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# NATIONAL IPR POLICY

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## **TABLE OF CONTENTS**

<b>1. INTRODUCTION</b>	<b>1</b>
<b>2. AN OVERVIEW OF THE IP SYSTEM IN INDIA</b>	<b>2</b>
<b>3. VISION AND MISSION</b>	<b>5</b>
<b>4. OBJECTIVES</b>	<b>6</b>
Objective 1 - IP Awareness and Promotion	6
Objective 2 - Creation of IP	8
Objective 3 - Legal and Legislative Framework	11
Objective 4 - IP Administration and Management	13
Objective 5 - Commercialization of IP	17
Objective 6 - Enforcement and Adjudication	20
Objective 7 - Human Capital Development	23
<b>5. INTEGRATION OF IP WITH RECENT GOVERNMENT INITIATIVES</b>	<b>25</b>
<b>6. COORDINATION, IMPLEMENTATION, MONITORING &amp; EVALUATION</b>	<b>27</b>
<b>7. ACKNOWLEDGEMENT</b>	<b>29</b>

# **NATIONAL IPR POLICY**

## **INTRODUCTION**

Creativity and Innovation are the forces which drive growth, development and progress in the knowledge economy. “Creative India; Innovative India: सृजन भारत; रक्षत भारत” is the motto which will inspire India to take a lead in various fields of human accomplishments. Our Constitution enjoins us to “develop the scientific temper” and “spirit of inquiry” and “to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement”.

India’s range of intellectual creations is as diverse as its people, from patents to plant varieties, trademarks to traditional knowledge, copyright to designs and geographical indications. It has robust intellectual property (IP) laws and a strong IP jurisprudence. The legal framework does reflect the underlying policy orientation and national priorities, which have evolved over time, taking into account development needs and international commitments. An all-encompassing IP Policy will promote a holistic and conducive ecosystem to catalyze the full potential of intellectual property for India’s economic growth and socio-cultural development. Such a Policy will nurture the IP culture and address all facets of the IP system including legal, administrative and enforcement infrastructure, human resources, institutional support system and international dimensions. The Policy will guide and enable all creators and inventors to realize their potential for generating, protecting and utilizing IP which would contribute to wealth creation, employment opportunities and business development.

The idea of being a creator and innovator must capture the imagination of our people to maximize the generation of all genres of IP rights. The Policy intends to harness the full benefits of creation and innovation in the larger interest of society and citizens. It shall weave in the strengths of the Government, research and development organizations, educational institutions, corporate entities including MSMEs and other stakeholders in the creation of an innovation-conducive environment. Government shall take a pro-active role in leveraging the strengths of the IPR regime for effective development and transfer of technology, promoting creative industries, stimulating the small innovations, empowering local

communities in securing benefits from their knowledge base including traditional knowledge, encouraging institutions which focus on IPRs like plant breeding and farming, and protecting our bio-diversity from inequitable bio-prospecting.

India is a party to a number of international treaties and conventions including the TRIPS Agreement. India is fully conscious of its international obligations and has always abided by them. At the same time, it has protected the national interest and balanced the rights of IP owners with their obligations to society. In future negotiations in international forums and with other countries, India shall continue to give precedence to its national development priorities whilst adhering to its international commitments and avoiding TRIPS plus provisions. The policy space and flexibilities available under the international instruments will continue to be used judiciously to keep IP laws updated. India will strengthen its negotiating profile and engage constructively and proactively in international negotiations with a view to evolving fair and balanced consensus based solutions.

The Policy intends to reinforce the strengths of our substantive laws with equally strong administrative and procedural mechanisms and improved judicial infrastructure. Piracy and counterfeiting discourage creativity and innovation apart from having a deleterious effect on the economy and consumers, and the same shall be sternly dealt with. The Policy will aim to foster predictability, clarity and transparency in the entire IP regime in order to provide a secure and stable climate for stimulating inventions and creations, and augmenting research, trade, technology transfer and investment.

The National IPR Policy envisages IP as an integral part of India's overall development policy. It will integrate and create synergies with IP related aspects of various sector specific policies. It will provide a roadmap for holistic, effective and balanced development of the IP system in India.

### **AN OVERVIEW OF THE IP SYSTEM IN INDIA**

India has made definite strides in the protection, administration, management and enforcement of IP. The growth of the IP system has acquired a palpable vibrancy during the last two decades.

The statutes governing different kinds of IP in India are Trade Marks Act, 1999; Patents Act, 1970 (as amended in 2005); Copyright Act, 1957 (as amended in 2012); Designs Act, 2000; Geographical Indications of Goods (Registration and Protection)

Act, 1999; Protection of Plant Varieties and Farmers' Rights Act, 2001; Semiconductor Integrated Circuits Layout-Design Act, 2000 and Biological Diversity Act, 2002.

The nodal department for trademarks, patents, designs and geographical indications is the DIPP which functions under the Ministry of Commerce and Industry; copyright is administered by the Ministry of Human Resource Development; semiconductor integrated circuits layout-designs by Department of Information Technology; plant varieties and farmers' rights by the Ministry of Agriculture; and biodiversity by the Ministry of Environment and Forests.

India's statutory framework is robust, effective and balanced. It is in consonance with national development priorities while being in conformity with international treaties, conventions and agreements to which India is a party. India's laws are notable for their far-sightedness and have also anticipated international developments.

IP offices have been modernized and there is a perceptible change for the better. The accession to the Madrid Protocol in 2013 is a step towards global alignment for proprietors of marks. The Indian IPO has become an International Search Authority and an International Preliminary Examination Authority under the PCT. This should lead to a further increase in IP filings. The increase in manpower for the IP offices has already been sanctioned and so backlogs should reduce considerably over the next 2-3 years. The strengthening and modernization of IP offices is a continuous process to which the Government is committed.

