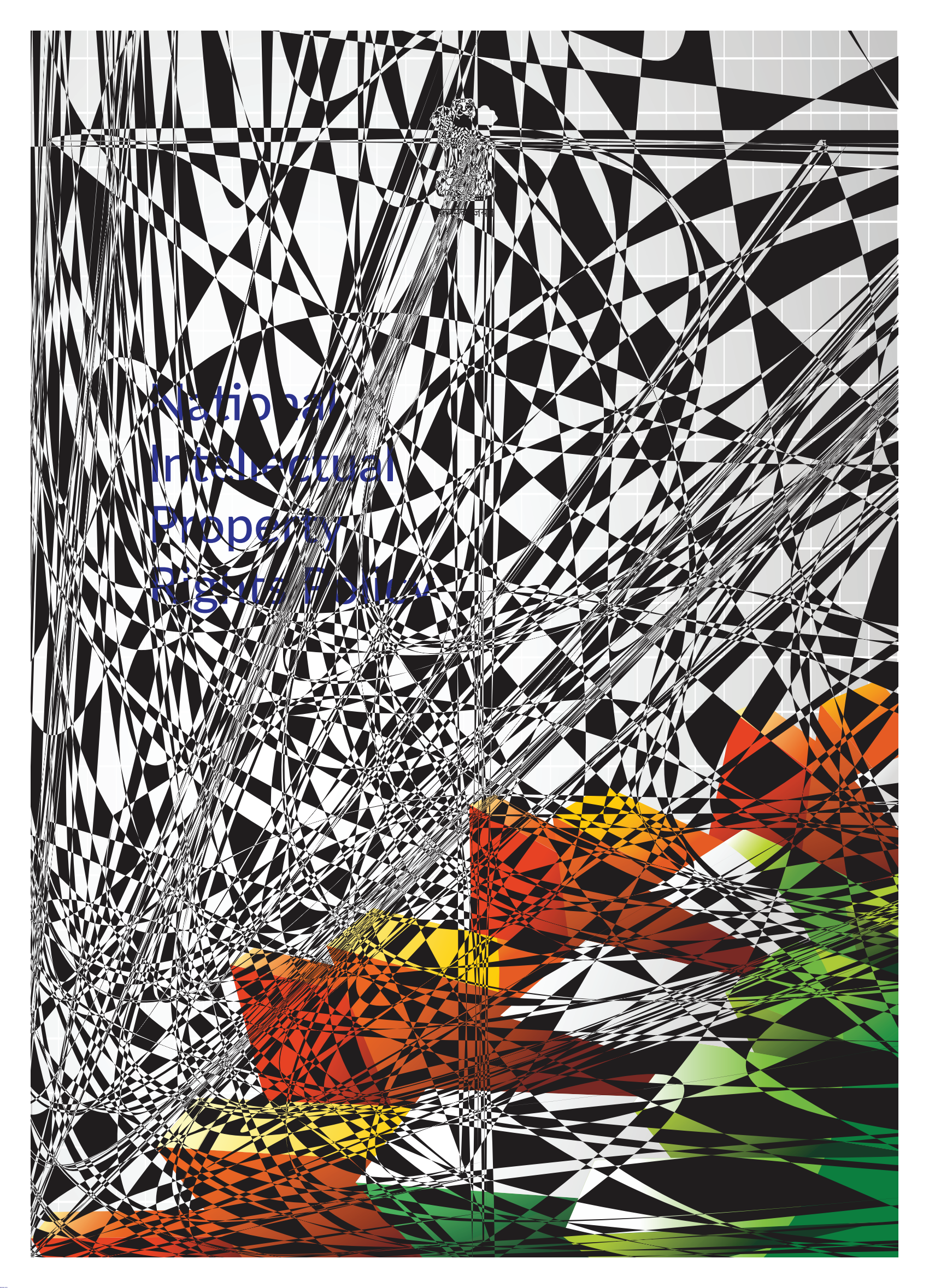




National Intellectual Property Rights Policy



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Shivam - S



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EXECUTIVE SUMMARY

Creativity and innovation have been a constant in growth and development of any knowledge economy. There is an abundance of creative and innovative energies flowing in India. India has a TRIPS compliant, robust, equitable and dynamic IPR regime. An all-encompassing IPR Policy will promote a holistic and conducive ecosystem to catalyse the full potential of intellectual property for India's economic growth and socio-cultural development, while protecting public interest. The rationale for the National IPR Policy lies in the need to create awareness about the importance of IPRs as a marketable financial asset and economic tool.

Vision Statement

An India where creativity and innovation are stimulated by Intellectual Property for the benefit of all; an India where intellectual property promotes advancement in science and technology, arts and culture, traditional knowledge and biodiversity resources; an India where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared.

Mission Statement

Stimulate a dynamic, vibrant and balanced intellectual property rights system in India to:

- foster creativity and innovation and thereby, promote entrepreneurship and enhance socio-economic and cultural development, and
- focus on enhancing access to healthcare, food security and environmental protection, among other sectors of vital social, economic and technological importance.

The Policy lays down seven objectives which are elaborated with steps to be undertaken by the identified nodal Ministry/ Department. The objectives are briefly mentioned below.

