

ROLE OF IPR IN START-UP INDIA: OPPORTUNITIES AND CHALLENGES

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Abstract

Start-ups. The intangible nature of intellectual property creates challenges for those businesses, to protect their inventions, brands, and business in foreign markets. Intellectual Property will no longer be seen as distinct or self-contained domain, but rather as an important and effective policy instrument that would be relevant to a wider range of socio – economic, technological and political concerns and its sustenance. Under the Make in India initiative, the Government of India launched the Scheme for Facilitating Start-Ups Intellectual Property Protection (SIPP) in January 2016. This scheme was initiated in an effort to reach out to start-ups, protect and promote their Intellectual Property Rights (IPR) and to encourage creativity and innovation among themselves. Although the knowledge about the IP rights in India is budding but people still need assistance and knowledge so as to decide properly about method of protection required for their ideas also, in addition to the products which are emerged from those ideas. To protect and to foster the protection among the startup, a patent for an invention is must. With this goal and an objective of sustainability and the research and development in the country should be enhance. There is a need for a constant thinking over the core issue of IP, in order to respond to situations arising out of global competition.

Keywords: IPR, Start-ups, Sustainability

Introduction

Globalization and advancement of technology has played an important role in intellectual property protection for small and medium sized enterprises. The intangible nature of intellectual property creates challenges for those businesses, to protect their inventions, brands, and business in foreign markets. The process of wealth creation is changing from resource based to knowledge based i.e. it now depends on brainpower and our ability to create, to sell, to explain and to solve problems. Intellectual Property will no longer be seen as divergent or independent domain, but rather as an important and effective policy instrument that would be relevant to a wider range of socio – economic, technological and political concerns. Moreover, as technological advancements have become a requirement for sustained growth in the future, a new emphasis is emerging on research and development. Initiatives such as Make in India, the Startup India program, the establishment of the Ministry for Skill Development and Entrepreneurship, the Intellectual Property Facilitation Centers and other incubation programs may have spurred growth, but it's no secret that innovation remains the biggest missing piece of the Indian startup mystery. Sustainability is the major trust for each and every business for future endeavor.

Research Methodology

The research paper is an attempt of exploratory/ conceptual research based on the secondary data

sourced from journals, magazines, articles and media reports.

Looking into requirements of the objectives of the study the research design employed for the study is of descriptive type. Keeping in view of the set objectives. Available secondary data was extensively used for the study and procures the required data through secondary survey.

Objectives of The Study

The study has been geared towards achieving the following objectives:

- 1) To make understand the IPR progression in start-up.
- 2) To know the reflection of IPR on Startups and its sustainability.
- 3) To give the awareness about IPR.

Patents are benefit to the owner of the IP and it add importance to industrial as well as business concerns, discoveries and provide incentives for private sector investment into their development. As globalization deepens further, it also increasingly encompasses the sharing, utilization and enjoyment of IP products like inventions, designs, books, etc. India is fast developing in various sector, its development of stringent and staunch IPR system is an urgent need. Keeping in view, this emergency the Indian corporates' are responding positively to TRIPS by gearing itself to increasing the R&D outlays.

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The convention establishing the World Intellectual Property Organization (WIPO) concluded in Stockholm on July 14, 1967 (Article 2 (viii)) provides that "Intellectual Property" shall include rights relating to:

- Copyrights.
- Literary, Artistic and Scientific Works.
- Performances of performing artists, Phonograms and Broadcasts.
- Inventions in all fields of human endeavour.
- Scientific discoveries.
- Industrial Designs.
- Trademarks, Service Marks and Commercial Names and Designations.
- Protection against unfair competition and all other rights resulting Intellectual activity in the industrial, scientific, literary or artistic fields.

Under the Make in India initiative, the Government of India launched the Scheme for Facilitating Start-Ups Intellectual Property Protection (SIPP) in January 2016. This scheme was initiated in an effort to reach out to start-ups, protect and promote their Intellectual Property Rights (IPR) and to encourage creativity and innovation among themselves. As the manufacturing involves creativity it is definite to pave ways for creation of Intellectual Property (IP) and hence it is crucial that proper protection should be sought in this regard before moving ahead with an idea in a market.

By owing an IP, a startup could transform into a million dollar entity and could create a niche for itself in market. IP can be a unique selling proposition (USP) of the product or service, and it could help to create a sustainable and defensible differentiator for an entity.

Problems faced by Start-ups:

Start-up India is a flagship initiative of the Government of India, intended to build a strong eco-system of nurturing innovation and start-ups in the country that will drive sustainable economic growth and generates large scale employment opportunities. The Government through this initiative aims to empower Start-ups to grow through innovation and design.

Even though the knowledge about the IP rights in India is growing but people still requires assistance, guidance and knowledge so as to decide properly about method of protection required for their ideas, products and others which are emerged from those ideas. Protections after launch of the product/ideas. The following problems faced by any Startup can be:

- Safeguarding after unveiling of the product/idea.
- Confusion regarding choice of proper protection for the idea/product.

