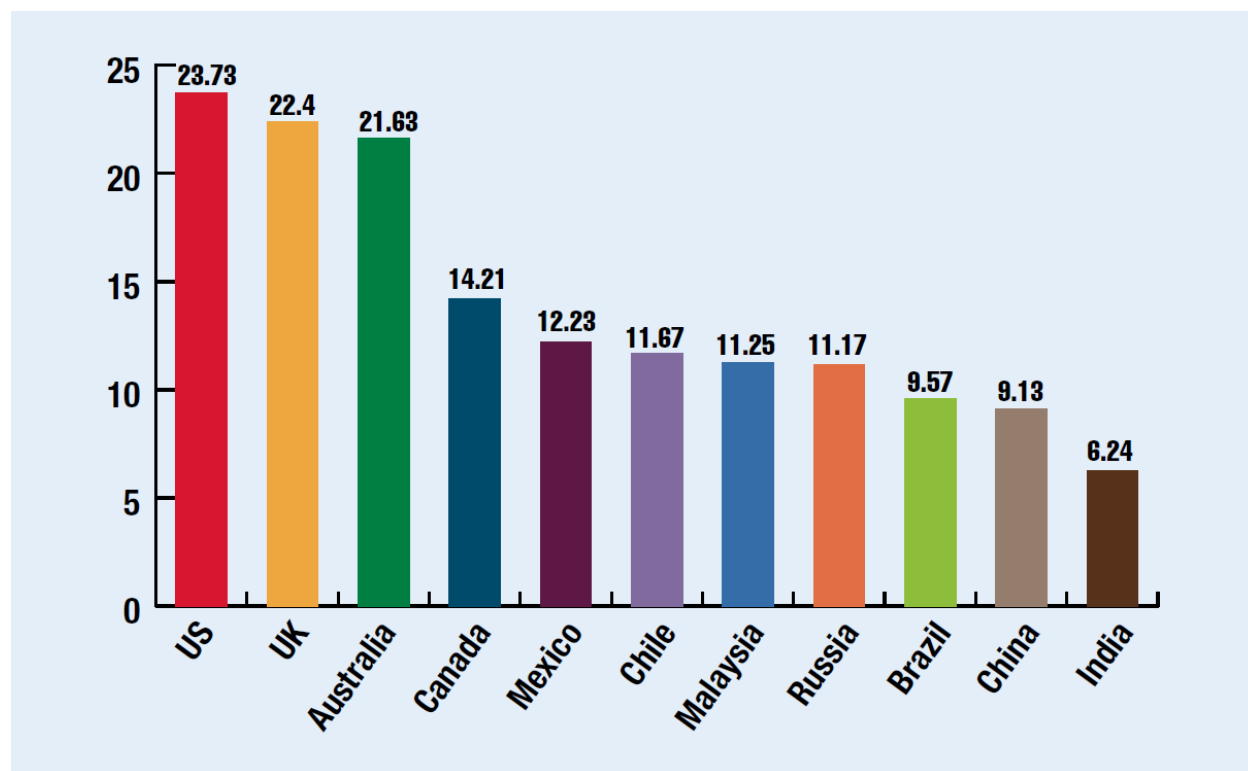
Intellectual property rights (IPR) are very important for innovation. The level to which Any country protect IP determines how well it is performing in the global economic Environment.

Innovation and creativity:-

Innovation as well as creativity is multi dimensional process. There are various factors which forms the part of it as well as affect it differently. IP is also one such factor. But strong IP alone cannot fabricate innovation. At the same time it is also true that, the most innovative economies of the world are those who have stronger IP protection. Thus we can say that the countries with weak IP protection are less innovative and less competitive in the global scenario.

On the other hand , there are certain laws which grants exclusive rights to innovators to encourage the process of production of creative works ,and to benefit the society as a whole. These exclusive rights are balanced by a range

of limitations and exceptions that permit individuals to have authorization on its use. These protective rights have been a vital contributor to many developed economies of the world. The innovation and creativity always helps in fostering the production and dissemination of the valuable expression that has various countries at the vanguard of the global creative marketplace.



Graph 2.1:- (a) IP index for 11 countries. Source-www.globeipcenter.com

Destination India-an emerging, strong and growing economy:-

Today, India stands on a promising position when the emerging economies are concerned. Liberalization has played a very important role to establish India as an emerging market. It has helped to boost the country's economy. There are a variety of factors which add towards making India shine out of the crowd and secure the 2nd rank out of 28 countries (According to UNICEF's recent report.). The main factors causative for the consistent progress are liberalization, competitive market, high standard of living, growing per capita income, development of medical facility, Infrastructure, increase in foreign investment (just a few to name) All these factors are responsible for the contribution together towards towering score of GDP. Government of India is also constantly taking various positive steps which are aimed to increase the growth rate. India ranks on 4th position in global economic system when purchasing power parity is concerned.

