

National IPR Strategy

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A Introduction

Intellectual Property Rights are private rights recognized within the territory of a country and granted or (conferred upon) individual(s) or legal entities in order to protect their creativity or innovation in the industrial, scientific, literary and artistic fields. Intellectual Property Rights provide statutory expression to the economic and moral rights of creators and inventors in their creations and inventions. IPRs are conferred for a limited period of time and during this period they prevent others from unauthorized use of those productions. Governments increasingly use IPRs as a policy tool for promoting creativity and innovation.

2. The emergence of globalization and constant technological changes are steadily transforming our society - making it more knowledge intensive than ever. The industrial landscape too is witnessing a similar evolutionary pattern. Importantly, the capacity to appropriately create, protect, utilize and transfer knowledge assets has become an important determinant of competitive advantage. The rapid development of information technology has connected firms, customers, suppliers and various other stakeholders in a complex and interdependent web of interactions. These developments have resulted in a paradigm shift in the nature and scope of economic progress.

3. The underlying basis of knowledge as a source of productivity gain and competitiveness has ensured a central place for Intellectual Property Rights (IPRs). Compared with the traditional factors of land, labor and capital responsible for production, it is the generation and management of knowledge and corresponding intellectual property rights, which is increasingly playing an important role in the economic development of a country. This increasing importance of Intellectual Property Rights has started to change the way national and sub national governments view Intellectual Property and Innovation system as a whole, making it a policy driven initiative in both developed and developing economies. Most developed economies already have strong systems and policies in place to encourage and protect IPRs, and developing economies are slowly but steadily moving towards creating similar ecosystems most suitable to their national needs.

4. India has also developed a national framework for creation and protection of IPRs, which is continuously evolving and is already meeting global standards. The challenge before the country is to scale up the process of IP creation and to capture

value from the scientific and technological creations to catapult the country into the league of most innovative and developed nations.

5. It is in this context that the Hon'ble President of India declared the decade of 2011-2020 as the Decade of Innovation. Subsequently, the National Innovation Council was created with the objective of formulating a roadmap for innovation with focus on key parameters namely platform, inclusion, eco systems, drivers and discourse. A Sectoral Innovation Council on IPRs was established under the Department of Industrial Policy & Promotion with the mandate to prepare a National IPR Strategy for encouraging innovation and to address the key concerns of sustainable development and inclusive growth.

B Outline of the Present Intellectual Property System in India¹

6. India has a well- established legislative, administrative and judicial framework to safeguard Intellectual Property Right which meets its international obligations while utilizing the flexibilities provided in the international regime to address its developmental concerns. India's comprehensive legal framework on IPRs includes the Patents Act 1970 (as amended in 2005), the Trade Marks Act 1999, the Geographical Indications of Goods (Registrations and Protection) Act 1999, the Designs Act 2000, the Semiconductor Integrated Circuits Layout Design Act 2000, the Copyright Act 1957 (as amended in 2012) and the Protection of Plant Varieties and Farmers Rights Act 2001. Besides this, the Competition Act 2002 and the Biological Diversity Act, 2002 are also important legislations that address issues relating to Intellectual Property Rights. The Department of Industrial Policy and Promotion is responsible for four of the seven IP rights, i.e patents, trademarks, designs and geographical indications. The other IP rights are administered by the Department of Higher Education (Copyright), the Department of Information Technology (Semi Conductor and Integrated Circuits Layout Design) and the Department of Agriculture and Cooperation (Plant Varieties Protection and Farmers' Rights Act, 2001).

7. The legislative developments have paved the way for the intellectual property system as it exists today, mirroring some of the key best practices from across the globe. Today, India's IP system ensures protection of intellectual property while

¹ Agenda Note for the meeting of Consultative Committee of Parliament attached to M/o Commerce & Industry on "The Challenges facing IPR Policy – both international and domestic" held in March, 2011.

promoting the balance of rights and obligations between the producers and users of intellectual property.

C Recommendations for a National IPR Strategy for India

Introduction

8. India is an emerging economy which has been witnessing unprecedented levels of economic expansion, alongside China, Brazil, Russia, South Africa and Mexico. As a cost effective and labor intensive economy, India has benefited immensely from outsourcing of work from developed countries, and has maintained a reasonably good manufacturing and export oriented industrial framework. While India is currently amongst the most attractive destinations globally, for investments and business, it is innovation and efficiency that shall increasingly play a key role in ensuring long-term economic growth.

