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“Journal of Unique Laws and Students” (JULS) which shall provide law students, young lawyers and legal professionals to deliberate and express their critical thinking on impressionistic realms of Law. The JULS aims to provide cost free, open access academic deliberations among law students and young lawyers. The ISSUE II of Volume 1 focuses on three themes i.e. (i) Artificial Intelligence and Block chain in Law (ii) Intellectual Property Rights and Media, and (iii) Laws applicable to the intermediaries.

The journal strives to contribute to the community with quality papers on a vast number of legal issues and topics written by authors from various groups that have been reassessed and revised by our editorial team to reach the highest possible standard.

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Research Title: **BASICS OF IP AND MEDIA LAW**

Author - **Kajol Kamat***

ABSTRACT

Intellectual Property Right (IPR) is a criminal proper that protects the creation of a person or organization evolved by the mind or thoughts. Globalization and open marketplace policies have helped IPR to grow and affect the monetary activities in remaining three decades. The present paper essential draws a nexus between IPR and Media Law, where, Copyright is one of the vital rights and protects the rights of creators of creative works, literary works, sound, movies, and related creations. Copyright Law is an advanced domain that includes improvements, inventive creations and intellectual productions in print, audio-visual, sign & symbols or within the virtual forms. Moreover, media platforms along with social media use photos, sounds, scripts, and lots of techniques of communication, other business and personal functions.

The paper aims to highlight the basics of IPR and how it safeguards the interests of the IP holders. Further, it sheds light upon the nexus and role of IPR in the Indian Media Industry. Lastly, the paper will provide a fair and constructive analysis by means of discussing various branches of IP, the related legal provisions and various judicial pronouncements by the Supreme Court and the High Courts of India.

Keywords: *Media Industry, Protection of IPR, Intellectual Property Laws*

Research Objectives

1. To understand the meaning of Intellectual Property and the procedure of safeguarding one's Intellectual Property.
2. To understand the role does IPR play in Media Industry.
3. To identify the main branches of IP and related laws in India.
4. To critically examine and analyze the judicial pronouncements by various Courts in India.

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INTRODUCTION AND MEANING

Due to a rapid increase in globalization and boost of the Indian economy, Intellectual Property has become one of the key contributors to the global and national economy. Intellectual Property Rights have turn out to be substantially conspicuous at the prison horizon of India, each in terms of new statutes and judicial pronouncements. India ratified the settlement for setting up the world change corporation through the World Trade Organisation, which contains the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS). Indian Statutes, enforcement provisions and methods of dispute decision with admire to intellectual property (IP) protection are now completely TRIPS-compliant.

Meaning:

Intellectual property refers to creations of the mind, consisting of inventions; literary and inventive works; designs; and symbols, names and photos.

Intellectual property rights provide protection for creations and inventions, to enable creators and inventors to earn recognition and economic gain from their work.

Intellectual property lets human beings very own the paintings they create. It can be any of the subsequent:

- brands and symbols
- inventions
- software program
- designs
- tune/ music
- books
- poems
- paintings
- photography
- other kinds of creative paintings

Intellectual assets can be very valuable. There are businesses, along with PC, video game companies, that exist to expand intellectual property or even take advantage of it. It is critical to protect one's enterprise with the aid of securing one's intellectual assets rights. Intellectual Property (IP) is protected with the aid of legal guidelines which allow humans to earn

popularity or financial advantage from what they devise or create. with the aid of putting the right balance between the pastimes of innovators and the broader public hobby, the IP gadget pursuits to foster an surroundings wherein creativity and innovation can flourish. In the honor of such protection, we celebrate *World Intellectual Property Day* on 26th April, every year to promote discussion of the role of Intellectual Property in encouraging innovation and creativity.

The types of paperwork that are created through individuals and companies with meticulous efforts in designing, research & improvement want a large quantity of funding additionally. These creations evolve after devotion of time and money want to give dividends to the creators and to emerge as a cause encouragement for all. Copyright laws help in the safety of pursuits of such creators. The prevailing article attempts to highlight Copyright and associated troubles in Indian surroundings with special emphasis on Indian media and leisure enterprise.

