

## GENERAL BRIEF ON INTELLECTUAL PROPERTY RIGHTS

### Background

- The term Intellectual Property (IP) reflects the idea that its subject matter is the product of the mind or the intellect. These could be in the form of Patents; Trademarks; Geographical Indications; Industrial Designs; Layout-Designs (Topographies) of Integrated Circuits; Plant Variety Protection and Copyright.
- IP, protected through law, like any other form of property can be a matter of trade, that is, it can be owned, bequeathed, sold or bought. The major features that distinguish it from other forms are their intangibility and non-exhaustion by consumption.
- IP is the foundation of knowledge-based economy. It pervades all sectors of economy and is increasingly becoming important for ensuring competitiveness of the enterprises.

### Department of Industrial Policy and Promotion (DIPP) and Intellectual Property Rights (IPRs)

- The Department of Industrial Policy & Promotion is concerned with legislations relating to Patents, Trade Marks, Designs and Geographical Indications. These are administered through the Office of the Controller General of Patents, Designs and Trade Marks (CGPDTM), a subordinate office, with headquarters at Mumbai as under:
  - a) The Patents Act, 1970 (amended in 1999, 2002 and 2005) through the Patent Offices at Kolkata (HQ), Mumbai, Chennai and Delhi.
  - b) The Designs Act, 2000 through the Patent Offices at Kolkata (HQ), Mumbai, Chennai and Delhi.
  - c) The Trade Marks Act, 1999 (amended in 2010) through the Trade Marks Registry at Mumbai (HQ) Chennai, Delhi, Kolkata and Ahmedabad.
  - d) The Geographical Indications of Goods (Registration & Protection) Act, 1999 through the Geographical Indications Registry at Chennai.

### Intellectual Property Appellate Board (IPAB)

- An Intellectual Property Appellate Board (IPAB) has been set up at Chennai to hear appeals against the decisions of Registrar of Trademarks, Geographical Indications and the Controller of Patents.

## Other IP Legislations

- Copyright is protected through Copyright Act, 1957, as amended in 2012 - administered by the Department of Higher Education.
- Layout of transistors and other circuitry elements is protected through the Semi-conductor Integrated Circuits Layout-Design Act, 2000 - administered by the Department of Information Technology.
- New varieties of plants are protected through the Protection of Plant Varieties and Farmers' Rights Act, 2001 - administered by the Department of Agriculture and Cooperation.
- The Department has taken multi pronged strategy to develop an Intellectual Property regime in the country to promote creativity and to develop the culture of respect for innovations and creativity. These are :
  - o Meeting international obligations
  - o Safeguarding national interests
  - o Modernize administration
  - o Creating awareness

➤ The salient achievements in the recent past are as follows:-

1. All the legislations related to patents, designs, trademarks and geographical indications have been amended/enacted. These comply with India's international obligations under the Agreement on Trade Related Intellectual Property Rights (TRIPS).

### 2. Trade Mark (Amendment) Act, 2010:-

The Trade Mark (Amendment) Bill was passed by the Parliament and assented to by the President on 21.9.2010. Consequently, the provisions of the amended Trade Mark (Amendment) Act, 2010 were brought into force with effect from 8th July 2013. The necessary amendments in the Trade Marks Rules 2002 have also been made. The amended act and rules enabled India to accede to the Madrid Protocol which is a simple, facilitative and cost effective system for registration of international trade marks. India's membership of the protocol will enable Indian companies to register their trade marks in Member Countries of the Protocol through filing a single application in one language and by paying one time fee in one currency. India has acceded to the Protocol on 8th April 2013. The Madrid Protocol has come into force in India since 8th July, 2013.

- Till 30<sup>th</sup> September 2014, 7024 international applications from the WIPO seeking protection of trademarks in India have been forwarded by WIPO to the Indian Trademark Office for further processing. On the other hand, Indian Trade Marks office received 167 applications for international registration of trademarks under the Madrid Protocol, out of which 152 applications have been certified and forwarded to the WIPO.

### 3. **Operationalization of the International Search Authority and the International Preliminary Examining Authority.**

- India operationalized the International Search Authority/International Preliminary Examining Authority (ISA/IPEA) status on the 15<sup>th</sup> October, 2013. As on 30<sup>th</sup> September, 2014, the Indian Patent Office has received 336 international applications choosing India as ISA, requesting for international search reports.