Objective 1

IPR Awareness: Outreach and Promotion - *To create public awareness about the economic, social and cultural benefits of IPRs among all sections of society*

The 21st century belongs to the knowledge era and is driven by the knowledge economy. A nation-wide program of promotion should be launched with an aim to improve the awareness about the benefits of IPRs and their value to the rights-holders and the public. Such a program will build an atmosphere where creativity and innovation are encouraged in public and private sectors, R&D centers, industry and academia, leading to generation of protectable IP that can be commercialized. It is also necessary to reach out to the less-visible IP generators and holders, especially in rural and remote areas. The clarion call of the program would be the holistic slogan

**"Creative India; Innovative India:
रचनात्मक भारत; अभिनव भारत"**

Objective 2

Generation of IPRs - *To stimulate the generation of IPRs*

India has a large talent pool of scientific and technological talent spread over R&D institutions, enterprises, universities and technical institutes. There is a need to tap this fertile knowledge resource and stimulate the creation of IP assets. A comprehensive base line survey or IP audit across sectors will enable assessment and evaluation of the potential in specific sectors, and thus formulate and implement targeted programmes. Focus will be placed on facilitating researchers and innovators regarding areas of national priority. The corporate sector also needs to be encouraged to generate and utilize IPRs. Steps also need to be taken to devise mechanisms so that benefits of the IPR regime reach all inventors, especially MSMEs, start-ups and grassroot innovators.

Objective 3

Legal and Legislative Framework - *To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest*

The existing IP laws in India were either enacted or revised after the TRIPS Agreement and are fully compliant with it. These laws along with various judicial decisions provide a stable and effective legal framework for protection and promotion of IPRs. India shall remain committed to the Doha

Declaration on TRIPS Agreement and Public Health. At the same time, India is rich in traditional medicinal knowledge which exists in diverse forms in our country, and it is important to protect it from misappropriation.

Objective 4

Administration and Management - *To modernize and strengthen serviceoriented IPR administration*

The Offices that administer the different Intellectual

Property Rights (IPRs) are the cornerstone of an efficient and balanced IPR system to ensure

INTRODUCTION

Creativity and innovation have been a constant in growth and development of any knowledge economy. There is an abundance of creative and innovative energies flowing in India. The evolution of the film and music industry; the contribution of the Indian pharmaceutical sector in enabling access to affordable medicines globally and its transformation to being the pharmacy of the world; a strong and dynamic software industry; a considerably diverse handicraft and textile industry; richness and versatility of the Indian systems of medicines such as Ayurveda, Unani, Siddha and Yoga; the advances made in the Indian space programme and the pioneering role of our scientists in keeping it cost effective; these are but a few examples of these energies.

While India has always been an innovative society, much of the intellectual property (IP) created remains unprotected both on account of lack of awareness and the perception that IP protection is either not required or that the process to obtain it is unnecessarily complicated. The rationale for the National IPR Policy lies in the need to create awareness about the importance of intellectual property rights (IPRs) as a marketable financial asset and economic tool.

India has robust IP laws and a strong IP jurisprudence. The legal framework does reflect the underlying policy orientation and national priorities, which have evolved over time, taking into account development needs and international commitments.

An all-encompassing IPR Policy will promote a holistic and conducive ecosystem to catalyse the full potential of intellectual property for India's economic growth and socio-cultural development, while protecting public interest. Such a policy will nurture the IP culture, guiding and enabling all creators and inventors to realize their potential for generating, protecting and utilizing IPRs which would contribute to wealth creation, employment opportunities and business development.

This policy shall weave in the strengths of the Government, research and development organizations, educational institutions, corporate

entities including MSMEs, start-ups and other stakeholders in the creation of an innovation-conducive environment. It will complement the strengths of our substantive laws with transparent, predictable and efficient administrative and procedural mechanisms as also well-informed adjudicatory structure.

OVERVIEW

The concrete measures taken by the Government in the last two decades in consonance with national development priorities and in conformity with international treaties, conventions and agreements to which India is a party has created and established a TRIPS compliant, robust, equitable and dynamic IPR regime. The continuous and unending improvements alongwith the sweeping and far-sighted changes at the legislative and administrative levels has resulted in strengthening the administration, management and enforcement of IPRs.

The statutes governing different kinds of IPRs in India are Patents Act, 1970; Trade Marks Act, 1999; Designs Act, 2000; Geographical Indications of Goods (Registration and ProtecB 1 t, 1999

Office of CGPDTM is also in charge of the Rajiv Gandhi National Institute of Intellectual Property Management at Nagpur.

Copyrights were administered by the Ministry of Human Resource Development. The Copyright Act is comprehensive and with the recent amendments, the rights of creators have been strengthened.

The Protection of Plant Varieties and Farmers' Rights Act, 2001 is a *sui generis* legislation in India providing protection for plant varieties and rights of farmers and is under the aegis of the Ministry of Agriculture.

The Department of Information Technology was responsible for Semiconductor Integrated Circuits Layout-designs; the first registration under the Semiconductor Integrated Circuits Layout-Design Act was granted in October 2014.

The preservation of biological diversity in India is under the Ministry of Environment and Forests; the Biological Diversity Act 2002 provides mechanism for regulating access and ensuring fair and equitable sharing of benefits arising out of the use of biological resources and associated traditional knowledge.