Thus, the IP laws are based on primarily two objectives; First, to encourage creativity and/or investment for research and development by rewarding innovation, and second, to protect the rights and interests of inventors from improper and anti-competitive activities.

BRANCHES OF IP LAW IN INDIA

India has issued legal guidelines protecting numerous regions of Intellectual property belongings as enumerated herein under:

- Trade Marks
- Patents
- Copyrights and Related Rights
- Industrial Designs
- Geographical Indications
- Layout Designs of Integrated Circuits
- Plant Varieties
- Information Technology and Cyber crimes
- Data Protection

Extensively, the following acts deal with the protection of intellectual property:

- Trade Marks Act, 1999
- The Patents Act, 1970 (as amended in 2005)
- The Copyright Act, 1957
- The Designs Act, 2000
- The Geographical Indications of Goods (Registration and Protection) Act, 1999
- The Semiconductor Integrated Circuits Layout Design Act, 2000
- The Protection of Plant Varieties and Farmers' Right Act, 2001
- The Information Technology Act, 2000 ¹

HOW TO ENSURE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS?

There are unique approaches to protect your intellectual assets.

- Copyright is granted to the individual or enterprise that creates published inventive work. This includes writing, film tune, and computer software program. In contrast to the maximum different kinds of intellectual assets, copyright is granted routinely when the paintings are first posted.
- Patents defend inventions, inclusive of the capabilities and methods that make matters paintings.
- Trademarks are symbols that differentiate between items and offerings and maybe emblems or brand names.
- Designs can be included via registering them, and via design right.
- Digital intellectual property may be protected in different approaches than using the regulation, such as encryption and the use of virtual signatures.

There are several government or affiliated firms that provide assistance for businesses with layout, innovation, intellectual belongings, size, and requirements needs.²

IP may be something from a specific production technique to plans for a product launch, an alternate mystery like a chemical formulation, or a listing of the international locations wherein your patents are registered. It can assist to think about it as intangible proprietary

¹Vijay Pal Dalmia, *India: Intellectual Property Laws In India- Everything You Must Know*, Mondaq, [13 May 2021 4:41 P.M], <https://www.mondaq.com/india/trademark/654712/intellectual-property-laws-in-india-everything-you-must-know>

²Business Gateway, <https://www.bgateway.com/resources/intellectual-property-the-basics>, [last visited 13 May 2021]

records. *The World Intellectual Property Organization's (WIPO's) formal definition of IP is creations of the mind — innovations, literary and inventive works, symbols, names, photos and designs utilized in commerce.*

IP is divided into categories: Business belongings includes however is not limited to patents for inventions, emblems, commercial designs and geographical symptoms. Copyright covers literary works like novels, poems and plays, films, music and artistic works, for example drawings, paintings, photographs, sculptures, web site pages and architectural design rights associated with copyright incorporate the ones of performing specialists of their exhibitions, makers of phonograms of their accounts, and telecasters of their radio and TV programs.

WHAT ARE THE CHARACTERISTICS OF IP?

Compared with conventional property rights, IP rights are intangible in nature. Furthermore, they may be one-of-a-kind, territorial and time-restrained. However, that is real best in a relative sense and does now not mean that everyone varieties of IP rights have those traits. There are some exceptions. As an instance, as long because it isn't always disclosed, a trade secret can exist forever in idea, problem to no time limit.³

WHY DO WE NAME IT AS PROPERTY?

The idea of intellectual property pertains to the fact that positive products of human intellect have to be afforded the same protecting rights that practice to physical property, which are referred to as tangible assets. It allows people to make benefit from the statistics and intellectual items they devise. Most developed economies have felony measures in area to protect each styles of belongings.

Further, IPR holds immense significance in the present times. The idea of Intellectual Property Rights is to encourage new creations, including technology, paintings, and innovations, that might give rise to growth in economic terms. Intellectual property rights boom the incentives for people to continue to produce matters that similarly create new task opportunities and new technologies, at the same time as allowing our global to enhance and evolve even faster.

³WIPO, https://www.wipo.int/edocs/pubdocs/en/wipo_pub_1056.pdf, [last visited 13 May 2021]

IP-intensive industries appoint over 45 million Americans and hundreds of millions of different human beings global. The common employee in an IP-enterprise additionally earns about forty six percent extra than his or her counterpart in a non-IP enterprise. Thus, IP creates and helps excessive paying jobs.