9. Realizing the importance of a strong and balanced IP system, several initiatives have been undertaken over the last decade at the policy level, with a view to foster an environment which is conducive for development of technology and trade in India. However, as most would acknowledge, innovation and IPR is an ever-evolving subject and there is a definite need for constantly reviewing national framework and policies to keep abreast with the global developments with the view to address the changing requirements of the economy.

Importance and role of a National IP Strategy (NIPS)

10. The National IP strategy outlines a set of measures and guidelines to encourage and facilitate the effective creation, protection, management and commercialization of IP for accelerating economic, social, cultural and technological development and for enhancing enterprise competitiveness. The IP Strategy also needs to be integrated with the overall national development plan to create synergies with IP components of specific national strategies in sectors such as science and technology, trade and investment, industry, MSMEs, education, energy, food and agriculture, ICT, environment, culture, heritage and traditional knowledge, among others. In this way it can emerge as one of the important tools for promoting innovation and creativity.

11. India's national IP strategy need to be specifically tailored to her development priorities and objectives while ensuring conformity with her international commitments. It should provide a blueprint for establishing an efficient and development oriented intellectual property system in the country including a comprehensive and inclusive policy framework, a modern and an effective legal and administrative infrastructure, an innovation friendly institutional set- up, skilled human resources, and an empowered and net worked user sector. In summary, it should provide a comprehensive and dynamic framework under which all stakeholders are able to work together to create, own, and exploit research results, innovations, new technologies and works of creativity.

12. The national strategy will encourage and enable R&D institutions, universities, industry and business, innovation development centers, professional bodies, venture capital and other relevant stakeholders and entities to establish their own IP strategies in sync with the national IP strategy.

Vision Statement

13. To develop India during the Decade of Innovation into a major innovative, competitive and knowledge-based economy by strategic utilization of intellectual property as an engine for accelerated growth and sustainable and inclusive development.

Objective of the IPR Strategy

14. The objective of the IPR strategy is to transform India into an innovative economy as would reflect in high rankings in appropriate development and innovation indices from a global standpoint and develop sustainable and innovation-promoting IPR management system in India while ensuring that the IP system continues to have the appropriate checks and balances conducive to social and economic welfare, and to a balance of rights and obligations. The strategy will be implemented through activities in a time bound manner.

15. The aforementioned objectives are proposed to be addressed through the following multi-pronged approach.

- a. Stimulating creation and generation of IP Rights
- b. Strengthening protection of IP and creation of new IP regimes to address the specific needs of the country and the existing gaps

- c. Establishing an efficient, cost effective and service oriented IP administrative infrastructure
- d. Institutional capacity building and developing human capital
- e. Promoting respect for Intellectual Property and effective enforcement of IPRs
- f. Facilitating Commercialization of Intellectual Property
- g. Integrating IP components of national Sectoral policies and addressing global IP issues in international fora

a. Stimulating creation and generation of Intellectual Property Rights

16. Intellectual capital is a key source of productivity gain and global competitiveness. Today, creation, management and commercialization of intellectual property rights are facilitated by several institutional frameworks. The Open Innovation paradigm too is gradually fuelling collaborative R&D and concomitant IPR creation across organizations. Innovation and IPR landscape largely extends over the academia and publicly funded research laboratories, SMEs, large corporate and start-ups/innovators. Any strategy that proposes to discuss IP creation and its commercialization must first focus on the characteristics of the major players:

17. In the knowledge economy, creation of IP and its incorporation in products and production techniques are increasingly becoming important for commercial competitiveness and economic growth. Credible national IP system thus calls for social awareness amongst the people about the value of Intellectual Property Rights and the importance of protecting this in the national and global context.

18. In seeking to establish an IP culture, it would be critical to take the following sector/stakeholder specific interventions :

↳ Micro, Small and Medium Enterprises

19. Micro, Small and Medium Enterprises (MSMEs) form the economic backbone of the Indian economy constituting about 45% of the country's manufacturing output, employing over 60 million people through 26 million enterprises and forming over 40% of India's total merchandise exports². The intellectual capital of micro, small and medium enterprises in India is often embedded in processes, and the existing

² Prime Minister's Task Force on Micro, Small & Medium Enterprises, 2010

methods for managing the intellectual property are highly diverse ranging from formal to informal protection methods. At time semi-formal means are also used.