India has always been conscious of its obligations in the international arena, and has acceded to a number

of international conventions to further the cause of IPRs globally. India was the first country to ratify the Marrakesh Treaty 2013 for Access to Published Works by visually impaired persons. The accession to the Madrid Protocol in 2013 is a step towards global alignment for proprietors of marks. The Indian Patent Office has been recognized as an International Search Authority and an International Preliminary Examination Authority.

The IPR regime in India has adequate safeguards in the form of judicial review and appellate provisions. Indian courts have consistently enforced IPRs, with judgements clearly expressing the intent and purpose of our laws. The Intellectual Property Appellate Board hears appeals arising from the decisions of Controllers of Patents as also Registrars of Trade Marks and GIs.

In a slew of initiatives, the IP offices under the CGPDTM have been modernized and there is a perceptible change for the better. Conscious efforts have been made to develop a robust e-service delivery system, including real-time public dissemination of dynamic IP knowledge through e-enabled innovative tools.

VISION STATEMENT

An India where creativity and innovation are stimulated by Intellectual Property for the benefit of all; an India where intellectual property promotes advancement in science and technology, arts and culture, traditional knowledge and biodiversity resources; an India where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared.

MISSION STATEMENT

Stimulate a dynamic, vibrant and balanced intellectual property rights system in India to:

- foster creativity and innovation and thereby, promote entrepreneurship and enhance socio-economic and cultural development, and
- focus on enhancing access to healthcare, food security and environmental protection, among other sectors of vital social, economic and technological importance.

OBJECTIVES

The Policy lays down seven objectives which are elaborated with steps to be undertaken by the identified nodal Ministry/Department. The implementing or Nodal Ministry/Department shall coordinate with all other concerned stakeholders, including other Ministries/ Departments, towards attaining the objectives.

OBJECTIVE 1 IPR Awareness: Outreach and Promotion

To create public awareness ho the

The 21st century belongs to the knowledge era and is driven by the knowledge economy- an economy that creates, disseminates and uses knowledge to enhance its growth and development. Traditionally, monetization of knowledge has never been the norm in India. While laudable and altruistic, this does not fit with the global regime of zealously protected IPRs. Hence, there is a need to propagate the value of transforming knowledge into IP assets. This requires a major paradigm shift of how knowledge is viewed and valued - not for what it is, but for what it can become.

Many IP holders are unaware of the benefits of IP rights or of their own capabilities to create IP assets or the value of their ideas. They are often discouraged by the complexities of the process of creating defensible IP rights. Conversely, they may be unaware of the value of others' IP rights and the need to respect the same. The policy proposes to tackle both perspectives through outreach and promotion programs.

A nation-wide program of promotion should be launched with an aim to improve the awareness about the benefits of IPRs and their value to the rights-holders and the public. Such a program will build an atmosphere where creativity and innovation are encouraged in public and private sectors, R&D centers, industry and academia, leading to generation of protectable IP that can be commercialized.

It is also necessary to reach out to the less-visible IP generators and holders, especially in rural and remote areas. Emphasis would be laid on creating awareness regarding the rich heritage of India in terms of our Geographical Indications, Traditional Knowledge, Genetic Resources, Traditional Cultural Expressions and Folklore.

The immediate economic rationale for individuals and the community, as well as the pride in being innovative, should be conveyed effectively to the public. The clarion call of the program would be the holistic slogan

The steps to be taken towards attaining this objective are outlined below:

- 1.1. Adopt the national slogan "Creative India; Innovative India" and launch an associated campaign on electronic, print and social media, including by linking the campaign with other national initiatives such as "Make in India", "Digital India", "Skill India", "Start Up India", "Smart Cities" and other new initiatives in the future.
- 1.2. Create a systematic campaign for promotion of India's IP strengths by conveying to all stakeholders the value and benefits of IP by:
 - 1.2.1. Customizing programs for specific needs of industries, MSMEs, start-ups, R&D institutions, science and technology institutes, universities and colleges, inventors and creators, entrepreneurs;
 - 1.2.2. Reaching out to the less visible and silent IP generators and holders, especially in the rural and remote areas, through campaigns tailored to their needs and concerns. These would include small businesses, farmers/ plant variety users, holders of traditional knowledge, traditional cultural expressions and folklore, designers and artisans;

- 1.2.3. Including case studies of successful use of IPRs in campaigns to create value in the respective domains;
- 1.2.4. Promoting the idea of high quality and cost-effective innovation as a particularly Indian competence leading to competitive advantage;
- 1.2.5. Involving eminent personalities as 'ambassadors' to spread awareness and importance of IP in India;
- 1.2.6. Using audio/ visual material in print/ electronic/ social media for propagation;
- 1.2.7. Creating moving exhibits (e.g. a train with a theme that will criss-cross the nation, road shows) that can travel to all parts of the country;
- 1.2.8. Creating materials for IP promotion in multiple languages and pictorial form for those who cannot read;
- 1.2.9. Studying best practices and success stories in other countries to design and launch public outreach programs.
- 1.3.** Create awareness programs specifically targeting industry and R&D entities, both private and public by:
 - 1.3.1. Providing scientists/ researchers with a deeper level of understanding about the need to protect their inventions even before publishing;
 - 1.3.2. Engaging public funded research organizations and the private sector to create campaigns highlighting the process of IP creation and the value generated therefrom;
 - 1.3.3. Encourage multi-national corporations and other large corporate entities to develop IP programs for their employees and adapt and propagate them to the public;
 - 1.3.4. Creating materials for MSMEs highlighting special support mechanisms for them to develop and protect IP.
- 1.4.** Create well-publicized events and ongoing programs to emphasize the importance of IP by:
 - 1.4.1. Partnering with industry bodies, large corporations and institutions of R&D and higher learning for such events, and consider establishment of Innovation, Creativity and IP museum(s);
 - 1.4.2. Announcing with the help of State governments, Innovation and IP Days especially in major industrial, innovation and university clusters; celebrate 'World IP Day' in different cities and institutions;
 - 1.4.3. Setting up India's 'Hall of Fame' to celebrate IP innovators and creators;
 - 1.4.4. Instituting prizes and awards to encourage IP creation activity in specific sectors.
- 1.5.** Create suitable course materials for:
 - 1.5.1. Educational institutions at all levels to emphasize the importance of IP rights;
 - 1.5.2. Online and distance learning programs for all categories of users;
 - 1.5.3. Including IPRs in school curriculum at appropriate level.
- 1.6.** Engage with the media to sensitize them regarding IP related issues.