### 4. **IPR Awareness Programmes:-**

- Awareness creation is one of the major planks of the modernization scheme of IP system, as this will educate the stakeholders about the benefits of registration of their rights as also educate the general public, particularly the business community, on perils of infringement of IPRs held by others/dealing in pirated and counterfeit products. These programmes are also expected to sensitise the enforcement agencies such as the state police forces, the judiciary, etc.

5. **National Design Policy:-** Announced in 2007. This Policy envisages a key role for design in enhancing the competitiveness of Indian industry. The focus is on spread of design education, branding of Indian designs and the establishment of a Design Council. This period witnessed both the expansion and up gradation of India's premier design institution i.e. the National Institute of Design (NID) with three campuses at Ahmedabad (main campus), Gandhinagar (PG Campus), and Bangalore (R&D Campus). Intake of students at NID was substantially increased and new courses introduced at Undergraduate and Post Graduate levels. India Design Council (IDC), a Society under the aegis of DIPP was constituted on 2.3.2009 as a mandate of the policy. The National Institute Design Act, 2014 declaring NID, Ahmedabad as an 'Institution of National Importance' has been notified on 18<sup>th</sup> July, 2014. The department is now in the process of establishing 4 new NIDs at, Jorhat (Assam), Bhopal (Madhya Pradesh) & Kurukshetra (Haryana), and Vijayawada (Andhra Pradesh).

## **6. Bilateral negotiations:-**

India is negotiating an IPR chapter as part of the proposed India EU Bilateral Trade and Investment Agreement (BTIA) and European Free Trade Association (EFTA). As per the mandate given by the Trade & Economic Relations Committee (TERC), chaired by the hon'ble Prime Minister, the negotiations are circumscribed by the TRIPS Agreement and the Domestic Legislations.

Memorandum of Understanding was signed between India and South Centre (which is a Geneva based think tank working for developing countries) for cooperation in the field of capacity building, human resource development and awareness generation in the field of patents, designs, trademarks and geographical indications. Memorandum of understanding between the Department and European Patent Office for bilateral cooperation in capacity building, human resource development and awareness generation in the field of patents has also been signed on 23<sup>rd</sup> September 2014.

## **7. Plan Schemes**

Recognizing the importance of modernization of Intellectual Property Offices for the economy, this Department has implemented the following two Plan schemes during the 11th Five Year Plan with objectives of modernization and strengthening of Intellectual Property Offices:-

### **a. Plan Scheme for Modernization and Strengthening of Intellectual Property Offices (MSIPO)**

DIPP has implemented a plan scheme for Modernization and Strengthening of Intellectual Property Offices during the 11th Five Year Plan. The total Plan outlay for this scheme was Rs 300 crores. The scheme aimed at strengthening the capabilities of Intellectual Property Offices in India and to develop a vibrant Intellectual Property Regime in the country. It also aimed to develop the modern infrastructure for the Indian Patent Offices to function as an International Search Authority and International Preliminary Examining Authority under the Patent Cooperation Treaty, for which, the WIPO had recognized Indian Patent Office in October, 2007 to join an exclusive group of 17 countries / organizations. The scheme also aimed to enable the Trade Marks Registry to meet the requirements of Madrid Protocol for international registration of Trade Marks. The scheme included the components for physical infrastructure, human resources, digitization of IP records, library and awareness creation. Since commencement of the Plan Scheme in March, 2008, various actions in all the said components have been initiated and completed. The

Scheme has been continued in the 12th Plan. The project proposal has been recast and limited to Rs. 309.60 Cr. of which Rs. 258 Cr. (12<sup>th</sup> plan outlay) is to be implemented in the current plan with a spill-over of Rs. 51.60 Cr. to the 13<sup>th</sup> plan.

**b. Plan Scheme for National Institute of Intellectual Property Management (NIIPM)**

Rajiv Gandhi National Institute of Intellectual Property Management is being set up as an institute of international importance which would provide training, education, research and function as a think tank on Intellectual Property Rights. The main component of the scheme included construction of the Academic and Residential Blocks, establishment of other infrastructure facilities and creation of posts. The construction work in respect of Academic Block has been completed. The institute has been inaugurated by Hon'ble CITM on the 21<sup>st</sup> July, 2012, simultaneously commencing the training of newly recruited examiners of patents and designs. The scheme has been continued in the 12<sup>th</sup> Plan and an overall allocation of Rs. 30 crores was initially made which included the allocation of funds for Residential Complex also. However, since all exercise to obtain land from the Urban Development Department has proved infructuous, the current proposal is limited to Rs. 11.5 crores which includes components other than acquisition of land and construction of Residential Block.