Indian laws provide for both civil and criminal remedies for IP enforcement. The Government has taken effective steps at all levels to enforce IP rights. The legal, administrative and enforcement machinery has been strengthened. The customs and police enforcement machinery has been streamlined and the measures for curbing piracy and counterfeiting related activities have become progressively more effective.

The IP regime in India has adequate safeguards in the form of judicial review and appellate provisions. The Indian judiciary is a strong and independent pillar of the government and has made immense contribution in enforcing IP rights. Judgments of Indian courts relating to IP disputes have clearly expressed the intent and purpose of our laws.

India has a very large copyright-based creative industry. The Copyright Act is comprehensive and with the recent amendments, the rights of creators have been strengthened. India was the first country to ratify the Marrakesh Treaty 2013 for

Access to copyright works for visually impaired persons. Enforcement in copyright has been significant and will be further reinforced. Judgments of Indian courts have adequately balanced the rights of copyright owners with the rights of public. Moral rights are fully recognized. The challenge in the future is the enforcement of copyright in digital platforms for which the statute has adequate provisions. Indian copyright owners are also victims of copyright violations and piracy. India will continue to engage with the international community in efforts to protect copyright owners in general and Indian copyright owners in particular.

India is one of the few countries that recognized concepts like well-known marks, protection for colour combinations and shapes in its trademark jurisprudence even before statutory enactment. One of the positive features of trademark protection in India is that trademarks are being registered and enforced by small and big entrepreneurs alike.

India has adopted a balanced approach towards patent law. It is committed to protect innovation while promoting the larger goal of welfare of its citizens. Courts and tribunals have upheld key provisions of India's patent law by their authoritative pronouncements. The system of pre-grant and post-grant oppositions introduced in 2005 ensures that only deserving patents are granted. Many of the procedural issues that arose from these amendments have been resolved. It is expected that there would be a steady evolution of patent jurisprudence in India. Patent filings too have gone up by 10.56% from 2008-2009 to 2013-2014. Over 75% of patent filings are by foreign entities and so there is a need for concerted action to be taken to increase filings by Indians.

Industrial designs law was amended in the year 2000. Courts have recognized passing off rights and copyright in designs. Overall, the law of industrial designs and enforcement thereof has been quite positive. At present, approximately 8000 applications are filed annually. This is much below India's potential and there is scope for considerable improvement. Concerted steps shall be taken particularly to increase sensitization to this law especially in the MSMEs and the informal sector.

Geographical indications have seen a recent spurt in filings and over 200 registrations have been granted. The Government is committed to ensure greater and effective protection of GIs nationally and internationally.

The creation of the Traditional Knowledge Digital Library (TKDL) has been a major achievement for India which has a vast pool of traditional knowledge. India has been able to thwart attempts to misappropriate its traditional knowledge. The next

challenge is to use India's strength in traditional knowledge for its effective promotion, development and utilization.

The Protection of Plant Varieties and Farmers' Rights Act, 2001, is a *sui-generis* legislation in India providing protection for plant varieties as well as rights of farmers. The trends in registration under this Act are very encouraging. Since 2007, over 8000 applications have been filed for plant varieties. Benefit sharing and commercialization are two areas which need attention.

The first registration under the Semiconductor Integrated Circuits Layout-Design Act, 2000 was granted in October 2014. It is expected that the industry will make increased use of this right to protect integrated circuit layout designs.

The present status of IP systems in India is quite positive. IP consciousness is on the increase amongst the creators and innovators leading to the development of a strong IP culture. India shall continue to strike the right balance between protection of innovation and the larger goal of betterment of society.

The National IPR Policy has been formulated with the following Vision, Mission and Objectives. Each Objective has been elaborated with a set of strategies or measures which are proposed to be taken for the achievement of that objective.

### **VISION**

An India where Intellectual Property led growth in creativity and innovation is encouraged for the benefit of all; an India where intellectual property rights promote advancement in science and technology, arts and culture, traditional knowledge and biodiversity resources; an India where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared.

### **MISSION**

Establish a dynamic, vibrant and balanced intellectual property system in India to:

- Foster innovation and creativity in a knowledge economy;
- Accelerate economic growth, employment and entrepreneurship;
- Enhance socio-cultural development; and
- Protect public health, food security and environment, among other areas of socio-economic importance.

## **OBJECTIVES**

### **Objective 1: IP Awareness and Promotion**

**To create public awareness about the economic, social and cultural benefits of IP among all sections of society for accelerating development, promoting entrepreneurship, enhancing employment and increasing competitiveness.**

Traditionally, knowledge was viewed in India as something that is created and put in the public domain. Monetization of knowledge was not the norm and in one sense ideas blew in from all directions. While laudable and altruistic, this does not fit with the global regime of strongly protected IPR. Hence, there is a need to propagate the value of transforming knowledge into IP assets.

Many IP holders are unaware of the benefits of IP rights or of their own capabilities to create IP assets or the value of their ideas. They are often discouraged by the complexities of the process of creating defensible IP rights. Conversely, they may be unaware of the value of others' IPR and the need to respect the same. The proposed outreach and promotion programs will illuminate both perspectives.

A nation-wide program of promotion will be launched with an aim to improve the awareness about the benefits of IPRs and their value to the rights-holders and the public. Such a program will build an atmosphere where creativity and innovation are encouraged in public and private sectors, R&D centers, industry and academia, leading to generation of protectable IP that can be commercialized. It is also necessary to reach out to the less-visible IP generators and holders, especially in rural and remote areas. The immediate economic rationale for individuals and the community, as well as the pride in being innovative, should be conveyed effectively to the public.