OBJECTIVE 2

Generation of IPRs

To stimulate the generation of IPRs

The profile of IP filings and registrations/grants is one of the parameters, though not the only one, to assess the current status and potential of IP creation in a country. In India, the number of patent filings has increased in the last few years, but the percentage of filings by Indians is relatively low. In the case of trademarks, India is among the top five filers in the world, with the majority being filed by Indians. The number of design applications filed is nowhere near India's potential, given its vast pool of designers, artisans and artists. India has a large talent pool of scientific and technological talent spread over R&D institutions, enterprises, universities and technical institutes. There is a need to tap this fertile knowledge resource and stimulate the creation of IP assets.

GIs is an area of strength and optimism for India, where it has accorded protection to a number of hand-made and manufactured products, especially in the informal sector. The copyright based sector contributes significantly to the Indian economy and its future potential is immense. In the area of plant varieties and farmers' rights, the number of filings and registrations are very encouraging. There is considerable unexplored potential for developing, promoting and utilizing traditional knowledge, which is a unique endowment of India. Activities for promotion of traditional knowledge have to be conducted with effective participation of holders of such knowledge.

A comprehensive base line survey or IP audit across sectors will enable assessment and evaluation of the potential in specific sectors, and thus formulate and implement targeted programmes to tap this vast potential and help develop new technologies, products and solutions. This would include strengthening and spread of IPR facilitation centres and incubators, amongst other measures. Focus will be placed on facilitating researchers and innovators regarding areas of national priority. The corporate sector also needs to be encouraged to generate and utilize IPRs. It is also desirable to introduce

IPRs as part of academic curriculum in educational institutions, especially universities, law and technical institutions.

Steps also need to be taken to devise mechanisms so that benefits of the IPR regime reach all inventors, especially MSMEs, start-ups and grassroot innovators. Incentives may be built-in to encourage filing by such targeted users. These may include schemes to facilitate domestic IPR filings, for the entire value chain from IPR generation to commercialization. R&D needs to be promoted through tax benefits available under various laws, through simplification of procedures for availing direct and indirect tax benefits.

The ambit of Traditional Knowledge Digital Library (TKDL) should also be expanded, while the possibility of using it for further R&D shall be explored.

The steps to be taken towards attaining this objective are outlined below:

- 2.1.** Use the campaign "Creative India; Innovative India" to propagate the value of creativity and innovation, and the resultant benefit to the public; to create a mindset and culture that encourages knowledge generation and its application through IP.
- 2.2.** Carry out a comprehensive IP audit or base line survey in various sectors in cooperation with stakeholders to assess and evaluate areas of strength and potential, prioritize target groups of inventors and creators, develop specific programs to address their needs, provide resources to enable them to create IP assets and utilize them for their own and social benefit.
- 2.3.** Undertake studies to assess the contribution of IP content in different industries on the economy, employment, exports and technology transfer.
- 2.4.** Focus on improving IPR output of national research laboratories, universities, technology institutions and other

