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New Emerging Areas of Intellectual Property Rights and their Latest Ideologies with Special Reference to its Conservation and Current Situation in India

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Abstract: *Explores the evolving landscape of intellectual property rights (IPR) and highlights the latest ideologies shaping its trajectory. With a special emphasis on protection, the study examines the contemporary dimensions of IPR in India, examining the country's approach to protection of intellectual creations and innovations. The research begins by characterizing newly discovered areas within the scope of IPR, but not limited to artificial intelligence, biotechnology, block chain and digital content. These emerging domains present new challenges and opportunities, demanding a reassessment of the traditional IPR framework. The Paper examines how global trends impact India's IPR landscape and assesses the country's adaptability to these new paradigms. Keeping in mind the conservation imperative, the study examines the role of IPRs in protecting biodiversity, traditional knowledge and cultural heritage. It highlights India's initiative to strike a balance between promoting innovation and preserving its rich cultural tapestry. The Paper also analyzes the efficacy of the existing legal framework and proposes recommendations to strengthen protection oriented IPR policies. Furthermore, this research highlights the current status of IPR in India by taking into account the recent legislative developments, landmark court decisions and policy changes. It provides a nuanced understanding of the challenges faced by stakeholders including inventors, businesses and government in dealing with the complex web of intellectual property laws.*

Keywords: Law, IPR, Impact, Process etc

I. INTRODUCTION

The knowledge-based society has replaced the material-based society. As a result of the changes of the Industrial Revolution, new forms of property came into existence. Intellectual property is the result of human intelligence. It has played a very important role in the lives of humans. It is a category of intangible rights protecting commercially valuable products of human intelligence. This category mainly includes trade secret rights, publicity rights, moral rights and rights against unfair competition, besides trade, copy rights and patent rights. While developed countries have long recognized the value of Intellectual Property (IPR) and developing countries, including India, are still holding back on exploitation for the betterment of society. Indians' experience with intellectual property has not been so good. The legal regime of intellectual property in India is dependent on British laws and most of the Indian laws are virtual versions of British laws passed from time to time. It was only after becoming a signatory to the TRIPS Agreement in 1994 that India became integrated as a nation in the matter of intellectual property rights.

1.1 Intellectual property rights in India

Indian Patent Act was introduced in 1865, which was modified and revised and was called “The Indian Patents and Designs Act, 1911”. The first application for patent in India was done by George Alfred DePenning in the year 1856

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and was granted patent for his Invention - "An Efficient Punkah Pulling Machine". After Independence, a bill on Patent rights was enacted and called as "The Indian Patents and Designs Act, 1911. At the initial stage, there were the various Acts regulating IPR in India. 1. Copyrights - Copyrights Act, 1957. 2. Trademarks - Trade and Merchandise Marks Act, 1958. 3. Patents - Patents Act,1970. 4. Designs - Designs Act,1911. After establishment of WTO and India being signatory to the agreement on TRIPS, many new legislations were enacted in India for the protection of IPR internationally which were followed by various amendments 1. Designs Act,1911 - Designs Act, 2000. 2. Trademarks Act, 1958- Trade Mark Act 1911. 3. Copyright Act,1957- Copyright (Amendment) Act , 2012. 4. Patent Act, 1970 - Patent Act, 2005. 5. Plant varieties - Protection of Plant Varieties and Farmers' Rights Act, 2001. 6. Geographical indications - Geographical Indications of Goods (Registration and Protection) Act, 1999. There has been constant growth in promotion of IPR after the TRIPS agreement in India. In the USTR's Special 301 report, India was listed on the Priority Watch List for 2018 though several initiatives are initiated by the Government, the pace of development has not matched the requirement for promotion and innovation in the country. India has taken up measures to settle the IP issues that are hindering the progress of the country. Initiatives of Government of India towards protection of IPR

i. In order to bring awareness and educate the stakeholders of IP, the Government of India had issued a Handbook of Copyright law.

ii. Several training programmes on Copyright laws for the police and custom officers are conducted by Hyderabad and National Academy of Customs, National Police Academy.

iii. In order to strengthen the IPR regime measures have been initiated by the Department of Education, Ministry of Human resource Development, Government of India which includes CEAC- Copyright Enforcement Advisory Council.

iv. Due to lack of knowledge and awareness among the people, people miss out on the benefits hence the Government has taken initiatives to conduct seminars/ workshops on IP issues.