America's IP is really worth approximately US\$6.6 trillion, which is greater than the nominal GDP of some other united states within the global. IP-intensive industries account for over 1/3– or 38.2%– of general U.S. GDP. Fifty two percent of all U.S. products exports are related to IP, and this amounts to nearly US\$842 billion.⁴ Thus, IP boosts an economical increase and competitiveness.

BRANCHES OF IPR

PATENTS:

Patents is while you sign in your invention with the government. It is a system that could take more than a year-you advantage the legal right to exclude anyone else from manufacturing or marketing it. Patents cover tangible things. They can also be registered in overseas international locations, to help keep worldwide competition from finding out what your business enterprise is doing. When you preserve a patent, others can practice licensing your product. Generally, a Patent Registration is granted for 10 years, if not extended.

TRADEMARK:

A trademark is a name, phrase, sound, or symbol used in association with services or products. It frequently connects an emblem with a degree of fine on which businesses construct a reputation. Trademark registration lasts for 10 years after registration and may be renewed *in perpetuity*. This effectively marks the territory and gives the enterprise room to prosecute if other businesses try to use the equal symbol for their very own functions.

COPYRIGHT

⁴ InQuartik, <https://www.inquartik.com/blog/basic-intellectual-property-rights/>, [last visited 14 May]

Copyright Law in India protects written or inventive expressions fixed in a tangible medium, novels, poems, songs, or movies. A copyright protects the expression of a concept, however no longer the idea itself. The owner of a copyrighted work has the right to reproduce it, to make derivative works from it (which include a movie based on a book), or to promote, perform or display the work to the general public. You don't need to sign in your fabric to maintain copyright, however, registration is a prerequisite if you make a decision to sue for copyright infringement. A copyright lasts for the lifestyles of the author plus every other 50 years.

TRADE SECRETS

A component, sample, tool, or compilation of records that grants the consumer advantage over competitors is a trade mystery. it's far included via nation, in place of federal, law. To defend the name of the game, a business should show that it adds value to the company, that it is, in truth, a secret – and that suitable measures have been taken within the corporation to shield the name of the game, including proscribing expertise to a select handful of executives. Coca-Cola, for example, has managed to maintain its components underneath wraps for greater than 117 years.⁵

INDUSTRIAL DESIGN

Industrial design is a method of design carried out to products which are to be synthetic via techniques of mass production. An industrial layout constitutes the ornamental or aesthetic thing of an editorial. A design may additionally consist of three-dimensional functions, inclusive of the shape or surface of an article, or of -dimensional features, inclusive of patterns, strains or shade.

⁵ Internet Advisor, <https://internetadvisor.net/2014/04/protecting-intellectual-property/>, [last visited 14 May 2021]

GEOGRAPHICAL INDICATION

A geographical indication (GI) is a name or signal used on products that have a specific geographical region of origin (e.g., a town, area, or country). The use of a geographical indication, as a demonstration of the product's supply, acts as a certification that the product possesses sure characteristics, a recognition or traits which might be basically on account of that place of foundation. Most ordinarily, a geographical indication comprises of the name of the area of starting place of the items.

ROLE OF IPR IN MEDIA INDUSTRY

IPR is a significant factor in the development of the media and entertainment field. Media is a field of inventiveness that engages, illuminates, and instructs a huge number of individuals around the world. Different news sources including TV, Radio, Cinema, Print Media, Music, Software businesses, Online and advanced platforms are improved with loads of imaginative thoughts, inventive works, and organizations. Indian Media and Entertainment Industry arises as one of the advancing areas in our country as its commitment to the GDP is felt, its job in the social trade is acknowledged and its work, torment, and interest in the production of substance are recognized. In the time of advanced media and with expanding education and monetary advancement this market with all news sources is expanding step by step. Innovation has simplified the replicating and propagation of others' works in any configuration. IP Infringement not just debilitates the first supporters or creators to deliver more imaginative works yet, in addition, hurts their acquiring prospects since another person is taking their work.