In pursuit of this objective, steps will be taken to:

- 1.1 Adopt the national slogan "Creative India; Innovative India - **सृजन भारत; रक्षत भारत**" and launch an associated campaign on electronic, print and social media by linking IPRs with other national initiatives such as "Make in India", "Digital India", "Skill India" and "Smart Cities";
- 1.2 Create a systematic campaign for promotion of India's IP strengths by conveying to all stakeholders the value and benefits of IP by:



- 1.2.1 Customizing programs for the specific needs of industries, MSMEs, R&D institutions, science and technology institutes, universities and colleges, inventors and creators, entrepreneurs;
  - 1.2.2 Reaching out to small businesses, farmers/plant variety users, traditional knowledge holders, designers and artisans through campaigns tailored to their needs and concerns;
  - 1.2.3 Including case studies of successful use of IPRs in the campaigns to create value in the respective domains;
  - 1.2.4 Promoting the idea of high quality and cost-effective innovation as a particularly Indian competence leading to competitive advantage;
  - 1.2.5 Involving eminent personalities as 'ambassadors' to spread awareness of India's IP;
  - 1.2.6 Using audio/visual material in print/electronic/social media for propagation;
  - 1.2.7 Creating moving exhibits (e.g. a train with a theme that will criss-cross the nation, road shows) that can travel to all parts of the country;
  - 1.2.8 Creating materials for IP promotion in multiple languages and pictorial form for those who cannot read;
  - 1.2.9 Studying best practices in other countries to design and launch public outreach programs.
- 1.3 Create awareness programs specifically targeting industry and R&D entities, both private and public by:
    - 1.3.1 Providing scientists/researchers with a deeper level of understanding about the need for taking adequate steps to protect their inventions even before publishing;
    - 1.3.2 Engaging public funded research organizations and the private sector to create campaigns highlighting the process of IPR creation and the value generated therefrom;
    - 1.3.3 Collaborating with MNCs and large corporate entities to jointly develop IPR programs for their employees and encourage them to adapt the same and propagate them to the public;
    - 1.3.4 Creating materials for MSMEs highlighting special support mechanisms for them to develop and protect IP.
  - 1.4 Create well-publicized events and ongoing programs to emphasize the importance of IP by:

- 1.4.1 Partnering with industry bodies, large corporations and institutions of R&D and higher learning to establish Innovation, Creativity and IPR museum(s);
  - 1.4.2 Announcing with the help of State governments, Innovation and IPR Days especially in major industrial, innovation and university clusters; celebrate 'World IP Day' in different cities and institutions;
  - 1.4.3 Setting up India's "Hall of Fame" to celebrate IP innovators and creators;
  - 1.4.4 Instituting prizes and awards to encourage IP creation activity in specific sectors.
- 1.5 Create suitable course materials for:
- 1.5.1 Educational institutions at all levels to emphasize the importance of IP rights;
  - 1.5.2 Online and distance learning programs for all categories of users.

## **Objective 2: Creation of IP**

**To stimulate the creation and growth of intellectual property through measures that encourage IP generation.**

The IP generators in India come from diverse groups. There is a need to strengthen the creativity and innovation ecosystem to tap this fertile knowledge resource and stimulate creation of IP assets. While promoting IP creation in areas which need improvement, it is necessary to simultaneously bring to the limelight those IPs which are India's special strengths and where India has future potential.

To plan for a comprehensive strategy to augment the creation of IP assets, a base line survey using research and data from all stakeholders is desirable. This will help identify the actual, potential and untapped areas of creativity and innovation and facilitate preparation of focused strategy to channelize efforts and financial resources where they are needed.

The profile of IP filings and registrations/grants is one of the parameters, though not the only one, to assess the current status and potential of IP creation in a country. In India, the number of patent filings has increased in the last few years, but the percentage of filings by Indians is relatively low. In the case of trademarks, India is among the top five filers in the world, the majority of which are filed by Indians. The number of design applications filed is nowhere near the potential that India has,

given its vast pool of designers, artisans and artists. GIs is an area of strength and optimism for India where it has accorded protection to a number of manufactured products especially in the informal sector. The copyright based sector contributes significantly to the Indian economy and its future potential is immense. In the area of plant varieties and farmers' rights, the number of filings and registrations are very encouraging. There is considerable unexplored potential for developing, promoting and utilizing traditional knowledge, which is a unique endowment of India. In each of the above areas, concerted efforts and targeted measures will help Indian creators and innovators to significantly augment generation of IP.

India has one of the largest pools of scientific and technological talent in the world. In several sectors they have created considerable technological output without commensurate IP generation. This talent pool is spread over R&D institutions, large, medium and small enterprises, universities and technical institutes. It is necessary to come up with targeted programs to encourage them to generate IPRs and utilize them in developing new technologies, products and solutions particularly in areas of national priority.

India has a large number of inventions that may not satisfy the criteria of patentability but are novel, utilitarian and inventive in their own spheres. Such petty patents or 'utility models' is a form of IP which has been successfully applied in many countries but is not available in India. This leaves out a large number of inventors from protecting their inventions by IPRs, particularly the MSMEs and in the unorganized/informal sectors. MSMEs account for about 45% of manufacturing output, but their potential IP assets are recognized only in a limited, often informal, manner. In order to reap the full benefits of such inventions the need exists for a new law on utility models.

One of the results of enhanced IP creation will be to raise India's position in the global indices of innovation and competitiveness.

In pursuit of this objective of IP creation, steps will be taken to:

- 2.1 Use the campaign "Creative India; Innovative India - सृजन भारत; राघत भारत", to propagate the value of creativity and innovation, and the resultant benefit to the public; to create a mindset and culture that encourages knowledge generation and its application through IP;