1.2 Challenges of IPR in India

India is facing many challenges in managing Intellectual Property rights.

1. **Slow patent office**: Slow patent office is an age old issue, because patent office used to take more than 20 years to grant a patent. This issue is being tackled by the Government and today the patent office has become much faster. Enormous efforts have been put in, especially since early 2016. There have been instances where patent applications have been granted within a month from the date of filing. This is unprecedented speed and can even be considered faster than the patent offices of the developed countries.

2. **IPR Enforcement**: As India is a developing country, with the lack of awareness on IP laws, enforcement of the IP laws is poor especially in related departments of the government, such as police, customs, etc. However, this has drastically changed, the police force is being actively trained about IPR and the customs department has an intact IPR registration system to prevent import of counterfeit or knockoff products.

3. **Litigation:** It is a known fact that Indian court system prolongs the settlement of cases for decades; however this issue is poised to change after the establishment of commercial courts and fast tracking of IP matters.

4. **Capacity Building**: The intellectual property office is expanding its workforce and upgrading its IT infrastructure, the number of patent agents are increasing, new courses such as integrated B.Tech + LLB is being introduced in Universities, the government is introducing new policies in favour of IP owners such as SIPP scheme, tax breaks on IP licensing earnings, etc. In addition to that, there is also a booming LPO business that has far greater number of professionals (10,000+) who are already experts in the field of IP and are likely to make the transition to Indian IP when sufficient capacity is built.

5. **Counterfeit goods**: According to FBI, Interpol, World Customs Organization and International Chamber of Commerce estimates, nearly 7-8% of world trade every year is in counterfeit goods. That is the equivalent of as much as $512 billion in global lost sales.

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1.3 Positive Impacts of IPR

Though India is a country blessed with abundance of resources, developed country is still a dream to India and one of the major causes is Unemployment. By rewarding the creator for his/her creation, IPR promotes Entrepreneurship opportunities and fair trading in the country, making Indians independent and self-sustaining leading to economic and social development of the nation. Not only that IPR encourages and safeguards intellectual and artistic creation and also promotes investment in research and development efforts which are very essential for the growth of an economy. As a part of the process, filing patent leads to disclosure of information, this information can be further utilised to replicate the invention and produce better quality products in the future. Through effective usage of IPR, the society is assured for delivery of original and genuine products. IPR also becomes a tool for the corporates to protect their investments in the innovations. IPR provides a platform for the International companies to invest in domestic companies. Any individual, company or an economy can grow only when there is Innovation or flow of new ideas. As IPRs instils creative efforts that facilitate a vital cross fertilization of ideas and it helps the nation to be innovative. Through innovation, new jobs can be created, social dilemmas can be reduced, diseases can be healed, higher incomes can be drawn. In other words sustenance and progress of the economy is guaranteed.

1.4 Negative Impacts of IPR

IPR has encouraged monopolies; many take overs have been motivated by access to an IPR. IPR has diversely affected biological diversity and ecological balance. Livelihood of the poor in developing countries is adversely affected. The objective of IPRs is to protect the public interest but, in reality, the public interest is at stake. For Instance, few countries were allowed to charge higher than the marginal cost of the production in the name of R & D, which led to the increase in the cost of medicines making the drug unaffordable to the poor sections of the society. IPR gives the right to the owner for the usage and sale of the property. In order to serve the basic aim of IPRs, IP laws must focus on the requirement of the underprivileged in the developing countries. Thus, IPRs are considered merely intellectual protectionism or government-granted monopoly through which the societal benefit is hindered. It is a major challenge in India to balance the interests of the innovators and the interests of the society at large. For Example : An individual having a patent in his/her name is granted 20 years of right over the product and its usage, which means that only after a particular product completes 20 years it is allowed for public use. In other words Pharmaceutical Industries can manufacture those drugs whose patent is expired. This is because, for 20 years law guards private rights and then they make sure that innovation is provided the societal benefit, in order to strike a balance.