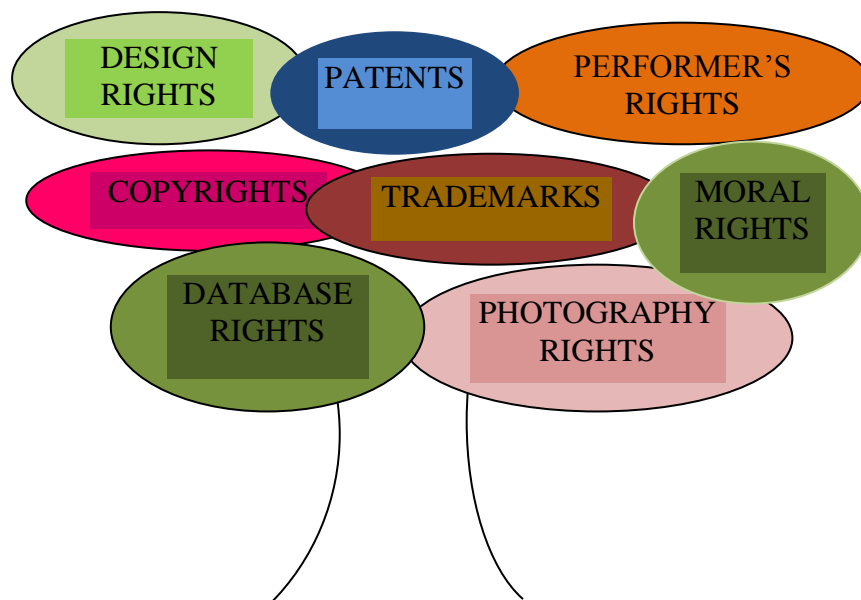


Figure 3.1:- (a)The IPR Tree. (Designed by the Researchers)

There have been significant growths in various sectors like Industrial, farming & services sector of the country. Wide-ranging innovations and creative ideas and their implementation is one another reason for the growth. The economic scenario of the country is very buoyant and promises a bright future. Innovations and IPR can be one of the main features of this bullishness in Indian economy.

According to (van Wendel de Joode, de Bruijn & van Eten, 2002), “The protection will vary depending on the type of investments and the usage and constraints. Today Investments are traditionally protected by copyrights, trade secrets and patents (while trademarks are only used to protect a word, name, symbol or most commonly a brand-name)”.

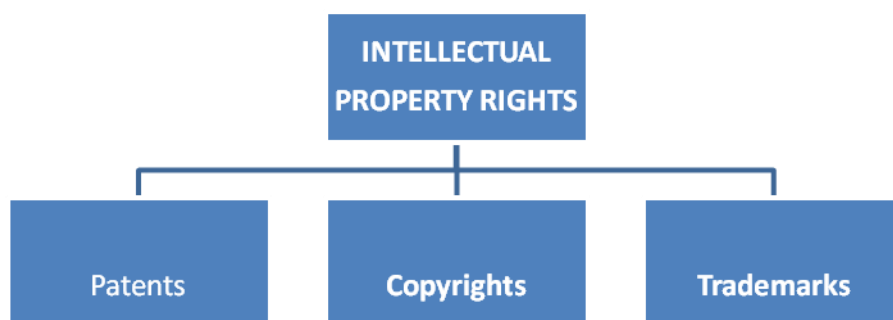


Figure 3.1:- (b) .Three main components of IPR (Designed by the Researchers)

“**Trade secrets** are used to protect valuable information in a program, but since programming languages and operating systems became more standardized in the 1980s, an increased possibility to understand the source code of a program became evident and trade secrets could no longer be used alone to protect the source code, therefore companies turned to copyright”.

“**Copyright** is meant to protect direct copying, but the copying of the idea or concept is still allowed. Said from a more legal point of view, copyright is an agreement between an author and a user which specify the acts which the user can or cannot do with the author’s work.”

“**Patents** are similar to copyright; it does not protect the fundamental idea, but the new technical relevance of an idea. Furthermore, a patent gives the creator of the product or process, a monopoly right which can last for 20 years. The right to exclude has made patents very effective”.