- 2.2 Carry out a comprehensive IP audit or base line survey in various sectors in cooperation with stakeholders to assess and evaluate areas of strength and potential, prioritize target groups of inventors and creators, develop specific programs to address their needs, provide resources to enable them to create IP assets and utilize them for their own and social benefit;
- 2.3 Focus on improving IP output of national research laboratories, universities, technology institutions and other researchers by encouraging and facilitating the protection of intellectual property created by them;
- 2.4 Include IP creation as a key performance metric for public funded R&D entities as well as technology institutions, and gradually extend such evaluation from Tier-1 to Tier-2 institutions;
- 2.5 Provide guidance to researchers and innovators about national priority areas to focus on, for instance in energy and food security, healthcare and agriculture, as well as sunrise sectors such as biotechnology, data analytics, nanotechnology, new materials and ICT;
- 2.6 Establish and strengthen IP facilitation centers as nodal points especially in industrial and innovation university clusters;
- 2.7 Create an industry-academia interface for encouraging cross-fertilization of ideas and IPR-driven research and innovation in jointly identified areas;
- 2.8 Stimulate large corporations, both Indian and foreign, that have R&D operations, to create, protect and utilize IP in India;
- 2.9 Improve awareness of the value of copyright for creators, the importance of their economic and moral rights and the rationalization of payment mechanisms for them;
- 2.10 Facilitate creation and protection of 'small inventions' through a new law on utility models;
- 2.11 Introduce the 'first-time patent' fee waiver and support systems for MSMEs and reduce transaction costs in other ways (e.g. prior art search);
- 2.12 Provide statutory incentives, like tax benefits linked to IP creation, for the entire value chain from IP creation to commercialization;

- 2.13 Increase awareness of international mechanisms and treaties (e.g. PCT, Madrid, The Hague) to encourage creation and protection of IP in global markets;
- 2.14 Encourage and incentivize IP generation and utilization among students at all levels, use awareness programs and educational materials to inculcate an appreciation for the value of IP;
- 2.15 Encourage innovations in the agriculture sector through application of IP for higher sustainable agricultural production;
- 2.16 Encourage the registration of Geographical Indications through support institutions; assist GI producers to define and maintain acceptable quality standards, and providing better marketability;
- 2.17 Create a *sui generis* system for protection of traditional knowledge which will safeguard misappropriation of traditional knowledge as well as promote further research and development in products and services based on traditional knowledge;
- 2.18 Encourage creation of design related IP rights by identifying, nurturing and promoting the aspects of innovation protectable under the design law and educating designers to utilize and benefit from their designs; involve the NIDs, NIFTs and others institutions in sensitization campaigns.

### **Objective 3: Legal and Legislative Framework**

**To have strong and effective laws with regard to IP rights that are consistent with national priorities and international obligations and which balance the interests of rights owners with public interest.**

India recognizes that effective protection of IP rights is essential for making optimal use of the innovative and creative capabilities of its people. India has a long history of IP laws which have evolved taking into consideration national needs and international commitments. The existing laws were either enacted or revised after the TRIPS Agreement and are fully compliant with it. These laws along with various judicial pronouncements provide a stable and effective legal framework for protection and promotion of IP. India will continue to utilize the legislative space

and flexibilities available in international treaties and the TRIPS Agreement while considering amending or enacting new laws.

It is acknowledged that laws need revisiting to keep up with several factors including issues of national importance, global developments, progress in science and technology as well as socio-economic needs. Since it is difficult to predict the reach of existing laws in a changing and dynamic knowledge field, it becomes necessary to carry out legislative changes, as may be required from time to time. For this purpose, objective and analytical studies will be garnered and inputs will be invited from all stakeholders to keep the laws updated in consonance with national needs and priorities. The aim is to provide a legal framework for strong, effective and balanced protection of IP rights and to impart predictability, transparency and efficiency in the administration and enforcement of IP laws. This is necessary so that a secure climate is available to all stakeholders for fully realizing the potential of IP.

In pursuit of this objective, steps will be taken, in national interest and within the framework of India's international obligations, to:

- 3.1 Review existing IP laws, where necessary, to update and improve them or to remove anomalies and inconsistencies, if any;
- 3.2 Enact laws to address national needs; to fill gaps in the protective regime of IPRs such as Utility Models and Trade Secrets; to keep up with advancements in science and technology; to strengthen IP and innovation eco-system for example IP created from public funded research; to protect and promote traditional knowledge;
- 3.3 Engage actively in the negotiation of international treaties and agreements in consultation with stakeholders; examine accession to some multi-lateral treaties which are in India's interest; and, become signatory to those treaties which India has *de facto* implemented to enable it to participate in their decision making process;
- 3.4 Review and update IP related rules, procedures, practices and guidelines for clarity, simplification, streamlining, transparency and time bound processes in administration and enforcement of IP rights;
- 3.5 Study the role of IPRs in setting standards in the various areas of technology; actively participate in standards setting processes at national, international and industry Standard Setting Organizations' levels and to

encourage the development of global standards that are influenced by technologies and IP generated in India;

- 3.6 Identify important areas of study and research for future policy development, such as:
  - 3.6.1 Interplay between IP laws and between IP laws and other laws to remove ambiguities and inconsistencies, if any;
  - 3.6.2 IP interface with Competition law and policy;
  - 3.6.3 Protection of undisclosed information not extending to data exclusivity;
  - 3.6.4 Guidelines for authorities whose respective jurisdictions impact administration or enforcement of IPRs such as patents and biodiversity;
  - 3.6.5 Exceptions and limitations;
  - 3.6.6 Exhaustion of IP Rights.

#### **Objective 4: IP Administration and Management**

**To modernize and strengthen IP administration for efficient, expeditious and cost effective grant and management of IP rights and user oriented services.**

Legislation of strong and good IP laws requires efficient and motivated administration and management to implement them effectively to the satisfaction of the user community. Sensitization of the IP officers at all levels with regard to the objects and reasons of our laws, international obligations and linkages between different IP laws; their continuous education and training and regular audit of their work will translate the law from paper to reality.

The Offices that administer the different Intellectual Property rights (IPOs) are the cornerstone of an efficient and balanced IP system, administering laws, granting IP rights, providing IP related services to the users and serving as a bridge between the government, IP support institutions and the user community. As intellectual property increases in significance and contributes to economic development, the importance and role of IP administration and management has also expanded. This in turn, influences the organization, structure and functions of modern IPOs.