What is Trade-Related Aspects of Intellectual Property Rights or TRIPS Agreement?

The World Trade Organization (WTO), the TRIPS Agreement, is an important international agreement that establishes minimum requirements for the protection and enforcement of intellectual property rights.

Main objective of TRIPS Agreement

- To create a uniform way to preserve the rights of intellectual property owners and to guarantee that all Member States have adequate protection for their intellectual property.
- The TRIPS Agreement is administered by the TRIPS Council, which is open to all members and reports to the WTO General Council.
- It addresses a number of intellectual property issues such as patents, copyright and related rights, trademarks, geographical indications, industrial designs, layout designs for integrated circuits and undisclosed information (trade secrets).
- The TRIPS Agreement establishes minimum standards, but members can choose to provide more intellectual property protection if they wish.
- The TRIPS Agreement establishes minimum requirements for intellectual property protection and enforcement of intellectual property rights. It also includes provisions for border controls as well as legal and administrative procedures, temporary remedies, financial penalties and other penalties.

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- Furthermore, the Agreement gives Member States the option to exempt from patentability critical biological processes that are being used in the production of food or medicines, as well as plants and animals.
- The agreement also includes provisions for enforcement of intellectual property rights, protection of geographical indications and protection of confidential information (trade secrets).
- It also provides guidance on how to ensure that the agreement is followed and that intellectual property rights are properly enforced. The TRIPS agreement also has a dispute resolution process that makes it easier for member countries to disagree over the agreement.
- The TRIPS Agreement is an important part of the system for the protection of intellectual property throughout the world. It provides a uniform way to enforce these rights and sees that all member states have adequate protection for their intellectual property rights.

1.5 TRIPS

The proposal to negotiate intellectual property rights in GATT was first initiated at the Tokyo Round in 1978 as a response to intellectual property discontent over the use (1970s and 1980s) of the existing international regime. For enforcement, the United States, supported by Japan and Canada, proposed a draft consensus on regulation on anti-counterfeiting measures. The main objective of the Mercado Agreement was to find legal means in an international forum for anti-counter-counterfeiting measures. An important step on possible negotiation of TRIPS under GATT was taken in November 1985. The victims of this Act were not only from developing countries but also from developed countries. For example, ISI insisted that with Special 301, the United States had a nuclear bomb, therefore having leverage over all GATT members. Japan stated that a GATT member could not violate GATT rules at its own discretion. According to Japan, Special Section 301, "bypasses GATT dispute settlement procedures on retaliation." Canada has similarly expressed the view that the use of unilateral proceedings permitted by Section 301 undermines GATT rules and GATT dispute settlement procedures. The arguments given above are practical. Under GATT, any trade related issue between the contracting parties to GATT must be resolved within GATT. On the one hand, trade sanctions are detrimental to international trade rules. First of all, this article refers to Article III which stipulates that each member requires multilateral solutions to bilateral conflicts. Second, all contracting parties to GATT are a forum for trade negotiations. Third, it violates Article 4 of the WTO Agreement which states that "Each Member will ensure compliance with its obligations under its contracts in accordance with its laws, regulations and administrative procedures." Significant progress in negotiations was made in 1986 when the GATT contracting parties agreed to begin negotiations in Uruguay in 1986, stipulating that TIPS was an issue on the negotiating agenda. The 1986 Ministerial Declaration on the Uruguayan Visit set out the guidelines for the subject matter of the negotiations, which included, among others, TRIPS. (trade in counterfeit goods included).

1.6 TRIPS Agreement

The preamble to the TRIPS Agreement contains the objectives of the Agreement. Essentially this is in line with the objectives of the Uruguayan negotiations under the 1986 Pentagonal Declaration. These objectives, inter alia, are to address distortions and barriers to international trade, to promote effective and adequate protection of intellectual property rights and to ensure that measures and procedures to improve intellectual property rights are appropriate to legitimate trade. It is worth noting that the preamble should be considered as an integral part of the Agreement. For example, in interpreting the provisions of the Agreement one must also consider the principles contained in the Preamble. The important provisions included in the Preamble that address the needs of developing countries are Articles 5 and 6 of the Preamble. Article 5 sets out the public policy objectives underlying national systems for the protection of intellectual property, including those based on development and technologies. Article 6 recognizes the special need of least developed countries with respect to flexibility in the domestic implementation of laws and regulations in order to provide them with a sound and practical technical basis. The TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights) is established by the World Trade Organization (WTO) to regulate international trade in intellectual property rights. The TRIPS Agreement sets minimum standards for protecting and

