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RESEARCH ARTICLE

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INTELLECTUAL PROPERTY RIGHTS RELATED TO PATENT LAWS

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Manuscript Info

Abstract

Technology and knowledge have played a crucial role in the economic growth of world developed economies as well as emerging ones. Intellectual Property despite being clearly identified in most countries has not yet been recognized as an economic asset for most of the developing countries. Intellectual Property Rights protection has the ability to encourage innovation and the formation of a well-functioning market system in developing countries, which leads to economic growth. Patent trolls are organizations that own patents but do not make or use the patented technology directly, instead using their patent portfolios to target firms with patent-infringement claims. This paper provides evidence that state anti-troll laws have had a net positive effect for small firms in high-tech industries. There is no significant effect for larger or non-high-tech firms. In this paper an attempt is made to analyze how frivolous patent-infringement claims made by “patent trolls” affect small firms’ ability to create jobs, raise capital, and survive. Our identification strategy exploits the staggered passage of anti-patent-troll laws at the state level. It is found that the passage of this legislation leads to a 2% increase in employment at small firms in high-tech industries, which are a frequent target of patent trolls. By contrast, the laws have no significant impact on employment at larger or non-high-tech firms. Anti-troll legislation is also associated with fewer business bankruptcies. Financing appears to be a key channel driving our findings: in states with an already established presence, the passage of anti-troll laws leads to a 19% increase in the number of firms receiving funding. The findings suggest that measures aimed at curbing the litigation threat posed by patent trolls may play an important role in reducing both the real and financing frictions faced by small businesses. It also found that, small business owners identified taxes, government regulations and requirements, quality of labor, and poor sales as the top four problems they face today. Many small business owners just decide to do their own taxes by default, to try to save money.

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..... **Introduction:-**

Intellectual property refers to the protection of innovations of mind. Through a legal framework, owners of such property receive specific rights, which may be used for recognition or financial gain. The mechanisms by which intellectual property is protected which includes copyrights, patents, trademarks, industrial designs, and geographic indications. IPR protection has the ability to encourage innovation and the formation of a well functioning market system in developing countries which leads to economic growth. Protection of intellectual property is playing a very important role in India. In the past two or three decades, a number of changes have been taken place in IP policy and regulation in India to increase the protection of intellectual property i.e. patent, trademark, copyright, design and geographical indication. India signed the TRIPS agreement in the year 1994 which came into effect from 1st January, 1995. In India, pharmaceutical patents were not granted prior to 1995, which changed after the TRIPS agreement came into effect and brought the amendment of 1995 in the Patent Act, 1970. Section-5 of the Patent Act, 1970 which stated that patent is granted only for methods or processes and not for products was repealed after the amendment of 2005 and hence, today, patent is not only granted for methods or processes but also for pharmaceutical products which had a very huge impact on the growth of the economy. A patent is one of the most effective of the intellectual properties for achieving economic development. The number of Indian patent applications has increased in recent days as compared to previous years and as a result, it leads to the growth in economy. At present the well-established multinational companies in India has clearly proven the effect of intellectual property for the growth of economy in the world.

India's Patent Policy In Pre-Trips:

India has a long history of patent policy which was framed after enormous study. India's approaches to various patents which differ from industrialized countries and sees the patents as a tool of public policy. India's policy is being challenged by the demand to reform IPR laws to conform to TRIPs. India viewed patents as a tool for economic development and restricted the scope and term of patents. The sentiment in India on the issue of patents, especially on pharmaceuticals, is illustrated by an oft-quoted statement made by Indira Gandhi at the World Health Assembly in 1982: "The idea of a better-ordered world is one in which medical discoveries will be free of patents and there will be no profiteering from life and death". The philosophy of India's Patents Act of 1970 varies enormously from the framework being established under TRIPs. There are several knowledge and information areas which considers non-patentable in India. India has a large community of scientists and researchers among whom publication rather than gaining patents has been a concern. G.V. Ramakrishna, Chairman of the Disinvestment Commission points out that in India, "We (Indians) are accustomed to the notion that knowledge is free. Our whole orientation has to change from one that stresses intellectual attainment to one that protects intellectual property." Industrialized nations conceive of patents as a fundamental right comparable to the right of physical property, whereas developing nations view it as "fundamentally as an economic policy question." From the perspective of developed countries, intellectual property is a private right that should be protected as any other tangible property, but for developing nations, intellectual property is a public good that should be used to promote economic development. India has always believed in the Principle of Dharma and wanted that this Principle be envisaged in the Laws that it enacts. On this basis Patents Law was legislated so that the fruits of innovation be reached to the least person and no person is deprived of it as India was against the commercialization of one's own intellect.

Impact of Patent on Economic Growth of India:

The Patent system in India indirectly affects the economic growth of India. Now that India has proper laws in place for the protection of intellectual property and their implementation is good enough to place trust on the same, a number of multinational companies have started their research and development process in India which has indirectly increased the economic growth of the country with the increase in payment of taxes and providing employment to the people of India. Ranbaxy is a multinational company founded in 1961 wherein 1,700 people were employed in 2005 and in the year 2012, the number of employees increased to 10,983. It is observed that the high rise in the number of employees indirectly increases the economic development of India. Dr. Reddy is another Indian multinational company founded in 1984 and 7,525 people were employed in 2006 and in the year of 2018, the number of employees increased to 23,524 as it can be clearly seen that more than 200% growth in the number of employees in a company was made possible in 12 years which resulted in increase in the economic growth of the country. The total revenue generated by intellectual property offices of India was Rs. 608.31 crore in the year 2016-17 while total expenditure was only Rs. 129.8 crore. Total revenue generated by patent office was Rs. 410.03 crore

and the remaining were generated by other intellectual property like Trademark, Geographical Indication, Design and Copyright.

Pharmaceutical companies of India are the third largest in the world owing to the production of generic drugs at very cheap rates and exporting these drug to many countries like Africa, Latin America and other Asian countries because the cost of production in India is very low as compared to USA and Europe. According to the report of WIPO (World Intellectual Property Organization) pharmaceutical patent application is the second largest subject matter in India and this was jumped after the year 2005 when India enacted the law that allowed product patents. Pharmaceutical industry of India has grown from 6 billion US Dollar in 2005 to 30 billion US dollar in 2015 and it is expected to go up to 55 billion US Dollar by 2020.

Indian Patent Law was amended in compliance with the TRIPS agreement after India became a signatory to the TRIPS agreement. As a result, many Multinational Companies started investing in India. MNCs also started their Research & Development process in India which has indirectly increased the economic growth of India and has provided employment to the people of India. At present India needs to invite more Multinational Companies for investing and starting their Research & Development process in India. This way, the economy of India will increase. Pharmaceutical Industry of India has grown from 6 billion US Dollar to 30 billion US dollar over last ten years, this is because many Pharmaceutical Multinational Companies have invested and started their research and development process in India after the year 2005.

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