IPOs now have the twin challenges of making their operations more efficient, streamlined and cost effective while administering national laws and global protection systems with expanding work load and technological complexity on one

hand, and enhancing their user-friendliness by developing and providing value added services to the user community on the other.

The trend in most countries is to upgrade the IPOs, to provide them adequate autonomy in their management, personnel and financial working and regard them as important developmental agencies rather than just regulatory bodies. Therefore, the organization, structure and funding patterns of the IPOs in India also need to evolve.

In pursuit of this objective, steps will be taken to:

- 4.1 Restructure, upgrade and grant adequate autonomy to IPOs taking into account the rapid growth and diversity of IP users and services, higher responsibilities and increased workload;
- 4.2 Augment manpower after analyzing projected workload, speedy liquidation of backlog, requirements of global protection systems and productivity parameters;
- 4.3 Study and review the processes of recruitment, training, cadre structure and career development to secure and retain the best talent to enhance efficiency and productivity;
- 4.4 Modernize further the physical and ICT infrastructure taking into account the expanding needs of the IPOs and to accelerate e-filings, e-processing and other e-services;
- 4.5 Collaborate with various R&D institutions, universities, funding agencies, chambers of industry and commerce in providing advisory services which will improve IP creation, management and utilization;
- 4.6 Establish close cooperation between IPOs and create a common web portal for ease of access to statutes, regulations, guidelines, databases and for better coordination;
- 4.7 Promote cooperation with IP offices in other countries in areas of capacity building, human resource development, training, access to databases, best practices in search and examinations, use of ICT and user oriented services;



- 4.8 Introduce approaches and mechanisms so that benefits of the IP system reach all inventors including MSMEs, informal innovators and holders of traditional knowledge;
- 4.9 Enhance international and bilateral cooperation and post IP Attachés in select countries to follow IP developments and advice on IP related matters.
- 4.10 Office of the Controller General of Patents Designs and Trademarks  
The office of CGPDTM, which administers patents, designs, trademarks and GIs, will:
- 4.10.1 Fix and adhere to timelines for grant of registrations and disposal of opposition matters;
  - 4.10.2 Adopt best practices with respect to filing and docketing of documents, maintenance of records and digitizing the same including document workflow and tracking systems;
  - 4.10.3 Create a service-oriented culture, including appointing public relations officers who would make the IP office user friendly;
  - 4.10.4 Take steps to expedite digitization of the Design office and enable online search and filing in the design office;
  - 4.10.5 Ensure that public records in the IP office are easily available and accessible both online and offline;
  - 4.10.6 Conduct periodic audits of processes being adopted in IP administration for efficient grant and management of IP rights;
  - 4.10.7 Implement quality standards at all stages of operations with the aim to obtain ISO certification;
  - 4.10.8 Establish effective coordination between its office and National Biodiversity Authority to enable harmonious implementation of guidelines relating to grant of patents on inventions using genetic resources and associated TK;
  - 4.10.9 Provide continuous training to staff of the IP Office to update them of developments in procedures (especially search and examination), substantive laws and technologies, with the Rajiv Gandhi National Institute of Intellectual Property Management, Nagpur (RGNIIPM);
  - 4.10.10 Remove disparities among different branches of the trademark registries and patent offices and adopt standardized procedures in examination/grant of applications including maintenance of rights;

- 4.10.11 Implement centralized priority field-wise on a national basis for patent applications;
- 4.10.12 Examine joining Centralized Access for Search and Examination (CASE) and WIPO Digital Access Services (DAS);
- 4.10.13 Provide value added services in the form of helpdesks, awareness and training materials, patent mapping, licensing and technology transfer support services, ease of remote access of the international patent search mechanisms and other IP related databases;
- 4.10.14 Implement incentives for MSMEs to encourage filing by the said sector like waiver of official fee, support of examiners and pro bono legal help for first time filing;

#### 4.11 Office of Registrar of Copyrights

The Government will:

- 4.11.1 Take measures to expedite modernization of the Copyright Office in terms of office space and infrastructure, e-filing facility including e-applications, processing and issue of final extracts of registrations;
- 4.11.2 Digitize copyright records and introduce on-line search facility;
- 4.11.3 Provide necessary manpower and adequate training facilities to personnel in the Copyright Office;
- 4.11.4 Take urgent measures for the effective management and administration of copyright societies to ensure transparency and efficiency in the collection and disbursement of royalties in the best interest of the right holders;
- 4.11.5 Provide user friendly services in the form of helpdesks, awareness and training materials.

#### 4.12 The Protection of Plant Varieties and Farmers' Rights Authority

The Protection of Plant Varieties and Farmers' Rights Authority will:

- 4.12.1 Support increased registration of new, extant and essentially derived varieties of plants and streamline procedures;
- 4.12.2 Facilitate development of seeds and their commercialization by farmers;
- 4.12.3 Establish links between the Authority and agricultural universities, research institutions, technology development & management centres and Krishi Vikas Kendras;
- 4.12.4 Coordinate with other IPOs for training, sharing expertise and adopting best practices;
- 4.12.5 Augment awareness building, training and teaching programs;
- 4.12.6 Modernize office infrastructure and use of ICT.

4.13 Registrar of Semiconductor Integrated Circuits Layout Design

The Registrar will study the reasons for lack of interest in filings under The Semiconductor Integrated Circuits Layout Design Act, 2000 and suggest appropriate remedial measures.

4.14 National Biodiversity Authority

The Government will formalize a consultation and coordination mechanism between the NBA and IPOs with a view to harmonious implementation of guidelines for grant of IP rights and access to biological resources and associated traditional knowledge and benefit sharing.

### **Objective 5: Commercialization of IP**

**To augment commercialization of IP rights; valuation, licensing and technology transfer.**

The value and economic reward for the owners of IPRs comes only from their commercialization. Presently the extent and scope of commercialization of IPRs is limited and there is no coordinated platform or agency for encouraging and promoting it. Commercialization needs to be stimulated by infrastructural and financial support; and by business-to-business and industry-academia collaborations. This can be achieved by means like sale, productization, licensing and technology transfer; business collaboration such as joint ventures and M&A; public private partnership; securitization; venture funding; financial incentives; and support for innovative startups.