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enforcing intellectual property rights in different countries. The term "TRIPS" refers to world-wide trade and its full name is "Trade-Related Aspects of Intellectual Property Rights" (Traffic-Related Aspects of Intellectual Property Rights) agreement. It is an international agreement that establishes common set policies and standards on world trade related topics. The main objective of the “TRIPS Agreement” is to establish justice, equality and harmony in trade across the world, especially in the IPR (Intellectual Property Rights) sector. It seeks to support open and closed systems of trading resources and to establish related tips and guides on a variety of topics. The TRIPS Agreement also provides assistance to experts in the IPR area to support objectors and wardens and to harmonize protection and judicial procedures. It was approved in 1995 as an agreement among the member countries of the World Trade Organization (WTO) and it attempts to address the latest changing scenarios in the fields of trade, science and technology.

1.6.1 Adequate provision

The TRIPS Agreement also requires members to comply with certain respect obligations of the WIPO conventions. These include the Paris Convention for the Protection of Industrial Property (Paris Convention) and the Berne Convention for the Protection of Literary and Artistic Works (Berne Convention).

1.6.1.1 Copyright and related rights protect works of authorship.

Negotiators at the Uruguay Round of talks faced no significant difficulties in reaching agreement in this area “They agreed that the provisions on copyright contained in the Berne Convention were still relevant and adequate. Despite some comments criticizing the TRIPS agreement for responding to new technologies, there are two provisions. Those who anticipate this development First, the convention specifies that computer programs, whether in source or object code, shall be protected as literary works under the Berne Convention. Second, Article 10.2 of the TRIPS Agreement clarifies that databases and other compilations of data or other material will be protected under copyright where the database includes data that is not protected under copyright. Databases are eligible for copyright protection provided that they constitute intellectual creations by virtue of the selection or arrangement of their content. The provision also confirms that databases must be protected, whether in machine-readable or other forms.

1.6.1.2 Trademark

The TRIPS Agreement on Trademarks provides a broad definition that a trademark is any sign or combination of signs capable of distinguishing the goods and services of one undertaking from those of other undertakings. Such signs, in particular words, individual names, letters, figures, figurative elements and combinations of colours, as well as combinations of such signs, must be eligible for registration as trademarks. The Agreement provides no less than seven years of protection from flooding of the initial regulation. The Agreement also requires that the registration of a trademark be renewed indefinitely. The Agreement also provides that licensing of trademarks and compulsory licensing will not be permitted. This provision has been a traditional practice of the states. The owner of a registered mark shall have the right to register his trademark with or without transfer of trade with the trademark.

1.6.1.3 Geographical indication

The TRIPS Agreement provides a legal definition using geological indications, which identify "a good originating in the territory of a Member or as an area or locality in that territory where the good is of a quality, reputation or other. The characteristic is essentially attributable to its geographical origin." This definition clearly attributes the two elements of goods to their geographical origin.

1. Geographical location from where the goods originate.
2. Recognized quality of goods produced from this geological place.

Article 24 provides for a number of exceptions to the protection of geographical features; First, the consent to the use of geographical indications that lasts for at least ten years before the entry into force of the Agreement is exempted. Second, the measures to implement these provisions have been obtained in good faith will not prejudge prior trademark

rights. Third, Members are not obliged to bring a geographical indication under protection where it has become a generic term to describe the product in question.

1.6.1.4 Industrial Design

The TRIPS Agreement obliges members to provide protection to independently created industrial designs that are new or original. The member may provide that the designs are not new or original if they do not differ significantly from the combination of features of available designs. Article 25.2 has a special provision for new designs in the textile sector. It provides requirements to safeguard the safety of such designs. The opportunity of seeking and obtaining such protection should not be unduly impaired, particularly in respect of any cost, examination or publication. To fulfill this obligation, Memorable is free to regulate it through industrial design laws or copyright law.