Landmark Judicial Pronouncements:

1) *Sholay Media and Entertainment Pvt Ltd. v. Parag M. Sanghavi*

The film “Sholay” was delivered in the year 1975 and was quite possibly the most mainstream motion picture of that time. The film was known broadly, and individuals connected the title with the Sippys (Producer), thus the title had subordinate importance. In 2007, Ram Gopal Varma had delivered a film named “Ram Gopal Varma ke Sholay” and was sued for brand name encroachment. He at that point changed the name of the film to “Ram Gopal Varma ke Aag”.

2) *Kanungo Media (P) Ltd. versus RGV Film Factory and Ors. 138 (2007) DLT 312*

Kanungo Media had created a Bengali film called “Nishabd”; it had won numerous honors. Yet, couldn't be delivered on a business scale. They had then petitioned for a lasting order against the utilization of their film title “Nishabd” by Ram Gopal Verma. Since the film couldn't be delivered, it was not well known, and the title gained no optional significance. The High court of Delhi thus excused the application and Ram Gopal Varma named his Hindi film “Nishabd”.

3) *Krishika Lulla and Ors. versus Shyam Vithalrao Devkutta and Ors*

The Hon'ble Supreme Court held in the previously mentioned case that copyrights don't persist in the titles of literaaly works, including motion pictures. Insurance for the equivalent can be allowed simply by brand names. The current reality of the said case is that the respondents professed to have composed a rundown with the title “Desi Boys” and the equivalent was sent through email to two different people. On release of the film “Desi Boyz”, the respondents recorded a suit against the appellants for the encroachment of the copyright. The issue close by under the watchful eye of Court of law was whether the respondents had a copyright proprietorship in the title of the said film. The Court expressed that according to Section 13 of the Copyright Act, 1957[6], titles can't be considered as ‘works’ with the end goal of copyrights.

4) *Biswaroop Roy Choudhary v. Karan Johar*

A between-time directive was looked for by the plaintiff from the Delhi High Court to utilize title of the movie which the plaintiff had enrolled with Registrar of Trademarks to limit the litigant from utilizing the tile “Kabhi Alvida Naa Kehna” for the respondent's film. The Court, nonetheless, was of the view that albeit the respondent had not enlisted the title with the Registrar of Trademarks opposite of what was finished by the offended party, the litigant was the real client of the imprint, and had likewise finished the creation of the film which was prepared for discharge. Hence, the Delhi High Court additionally expressed that the genuine utilization of the brand name was consistently an important factor which would hinder the Court from giving injunctive alleviation. Consequently, the Court brought about the disavowal of between time help to the offended party were that “Kabhi Alvida Naa Kehna” was an expression in like manner speech and subsequently couldn't be utilized with elitence and moreover there was a delay in moving toward the Court.⁶

INFRINGEMENT OF COPYRIGHT AND THE INTERNET

Advent of Information and Communication Technology (ICT) has empowered clients to gather valuable data in a packed structure from around the world. It has expanded the episodes of encroachment cases too. Copyright Act incorporates putting away protected material into a PC and on the off chance that it is managed without the assent of the proprietor named as the infringement of copyright. Whenever encroached material is spoken with the assistance of PC and organizations of PCs, at that point likewise goes under the infringement of the intellectual property law. Aside from conditions characterized or covered Copyright Act different segments of the IT Act, 2000, for example, Section 1(2), read with section 75 likewise ensure the privileges of the proprietor. In spite of the fact that such principles force, in a large portion of cases not prohibitive and force adaptable liabilities extraordinarily on account of ISP, BBSO, Commercial Web Page proprietors, and private clients. Notwithstanding, some choice of the court has given the best approach to get legitimate cures in the event of theft and online encroachment. On the appeal documented by film producer Prakash Jha in regard to his film Lipstick Under my Burka and by Red Chillies Entertainment for the film Jab Harry Met Sejal, Madras High Court requested to impede in