The major generators of IP from various sectors need to focus on maximizing commercial value from their IP by devising appropriate strategies and exploring the most suitable avenue available for development and marketing of their products and services. A concerted effort should be made for capitalizing the existing IP assets in the country. Both entrepreneurship and intra-preneurship should be encouraged so that the value from IP may be captured. Existing mechanisms (e.g. Incubators and Accelerators) set up to promote entrepreneurship will be strengthened with IP-oriented services.

In the case of IP generated by informal or economically disadvantaged sectors, importance of commercialization cannot be over-emphasized. Government shall support such sectors in commercialization of IP. This will result in an overall development where no IPR owner is left behind, nor will an intrinsically Indian IPR

fade into extinction. In addition, the opportunity to reach an international audience should be made visible to smaller IPR holders.

Financing is a major impediment for entrepreneurs and therefore it is necessary to connect investors and IP creators. Another constraint faced is valuation of IP and assessment of the potential of the IP for the purpose of marketing it. Such an assessment could also involve access and analysis of IP documentation to determine market niches and marketing links (e.g. franchising, licensing).

In pursuit of this objective, steps will be taken to:

- 5.1 Establish an IP Promotion & Development Council (IPPDC) as the nodal organization for the promotion, creation and commercialization of IP assets by:
  - 5.1.1 Providing a platform for IP owners and users of IP by establishing an IP Exchange in the Council as a facilitator for creators and innovators to be connected with potential users, buyers and funding agencies;
  - 5.1.2 Promoting licensing and technology transfer for IP; devising suitable contractual and licensing guidelines to enable commercialization of IP; promoting patent pooling and cross licensing to create IP based products and services;
  - 5.1.3 Providing support for MSMEs, individual inventors and innovators from the informal sectors with enablers like facilitation centers for single window services to help them commercialize their IPRs;
  - 5.1.4 Identifying opportunities for marketing Indian IPR-based products and services to a global audience;
  - 5.1.5 Establishing links with similar organizations for exchange of information and ideas as also to develop promotional/educational products and services for promotion and commercialization;
  - 5.1.6 Facilitating access to databases on Indian IP and global databases of creators/innovators, market analysts, funding agencies, IP intermediaries;
  - 5.1.7 Studying and facilitating implementation of best practices for promotion and commercialization of IP within the country and outside;
  - 5.1.8 Establishing IP Promotion and Development Units (IPPDU) in various regions.

- 5.2 Promote collaborative IP generation and commercialization efforts between R&D institutions, industry, academia and funding agencies;
- 5.3 Support the financial aspects of IP commercialization by:
  - 5.3.1 Enabling valuation of IP rights by application of appropriate methodologies including for better accounting as intangible assets;
  - 5.3.2 Facilitating investments in IP driven industries and services through the proposed IP Exchange for bringing investors/funding agencies and IP owners/users together;
  - 5.3.3 Providing financial support to the less empowered groups of IP owners or creators like farmers, weavers, artisans, craftsmen etc. through financial institutions like rural banks or cooperative banks offering IP friendly loans;
  - 5.3.4 Taking stock of all IP funding by the Government and suggesting measures to consolidate the same to the extent possible; generating scale in funding and avoiding duplication; enhancing the visibility of IP and innovation related funds so that utilization is increased; performance based evaluation for continued funding;
  - 5.3.5 Regulating IP created through public funded research by a suitable law.
- 5.4 Promote public sector initiatives for IP commercialization by:
  - 5.4.1 Helping technologies acquired under the patent pool of the Technology Acquisition and Development Fund (TADF) and licensed as per provisions in Manufacturing Policy;
  - 5.4.2 Supporting initiatives taken by public sector research entities to commercialize their IPRs, for example by establishing corporate entities for commercialization;
  - 5.4.3 Developing skills among scientists to access, interpret and analyze the techno-legal and business information contained in IP documents.
- 5.5 Promote going-to-market activities by:
  - 5.5.1 Creating mechanisms to help MSMEs and research institutions to validate, scale and pilot through market testing;
  - 5.5.2 Providing seed funding for marketing activities such as participating in trade fairs, industry standards bodies and other forums;

- 5.5.3 Providing guidance and support to IPR owners about commercial opportunities of e-commerce through Internet and mobile platforms.

### **Objective 6: Enforcement and Adjudication**

**To strengthen the enforcement and adjudicatory mechanisms for combating IP violations, piracy and counterfeiting; to facilitate effective and speedy adjudication of IP disputes; to promote awareness and respect for IP rights among all sections of society.**

IP rights are essentially private rights. The primary obligation of protecting IP rights is on the IP owners who can seek both civil and criminal remedies for enforcement of their rights. Along with effective enforcement of IP rights, it is equally important to balance the rights of the public to prevent misuse or excess of IP rights.

The Government on its part has taken steps through relevant authorities to curb violations of IP rights. The Intellectual Property Rights (Imported Goods) Enforcement Rules 2007 have been framed to implement border control measures. The Ministry of Human Resources Development has set up a Copyright Enforcement Advisory Council (CEAC) with representatives from concerned Ministries/Departments, industry bodies and police to advise the Government on measures to improve enforcement of copyright and review the progress made.

Some state governments have also created IP cells in police departments including under the Economic Offences Wings. The states of Tamil Nadu, Kerala, Andhra Pradesh and Maharashtra have included video piracy as an offence in their laws to deal with prevention of dangerous activities.