20. The formal protection of intellectual output entails creation of legal rights, infringement of which has civil and criminal remedies. The semi-formal methods entail some legal mechanisms but without formal registration (contracts is an example of this method). Informal protection practices include developing high-trust relationships with customers, maintaining lead time advantage over competitors and building specialized know-how into products. These informal practices are embedded within broader managerial practices, and form an integral component of the business approaches of the small business owners in India. The preference of MSMEs to allocate their limited resources to the development of products and processes, lack of awareness about the importance of intellectual property protection and the transaction costs incurred in acquiring legal IP rights contributes to high prevalence of such practices.

21. Majority of these MSME produce and sell within local markets, which in the past has shielded them from global competition while offering significant cost advantage. Today, cost-effectiveness and local presence alone does not guarantee a customer base. Globalization and attendant sustainability issues have made the MSMEs realize the importance of innovation and IPRs.

22. The following specific strategies are suggested for encouraging the MSMEs to generate IP assets and protect them:-

(i) A healthy mix of education and incentives is needed to encourage MSMEs to create new IP and to formalize the existing ones based on expert advice.

(ii) The Govt. intervention in existing mechanisms like the setting up of IP facilitation centres would have to be significantly scaled up to improve impact. One of the effective ways of achieving this would be by synergizing these services with the activities of the existing industrial clusters and thereby developing these facilitation centres as effective nodal points for knowledge dissemination and for hand holding the small and medium enterprises sector in the process of IP creation.

(iii) Access to Database on patent and non patent literature to enable prior art search should be provided to premier institutions such as, inter alia, Indian Institutes of Technology (IIT), National Institutes of Technology (NIT) by the Government free of cost. Such a database would be helpful in scouting the technology landscape to

identify white spaces and thereby help promote invention activities in uncovered areas. From a purely strategic plan perspective it appears useful to search worldwide patent databases and prepare technology landscapes for our industry segments to help them assess India's relative strength and then suitably plan for attaining Global Leadership in those areas. The roles and responsibilities of the institutions that are provided such access would be to provide assistance to the SME sector/individual innovators by preparing technology landscape with a view to guide inventions, conducting preliminary search and examination to determine novelty of an innovation free of cost and to assist the innovators to file patent applications, for a nominal fee.

(iv) Favourable tax treatment for R& D Expenditures incurred could play a positive role in incentivizing innovation and IP creation.

(v) Since innovations and creation of IP comes at a cost, state support mechanisms need to be tailored towards offsetting bonafide IP costs and in facilitating technology transfer including through in-licensing from publicly funded research institutions.

↓ **Academia and Public research laboratories**

23. Academia is at the forefront of knowledge creation, and alongside the national research laboratories lead the scientific activity in the country. With innovation as a central theme driving the growth of economies and businesses, the role of academic and publicly funded research laboratories is already witnessing a gradual expansion particularly in respect of their outreach to business community.

24. Academia and public research laboratories potentially form the largest source of technology and intellectual property. The country should establish institutional mechanisms to encourage and propel universities and public research laboratories to not only carry out research but to also seek registration of their intellectual property. For this to happen, the Indian academia needs to be educated about the importance of IP and about the processes involved in creation of technology and its commercial exploitation. Specific actions such as the following are proposed:

(i) Indian researchers/ innovators must be made aware of basic precautions that need to be exercised before applying for a patent, such as not publishing or demonstrating their research/invention to the public before filing for a patent and also by sensitizing them about not selling out their early stage research to companies/organizations.

(ii) Talented scientists and engineers ought to be motivated to create intellectual property and be encouraged to license technologies/partake in technology ventures. Promoting university start-ups can also be an effective technology transfer mechanism.