- Lack of research before the introduction of ideal products.
- Lack of maintain secrecy before the launch.
- Too much cost of Research and development.
- Globalisation
- Litigation delays in implementing IP rights and award of damages
- Software piracy

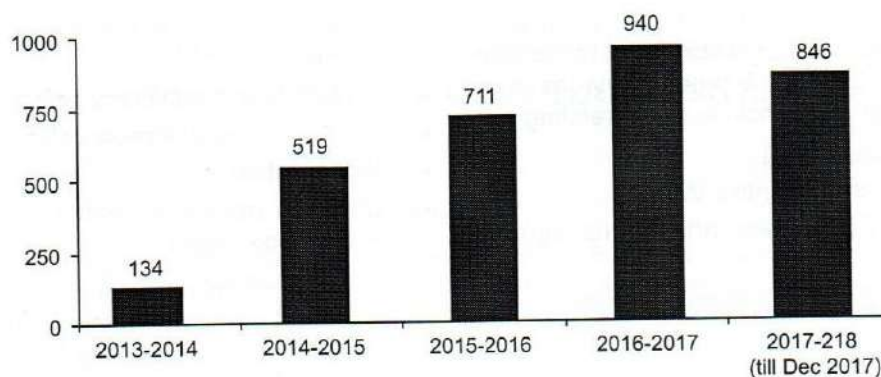
Under new startup policy, the government provides various facilities like lower fees, expedited examination and so are being incentivized for patent and IP matters. To protect and to foster the protection among the startup, a patent for an invention is a Startup India was launched by the Government of India on **January 16, 2016**, to build a strong eco-system for nurturing innovation and Startups in the country to drive economic growth and generate large scale employment opportunities must.

With this goal and an objective of upliftment of the research and development in the country, the government has launched the **SIPP scheme in 2016** and increasingly more and more startup is now being a part of this scheme. Currently, there are **more than 5000 startups have registered themselves under SIPP scheme and availed the patent protection.**

Year-wise breakup of GI Authorized User Applications as on 2017-18. As on 31st December 2017, the Indian Patent Office as ISA, has received 3150 international applications choosing India as ISA, requesting for international search reports and 98 applications choosing India as IPEA for international preliminary examination. Indian Patent office (ISA) has successfully improved the timeliness of establishing International Search reports (ISR) over the years. During the year 2015-16, about 41% search reports were issued within time i.e. 3 months from search copy received by ISA, whereas during 2016-17, about 68% reports were issued in time. During 2017-18, the percentage of timeliness in issuing ISRs has increased to about 97 %. The Indian ISA develops high-quality reports at the lowest possible cost among all ISAs in the international arena within the stipulated time frame. **(Graph-1 & Graph-2)**

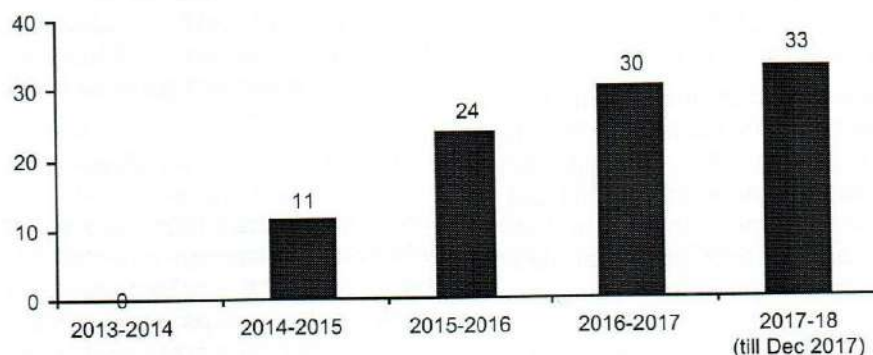
IPR Trends:

- Examination of patent applications in the first nine months of this F.Y. 2017-18 has more than doubled to 40,790 compared to the same period in F.Y. 2016-17.
- Disposal of patent applications has increased by 81% in the last nine months compared to the same period last year.



Total applications in ISA received till 31st December 2017 = 3150

Graph-1



Total applications received in IPEA till 31st December 2017 = 98

Graph-2

- The drop in Trademark examination in 2017-18 is due to the elimination of pendency and examination of an application is just one month.
- Applications examined for Copyrights have increased by 78%
- There has been a 42% increase in disposal.

Above table and analysis shows that, IP is in trending in India. The rising awareness around patent filing is having a positive impact as more startups are investing in onboarding good IP lawyers at initial stages of commercialization of their product.

Issues and Challenges of IPR in Startups in India:

- India has enacted fully TRIPS compliant Patents Act, Trademarks Act, Copyright Act, Designs Registration Act and such other acts related to fields of IPR.
- Laws regarding the avoidance of Intellectual Property Rights Infringement should be modified because infringement is the risk.
- Lack of skilled workforce and funding, inadequate formal mentoring and poor business ethics.

- Legal process delays in implementing IP rights and award of damages
- An increasing number of product startups in India are bargain the need for filing patents at an early stage of product development, which is very sensible.
- Need more number of promotional activities pertaining entrepreneurship in the country.
- India's startup ecosystem needs top notch technical talent and global business skills.

Conclusion:

In a nutshell, India has compiled with the obligations of TRIPS by amending the IP laws, certain issues are still needed to be taken care of. And there is a need for a constant thinking over the core issue of IP protection, in order to respond to situations arising out of global competition. To protect and to foster the protection among the startup, a patent for an invention is must. With this goal and an objective of upliftment of the research and development in the country. the facility been given by Government of India with respect to IP Protection as negligence of IP protection may be

detrimental to the growth of their business in future. By having an IP, a startup could change into a million dollar entity and could build a niche for itself in market and help to create a sustainable and strong differentiator for an entity.

The willingness to file patents has also led to enhanced investor self-reliance. The ecosystem, associates consider that patent filing is an integral part of the overall product strategy as benefits. As startups approaching global market, must be aggressive in their market as patent filing not only increases the trustworthiness when they balance but also encourages investor sustenance.

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Thank You