1.6.1.5 Patent

The provisions for patents contained in the TRIPS Agreement are originally derived from the Paris Convention." As a basic rule of patentability, the TRIPS Agreement requires member countries to patent any unpatented invention, whether products or processes, in all areas of technology. Subject to the usual tests of patentability, which include novelty, invention and industrial applicability, patents based on this broad definition may also include pharmaceuticals, a sector which is important for the development of the country. Article 33 provides that the period of protection available shall not expire before the expiry of a period of twenty years from the filing date. It is argued that compliance with the TRIPS agreement would mean increased royalty payments to foreigners, loss of investment opportunities in research, higher prices for consumer products, and greater reliance on imports in general. Proponents for patent protection argue that patent protection will create a better innovation worldwide and that it will encourage economic activism.

1.6.1.6 Layout design of integrated circuits

The provision of this sector is practically foreign to most developing countries. The provisions on layout-design of integrated circuits under the TRIPS Agreement mainly follow the provisions of the 1989 Treaty on Intellectual Property with Respect to Integrated Circuits (IPIC Treaty) in which many changes have been made to strengthen the security of layout designs. These changes include: 1. TRIPS implementing the eight-year strengthened minimum protection of integrated circuit layouts contained in the IPIC Treaty, 2. applicability of protection to infringing integrated circuit layouts. The Washington Treaty or IPIC Treaty, adopted in compliance with WIPO, faced objection from the United States and Japan, particularly over the provision for non-voluntary licenses contained in Article 6(3)(a) of the IPIC Treaty. Primo Braga (1997, p. 392) and Worthy (1994, p. 197) noted that the provisions of the IPIC treaty were not acceptable to the United States and Japan because the treaty provided low standards of protection.

1.6.1.7 Trade Secret (Protection of Undisclosed Information)

The issue of trade secrets was one of the most difficult areas of intellectual property rights in the Uruguay Round negotiations because it did not meet the requirements of intellectual property, namely the obligation on the part of the right holder "to disclose the secret". In developing countries there were no specific laws protecting most trade secrets. This issue was once treated exclusively as intellectual property rights. There are two main provisions for trade secrets. First, the agreement treats undisclosed secrets as property information is not required. It is essential that a person legally under such person's control have the possibility to undo it before it is disclosed, acquired or used by others without their consent in a manner contrary to honest business practices.

1.6.2 Enforcement of intellectual property rights

The provisions for enforcement of intellectual property rights have two basic objectives. The first is to ensure that there must be enforcement. The second is to ensure that enforcement procedures will be implemented in such a way as to avoid the creation of barriers to legitimate trade and to protect against their abuse. Article 48 provides that judicial

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authorities must have the power to order the applicant who has abused the enforcement procedures to pay adequate compensation to the respondent. Who has been wrongfully ordered or restricted to cover both injuries and expenses that such expenses may include, including reasonable attorneys' fees. Public authorities and officials are exempted from liability for reasonable remedies where the action is taken only in the course of the administration of law or in good faith. The agreement provides that the remedies available will include substantial imprisonment and/or intellectual fines to provide for punishment commensurate with the level of fines applicable for the gravity of the crime in question. The comprehensiveness of the provision on enforcement of intellectual property rights can be understood as a reflection of the main concern of developed countries regarding the poor state of intellectual property enforcement, especially in developing countries. In fact, developing countries view enforcement as an important aspect of intellectual property protection. In the draft convention on intellectual property rights submitted by thirteen developing countries in 1909, enforcement was set out in a special chapter (Chapter VIII). Nevertheless, developing countries have implemented a special chapter (Chapter VIII) in the draft Convention on Intellectual Property Rights compared to the proposal presented by developed countries. (Comprehensive process of enforcement is now included in the TRIPS Agreement.) Developing countries argued that the enforcement of intellectual property rights should be in accordance with each country's legal and judicial systems and traditions and the limitations of its administrative resources and capabilities. Under the TRIPS Agreement, disputes over intellectual property rights will be settled in accordance with Articles XXII and XXIII of the GATT 1994 set out in the Settlement Understanding. It is also argued that the dispute settlement system allows members to apply cross-repudiation based on the authorization of the dispute settlement body. When concessions or suspension of other obligations will not work.