(iii) Significant part of academic research particularly in IITs and other institutions should increasingly focus on addressing national priority issues in poverty, healthcare, food security, energy, potable water, agriculture, homeland security etc. Key leverage technologies such as information technology, biotechnology and materials science should be accorded due importance.

iv) IP creation in sponsored/collaborative research and technology development/transfer should be made a component of the scientific role of a research institution. This should be included as a key performance indicator for the institution. This could be introduced gradually from Tier-1 to Tier-2 institutions.

v) From a fundamental long term perspective an intervention in the mainstream education system is needed. Basic concepts of IP creation and respect for IP needs to be introduced as a component of formal education at school, college, university and at vocational level thereby fostering a culture of creativity in future generations. Such education should focus on the economic as well as the social aspects of IP. While attempts are already being made in premier institutes which offer this education as a part of their curriculum, it is mostly limited to optional courses and professional subjects. A more focused and gradual expansion of this is necessary to create a robust innovation ecosystem. It is therefore essential to introduce a course on IPR in the curriculum of all the technical programmes that are duly recognized by the AICTE and in the post graduate/research programme in science and applied fields in Universities.

↓ Large Organizations

25. India is host to several large corporations both of Indian and foreign origins. The foreign players have a much larger share in the patents granted in the country. Indian organizations are also using their IPR portfolios to create a niche for themselves and gain competitive edge. They also realize the importance of carefully managing their business practices to avoid infringement of other's intellectual property. Several such companies have incorporated business intelligence tools and IP management systems to safeguard their businesses and intellectual capital. Others are increasingly becoming aware of the importance of IP and, with targeted

external support, can swiftly catch up. However, innovation- seeking R&D is still at a low level in the country. This therefore, poses a huge challenge to the future development of globally competitive technology.

26. Large organizations have the know-how and the resources required for creation and protection of IP. With increasing globalization, their key challenge will be to create world-class IP and utilize this IP for both organizational and national benefits. Such organizations have to be encouraged to take a long term view of R&D and make necessary research investments to create not just strong self-reliant technology portfolio but, acquire the scale to build strategic global positions.

27. Further, Indian organizations with a demonstrable culture of IP creation should be encouraged to tap open innovation platforms and tie-ups with academia in particular. Research led organization should be guided into strategic tie-ups with Government to foster co-creation of critical IP. A mechanism similar to corporate social responsibility may be encouraged in the country to foster a culture of open innovation.

↓ **Start-ups and Individual Innovators**

28. The country is waking up to the world of start-up companies – both technical ventures and those offering services including venture finance and angel investors. A large number of these technology entrepreneurs are based out of Technology Business Incubators (TBI) or Science and Technology Entrepreneurship Parks (STEP). Many are academic spin-offs who are leveraging their intellectual property rights to create a niche for themselves and gain a competitive edge. Quite a few have grown from public sector research resultants.

29. While synergy and close interaction between universities, research institutions and innovation driven industry units is extremely important for promoting techno entrepreneurs, following measures may need to be taken to boost this interaction:

- i) information dissemination on delivery mechanism for support services including venture capital funding ought to be made expedient.
- ii) Dedicated public institutions which offer end to end support for creation, protection and commercialization of IP is vital for start ups. There is need to identify such institutions and enhance their ability to provide such services.

b. Strengthening Protection of Intellectual Property and creation of new IP regimes to address the specific needs of the country and the existing gaps

30. Protection of Intellectual Property is both a scope and a depth issue. While establishing new instruments and addressing gaps in the available instruments is a scope issue, efficiency and strength of institutions that grant/protect IPR and extent of protection available is the depth issue.

31. Following actions/strategies will be essential for strengthening the IP protection regime:-

- i. Periodic review and streamlining of procedures, processes and guidelines for the search, examination, grant, maintenance and registration of IPRs, in consultation with relevant stakeholders and benchmarked with best international practices needs to be adopted.
- ii. Full benefit should be taken of the global protection systems of WIPO, namely, Patent Cooperation Treaty and the Madrid System for the International Registration of Marks of which India is a member.
- iii. Consequent upon the amendment in 2012 of the Copyright Act, 1957, consideration will be given to India's accession to Marrakesh Treaty to Facilitate Access to Published Works for Persons Who are Blind, Visually Impaired, or Otherwise Print Disabled.
- iv. Avenues for international cooperation in IPRs will be studied and analysed for appropriate action in accordance with national requirements.
- v. Grant of patents to Traditional knowledge and genetic resources in IP offices of other countries is a cause of concern. While the Nagoya Protocol on Access to Genetic Resources and associated traditional knowledge is a step in the positive direction, more needs to be done. In this regard, it is important to ensure that Patent Offices across the world act as check points against misappropriation of these resources. In this context, while legal regimes such as the Patents Act, 1970 (as amended), Biological Diversity Act, 2002 and Plant Variety Protection & Farmers Rights Act, 2001 address the issue at the domestic level, a sui generis system of protection to check misappropriation in the context of IP is required at the international level.

c. Establishing an efficient, cost effective and service oriented IP administrative infrastructure

32. The trend world over, both in developed and developing countries, is to bring higher accountability, improve efficiency and enhance quality in operations and

services. The following strategies are suggested to transform Office of CGPDTM into a modern and development oriented office.