⁶[Anubhav Pandey](https://blog.ipleaders.in/protection-of-movie-titles-through-intellectual-property-laws/); *Protection of movie titles through Intellectual Property laws*, ipleaders, [last visited 14 May 2021 6:27 P.M.], <https://blog.ipleaders.in/protection-of-movie-titles-through-intellectual-property-laws/>

excess of 2500 sites, some were suspected and some were not. This impending directive was utilized as an unpolished apparatus by the court to stop theft. 'In one more example of overbroad and unbalanced online control, 2650 whole sites have been requested by the Madras High Court to be obstructed, cross country, like a provisional measure against the encroachment of copyright of specific movies. The Madras HC, on July 21, 2017, and August 2, 2017, requested a break order against a few Internet Service Providers (ISPs), for a situation of copyright encroachment, coordinating the ISPs to handicap admittance to sites upon the offended party's solicitation, including, perplexingly, the Internet Archive, an online library of public area works, which likewise has a file of over 20 years of the World Wide Web. Any individual endeavoring to get to any of the predefined sites presently gets a message expressing that the site has been hindered according to the bearings of the Department of Telecom, Government of India. The request was advocated as the Ashok Kumar or John Doe request, a term originally utilized in the UK to clarify a choice where rival or the blamed isn't recognized. 'An 'Ashok Kumar' or a 'John Doe' request, is a request in a suit brought against obscure and anonymous respondents, to counter the likelihood that somebody, someplace, may potentially be encroaching upon the privileges of the offended party. Ashok Kumar orders have gotten the go-to instrument for exuberant offended parties looking for copyright assurance from the Court in regard of online encroachment, by guaranteeing the challenges in distinguishing the encroaching gatherings. There are a few issues with the Order of the Madras HC, which are normal to most such Ashok Kumar orders gave by courts in India.⁷

INTELLECTUAL PROPERTY LAWS IN INDIA

PATENT

The history of Patent law in India begins from 1911 whilst the Indian Patents and Designs Act, 1911 was enacted. The existing governing Act in India is the Patents Act, 1970 which came into pressure inside the year 1972. The Patent Act 1970 has been amended thrice by using the Patents (amendment) Act, 1999 (First change), the Patents (change) Act, 2002 (second amendment) and Patents (modification) Act, 2005 (third modification), previous to

⁷[Raghavendra Mishra;INTELLECTUAL PROPERTY RIGHTS AND MEDIA IN INDIA: COPYRIGHT ACT,](https://www.researchgate.net/publication/342491125_INTELLECTUAL_PROPERTY_RIGHTS_AND_MEDIA_IN_INDIA_COPYRIGHT_ACT) Research Gate,[last visited 14 May 7:24 P.M],
https://www.researchgate.net/publication/342491125_INTELLECTUAL_PROPERTY_RIGHTS_AND_MEDIA_IN_INDIA_COPYRIGHT_ACT

the third change, the President of India had promulgated Patents (modification) Ordinance, 2004, which turned into later changed via the 1/3 modification.

Time period of a Patent

The time period of every patent in India is 20 years from the date of submitting the patent software, irrespective of whether it's far filed with provisional or whole specification. But, in case of programs filed beneath the Patent Cooperative Treaty (PCT), the term of 20 years starts from the international filing date.

TRADEMARK

In India, trademarks are protected both under statutory law and common law. The first statutory regulation related to trademark in India became the trademarks Act, 1940 which had comparable provision just like the UK Trademarks Act, 1938. Later it changed into replaced by Trade and Merchandise Mark Act 1958 which consolidated the provisions associated with trademark contained in other statutes like, the Indian Penal Code, Criminal Procedure Code and the Sea Customs Act. The Trademark and Merchandise Act 1958 was replaced by the Trademark Act 1999 which came into effect from 15 September 2003 which complies with the provisions of the journeys and is the contemporary governing regulation related to registered trademark.

Term of trademark

Once the trademark is registered, it's far valid for a duration of 10 years from the date of application. The registration can then be renewed indefinitely by way of paying renewal charge after every 10 years. Non-Renewal leads to a lapse of registration.

COPYRIGHT

Pre-Independence laws in India

In 1847 the first Copyright Act became enacted in India, at some stage in the regime of East India Company. The Act turned into replaced with the aid of the Copyright Act of 1914. The Act of 1914 was the first 'contemporary' copyright regulation of India. It was the primary law to encompass all works of artwork and literature below the ambit of copyright. It turned

into a reproduction of the English regulation of 1911. It was accomplished by means of the British to ease the passage of literature over colonial subcontinent.

