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IP is the foundation of knowledge-based economy there is a well-established statutory, administrative and judicial framework to safeguard intellectual property rights in India, whether they relate to patents, trademarks, copyright or industrial designs. Well-known international trademarks have been protected in India even when they were not registered in India. The Indian Trademarks Law has been extended through court decisions to service marks in addition to trade marks for goods. India has also opted for the Madrid protocol.

In 1994 this well-established commercial environment began to change, when India signed the TRIPs Agreement. TRIPs Agreement aims to establish common international rules for minimum protection provided by a government to the intellectual property from other WTO members. India was given a 10 years transition period in which to become compliant with the regulation laid down by WTO, and so had until January 1, 2005 to meet the minimum standards regarding intellectual property. Trademark: A trade mark (represented by the symbol) or mark is a distinctive sign or indicator of some kind which is used by an individual, business organization or other legal entity to identify uniquely the source of its products and/or services to consumers, and to distinguish its products or services from those of other entities. A trademark is a type of intellectual property, and typically a name, word, phrase, logo, symbol, design, image, or a combination of these elements the use of trademarks in the market place was a particularly important mode of commercial communication in pre-literate societies and societies in which a number of languages were used. It provided a concise and convenient way of communicating information about the goods to which

they were affixed. Among the earliest precursors of the modern trade mark was the use of marks on containers, tools, bricks and similar items in ancient Egypt and Mesopotamia. The Industrial Revolution, which commenced in Britain in the eighteenth century, saw the emergence of the modern trademark.

The need for this development occurred as a result of the vast changes in production and distribution at that time. Some well known trademark of this period was " Singer" (1851)" Vaseline", (1878); " Coca Cola" (1886); " Kodak" (1888); and " Kellogg's", (1915) The Trade Marks Registry is also proposed to be further strengthened and modernized. A project for modernization was earlier implemented during 1993-96. Further strengthening of the Registry is being taken up at a cost of Rs.

86 million. The main thrust now is to strengthen the infrastructure of the Trade Marks Registry and the early removal of backlog of pending applications. India has also opted for the e- filling of trademark registration and has also opted for Madrid convention. The Madrid system for the international registration of marks (the Madrid system) established in 1891 functions under the Madrid Agreement (1891), and the Madrid Protocol (1989). It is administered by the International Bureau of WIPO located in Geneva, Switzerland. The Madrid system offers a trademark owner the possibility to have his trademark protected in several countries by simply filing one application directly with his own national or regional trademark office . An international mark so registered is equivalent to an application or a registration of the same mark effected directly in each of the countries designated by the applicant. If the trademark office of a designated country

does not refuse protection within a specified period, the protection of the mark is the same as if it had been registered by that Office.

The Madrid system also simplifies early the subsequent management of the mark, since it is possible to record subsequent changes or to renew the registration through a single procedural. In most of the case relating to trademark dispute an injunction is passed against the person who has infringed the registered trademark for e. g. in case of Heinz Italia and Anr.

Vs. Dabur India Ltd it was decided by Honourable Supreme Court of India after observing all the facts that there is an infringement of trademark by the defendant and an ad- interim injunction was passed against them. Patents: A Patent is an exclusive monopoly granted by the Government to an inventor over his invention for a limited period of time. It provides an enforceable legal right to prevent others from exploiting an invention. Invention as defined under the Act to mean a new product or process involving an inventive step and capable of industrial application The first legislation in India relating to patents was the Act VI of ' 1856.

The objective of this legislation was to encourage inventions of new and useful manufactures and to induce inventors to disclose secret of their inventions. The Act was subsequently repealed by Act IX of 1857 since it had been enacted without the approval of the British Crown. Fresh legislation for granting ' exclusive privileges' was introduced in 1 859 as Act XV of 1859 in 1872, the Act of 1859 was consolidated to provide protection relating to designs. It was renamed as " The Patterns and Designs Protection Act" under Act XIII of 1872. The Indian Patents and Designs Act, 1911, (Act II of 1911)

replaced all the previous Acts. This Act brought patent administration under the management of Controller of Patents for the first time. This Act was further amended in 1920 to enter into reciprocal arrangements with UK and other countries for securing priority. But due to weakness of The Indian Patents and Designs Act, it was amended in 1950(Act XXXII of 1950) in relation to working of inventions and compulsory license/revocation.

Patents represent one of the powerful intellectual property rights. The registration of a patent confers on the patentee the exclusive right to use, manufacture or sell his invention for the term of the patent. It means that the invention cannot be commercially made, used, distributed or sold without the patentee's consent. The term for patents is 20 years from the date of filing of the application for the patent. It is the responsibility of the patentee to maintain an issued patent by paying the annuities until the patent expires.

After 20 years term the invention claimed in the patent falls into the public domain. In some of the recent cases Indian courts have shown that anything which are registered as patents cannot be infringed by any other pa ' Like in the case of J. Mitra and Co. Pvt. Ltd vs. Kesar Medicaments and Anr.