- i. Efficiency, quality and cost effectiveness in its functioning to administer grant of IPRs will be augmented by service and development orientation of IPO in its future organizational restructuring. The institution should aim for ISO 9002.
- ii. Manpower will be augmented after a review of need for human resources to enable the IPO to discharge its current and future workload efficiently and provide quality and economical services to IP applicants.
- iii. Recruitment, training and career development aspects of the officials will be carefully reviewed in order to recruit and retain the best possible personnel in the IPO.
- iv. Possibility of providing advisory services and value added products through the industry chambers will be explored.
- v. Cooperation with other IP offices in the area of capacity building, human resource development and awareness generation needs to be strengthened.

↓ **Office of the Controller General of Patents, Design and Trademarks**
(CGPDTM)³

33. The CGPDTM, a field formation of the Department of Industrial Policy and Promotion, is responsible for registration and management of four Intellectual Property Rights, namely Patents, Trade Marks, Geographical Indications and Designs. It maintains 11 Offices in 5 cities i.e. Delhi, Mumbai, Chennai, Kolkata and Ahmadabad. At present, the office is headed by the Controller General of Patents Design and Trademarks and each of the 11 offices which include 5 branch offices of the Trade Marks Registry, 4 branch offices of Patent and one office each for Registry of Design and Geographical Indications. Besides this, Rajiv Gandhi National Institute of Intellectual Property Management (RGNIIPM) has also been setup at Nagpur which at present addresses the training needs of the o/o CGPDTM and in the future is also proposed to play a role of an IPR think tank. The Patent Information System

³ DIPP Discussion Paper on Review of Organizational Structure of the Office of the Controller General of Patents, Designs, Trademarks and Geographical Indications

(PIS) is also housed in Nagpur. Branch heads of both NIIPM and PIS report to the CGPDTM, directly.

34. In recent times, there have been a number of external impulses which have placed considerable demands on the office. These include:

a. Increase in filings for IPRs in all the four categories due to legislative changes which widened the scope of intellectual property protection in India. This has systematically resulted in an increase in the work load for the office over the past ten years.

b. The growing importance of intellectual property in the backdrop of an increasingly globalized and buoyant Indian economy has simultaneously placed greater demands on the IP institutional structure.

Work pressure is also likely to further increase in the future as:-

(a) Office of CGPDTM has started functioning as an International Search Authority/International Preliminary Examination Authority (ISA/IPEA) under the Patent Cooperation Treaty. Operationalization of the ISA/IPEA status will place demands on the institution.

(b) With the accession to the Madrid Protocol on 8th April 2013, filings will increase in the long run. This accession also comes with attendant issues of mandated reduction in response time for the Trade Marks Registry as the office would need to respond to all trademark application within 18 months.

35. The Government has been responding to the challenges of increasing workload by implementing plan schemes for modernization and strengthening of the IP Offices during the X Plan and in the XI Plan. In the XI Plan (2007-2012) an allocation of Rs 300 crore was made towards modernization and strengthening of IP Offices. In addition to resources for construction of new offices, computerization and purchase of IP databases, a significant component of the scheme was allocated for human resource development. 414 plan posts were created at various levels. Thereby envisaging increase in the core strength of the office, by more than 100% as compared to the posts available till then. The intervention is to be continued in the 12th Plan also.

36. In addition, steps have been taken to bring about greater efficiency and transparency into the IP system. The processing of Trade Marks and Patent Applications and post-registration activities has been fully e-enabled. Complete e-enablement of Designs Applications is at an advanced stage. All records such as examination reports and specifications relating to published trademarks and patents have now been made available online. Details including e-Register in case of granted patents and trademarks are also available. Dynamic Trademark and Patent Search has been introduced to enable the public to see on real time basis details of examination of applications, registration/grant, disposal of application, hearing schedule and other notices.