- researchers by encouraging and facilitating the acquisition of Intellectual Property Rights by them.
- 2.5.** Encourage researchers in public funded academic and R&D institutions in IPR creation by linking it with research funding & career progression.
 - 2.6.** Encourage researchers in public funded academic and R&D institutions by having uniform guidelines for division of royalties between the organizations and individual researchers and innovators.
 - 2.7.** Include IP creation as a key performance metric for public funded R&D entities as well as Technology Institutions, and gradually extend such evaluation from Tier-1 to Tier-2 Institutions.
 - 2.8.** Provide guidance to researchers and innovators about national priority areas to focus on, for instance in energy and food security, healthcare and agriculture, as well as specific sectors such as biotechnology, data analytics, nanotechnology, new materials and ICT.
 - 2.9.** Encourage public funded R&D institutes and industry to develop affordable drugs relating to neglected diseases.
 - 2.10.** Encourage R&D including open source based research such as Open Source Drug Discovery (OSDD) by the Council of Scientific and Industrial Research (CSIR) for new inventions for prevention, diagnosis and treatment of diseases, especially those that are life threatening and those that have high incidence in India.
 - 2.11.** Establish and strengthen IP facilitation centers as nodal points especially in industrial and innovation university clusters.
 - 2.12.** Create an industry-academia interface for encouraging cross-fertilization of ideas and IPR-driven research and innovation in jointly identified areas.
 - 2.13.** Stimulate large corporations, both Indian and foreign, that have R&D operations, to create, protect and utilize IPRs in India.
 - 2.14.** Improve awareness of the value of copyright for creators, the importance of their economic and moral rights.
 - 2.15.** Introduce support systems for MSMEs, start-ups and grass root innovators to reduce transaction costs linked to IP creation for the entire value chain from IPR generation to commercialization, including schemes to facilitate domestic IPR filings.
 - 2.16.** Consider incentives to promote R&D, including the following steps:
 - 2.16.1.** Promote R&D through tax benefits available under various laws, through simplification of procedures for availing direct and indirect tax benefits;
 - 2.16.2.** Consider financial support for a limited period on sale and export of products based on IPRs generated from public funded research;
 - 2.16.3.** Creation of an effective and simple loan guarantee scheme in order to encourage start-ups and cover the risk of genuine failures in commercialization based on IPRs as mortgage-able assets.
 - 2.17.** Promote 'infusion of funds to public R&D units' as a part of Corporate Social Responsibility to foster a culture of open innovation.
 - 2.18.** Provide special incentives for creation of IPRs in green technologies and manufacture of energy efficient equipment.
 - 2.19.** The ambit of Traditional Knowledge Digital Library (TKDL) should also be expanded to include other fields besides Ayurveda, Yoga, Unani and Siddha.
 - 2.20.** Public research institutions should be allowed access to TKDL for further R&D, while the possibility of using TKDL for further R&D by private sector may also be explored, provided necessary safeguards are in place to prevent misappropriation.
 - 2.21.** Document oral traditional knowledge, taking care that the integrity of the said knowledge is preserved and traditional ways of life of communities are not compromised.
 - 2.22.** Introduce IPRs as part of academic

- curriculum in educational institutions, especially universities, law and technical institutions.
- 2.23.** Increase awareness of international mechanisms and treaties (e.g. PCT, Madrid, Hague) to encourage creation and protection of IPRs by Indian individuals and entities in global markets.
- 2.24.** Encourage and incentivize IP generation and utilization among students at all levels, use awareness programs and educational materials to inculcate an appreciation for the value of IP.
- 2.25.** Encourage innovations in the agriculture and pisciculture sector through application of IP for higher sustainable agricultural production.
- 2.26.** Encourage the registration of Geographical Indications (GIs) through support institutions; assist GI producers to define and maintain acceptable quality standards, and providing better marketability.
- 2.27.** Encourage creation of design related IP rights by identifying, nurturing and promoting the aspects of innovation protectable under the design law and educating designers to utilize and benefit from their designs; involve the NIDs, NIFTs and other institutions in sensitization campaigns.
- 2.28.** IPR generation for ICT technologies, including those relating to cyber security for India, will be encouraged.
- 2.29.** Take steps to increase domestic filings of patent applications.
- 2.30.** Promote India's rich heritage of traditional knowledge with the effective involvement and participation of the holders of such knowledge. Traditional knowledge holders will be provided necessary support and incentives for furthering the knowledge systems that they have nurtured from the dawn of our civilization.

OBJECTIVE 3

Legal and Legislative Framework

To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest

It is an acknowledged fact that a strong and balanced legal framework encourages continuous flow of innovation and is among the bare necessities to fuel a vibrant knowledge economy. India recognizes that effective protection of IP rights is essential for making optimal use of the innovative and creative capabilities of its people. India has a long history of IP laws which have evolved taking into consideration national needs and international commitments. The existing laws were either enacted or revised after the TRIPS Agreement and are fully compliant with it. These laws along with various judicial decisions provide a stable and effective legal framework for protection and promotion of IPRs. India will continue to utilize the legislative space and flexibilities available in international treaties and the TRIPS Agreement, even as it continues to

engage constructively in the negotiation of such international treaties and agreements. India shall remain committed to the Doha Declaration on TRIPS Agreement and Public Health.

At the same time, India is rich in traditional medicinal knowledge which exists in diverse forms in our country. Amongst them, well developed systems like Ayurveda, Yoga & Naturopathy, Unani, Siddha, Sowa-Rigpa and Homeopathy have immense economic value. It is important to protect such knowledge, be it oral or in codified form, from misappropriation, while providing space and environment for dynamic development of traditional knowledge for benefit of mankind.

Since it is difficult to predict the reach of existing laws in a changing and dynamic knowledge field, it becomes necessary to carry out legislative changes,

as may be required from time to time. For this purpose, stakeholder consultation shall be done to keep the laws updated in consonance with national needs and priorities. The legal framework may also be utilized to enhance transparency and efficiency in the administration and enforcement of IPR laws. The steps to be taken towards attaining this objective are outlined below:

- 3.1.** Review existing IP laws, where necessary, to update and improve them or to remove anomalies and inconsistencies, if any, in consultation with stakeholders.
- 3.2.** Engage constructively in the negotiation of international treaties and agreements in consultation with stakeholders; examine accession to some multilateral treaties which are in India's interest; and, become signatory to those treaties which India has de facto implemented to enable it to participate in their decision making process.
- 3.3.** Continue to engage actively and constructively in the deliberations at various international fora to develop legally binding international instrument(s) to protect Traditional Knowledge (TK), Genetic Resources (GR) and Traditional Cultural Expressions (TCE).
- 3.4.** Pursue transfer of clean technology and know-how from developed countries to India, as per the provisions of Article 4 of the UNFCCC, in order to meet the objectives of reducing anthropogenic emissions of GHGs and support activities of climate change adaptation.
- 3.5.** Review and update IP related rules, guidelines, procedures and practices for clarity, simplification, streamlining, transparency and time bound processes in administration and enforcement of IP rights.
- 3.6.** Undertake an in-depth study to determine the appropriateness and extent of applying the existing laws to protecting TK, GR and TCE, and to propose changes required, if any.
- 3.7.** Indian Cinematography Act, 1952 may be suitably amended to provide for penal provisions for illegal duplication of films.
- 3.8.** Identify important areas of study and research for future policy development, such as (the list is indicative, and not exhaustive):
 - 3.8.1.** Interplay amongst IP laws; and between IP laws and other laws to remove ambiguities and inconsistencies, if any;
 - 3.8.2.** IP interface with competition law and policy;
 - 3.8.3.** Guidelines for authorities whose jurisdictions impact administration or enforcement of IPRs such as Patents and Biodiversity;
 - 3.8.4.** Protection of Trade Secrets.
- 3.9.** Examine the issues of technology transfer, know-how and licensing relating to SEPs on fair and reasonable terms and provide a suitable legal framework to address these issues, as may be required.

OBJECTIVE 4

Administration and Management

To modernize and strengthen service-oriented IPR administration

The Offices that administer the different Intellectual Property Rights are the cornerstone of an efficient and balanced IPR system, administering laws, granting or registering IP rights, providing IPR related services to users, including dissemination of IPR related information for the benefit of research & development and furthering of innovation in the country, as also serving as a bridge between the government, IP support institutions and the user community. As IPRs increase in significance and contribute to economic development, the importance and role of IP administration and management has also expanded. The IPR infrastructure is one of the key elements of enhanced competitiveness in the globalized international economic paradigm. This in turn influences the organization, structure and functions of modern IPOs.

Intellectual Property Offices (IPOs) now have the twin challenges of making their operations more efficient, streamlined and cost effective, with expanding work load and technological complexity on one hand, and enhancing their user-friendliness by developing and providing value added services to the user community on the other. Steps will continue to be taken towards modernization of various IP offices, including improvement of ICT infrastructure. Aiming towards a service oriented regime at IPOs, steps would be taken to fix and adhere to timelines for disposal of IPR applications. There is also need to augment manpower after analyzing the projected workload.

Sensitization of IPR officials at all levels with regard to the objects and reasons of our laws and international obligations; their continuous education and training and regular audit of their work will ensure a vibrant and service oriented IPR regime. The Rajiv Gandhi National Institute of Intellectual Property Management, Nagpur (RGNIIPM) needs to be strengthened to cater to the training needs in an evolving IP environment. Measures should also be taken to promote interaction between the IP Offices

and various R&D organizations and Universities.

The administration of the Copyright Act, 1957, hitherto under the Department of Higher Education, and the Semiconductor Integrated Circuits Layout-Design Act, 2000, hitherto under the Department of Electronics and Information Technology is being brought under the aegis of the Department of Industrial Policy and Promotion leading to synergetic linkage between various IP offices under one umbrella, streamlining processes, and ensuring better services to the users. To facilitate promotion, creation and commercialization of IP assets, a Cell for IPR Promotion and Management (CIPAM) should be constituted under the aegis of DIPP.

Continued efforts should be made for promotion of technical cooperation with IP offices in other countries in areas such as capacity building, human resource development, training, access to databases, best practices in search and examinations, use of ICT and user oriented services.

The steps to be taken towards attaining this objective are outlined below:

- 4.1. The administration of the Copyright Act, 1957 alongwith the office of the Registrar of Copyrights, under the Department of Higher Education, is being transferred to the Department of Industrial Policy and Promotion.
- 4.2. The administration of the Semiconductor Integrated Circuits Layout-Design Act, 2000 alongwith the office of the Semiconductor Integrated Circuits Layout-Design Registry (SICLDR), under the Department of Electronics and Information Technology, is being transferred to the Department of Industrial Policy and Promotion.
- 4.3. Restructure, upgrade and modernize IPOs taking into account the rapid growth and diversity of IP users and services, higher responsibilities and increased workload.