Post-Independence laws in India

The Copyright Act, 1957 which become supported by means of the Copyright Rules, 1958, is the governing law for copyright protection in India. Which came into pressure on 21 January 1958 and replace 1911 Act. Later sizable amendments were carried out to the Copyright Act, 2012 (“change”).

Term of copyright

The period of copyright is the life of the writer or artist, and 60 years counted from the year following the dying of the writer.⁸

TRADE SECRETS

There are no statutes in India that especially give protection to Trade Secrets and Confidential information. On the way to defend trade secrets and confidential records, watertight agreements ought to be agreed upon, and that they ought to be supported by sound regulations and methods. however, Indian courts have upheld exchange secret protection on the foundation of standards of equity, and at instances, upon a commonplace law movement of breach of self-belief, which in effect quantities a breach of contractual duty

INDUSTRIAL DESIGN

The initial Indian Industrial Design Law was passed in 1872. This act turned into named as “The patterns and Designs Act of 1872.” It was changed by means of the innovations and Designs Act, 1888. In addition, the Patents and Designs Act, 1911 nullified the inventions and Designs Act, 1888. The 1911 Act become amended several instances within the British colonial duration and even after India’s independence.

⁸Ravi Singhanian , Dipak Rao , Sonil Singhanian and Nishi Shabana, *India: India Copyright Guide (Frequently Asked Questions – Indian Copyright Act 1957)*, Mondaq ,[last visited 14 May 8:05 P.M]
<https://www.mondaq.com/india/copyright/447532/india-copyright-guide-frequently-asked-questions-indian-copyright-act-1957>

Sooner or later, the Indian Designs Act of 2000 turned into enacted to consist of the minimal requirements for the safety of business designs. It was effective from May 11, 2001 and changed the vintage regulation of 1911. Further, this Act presents an exclusionary proper of promoting, licensing, assigning and using the identical in any product to the proprietor or owner of the registered designs.

Term of Industrial design

To start with a protection of 10 years is given to the owner of a registered design in regards to distinct rights to sell, make or import the articles and initiating an motion towards an infringer. But if needed, the owner can get them renewed for an additional time slot of 5 years.

GEOGRAPHICAL INDICATIONS

India, in compliance with its responsibility beneath journeys, has taken legislative measures through enacting the Geographical indications of goods (Registration and protection) Act, 1999, which got here into impact on 15th September 2003 and the Geographical indicators of goods (Registration and safety) rules, 2002. The Act became exceeded with the purpose of offering protection, as a Geographical Indication to any agricultural, natural, or manufactured items, or to any items of handicraft or enterprise, inclusive of foodstuffs.

Time period of Geographical Indications

The registration of a Geographical Indication is legitimate for a duration of 10 years and it could be renewed every so often for a similarly length of 10 years each.⁹

⁹Palak Gupta and Sadin Karki, *Purpose of Patent Law*, The Law Gazette, [14 May 2021 8:48 P.M], <https://www.thelawgazette.org/post/purpose-of-patent-law>

CONCLUSION

The importance of IPR and their protection is acknowledged the world over as crucial to business. In track with the sector situation, India too has identified the impact of IP, due to which the reputation has been continuously upheld by using means such as legislators, courts and the enterprise. India is now a signatory to various IP treaties and conventions. This has helped India come to be more attuned to the sector's strategies and attitudes toward IP protection. India has already taken steps to comply with its responsibilities below journeys, and the Indian IP law regime is almost at par with the regimes of many developed international locations. Traditionally, the enforcement of IPRs in India was unadvanced and outdated, however, the current judicial pronouncements and steps taken through diverse enforcement agencies exhibit that India is gearing up for effective safety and enforcement of IPRs. The Indian Police has set up unique IP cells wherein, educated police officers have been appointed to monitor IP infringement and cybercrimes. Numerous Indian industries have emerged proactive in protecting their IPRs. As an example, the Indian song enterprise, an association of song businesses, has taken a similar stance and proactive steps to fight tune piracy. Conclusively, India has taken numerous, well-executed steps in the direction of improving its IPR regime and is expected to do a lot more in the coming years to streamline itself with the fine practices in the subject of Intellectual Property Rights.