37. However, at the operational level, following actions may be required to improve the functioning of the IP offices:-

i) Grant/registration procedure should be quickened through new recruitment and by augmenting the capacity through human resource development.

ii. Meetings between the Office of Controller General of Patents, Designs and Trademarks and the National Biodiversity Authority needs to be held on a regular basis to enable resolution of issues that may arise from the implementation of guidelines relating to grant of patents on inventions using genetic resources and associated traditional knowledge.

38. A similar action to improve functioning of other IP institutions such as, inter alia, the Registrar of Copyrights, the Plant Variety and Farmers' Rights Authority and the Registrar for Semi Conductor Layout Design would also need to be taken by the concerned administrative Departments.

d. Institutional capacity building and developing human capital

39. In order to create a large reservoir of IP skilled officials, experts, professionals, teachers and trainers, the following strategy will be employed:

i. The Rajiv Gandhi National Institute for Intellectual Property Management (RGNIPM) to act as a think tank on IP issues, carry out research on topical IP matters, formulate and deliver training courses targeted to the requirements of different stakeholders and develop teaching curricula in consultation with Academic institutions.

- ii. Rajiv Gandhi National Institute of Intellectual Property Management Nagpur will also develop linkages with other academic institutions both at the National and the International level involved in similar fields. The objective would be to develop joint training programmes and conduct joint research studies in respect of IPRs, which will include specific programmes for plant variety protection and on issues related to Traditional Knowledge and Biological resources.
- iii. Ministry of Human Resource Development IPR Chair set up in various National Law Colleges, Universities, IIMs and IITs should provide continuous support to all Central Ministries and Departments in policy making, legislative proposals and negotiations under bilateral multilateral framework.
- iv. State governments will be encouraged to establish their own IP Institutes for raising awareness, training and teaching in close consultation with Rajiv Gandhi National Institute for Intellectual Property & Management.
- v. Institutes responsible for the training of Customs, police judiciary, should have IP training as part of essential requirements. Training on IPRs may be included in forest based research institutes. Besides this, training courses may also be conducted for training the officers involved in research across various scientific disciplines.
- vi. National level institutes associated with IP creation, management, enforcement or commercialization may be encouraged to incorporate IP training and capacity building in their operations.
- vii. Apex Industry and Business associations, IP professional bodies, Inventors Associations, venture capital funds and other private or autonomous entities could be encouraged to develop IP training modules for their members.

e. Strengthening of the institutional set up to improve enforcement of IPRs and create respect for IPRs

40. Intellectual Property Right being private right needs to be enforced by its owner through the enabling legal, administrative and judicial framework available for protection of these rights. The Indian IP laws provide for both civil and criminal remedies and the provisions are largely enforced by the State Governments in accordance with the procedures laid down in India's Criminal Procedure Code, the Code of Civil Procedure and the Rules and Regulations framed for the functioning of

the judiciary at various levels. The Central Government is, however, responsible for enforcement of border measures.

41. The legislative measures are supplemented by appropriate administrative measures by the Governments both at the Centre and in the States for enforcement of IPRs. A Copyright Enforcement Advisory Council (CEAC) with industry representatives, representatives of police forces and Ministries/Departments concerned, as an apex advisory body, has been set up by the Ministry of Human Resources Development for advising Government on measures to improve the enforcement of the Copyright Act and for reviewing the progress of enforcement periodically. Besides at the State Government level, enforcement Cells have been set up in the police headquarters and nodal officers have been appointed by the State Governments to handle copyright related offences. To expedite the resolution of IP disputes, the Intellectual Property Appellate Board (IPAB) was also established for hearing appeals arising from the decisions, orders or directions of the Registrar of Trade Marks and Geographical Indications and the Controller of Patents.