1.6.3 Technical cooperation

Another provision specifically designed to benefit developing countries is the provision for technical cooperation. This provision is important for developing and least developed countries that require their laws to conform to minimum standards of protection. Article 67 of the Agreement requires developed countries to provide "technical and financial cooperation" to developing and less developed countries to facilitate the implementation of the Agreement. This provision can also be implemented by developing countries in efforts to respond to the effects of the TRIPS Agreement, particularly in the area of patents and the infrastructure required for the patent granting process, for example, computer facilities and training personnel.However, this provision is not an automatic “obligation” of developed country members. It is provided only if developing or least developed countries are requesting cooperation. Such technical cooperation is subject to “mutually agreed terms and conditions.” Cooperation includes the preparation of laws and regulation, support for domestic offices and assistance in the prevention of abuse of intellectual property rights.

1.7 Article 27(1)

Patentability of plant genetic innovations under TRIPS. This sets out to what extent and under what conditions WTO Member States are to provide patent protection for inventions whose subject matter can be used in, or applied to, art genetic material, if they decide not to use Art. 27 (2) and (3). For the purpose of this examination, plant genetic material is to be understood as any plant material containing genetic information which is capable of reproducing itself or reproducing in a biological system. Plant genetic material embraces genetic resources of actual or potential value which contain functional units of heredity that can be used for practical applications.

1.7.1 Plant genetic innovations as applicants

Whether plant genetic material can be the subject of an invention is still controversial among WTO member countries (Verma 1994; Paken 1995; WTO 1995). The TRIPS agreement is clearly based on the assumption that at least plant-related inventions can occur otherwise the negotiating parties do not include the possibility of excluding plants from patentability. For the purposes of patent law, an innovation has to comply with the first and basic requirement. This is an invention, neither the TRIPS Agreement nor the Paris Conference should be an invention. The EPC does not define the term 'invention', whereas US patent law only defines an invention, i.e. any new and useful process, machine

manufacture or composition of matter or any useful improvement thereof although generally agrees that innovations must be practical and technical for the purposes of patent law (European Commission 1995). These requirements should not be confused with the typical patent requirements of practicality and technicality (novelty, non-obviousness/inventive step, utility/industrial applicability, adequate disclosure) which inventions must also meet. Thus, to constitute an invention within the meaning of patent law as a first step, innovations must be of a practical and technical nature. Subsequently, to be eligible for patent protection, these inventions must meet the patent requirements of novelty, non-obviousness and usefulness. And finally, their disclosure must be sufficiently clear and complete. However, this first step relating to the essential practical and technical character of the inventions can create serious obstacles to the patenting of innovations that are made from, use or apply plant genetic material.

1.8 Intellectual Property Rights and Biodiversity

Pursuant to the first sentence of Article 27(3) of the TRIPS Agreement, WTO Members may exclude both plants and animals (other than microorganisms) from patentability and biological processes essential for the production of plants or animals (other non-biological and compared to microbial processes). The implications of this provision are far-reaching, requiring developing countries to grant patent protection for microorganisms and non-physiological and non-diabetic processes. For example, developing countries are now obliged to provide security for Beijing. This will increase costs and result in a large percentage of the world population being affected. In India, for example, this means 70 percent of the population and thus, India alone has as much population as the entire population of all the industrialized countries combined. As far as plant varieties are concerned, attention should be paid to the Convention on Biological Diversity (Biological Convention)¨ of 5th June 1992. This convention, sponsored by the United Nations Environment Programme, was adopted in Rio de Janeiro on 5th June 1992. It is unfortunate that the negotiators of the Uruguay Round (on TRIPS) did not refer to any of the articles of this convention or despite the fact that it is strongly recognized that the Convention has a close relationship with trade." It was not a coincidence that the Convention was concluded during the Uruguay Round of negotiations. The Convention makes up for wide-ranging provisions, including national monitoring of diversity, development of national strategies, national reports of Parties on measures taken to implement the Transfer of Technology Convention and the effectiveness of these measures. The Convention on Biological Diversity defines biological diversity as the variation in living organisms from all sources, including terrestrial, marine, and other aquatic ecosystems that are part of ecological complexes. This includes species, ecosystems, and diversity within species. In this case, the developed countries have an interest in maintaining their leading position in the field of biotechnology and in U.S., the aim was to protect biotechnology companies' investments in research and development with a view to protecting intellectual property rights. On the other hand, developing countries control most of the world's common resources in which industrialized countries have an interest. Unfortunately, these resources have not yet been utilized due to lack of necessary capital and technology. But the real provisions of the convention which became the concern to developed countries.Especially developing countries have the right to control and use their own genetic resources and to receive some fair and equitable distribution of the benefits arising from their commercial use andalso have the right to receive the trust share. When the convention was enacted, the United States strongly opposed it and refused to sign it. The main reason was the United States did not sign the convention as many of the issues concerning United States were not addressed. These include, among others, the treatment of intellectual property rights, the provision of finance, the role of the Global Environment Facility (GEF), and biotechnology". But the main issue that has prevented the United States from signing the convention is that it recognizes special preferential treatment for developing countries is an overarching provision on transfers of technology to developing countries. Most importantly, the agreement recognizes state sovereignty over its natural resources.Ultimately, US policy changed at the conference in 1993 when President Clinton signed the conference in June 1993. But, the United States also expressed concern that the convention should be supplemented with treaty interpretation.