Methodology adopted:-The Present study is qualitative in nature. The grounded theory approach with ethnographic research technique is implemented to explain the importance s strategic management of intellectual property rights. Through this research study the researcher want to provide an insight into the subject and seeks to go a step further and thus provide a new approach for innovation and IPR as well as for the environment as a whole. This study investigates the major IP needs of creative & knowledge focused sectors in Indian economy. It tries to analyze the level of IPR across India. It also tries to reflect on the need for regular upgradation of IPR and thus provides a sophisticated and detailed study.

Understanding the concept: - IP-IPR– INNOVATION:-

IPRs are like any other property rights; they allow the creator, or owner of a patent, trademark, or copyright to benefit from his or her own work or investment. Broadly speaking, intellectual property is the legal rights associated with creative effort in a certain industry and includes computer programs, films, designs, inventions, artistic and literal works etc. (Bainbridge, 2009, p. 3).

Innovations and technological developments have been recognized for their central importance for economic success and growth at least since the 1930s. Intellectual property (IP) and intellectual property rights (IPRs), such as patents, trade secret rights, and copyrights, have during more recent decades caught increasing attention, and, mainly due to various developments at macro level, IP has become an important source of competitive advantage at micro level in many industries. This has led to an increased importance of strategic IP management, and the related research field has been growing since the late 1990s. Apart from the growing importance of IP management in general, an increased focus on open and collaborative approaches for creating innovations has led to a need for new and adapted IP management skills.

In connection to the first purpose the results show that, while many small firms have problems with properly benefitting from the patent system, large firms have increasingly developed their IP strategies, especially their patent strategies. The purpose is then not only to appropriate monopolistic returns from innovations but also to govern various forms of open innovation. Large firms were found to in a first step increase their patenting (in terms of quantity), and in a second step focus more on selective, quality-oriented, and internationalized patenting. Additional results show that the internationalization leads to a convergence in managerial choices of output markets for patenting worldwide, in parallel with market and technology diversification. Further, a case from mobile telecommunications illustrates the role of IP management in the governance of open innovation systems. Finally, two cases from the automotive industry illustrate the IP-related problems that arise in connection to divestments and other types of disintegrations (‘IP disassembly problems’), and how IP management can mitigate them.

This leads to the second purpose, related to the development of models, tools, and frameworks for IP management in relation to open innovation. First, the study provides a conceptual framework of innovation openness, especially pinpointing the role of IPRs. This framework emphasizes three key dimensions of innovation openness: resource distribution, technology governance, and technology accessibility. Second, a framework for managing the IP disassembly problem is presented, enabling increased exit opportunities and decreased transaction costs. Third, a method for determining fair, reasonable, and non-discriminatory royalties in licensing collaborations is developed, applicable to multilateral licensing deals.

It stands clear that contemporary IP management is not (and has never been) only about maximizing excludability. Strategic IP management must therefore be developed and integrated with technology and corporate management in order to foster success at the micro level of firms, and thereby also at macro level. Developments in IP management skills (e.g., sourcing, control, commercialization, licensing, valuation, pricing) and IP contracts will then most likely lead to increased efficiency of inter organizational technological relationships and quasi-integrated organizational forms, and thereby also to increased innovativeness and economic development.

The four “i”:- IP –IPR-- INDIA –INNOVATION:-

IPR is considered to encourage the innovative practices. The profligate progress in various fields of commerce, science and technology have a reflective impact on our lives in almost every field of activity, such as health, agriculture, communication, transportation, medicine, and defense. These innovative practices have been motivated by an ever-growing volume of exciting discoveries. And then transforming these innovations into practice by developing new products and services. Make in India project initiated by our honorable PM is best example of it.

Many times the IP is considered as different from IPR. Under such state of affairs IP conveys the meaning referring the product of the intellect and the term IPR stands for a legal right covering IP. OECD modeling suggests that, on average, for every one per cent increase in the strength of its IP protection, any country may expect a 2.5 per cent increase in its FDI inflows. India is working tough on policies to provide the protection to various innovations, which has helped the country to compete with the developed and developing countries. There are various fronts on which the policies and decisions against the protection of IP rights in India are not inconsistent with the public at large and this raises the question on India's commitment towards promoting innovation and enduring its path toward creating a comprehension-based economy. India provides 20 years of protection for patent in its basic frame work in the year 2000. In 2007 ex-officio powers were introduced for deputy assistant commissioners of customs. The Indian government is preparing and formulating the rules and regulations which are meant to strengthen its intellectual property laws as well as it will help promoting greater intellectual property protections through court decisions in order to further innovation both in India and around the globe.