42. IP owners have increasingly realized the need to mobilize themselves to ensure effective protection of their rights and this has led to the national level industry chambers setting up IP Owners Associations and IPR Committees with a view to generate awareness on issues relating to infringement of trademark and piracy. The Committees are also expected to undertake market intelligence studies and identify action programmes to improve the enforcement of the rights of the IP owners. Besides this, a number of industry level organizations especially in the sphere of music and films have become pro-active in ensuring protection of their rights. Industry organizations such as Film Federation of India, Motion Picture Association and Indian Music Industry cooperate and collaborate with the police in anti-piracy programmes. The State Governments of Tamil Nadu, Kerala, Andhra Pradesh, Maharashtra, where the film and music industry is prominent, have introduced the Prevention of Dangerous Activities of bootleggers, drug offenders, goondas, forest offenders, immoral traffic offenders and slum grabbers Act, which includes video piracy as an offence under the Act.

43. At the organization or enterprise level, all types of enterprises particularly the more vulnerable smaller and niche businesses should be encouraged to protect their products through trademarks. This will help them leverage their corresponding brand value towards business and social advantage. Service sector, which is one of the

fastest growing contributor to the GDP, and the highest contributor of FDI in the country, needs to be encouraged to adopt strategies for registration of trademarks marks for ensuring local and global competitiveness and for strong business presence. It is to country's advantage to leverage the goodwill of its strong indigenous brands which have acquired sufficient traction in the international markets. In order to ensure that a patent is not issued on unprotected innovations already in public domain, SME clusters could be encouraged to develop comprehensive database/catalogue of their products.

44. In so far as geographical indications are concerned, India is bestowed with a rich tradition of arts, handicrafts, agricultural practices and ethnic produce where a given quality, reputation or other characteristic of the good is attributable to its geographical origin, the product ought to be protected in the form of geographical indications. While Darjeeling Tea, Mysore Silk, Kashmir Papier Mache etc has made a mark in the global markets, countless such indigenous creations are still untapped from an IP perspective. An awareness initiative is, therefore, needed to further promote the significance of such local assets. Central public bodies such as the Development Commissioner (Handicrafts & Handlooms) in partnership with suitable state/district-level entities and Panchayat Institutions could be involved in the initiative to:

- i) educate communities on the benefits of registering the GIs.
- ii) put in place examination protocols to ensure that the GI owners comply with the prescribed quality standards.
- iii) develop a road map for building brands to enable better market presence for the products registered as GIs.
- iv) coordinate with relevant state level authorities on enforcement matters.

45. Value addition through innovations in designs can play a pivotal role in enhancing competitiveness of both manufacturing and service industries⁴. Stupendous success of companies like Apple and hundreds of others attests to the power of design innovations at the market place. In the Indian context, while a legal regime to protect designs exist, informal practices of protecting designs through trust based relationships still dominate. Steps need to be taken to move towards formal

⁴ National Design Policy, 2007

protection methods as this would avoid business conflicts and ensure proper protection for innovations in designs.

46. Protection of industrial designs needs to be both encouraged and facilitated by needful administrative intervention.

47. Protection of Plant varieties is essential to encourage the development of new plant varieties and to protect the extant varieties. While PPV & FR Authority has initiated the process of registration of new, extant and essentially derived varieties, extensive awareness generation programmes are also necessary to encourage filings.

f. Facilitating Commercialization of IPRs

48. For Innovation to create any impact, it is imperative to take the idea/innovation from mind/laboratory to the market, where their true intrinsic value is realized – through products and services. While larger organizations have the intent and capabilities to take their technology/IP to markets, several others do not. Hence, it becomes imperative to establish facilitative mechanisms that can address such limitations of several SMEs and individual innovators and thus help put knowledge into practice in a big way. Policy interventions are therefore needed to create strong and transparent national systems that encourage and facilitate i) licensing of rights to another entity for commercialization (ii) Cross-licensing agreements where two or more companies can exchange rights to their IP (iii) leveraging the Intellectual assets for future R&D growth and improved products/services; (iv) sale/merger/acquisition of either the Intellectual property rights or the entire business distinguished and appropriately valued by their intellectual capital; (v) patent pooling which allows two or more companies to pool their technologies/IP and join in common interest to create some product that is to their combined benefit and (vi) reinforcing the stability of IP license contracts. In this regard, initiatives have been taken by CSIR through the setting up of CSIR Tech Pvt. Ltd. which is aimed at commercializing technologies developed by CSIR laboratories across the country.