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- 4.4.** Augment manpower after analyzing projected workload, speedy liquidation of backlog, requirements of global protection systems and productivity parameters.
 - 4.5.** Study and review the organizational and cadre structure, processes of recruitment, training, career development, performance based incentives to attract and retain the best talent to enhance efficiency and productivity.
 - 4.6.** Modernize further the physical and ICT infrastructure taking into account the expanding needs of the IPOs and to accelerate e-filings, e-processing and other e-services.
 - 4.7.** Promote interaction between various IP offices and public R&D institutions for sensitization of personnel and scientists.
 - 4.8.** Collaborate with various R&D Institutions, Universities, Funding Agencies, Chambers of Industry and Commerce in providing advisory services to improve IP creation, management and utilization.
 - 4.9.** Make efforts to include TKDL as a part of PCT minimum documentation.
 - 4.10.** Establish close cooperation between IPOs and create a common web portal for ease of access to statutes, regulations, guidelines and for better coordination.
 - 4.11.** Promote cooperation with IP offices in other countries in areas of Capacity Building, Human Resource Development, Training, Access to Databases, Best Practices in search and examinations, use of ICT and user oriented services.
 - 4.12.** Introduce approaches and mechanisms so that benefits of the IP system reach all inventors including MSMEs, informal innovators and holders of traditional knowledge.
 - 4.13.** Create a Cell for IPR Promotion and Management (CIPAM) under the aegis of DIPP to facilitate promotion, creation and commercialization of IP assets.
 - 4.14.** Explore the possibility of expedited examination of patent applications to promote manufacturing in India.
 - 4.15.** Enhance international and bilateral cooperation and coordinate with Indian Missions abroad to follow IP developments and advice on IP related matters.
 - 4.16.** Office of the Controller General of Patents Designs and Trademarks (CGPDTM), which administers patents, designs, trademarks and GIs, has undergone a sea change in the past few years, in up gradation and use of ICT. These changes shall be further advanced through such measures as:
 - 4.16.1. Fix and adhere to timelines for grant of registrations and disposal of opposition matters;
 - 4.16.2. Adopt best practices with respect to filing and docketing of documents, maintenance of records and digitizing the same including document work flow and tracking systems;
 - 4.16.3. Create a service-oriented culture to make the IP office user friendly;
 - 4.16.4. Take steps to expedite digitization of the Design office and enable online search and filing;
 - 4.16.5. Ensure that public records in the IP office are easily available and accessible both online and offline;
 - 4.16.6. Conduct periodic audits of processes being adopted in IP administration for efficient grant and management of IP rights;
 - 4.16.7. Implement quality standards at all stages of operations with the aim to obtain ISO certification;
 - 4.16.8. Establish effective coordination between its office and National Biodiversity Authority to enable harmonious implementation of guidelines relating to grant of patents on inventions using biological resources.
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- examination), substantive laws and technologies, with the Rajiv Gandhi National Institute of Intellectual Property Management, Nagpur (RGNIPM);
- 4.16.10. Remove disparities, if any, among different branches of the trademark registries and patent offices and adopt standardized procedures in examination/ grant of applications including maintenance of rights;
- 4.16.11. Implement centralized priority field-wise on a national basis for patent applications;
- 4.16.12. Examine joining Centralized Access for Search and Examination (CASE) and WIPO Digital Access Services (DAS);
- 4.16.13. Existing guidelines published by the Patent Office shall be reviewed periodically and revised to reflect legislative provisions;
- 4.16.14. Value added services in the form of helpdesks, awareness and training materials, ease of remote access of the international patent search mechanisms and other IP related databases;
- 4.16.15. Implement incentives for MSMEs and grass root innovators to encourage filing by the said sector;
- 4.16.16. Conduct patent and trademark agent examinations at regular intervals; arrange training programs and involve them in capacity building activities.
- 4.17. Office of Registrar of Copyrights will:**
- 4.17.1. Take measures to expedite modernization of the Copyright Office in terms of office space and infrastructure, organizational structure, e-filing facility including e-applications, processing and issue of final extracts of registrations;
- 4.17.2. Digitize copyright records and introduce on-line search facility; provide necessary manpower and adequate training facilities to personnel in the Copyright Office;
- 4.17.3. Take urgent measures for effective management and administration of copyright societies to ensure transparency and efficiency in the collection and disbursement of royalties in the best interest of the right holders;
- 4.17.4. Provide user friendly services in the form of helpdesks, awareness and training materials;
- 4.17.5. Streamline the processes to grant copyright permissions to individual creators, enterprises and institutions for their creative work.
- 4.18. The Protection of Plant Varieties and Farmers' Rights Authority- The Protection of Plant Varieties and Farmers' Rights Authority will:**
- 4.18.1. Support increased registration of new, extant and essentially derived varieties of plants and streamline procedures;
- 4.18.2. Facilitate development of seeds and their commercialization by farmers;
- 4.18.3. Establish links between the Authority and Agricultural Universities, Research Institutions, Technology Development & Management Centers and Krishi Vigyan Kendras;
- 4.18.4. Coordinate with other IPOs for training, sharing expertise and adopting best practices;
- 4.18.5. Augment awareness building, training and teaching programs;
- 4.18.6. Modernize office infrastructure and use of ICT.
- 4.19. Registrar of Semiconductor Integrated Circuits Layout Design -**
- 4.19.1. The Registrar will study the reasons for lack of interest in filings under the Semiconductor Integrated Circuits Layout Design Act, 2000 and suggest appropriate remedial measures;
- 4.19.2. Liaise with the concerned group in the Patent office and Design wing under the CGPDTM for further working.
- 4.20. National Biodiversity Authority (NBA) -**
- 4.20.1. The Government will formalize a consultation and coordination mechanism between the NBA, IPOs and other concerned Ministries/ Departments like AYUSH, with a view to harmonious

implementation of guidelines for grant of IP rights and access to biological resources and associated traditional knowledge and benefit sharing;

- 4.20.2. The NBA will streamline approvals for expeditious grant of IP rights, monetary and non-monetary benefit-sharing and introduce efficient and user friendly mechanisms for a meaningful interface between the NBA and

applicants.

- 4.21. Re-designate the institution of the Controller General of Patents, Designs and Trademarks as Controller General of Intellectual Property Rights to reflect its mandate in view of the proposed change in its scope of responsibilities.