India has recognized the need of IPR and working tediously towards its drafting. The principal draft of IPR is developed by “THINK TANK” of experts who have framed and drafted the rights taking into consideration the local needs. The committee consisted of members from various walks of lives, such as judges, lawyers, academicians. It is a futurist policy which at the same time touches the practical aspects of the area under discussion, and thus trying to strick the correct chord between knowledge for creation and innovation. IP policy of India is meant to give an background to the system of the country which will help in accelerating the socio economic growth and development. It recognizes that India is a land of varied cultures where immense creativity and innovative ideas exists. The policies are framed to nurture the IP as well as to recognize and to address various aspects which influence the same.

The Government of India has been taking number of initiative actions to regularize the intellectual property management in the country due to its strategic importance. In the Ministry of Commerce and Industry, the office of the 'Controller General of Patents, Designs and Trade Marks (CGPDTM)' has been set up under the Department of Industrial Policy and Promotion. This department is responsible for administrating various matters involving the issues of patents, designs, trademarks, copyrights. It also directs as well as supervises the functioning of :-

- ❖ The Patent Office (including Designs Wing)
- ❖ The Patent Information System (PIS)
- ❖ The Trade Marks Registry (TMR), and
- ❖ The Geographical Indications Registry (GIR)
- ❖ Apart from these ,below are the de
- ❖ Copyright Office' (The Department of Education of the Ministry of Human Resource Development)
- ❖ Layout design of integrated circuits (The Department of Information Technology' in the Ministry of Information Technology is the nodal organisation)
- ❖ Protection of Plant Varieties and Farmers' Rights Authority (Ministry of Agriculture)

Main highlights of ipr policy:-

- Funding for research, collaborations
- Organization of IPR days to encourage the IP creation
- Courses on development to be undertaken
- Encouragement to innovative projects at National research Labs and Universities
- Establishment of IP facilitation centers
- Establishing Industry –academia interface
- Providing the guidance to know-how of copy rights , patents to common person
- Introducing first time patent fees waiver

- Provide tax incentive and create a system for protection of traditional know-how
- Improvement and redrafting of various laws connected with commercialization of IP
- Proposals for specialized patent benches in regional high courts for speedy disposal of cases.
- Insists that all existing IP laws should be in consistent with WTO agreement on TRADE related aspects of intellectual property rights.

Suggestions:-

- Renovate the system so as to match the global standards.
- Its functioning will improve by adopting more transparent methods
- The system should ensure security.
- System should help the country as well as other countries that are concerned and interested in investing in our country.
- Enforcement & Implementation of IPR must be well designed and IP rules should be stringently followed.
- The standards should be well maintained and its very critical component of vigorous IP system.

Implications of study:-

- ❖ Strategic management in Intellectual property opens innovation requires Long-term strategic orientation which needs the ethnographically grounded approach.
- ❖ World Trade Organization provides an opportunistic platform for India too , so that we can establish and enrich our new discoveries , events etc of the various sectors. TRIPS when propounded and released under WTO , has given special preference to the innovators, inventors , Creators etc from all over the world ,with reference to their work to be applauded , appraised and can beware from imitations & Pirated Work.
- ❖ Appropriation of competence, setting up the standards and experience across functional and managerial decision in all the regions of the country is very important which is actually available through IPR.
- ❖ The implementation of Intellectual Property Rights represents a step in the opposite direction have achieved self-sufficiency in knowledge intensive sectors by allowing for a loosely defined intellectual property rights (IPR) regime and its impact on the production and innovative capacity of developing countries in knowledge intensive sectors is not very much clear.
- ❖ Taking India as representative of a technologically advanced developing country, increased research and development spending by firms in India documented in the preceding sections could be directed towards minor upgrades technology & Innovation in every field.

Concluding note:-

Knowledge is non exhaustible and it is impossible to prevent anyone from applying it. Innovation is outcome of knowledge and creativity. It is foundation for evolution and progress in each and every sphere of human accomplishments. Many economies around the world regardless the styles of system adopted by them have difficulties to encourage a proper flow of innovations. It is difficult to have a tailor made policies and plans relating to IP, because sometimes they bring restrictions with them and create a hindrance for the creators and innovators .Sometimes its other way round.IPR are there to protect IP. Stronger IPR definitely protect the innovators .It encourages innovations by issuing the inventors a temporary right or monopoly power over his/her innovations.IPR helps the competitors to give the best to the society. Necessity and curiosity induces innovative ideas, but these innovations and creations need cooperation from the authority so that it becomes more rewarding and satisfying for the society as such.

“THE BEST INITIATIVE AND PASSION IS TO CHANGE LIVES, GREAT INTELLECTUAL PROPERTY IS CHANGING LIVES ALL OVER THE WORLD.”

Anyale Sam Chiyson.

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