IP owners have also realized the need to organize themselves to protect their rights. Certain IP Owners Associations and IPR Committees have been set up by national level chambers of industry to generate awareness on issues relating to infringement, piracy and counterfeiting, undertake market intelligence studies and devise action plans for better enforcement. A number of organizations in the field of creative industries and in the manufacturing sector have sensitization programs on the ills of piracy and counterfeiting and co-operate proactively with enforcement authorities. Special training programs and toolkits have been created for customs and police to detect infringing goods and take remedial actions.

Courts and specialized IP tribunals have led the way in protecting rights of the owners while balancing public interest and their judgments have a far reaching impact. It is therefore imperative that the tribunals are strengthened and their autonomy respected. In recent times, India has witnessed an increase in IP disputes. Patents have a limited term and patent disputes need to be adjudicated expeditiously.

Piracy and counterfeiting result in loss to the IP owners as well as the exchequer, besides causing harm to the consumers. These violations often have links with organized crime and ramifications for security. Indian creative industries are estimated to suffer significant loss due to piracy in India and other countries. Similarly, loss to Indian industry and business on account of counterfeiting is estimated as considerable.

Online piracy has assumed increasing significance and by its very nature blurs geographical borders, which creates difficulties in enforcement. It is in India's interest to further strengthen the enforcement authorities and step up enforcement measures so that IP violations including online piracy can be curbed effectively, efficiently and swiftly. Adjudication of IP disputes also ought to be effective and expeditious. Additionally, in order to check piracy and counterfeiting on a voluntary basis, efforts shall be made to sensitize society to the value of IP and create respect for IP rights.

In pursuit of this objective, steps will be taken to:

- 6.1 Create awareness of the value of IP and respect for IP culture by:
  - 6.1.1 Educating the general public, especially the youth and students, on ills of counterfeit and pirated products;
  - 6.1.2 Engaging with all levels of industry, including e-business, in order to create respect for IP rights and devise collaborative strategies and tools;
  - 6.1.3 Sensitizing inventors, creators of IP on measures for protection and enforcement of their rights.
  
- 6.2 Strengthen the enforcement mechanisms to ensure better protection of IP rights by:
  - 6.2.1 Establishing a centralized 'Multi-Agency Task Force' for coordination between the various agencies and providing direction and guidance on strengthening enforcement measures; creating a nation-wide database of known IP offenders; coordinating with and

- sharing of intelligence and best practices at the national and international level; studying the extent of IP violations in various sectors; examining the implications of jurisdictional difficulties among enforcement authorities; and introducing appropriate technology based solutions for curbing digital piracy;
- 6.2.2 Working closely with state governments for establishment of IP cells and inclusion of IP crimes under their special laws;
  - 6.2.3 Augmenting man power, infrastructure facilities and technological capabilities of the enforcement agencies and building capacity to check proliferation of digital crimes;
  - 6.2.4 Providing regular training, including refresher training, for officials in the enforcement agencies at their academies;
  - 6.2.5 Encouraging application of technology based solutions in the enforcement of IP rights;
  - 6.2.6 Initiating fact-finding studies in collaboration with stakeholders concerned to assess the extent of counterfeiting and piracy and the reasons behind it as well as measures to combat it;
  - 6.2.7 Taking up the issue of Indian works and products being pirated and counterfeited abroad with countries concerned.
- 6.3 Facilitate IP dispute resolution through different measures including:
- 6.3.1 Recommending designation of a specialized patent bench in the High Courts of Bombay, Calcutta, Delhi and Madras for speedy disposal of patent cases and providing infrastructural support such as video conferencing;
  - 6.3.2 Recommending the designation of one IP court at the district level depending on the number of IP cases filed;
  - 6.3.3 Working closely with judicial academies to conduct regular IP workshops/colloquia for judges;
  - 6.3.4 Promoting ADRs in the resolution of IP cases by strengthening mediation and conciliation centers, and developing ADR capabilities and skills in the field of IP;
  - 6.3.5 Creating regional benches of the IPAB in all five regions where IPOs are located;
  - 6.3.6 Increasing the powers of the IPAB in its administration including autonomy in financial matters and selection/appointment of technical and judicial members; and providing the necessary infrastructure for its effective and efficient functioning;



- 6.3.7 Taking urgent steps to make the Copyright Board function effectively and efficiently and provide adequate infrastructure and manpower to it.

### **Objective 7: Human Capital Development**

**To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IP.**

The IP scenario is dynamic and fast changing with increasing globalization, advancement of technologies, digital environment, development imperatives and global public policy issues. It is important to build national capacity for providing thought leadership in the IP field. Continuous policy research is also needed on empirical and topical IP areas of relevance with an interdisciplinary perspective at the national and international level. This research would enrich the process of policy, law, strategy development and international negotiations at the government and organizational levels. While apex level institutes or bodies exist for most sectors of national importance, such an institution has yet to be established for intellectual property development.

In order to harness the full potential of intellectual property for economic growth, it is essential to develop an increasing pool of IP professionals and experts in spheres such as policy and law, strategy development, administration and enforcement. IP expertise would also be developed and increased in industry, academia, legal practitioners, judiciary, IP users and civil society. In addition, there will be enhancement of multidisciplinary human and institutional capacity for policy development, teaching, training, research and skill building. Such a reservoir of experts will facilitate in increasing generation of IP assets in the country and their utilization for development purposes.

