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Impact of Intellectual Property Rights on Agriculture Sector in India

Abstract

Intellectual Property Rights can be defined broadly as legal rights rather than innovative and original ideas. These legal rights can prevent third parties from using the original idea illegally. Different categories of Intellectual Property Rights are: Copyright, Trademark, Geographical Indications, Industrial Designs, Patents, Integrated Circuits and Trade Secrets. All Intellectual Property Rights generally prohibit third parties from commercially disclosing hidden and proprietary content without the authorization for a certain period of time. It helps Intellectual Property Rights holder to express their innovations fearlessly and spread to other people. Intellectual Property Rights help to stimulate creativity and innovation and regulate the marketing of goods and services. Protection against unfair competition is the underlying philosophy of all Intellectual Property Rights.

ORIGINAL ARTICLE



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The ability of a nation to convert knowledge into money through innovation will determine its future. In intellect based economy, knowledge has become an invaluable object that can be used for economic gain. After globalization of the agricultural market is not only an opportunity, but also a threat to new ideas and innovations. Better accessibility prospects the free flow of ideas and information within the country also increases the threat. Only protected innovation can create wealth, but not unprotected. Therefore, intellectual property protection becomes very important. Patents are the most important Intellectual Property Rights for agricultural goods and services today because they offer the best protection for plants, animals and biotechnological processes for their production. Many countries have built plant breeding facilities to protect conventional plant breeding efforts. Trademarks are used to market seed and spraying services. Agricultural sector can use trade secret protection to protect hybrid plant varieties. Some developed countries offer protection to the data submitted to obtain authorization to place agrochemicals on the market from use by third parties for a certain period of time.

Key Words

Intellectual Property, Copyrights, Patents, Trademarks, Agriculture.

Introduction

Intellectual Property Rights (IPR) can be defined as the legal right established over creative or inventive ideas like inventions, works of art, literature and designs. These rights are granted by the owner to prevent unauthorized commercial use of their content by third party. Indeed, Intellectual Properties (IP) are the creations of the human brain and they are valuable in trade and commerce. Its purpose to offer intellectual property rights is to convey a message to the public that creative ideas are protected and valued. There is a monopoly right on his invention (Singh, 2009).

Types of Intellectual Properties

Broadly, IPRs have been categorized into two categories:

- (a) **Industrial Property:** It includes patents, trademarks, trade secrets, geographical indications, layout designs and industrial designs, and
- (b) **Copyright and Related Rights:** It includes artistic works, literary works, performances, broadcasts etc. (Watal, 1998).

IPR Issues Related to Agriculture

During last more than two decades, intellectual property protection has been extended to a broad spectrum of information, materials and products in food and agriculture. Now, the national legislation and concerned laws in many jurisdictions have changed significantly for a number of ethical reasons. The conflicts between inadequate legal recognition of farmers' rights including community rights and conservation of biodiversity have a negative impact in agricultural and global food security. Some important IPR issues have been briefed below:

- (i) **Patent:** This is an exclusive right granted by law to the inventor for exploiting his invention for a limited period of time. Patent is a monopoly right granted to a person who has created a new and useful article or an improvement to an existing item or new process to create articles. Once an inventor has been granted a patent in any specific country, he then has the legal authority to exclude others from making, using, or selling the invention claimed in that country without their consent. Therefore, the inventor can prevent others from benefiting from it ingenuity and take advantage of it without his permission. In exchange of this property right must be carried out by the applicant in public domain of the full details of the patented invention as background information of each character technical problem solved by invention, a detailed description of the invention and how invention works. Patent protection in certain countries does not extend to other countries.
- (ii) **Plant Breeder's/ Farmer's Right:** Government considered this right for breeders as well as for Farmers and passed an Act by the Parliament in 2001 which is known as the Protection of Plant Varieties and Farmers' Rights Act (PPV and FRA). The Act came in enforcement on 30th October, 2001. It helps the breeder/farmer to encourage in conserving, improving and making available plant genetic resources for the development of new plant varieties. It is necessary to protect plant breeders' rights to stimulate investment for research and development, both in the public and private sector. The Act is based on the important principle of distributing ownership rights in a fair and equitable manner.
- (iii) **Geographical Indication:** A Geographical Indication (GI) is a sign used on a product to indicate its origin if it has certain qualities, characteristics or reputation basically because of that origin, for example "Darjeeling Tea". In India, Darjeeling tea is protected as a certification mark as well as through the system created by The Tea Act of 1953, which requires a license to all tea traders and issuance of certificates of origin in respect of all legal tea exports. "Darjeeling tea" is also protected as a GI. It can also be registered as a trademark under Trademark law. A trademark is defined as a sign that distinguishes a service or product from other merchants' services or products. This sign can be logos, words, color schemes, or slogans. To be entitled to register a sign as a trademark it must be graphically represented

that is with words or pictures. However, GI is different from trademark. A GI shows the user that a product comes from a certain place and has something special about quality due to this origin, when trading. Trademarks are used to distinguish the goods of a company or services compared to its competitors. A GI can be used by all manufacturers or retailers whose products originate from that place and that are typical properties while a trademark gives to the owner the right to prevent others from using trade mark.

- (iv) **Copyright:** Copyright is also a type of Intellectual Property Rights. It legislates for fair use and reproduction of the original work. Anything printed, written or recorded in any format has been subject to copyright since its creation. Copyright is for legal protection to authors and publishers of works such as books, films, voice recordings, newspapers and magazine articles, Photos etc. One of the most important functions of copyright law is to protect the originality.
- (v) **Trade Secret:** Literally, the term 'Trade Secret' refers to the information either in the form of formula, practice, process, design, Tool, model, or compilation of information that is maintained confidential and have commercial value. Unlike patent, trademark or copyright protection, there is no specific time period for protecting trade secrets. Trade secrets are protected as long as they are kept secret. Once a trade secret is lost, it's gone forever. Trade Secret protection is very important in farming and related production of hybrids, processes in many biotech products, special techniques/methods associated with different agricultural value added products/by-products, identification of specific genes etc.

In 2008, the Department of Science and Technology, as part of the Ministry of Science and Technology in India has published a bill titled the National Innovation Act of 2008, which will partially "codify and consolidate law of privacy to protect confidential data Information, Trade Secrets and Innovation".

Basic Requirements for Implementing IPRs in Agriculture Sector

To address the challenge of food security for all population and adoption of modern ways of life, every nation in the world is involved in developing sustainable and modern technologies with the help of scientific knowledge and skills. At this time of competition, issues of intellectual property rights have become a strategic asset for various industries and the public domain. It is very important to follow certain basic principles to enable different rights of intellectual property protected for profit the whole world. However, success depends on it attitude and willingness of people to accept. The basic requirements for successful implementation IPR in any country are:

- Awareness among people.
- Knowledge about ground realities.
- Trust on IP Policy.
- Screening channels.
- Nature of documentation.
- Minimum period frame.
- Agreement Procedures.
- Nature of guidance from the Intellectual Property Authority.
- Attitude towards performance.
- Punishment procedure.

Conclusion

Considering the future demand of huge human and animal population worldwide and extensive use of science in the development of modern technology, there is an urgent need to develop a policy and law which can ensure all the countries effectively to secure their rights over available resources. The idea of a fair sharing

of profits resulting from it adequate use of these resources and protection must be local knowledge and technology confident in making intellectual endeavors. Inventors should be given incentives and well deserved rights to protect themselves for better future profits. From an ethical point of view, it should be mandatory recognized the proper use of resources. Finally, there must be a provision of applying strict laws to control defaulters for the betterment of society as well as country.

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