**8. Increase in IPR applications and IPRs granted:-**

**Trend in Patent Applications**

Year	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15 (up to 30 <sup>th</sup> September 2014)
<b>Filed</b>	17466	24505	28940	35218	36812	34287	39400	43197	43674	42950	<b>20682</b>
<b>Examined</b>	14813	11569	14119	11751	10296	6069	11208	11031	12268	18306	<b>9883</b>
<b>Granted</b>	1911	4320	7539	15316	16061	6168	7509	4381	4126	4225	<b>2936</b>
<b>Disposals</b>				15795	17136	11339	12851	8488	9027	11672	<b>6803</b>

**Trend in Design Applications**

Year	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15 (up to 30 <sup>th</sup> September 2014)
<b>Filed</b>	5521	6402	6557	6092	7589	8373	8337	8533	<b>4945</b>
<b>Examined</b>	4976	6183	6446	6266	6277	6511	6771	7281	<b>3802</b>

Registered	4250	4928	4772	6025	9206	6590	7250	7178	3391
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### Trend in Trade Marks Applications

Year	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15 (up to 30 <sup>th</sup> September 2014)
Filed	103419	123514	130172	141943	179317	183588	194216	200005	103111
Examined	85185	63605	105219	25875	205065	116263	202385	203086	84059
Registered	109361	100857	102257	67490	115472	51765	44361	67873	24937
Disposal			126540	76310	132507	57867	69736	104753	53608

### Geographical Indications

Year	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15 (up to 30 <sup>th</sup> September 2014)
Filed	33	37	44	40	27	148	24	75	25
Registered	3	31	45	14	29	23	21	22	0

### Comparative Trends of IPRs Granted/Registered

Year	2006-07	2007-08	2008-09	2009-10	2010-11	2011-12	2012-13	2013-14	2014-15 (up to 30 <sup>th</sup> September 2014)
Patents	7539	15316	16061	6168	7509	4381	4126	4225	2936
Designs	4250	4928	4772	6025	9206	6590	7250	7178	3391
Trade Marks	109361	100857	102257	67490	115472	51765	44361	67873	24937
Geographical Indications	3	31	45	14	29	23	21	22	0

### TRENDS IN IPR DURING 2007-08 TO 2014-15 ( up to 30<sup>th</sup>

Sept.2014)

#### PATENT

Year	Filed	Examined	Granted	Disposal
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				(Granted+ Abandoned+ Withdrawn +Refused)
2007-08	35218	11751	15261	15795
2008-09	36812	10296	16061	17136
2009-10	34287	6069	6168	11339
2010-11	39400	11208	7509	12851
2011-12	43197	11031	4381	8488
2012-13	43674	12268	4126	9027
2013-14	42950	18306	4225	11672
<b>2014-15</b> (April- Sept.)	20682	9883	2936	6803

#### DESIGNS

Year	Filed	Examined	Registered
2007-08	6402	6183	4928
2008-09	6557	6446	4772
2009-10	6092	6266	6025
2010-11	7589	6277	9206
2011-12	8373	6511	6590
2012-13	8337	6776	7252
2013-14	8533	7281	7178
<b>2014-15</b> (April-Sept.)	4945	3802	3391

#### TRADE MARKS

Year	Filed	Examined	Registered	Disposal (Registered+ Abandoned+ Withdrawn +Refused)
2007-08	123414	63605	100857	
2008-09	130172	105219	102257	126540
2009-10	141943	25875	54814	76310
2010-11	179317	205065	115472	132507
2011-12	183588	116263	51735	57867
2012-13	194216	202385	44361	69736
2013-14	200005	203086	67873	104753
<b>2014-15</b> (April- Sept)	103111	84059	24937	53608

#### GEOGRAPHICAL INDICATIONS

Year	Filed	Examined	Registered
2007-08	37	48	31
2008-09	44	21	45
2009-10	40	46	14
2010-11	27	32	29
2011-12	148	37	23
2012-13	24	30	21
2013-14	75	42	22
<b>2014-15</b> (April- Sept.)	25	37	0