In pursuance of the objective, steps will be taken to:

- 7.1 Establish a national level Institute of Excellence to provide thought leadership in IP; conduct policy and empirical research; examine trends and developments in the field of IP at the national and international level; support the government in strategic development of IP systems and international negotiations; establish links with similar institutes and experts in other countries for exchange of ideas, information and best practices; and suggest approaches and guidelines for inter-disciplinary human capital development;

- 7.2 Strengthen and empower RGNIIPM, Nagpur to conduct training for IP administrators and managers in industry and business, academicians, R&D institutions; IP professionals; inventors and civil society; train the trainers and develop training modules; develop links with other similar entities at the international level; set up state level institutions which will work with RGNIIPM;
- 7.3 Energize IP Chairs in educational institutes of higher learning to provide high quality teaching and research; develop teaching capacity and curricula and evaluate their work on performance based criteria;
- 7.4 Introduce IP courses/modules in all major training institutes such as Judicial Academies, National Academy of Administration, Police and Customs Academies, IIFT, Institute for Foreign Service Training, Forest Training Institutes;
- 7.5 Create IPR cells and technology development and management units in such institutes;
- 7.6 Make IP a compulsory subject in all legal educational institutions, NIDs, NIFTs, agricultural universities and management institutes;
- 7.7 Progressively introduce IP teaching in schools, colleges and other educational institutions;
- 7.8 Facilitate industry associations, inventors and creators associations and IP support institutions to raise awareness of IP issues and for teaching, training and skill building;
- 7.9 Encourage formulation of institutional IP Policy/Strategy in higher education, research and technical institutions;
- 7.10 Link IP teaching as part of accreditation mechanism in institutes under the purview of UGC, AICTE/MCI as well as IITs/IIMs;
- 7.11 Develop distance learning and on-line courses on IP for all categories of users;
- 7.12 Strengthen IP teaching, research and training in collaboration with WIPO, WTO, other International Organizations and reputed foreign universities.

## **INTEGRATION OF IP WITH GOVERNMENT INITIATIVES**

### **Make In India**

This initiative by the Government to transform India into a world class manufacturing hub is predicated on fostering innovation and creativity by generating, protecting and utilizing intellectual property assets. This will facilitate widening of the manufacturing base by induction of new technologies, launching of new products, establishing new industries and/or expansion of existing ones and promoting investment and trade. Setting up of Smart Cities, industrial corridors, innovation and industrial clusters, skill building initiatives and development of appropriate institutions is part of the 'Make in India' initiative. Indian inventors and creators will be enthused and enabled to create IP assets in India and utilize them in manufacturing. Foreign companies will be encouraged to bring their IP protected inventions and creations to India along with investment and technology transfer and establish their manufacturing, R&D and outsourcing bases in India.

Government is committed to providing a strong, balanced, predictable and transparent IP regime for this purpose. The Indian IP system will contribute to enterprise, competitiveness, employment and entrepreneurship. It will add value and support as also ease conduct of business operations.

### **Digital India**

This initiative involves several components, all of which will benefit from IP creation, protection, enforcement and commercialization. These components include Smart Cities, e-governance, e-literacy, e-commerce, strengthening and expansion of digital infrastructure and transforming India into an Electronic System, Design and Manufacturing hub. The digital environment provides opportunities for utilizing IP in e-applications including e-business and start-ups as also challenges in its protection and enforcement.

Several strategies and approaches outlined in previous sections of this Policy will support the above and other initiatives of the Government. In particular, the following measures will be implemented:

1. The proposed IP Promotion and Development Council (IPPDC) will open IP Promotion and Development Units (IPPDU) in all States, smart cities, innovation and industrial clusters in order to provide one window services to entrepreneurs, startups and manufacturing units for IP awareness, protection and utilization.
2. IP support to MSMEs will be expanded through new or existing IP facilitation centers.
3. Links will be forged between IPPDU/Facilitation Centers with IPOs, innovation and research universities, industry associations and financing institutions in order to realize 'Mind to Market' concept.
4. Technology Acquisition and Development Fund under the Manufacturing Policy will be utilized for licensing or procuring patented technologies.
5. The use of global protection systems will be promoted for obtaining protection of Indian IPRs in several countries for creating wider marketing and trading opportunities.
6. Manufacturing units will be encouraged to set up IP cells in their own units and make IP an integral part of their corporate strategies.
7. Establishment of a system in IPOs for simultaneous examination and grant of several category of rights such as patents, trademarks, designs when attached to a single product will be examined.
8. Integrate into the Government initiatives the various schemes of the Department of Electronics and Information Technology for IP promotion and global protection, forging links between industry and academic/research institutes for industry oriented research, commercialization and entrepreneurship development.

**COORDINATION, IMPLEMENTATION, BENCHMARKING, MONITORING  
AND EVALUATION OF THE IP POLICY**

Intellectual property in India is regulated by several laws, rules and regulations under the jurisdiction of different Ministries/ Departments. A number of authorities and offices administer the laws. The legal provisions need to be implemented harmoniously so as to avoid conflict, overlap or inconsistencies among them. It is necessary that the authorities concerned administer the laws in coordination with each other in the interest of efficient administration and user satisfaction. Legal, technological, economic and socio-cultural issues arise in different fields of IP which intersect with each other. International, regional and bilateral negotiations require developing a common national position in consultation with different Ministries, authorities and stakeholders.

The present IP Policy aims to integrate IP as a policy and strategic tool in national development plans. It foresees a coordinated and integrated development of IP system in India and the need for a holistic approach to be taken on IP legal, administrative, institutional and enforcement related matters.

For the above reasons, it has become necessary to establish or designate a high level body in the Government to coordinate, guide and oversee implementation and future development of IP in India in accordance with the National IP Policy. This body will be the nodal agency in the Government responsible for bringing cohesion and coordination among various Ministries/Departments in the way they deal with IP matters under their charge. It will be responsible for laying down priorities for IP development and preparing plans of action for time bound implementation of national and sector specific IP policies, strategies and programs. This will be done in close consultation and with the involvement of all Ministries/Departments and authorities/ agencies concerned. The responsibility for actual implementation of the plan of action will remain with the Ministries/Departments concerned in their assigned sphere of work. Public and private sector institutions and stakeholders' bodies will be made an integral part of the consultation and implementation process.

Each program or activity under the plan of action will be benchmarked with the best parameters applicable to the Indian situation. Monitoring the progress of implementation of the National IP Policy, linked with performance indicators, targeted results and deliverables will be done by the high level body. Annual evaluation of the overall working of the National IP Policy and the results achieved will be undertaken. A major review of the Policy will be undertaken after 3 years.

Submitted by:

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