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1.9 New varieties of plants under intellectual property

This is the era of science and technology and the importance of this science and technology is universal and applies to many fields including 'Botany'. Many other plants are also common, which have many beneficial and useful properties. But the important question is whether varieties of vegetative plants that reproduce sexually and asexually should be protected. The international community has recently taken into account the need to protect the rights to breed new varieties of plants. The result is the International Convention for the Protection of New Varieties of Plants (UPV) which was completed in 1961 and entered into force in 1968. It was revised in 1978 and revised in 1991.All agriculturally developed countries became parties to this conference including UK, USA, South Africa, France, Australia and Canada. It is an international scheme to ensure that new plants have the right to obtain special title or patent protection for that variety. The purpose of UPOV is to address a long-standing problem in patent law, the inability of the patent system to provide protection to plant breeders, for this purpose, meaning "seeders".

- A person who breeds or discovers and develops a variety;
- The person who is the employer of the appropriate person or who has started the later's name, provided, where the laws of the relevant contracting party provide;
- Successor in title to the first or second above mentioned person, as the case may be. Similarly “variety” means a plant group within a botanical group of the least known type, which may be grouped, even if the conditions for the grant of breeder's rights are fully fulfilled.
- Defined by the expression of characteristics resulting from a given genotype or combination of genotypes;
- Different from the expression of at least one and
- A unit was considered in terms of its suitability for being propagated unchanged.

It is pertinent to note that in 1958, the Paris Convention on Plant Varieties came to the Lisbon Convention to amend it. Due to the technical problems involved, it was decided to include the area in the Paris Convention rather than try to create a special agreement on plant breeding. Thus in covering varieties of botanical plants, UPOP has filed a departure from the Paris Convention, the terms of which do not extend to this subject matter.

1.10 Result Analysis

This comparison is based on changes that have taken place since the World Trade Organization's landmark TRIPS agreement, which is in force from 1995 to the present day. The dynamics of IP law and its complexities in both India and the EU in the post-TRIPS era have grown beyond imagination and were worthy of attention. This time frame was specifically chosen because during this period both patent systems have become a decisive part of the global patent system, although their impact varies internationally. The challenges faced by both patent systems are not very similar, but it is worth noting the policy changes and adjustments are a part of the TRIPS compliant. Today the US Patent Office (USPTO) receives the most patent applications and is considered the most modern patent office in the world, but its system also reflects the influence of the EPS. When it comes to the quality and standard of patenting its EPS, its always the world. This research tries to find out how an infant patent system like that of India can gradually come to the EPS standard and ensure quality patenting and attract more foreign patent applications in the coming days. The country can get huge revenue. Analyzing both the Indian and European patent systems, this work brings out emerging trends, approaches and debates in global patent administration. It also offers alternative intellectual property rights governance mechanisms by merging literatures from economics, corporate governance and intellectual property rights. Finally, after noting the role of WIPO in the changed global landscape of IP governance, an analysis is conducted on the TRIPS Plus initiative due to the growing pressure on developed countries and huge industry lobbies of the West and developing countries. Nation to rapidly respond to the needs of new initiatives. Therefore, this research will be highly relevant to researchers, scholars, policy makers, legal experts and ultimately government officials interested in the area of international trade and intellectual property policy. As this work examines the trend towards new global intellectual property governance, it would be of great interest for future researchers to work in the same area. In particular, this research examines the current functioning of the Indian and EU patent systems and their complexities. As it provides an in-depth analysis, it may be of great interest to the respective policy makers of both these systems moving forward