It was decided by the Honorable Appellate Board that balance of convenience lies in favour of plaintiff as the plaintiff's patent cannot be permitted to be infringed Copyright: The Indian law of copyrights is enshrined in the Copyright Act, 1957. The Act seeks to provide for the registration of copyrights in India. The object of copyright law is to encourage authors, artists and composers to create original works by

rewarding them with exclusive right for a fixed period to reproduce the works for commercial exploitation. The Copyright Act, 1957 came into effect from January 1958.

This Act has been amended five times since then, i. e., in 1983, 1984, 1992, 1994 and 1999, with the amendment of 1994 being the most substantial.

Copyright is a right given by the law to creators of literary, dramatic, musical and artistic works and producers of cinematographic films and sound recordings. In fact, it is a bundle of rights including, inter -alia, rights of reproduction, communication to the public, adaptation and translation of the work.

India has one of the most modern copyright protection laws in the world. Major development in the area of copyright during 1999 was the amendment to the Copyright Act of 1957 to make it fully compatible with the provisions of the TRIPS Agreement Called the Copyright (Amendment) Act, 1999, this amendment was signed by the President of India on December 30, 1999 and came into force on January 15, 2000. The Copyright Act is now in full conformity with the TRIPS obligations. The Copyright Act, 1957 prescribes mandatory punishment for piracy of copyrighted matter commensurate with the gravity of the offense with an effect to deter infringement, in compliance with the TRIPS Agreement. Section 63 of the Copyright Act, 1957 provides that an offense of infringement of copyright or other rights conferred by the Act shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years with fine which shall not be less than fifty thousand rupees but which may extend to two lakhs

rupees (Rs. 200, 000). Copyright functions under copy right board. The Copyright Board, a quasi-judicial body, was constituted in September 1958.

The jurisdiction of the Copyright Board extends to the whole of India. The Board is entrusted with the task of adjudication of disputes pertaining to copyright registration, assignment of copyright, grant of licenses' in respect of works withheld from public, unpublished Indian works, production and publication of translations and works for certain specified purposes. Special cells for copyright enforcement have so far been set up in 23 States and Union Territories, i.

e. Andhra Pradesh, Assam, Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Meghalaya, Orissa, Pondicherry, Punjab, Sikkim, Tamil Nadu, Tripura and West Bengal. States have also been advised to designate a nodal officer for copyright enforcement to facilitate easy interaction by copyright industry organizations and copyright owners. Designs: Industrial designs refer to creative activity which result in the ornamental or formal appearance of a product and design right refers to a novel or original design that is accorded to the proprietor of a validly registered design. Industrial designs are an element of intellectual property. Under the TRIPS Agreement, minimum standards of protection of industrial designs have been provided for. As a developing country, India has already amended its national legislation to provide for these minimal standards. The essential purpose of design law is to promote and protect the design element of industrial production.

It is also intended to promote innovative activity in the field of industries.

The existing legislation on industrial designs in India is contained in the New Designs Act, 2000 and this Act will serve its purpose well in the rapid changes in technology and international developments. The duration of the registration of a design is initially ten years from the date of registration, but in cases where claim to priority has been allowed the duration is ten years from the priority date. This initial period of registration may be extended by further period of 5 years on an application made in Form-3 accompanied by a fee of Rs. 2, 000/- to the Controller before the expiry of the said initial period of Copyright. The proprietor of a design may make application for such extension even as soon as the design is registered.

Geographical indication: Protection of Geographical Indications in India is governed by the legislation namely The Geographical Indications of Goods (Registration & Protection) Act, 1999, which seeks to provide for registration and better protection of geographical indications relating to goods in India. This Act also provides for setting up a Geographical Indications Registry for the purposes of registration of GIs in India. It is an indication or appellation of origin and is used to identify agricultural natural or manufactured goods originating in the said areas and also the goods have a special quality or characteristics or reputation based on climatic or production characteristics unique to the geographical location. It prevents unauthorized use of registered geographical indication by others and provides legal protection to Indian geographical indication, which in turns boost exports and also provides economic prosperity of producers of goods produced in a geographical territory. They are also covered under Articles 22 to 24 of the

Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement, which was part of the Agreements concluding the Uruguay Round of GATT negotiations. India, as a member of the World Trade Organization (WTO), enacted the Geographical Indications of Goods (Registration & Protection) Act, 1999 has come into force with effect from 15th September 2003.

Conclusion: The bottom-line is that India considers itself a responsible member of the WTO which suggests that international class IPR protection should be in place. Note that Bill Gates, the chief executive officer of Microsoft Corporation, has distinguished India as a most < promising base for software development. If such an IPR-conscious' business leader like Gates is of this opinion, one can only conclude that India's IPR scene is no deterrent. And in near future India will formulate more effective law in order to cope up with new areas which are yet to come in the field of IPR.

Intellectual Property Rights (IPRs) play an important role in the social, economic and cultural development of a society. Intellectual Property Rights in India (IPRs in India) are gaining lot of attention and importance in India. India has begun to see some positive results as awareness of the need for greater IP protection has increased. India must continue to improve its IPR protection, or risk being left behind as other countries in the developing world implement protections and build their own knowledge based economies.