49. National research laboratories, academia and other public funded institutions should stimulate commercialization of their research resultants. The intervention could be in building/strengthening the institutional capacity of research-led organizations to enable optimal utilization of intellectual property whether formal or informal. Institution of a system of giving due recognition to commercialization efforts of public funded institutions could have a positive impact on the process.

50. Facilitating and encouraging commercialization of IP assets may involve following strategies:

1. Forge links between creators and inventors, universities, industry and financial institutions for commercialization of IP assets.
2. Establishment of an IP exchange to stimulate trading of IP and creating a market for IP assets by industry chambers
3. Facilitate MSMEs to identify, protect and commercialize their IP creations through Facilitation Centers providing a package of services needed by MSMEs.
4. Technologies acquired under the patent pool of the Technology Acquisition and Development Fund (TADF) and licensed as per provisions in Manufacturing Policy will be encouraged for commercialization and manufacturing.

G References and Citations therein:

Introduction to Intellectual Property, (http://www.ipindia.nic.in/ipr/patent/patents_filing.pdf)

PCT Resources, WIPO (<http://www.wipo.int/pct/en/>)

Outline of the National Intellectual Property Strategy, GOV.cn, (english.gov.cn/2008-06/21/content_1023471.htm)

Indian Patent Law in the post-TRIPS Decade : S&T Policy Appraisal, AD Damodaran,
J. Intellec. Prop. Rights, **13**, 414, 2008

The 'National System of Innovation" in Historical Perspective, C Freeman,
Cambridge J. of Economics, **19**, 5, 1995

Intellectual Property: Powerhouse for Innovation and Economic Growth, AN Dixon,
ICC BASCAP & ICC Commission on Intellectual Property, 2011

Evaluation of the Finnish National Innovation System – Full report,
(http://www.tem.fi/files/24929/InnoEvalFi_FULL_Report28_Oct_2009.pdf)

Intellectual Property Strategic Program 2005,
(<http://www.kantei.go.jp/foreign/policy/titeki/kettei/030708fe.html>)

2010 Joint Strategic Plan on Intellectual Property Enforcement,
(http://www.whitehouse.gov/sites/default/files/omb/assets/intellectualproperty/intellectualproperty_strategic_plan.pdf)

<http://www.interlinkre.com/A%20Birds%20Eye@20Veiw@20-%20Indian%20Economy%2020-11.pdf>. and
<http://www.ibef.org/india/economy/economyoverview.aspx>

Profiting from Technological Innovation : Implications for Integration, Collaboration, Licensing and Public Policy, DJ Teece, Research Policy, **15**, 285, 1986

Strategies for Managing Knowledge assets : the Role of Firm Structure and Industrial Context, DJ Teece, Long Range Planning, **33**, 35, 2000

Innovation and IPR Management at Firm/Organizational Level, A Wali (*Background paper for APCTT*) 2011.

Innovation in India, National Knowledge Commission, Government of India, 2008

Intellectual Property and Development, The International Bank for Reconstruction and Development / The World Bank, 2005

Intellectual Property Protection as a Key Driver of Service Innovation : An Analysis of Innovative KIBS Businesses in Finland and the UK, S Paallysaho and J Kuusisto,
Int. J. Services Technology and Management, **9**, 268, 2008.

Role and Strategic Use of IPR in International Research Collaborations, European
Commission Working Paper, 2002

*(Due care has been taken towards attribution to relevant works. Still, there could be
inadvertent omissions due to oversight)*

WORK PLAN UNDER THE NATIONAL IPR STRATEGY

The following activities have been identified for implementation under the work plan of the National IPR Strategy:-

- a. To commission a study on various schemes/programs financed by Government of India including those under the PPP mode for encouraging innovation. (This is an essential information for developing linkages across activities and thereby have comprehensive view)
- b. Make efforts to sign and accede to the Marrakesh Treaty for facilitating access of published work to visually impaired persons and person with print disabilities.
- c. Efforts will also be made to accede to the NICE Agreement concerning international classification of goods and services for the purpose of registration of Trademarks.
- d. Assessment of the Hague Agreement concerning international registration of Industrial design will be made vis-à-vis India's Designs Act with a view to accede to the said treaty.
- e. Assessment of the possibility of accepting Patent Facilitation Centers run by universities/Academic Institutions and specialized departments such as Department of Science and Technology as 'Receiving Offices' for patent applications in cities where patent offices are not present will be carried out.