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while addressing similar and related issues. Furthermore, as intellectual property rights have potentially seeped into all corners of our lives and into the most destitute corners of the world, bringing with it patents in everything from seeds to drugs, IP has literally become an issue of life or death. From recent developments, we can very well say that theorists of globalization and global governance work from multiple, interconnected and multiple and open-ended disciplinary platforms. Like IP, globalization analyzes are situated in economic, cultural, political, regulatory and diverse disciplinary spaces. Disaggregating analyzes of global wealth and globalization have tended to implicate the hegemonic or regional dynamics that shape the nature of contestations or resistances that characterize the two disciplines. Again IP is a subject matter for the interplay of globalization and dynamics of international governance in the intellectual property jurisdiction and the evolution of IP. According to the Commission on Global Governance (CGG), the concept of governance reflects the various methods, processes and dynamics through which individuals, multiple institutions (private and public) and governance manage common, diverse and conflicting interests. We do accommodate a wide range of stakeholders and the public. Thus, without a doubt, IP is a subject of common, diverse and interconnected interests in North-South global geopolitics. Therefore, from this point of view also, the study of both the Indian and European Union patent system is extremely important.

1.11 Conclusion

The Conclusion on Intellectual Property Rights (IPR) addresses several critical needs within the contemporary scenario with a focus on emerging ideologies, protection and current status in India. The importance of this research lies in its ability to fulfill the following key requirements:

Navigating evolving boundaries:

As technology advances and new areas such as artificial intelligence, biotechnology and digital content emerge, there is an urgent need to adapt the IPR framework to these evolving boundaries. The Conclusion aims to explore and understand these emerging areas, providing insight into the intersection of cutting-edge innovations and intellectual property protection.

Balancing innovation and conservation:

In a rapidly changing world, it is paramount to strike a balance between promoting innovation and preserving essential elements such as biodiversity, traditional knowledge and cultural heritage. The proposed research addresses the need to assess and refine existing IPR mechanisms to ensure that they promote innovation while protecting the underlying diverse and valuable assets of India's cultural and natural heritage.

Policy Recommendations for Conservation:

The study aims to go beyond mere exploration and analysis and offer practical policy recommendations. Given the complex challenges posed by the intersection of IPR and protection, there is a need for well-informed and nuanced policy guidance. The Conclusion seeks to contribute to this effort by suggesting measures that enhance the protection aspect of IPRs in the Indian context.

Understanding Global Impacts:

Intellectual property is inherently linked to global trends and the Conclusion recognizes the need to understand these impacts. By examining how international ideologies shape IPR practices, the research aims to provide a comprehensive understanding of India's position in the global intellectual property landscape and its response to international best practices.

Assessment of the current legal scenario:

This study critically appraises the existing legal framework for intellectual property in India. By doing so, it contributes to a deeper understanding of the strengths and weaknesses of the current system, allowing informed recommendations for legal reforms or amendments to suit contemporary needs.

Informing Stakeholders:

Stakeholders in the field of intellectual property, including inventors, businesses, policy makers and legal practitioners need the latest information and insights. The Conclusion addresses the need to disseminate knowledge and promote

deeper understanding among these stakeholders, enabling them to make informed decisions in the rapidly changing IPR landscape.

In short, the Conclusion recognizes the dynamic nature of intellectual property rights and responds to the multifaceted needs of adapting to emerging ideologies, addressing conservation imperatives and dealing with the complex current situation in India. By doing so, it contributes to the advancement of intellectual property practices in line with both global trends and local needs.

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