

**LEGAL PROTECTION OF INTELLECTUAL PROPERTY RIGHTS**

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ABSTRACT

The legal protection of intellectual property has always played an important part in managing intellectual property which is crucial to the industry. The Intellectual Property Protection Act of 2006 is bolstering and increases the government's ability to fight against IP violations as well as to help reduce terror tolerated and criminal enterprises that are proposed as being supposedly funded by piracy. There are several important cases in the country on intellectual property legislation, pertaining to these aspects of the legal scrutiny that are worth noticing. Overall, the purpose of the legislation is to protect any form of intellectual property and original innovation in order to sustain a sense of copyright for original works and creation.

Keyword: Legal protection, IPR, legislation, GATT, Co-operation

INTRODUCTION

Intellectual property is a legal concept which refers to the creations of the mind for which exclusive rights are recognized. Under intellectual property law, owners are granted certain exclusive rights to a variety of intangible assets, such as musical, literary and artistic works, discoveries and inventions and words, phrases, symbols and designs¹. As in GATT and GATS, the starting point of the intellectual property agreement is basic principle and as in the prominently national treatment and most favoured nation treatment. National treatment is also a key principle in other intellectual property agreements outside the WTO². The TRIPS Agreement has an additional important principle: intellectual property protection should contribute to technical innovation and the transfer to technology. The legal attitude regarding the protection of intellectual property is vital in shaping the intellectual property management in the industry.

Legal Protection of Intellectual Property: The first is judicial decision in the case of non-direct infringement and the second one is empowering business operations while encountering a dispute of unfair competition. The important agreements that should be considered when contemplating international patent protection are, The Paris Convention for the Protection of Industrial Property & Patent Cooperation Treaty (PCT)³.

The Paris Convention: It was established in 1883 for the protection of Industrial property is an international intellectual property treaty adhered to by more than 100 countries. It provides that each country guarantees to the citizens of the other countries the same rights in patent matters that it gives to its own citizen.

International application through the Patent Co-operation Treaty: This facilitates the filing of applications for patents on the same invention in member countries. The PCT system does not provide for the grant of an international patent, it is a system for filing international application for patents. The PCT provides for centralized filing procedures where by a single application filed in a PCT can constitute an application for patent in one or more member countries⁴. After filling local application, within 12 months the applicant claiming Paris Convention Priority or as an original applicant can file the application under the PCT.

Laws protecting IPR: Under the US system of federalism, governing is shared between the state and the the federal governments.

Federal Civil Trademark: The primary way a trademark owner may enforce its by bringing suit against alleged trademark infringes. The Lanhan Act of 1946⁵ created the federal state governing trademarks infringement. Under this act, the key

statutory elements of trademark infringement are use in commerce and likelihood of confusion. Use in commerce generally requires the sale, or at least the incorporation of other shipment, of goods bearing the infringement trademark.

Federal Criminal Trademark laws: In addition to civil remedies, federal law provides arrange of criminal law sanctions for the intentional infringement trademarks⁶. In 2006, the stop counterfeiting in manufactured goods act modified the federal criminal law relating to the trafficking in counterfeit goods and services by prohibiting trafficking in labels, documents or packaging that bear counterfeit marks intended for goods or services.

Federal Civil Copyright laws: A federal court action for copyright infringement under the US copyright act is the exclusive resource for copyright owners seeking to enforce their copyright in a civil action. The act protects against the unauthorized use or copying of a copyrighted work.

Federal Criminal Copyright law: Copyright infringement is a felony punishable by up to three year's imprisonment and a \$25,000 fine when the

defendant will fully reproduces or distributes at least one or more copies of phono records or one or more copyrighted works with a total retail value of more than \$2,500 within 180 day period^{7,8}.

Organisation involved in the fight against counterfeiting and piracy: Brand owners realize that they are not alone in the fight against counterfeiting and piracy and that there are a number of organizations dedicated to combating counterfeiting and piracy that brand owners should get involved with⁹. This organization can be valuable sources of information and contacts for brand owners and can speak with a strong and unified voice in seeking to improve government policy with respect to intellectual property issues¹⁰.

CONCLUSION

The commercial importance necessitates that intellectual property be adequately protected. The protection of the resultant intellectual property thus assumes significance in order to ensure that the investments are recouped in a profitable manner. The protection prevents 3rd parties using the protected IP in an unauthorised manner.

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