OBJECTIVE 5

Commercialization of IPRs

Get value for IPRs through commercialization

The value and economic reward for the owners of IP rights comes only from their commercialization. A concerted effort should be made for capitalizing the existing IP assets in the country. Entrepreneurship should be encouraged so that the financial value of IPRs may be captured. Existing mechanisms including Incubators and Accelerators set up to promote entrepreneurship should be strengthened with IP-oriented services.

Financing is a major impediment for entrepreneurs and therefore it is necessary to connect investors and IP creators. Another constraint faced is valuation of IP and assessment of the potential of the IPRs for the purpose of marketing it.

There is an urgent need to take stock of existing IP funding by different departments and bodies of the Government like BIRAC, NRDC and TIFAC, and take measures to consolidate the same, scaling up successful models while avoiding duplication of efforts. Public-funded research laboratories, academia and other institutions should stimulate commercialization of their research outcomes. They ought to be suitably state-supported in the development and deployment of their IPRs.

While certain larger organizations have the intent and capabilities to commercialize their technology/IPRs, several others do not. Hence, it becomes imperative to establish facilitative mechanisms that can address such limitations, especially in terms of MSMEs, academic institutions and individual

innovators. One of the effective ways of achieving this would be by synergizing the activities of IP facilitation centres with the industry, especially industrial clusters. This would also include sensitization regarding licensing arrangements.

Efforts should be made for creation of a public platform to function as a common database of IPRs. Such a platform can help creators and innovators connect to potential users, buyers and funding institutions. It would also be helpful in scouting the technology landscape to identify white spaces and thereby help promote innovative activities in uncovered areas. Significant potential for innovation exists in new and emerging technologies like nano-technology, biotechnology, agribiotech, life sciences, green technologies, telecommunications, new materials, space technologies, etc.

The steps to be taken towards attaining this objective are outlined below:

- 5.1. CIPAM shall also undertake the following tasks:
 - 5.1.1. Provide a platform for IPR owners and users of IPRs by acting as a facilitator for creators and innovators to be connected with potential users, buyers and funding agencies;
 - 5.1.2. Undertake a study to examine the feasibility of an IPR Exchange;
 - 5.1.3. Establish links among different organizations for exchange of information

- and ideas as also to develop promotional/ educational products and services;
- 5.1.4. Facilitate access to databases on Indian IP and global databases of creators/ innovators, market analysts, funding agencies, IP intermediaries;
 - 5.1.5. Study and facilitate implementation of best practices for promotion and commercialization of IP within the country and outside;
 - 5.1.6. Promote public sector initiatives for IPR commercialization.
 - 5.2. Promote licensing and technology transfer for IPRs; devising suitable contractual and licensing guidelines to enable commercialization of IPRs; promote patent pooling and cross licensing to create IPR based products and services.
 - 5.3. Provide support for MSMEs, Individual Inventors and Innovators from the informal sectors with enablers like facilitation centers for single window services to help them commercialize their IPRs.
 - 5.4. Incentivize Indian inventors, MSMEs and start-ups to acquire and commercialize IPRs in other countries also.
 - 5.5. Examine availability of Standard Essential Patents (SEPs) on fair, reasonable and nondiscriminatory (FRAND) terms.
 - 5.6. Identify opportunities for marketing Indian IPR-based products, especially GIs, and services to a global audience.
 - 5.7. Promote collaborative IP generation and commercialization efforts between R&D institutions, Industry, Academia and Funding Agencies.
 - 5.8. Ensure enhanced access to affordable medicines and other healthcare solutions by (a) encouraging cross-sector partnerships between public sector, private sector, universities and NGOs; (b) promoting novel licensing models, and (c) developing novel technology platforms.
 - 5.9. Streamline regulatory processes to ensure timely approval for manufacturing and marketing of drugs while maintaining safety and efficacy standards.
 - 5.10. Make efforts to reduce dependency on active pharmaceutical ingredients (API) imports, including incentivizing manufacture of APIs in India and revitalizing public sector undertakings in health care sector.
 - 5.11. Support the financial aspects of IPR commercialization by:
 - 5.11.1. Enabling valuation of IP rights as intangible assets by application of appropriate methodologies and guidelines; facilitating securitization of IP rights and their use as collateral by creation of enabling legislative, administrative and market framework;
 - 5.11.2. Facilitating investments in IP driven industries and services through the proposed IP Exchange for bringing investors/ funding agencies and IP owners/ users together;
 - 5.11.3. Providing financial support to the less empowered groups of IP owners or creators like farmers, weavers, artisans, craftsmen, artists etc. through financial institutions like rural banks or cooperative banks offering IP friendly loans;
 - 5.11.4. Providing financial support for development and commercialization of IP assets through links with financial institutions including banks, venture capital funds, angel funds, crowd funding mechanisms;
 - 5.11.5. Utilizing Technology Acquisition and Development Fund under the Manufacturing Policy for licensing or procuring patented technologies;
 - 5.11.6. Taking stock of all IP funding by the Government and suggesting measures to consolidate the same to the extent possible; scaling up the funding as needed and avoiding duplication; enhancing the visibility of IP and innovation related funds so that utilization is increased; performance based evaluation for continued funding.
 - 5.12. Promote use of Free and Open Source Software along with adoption of open

standards; possibility of creating Indian standard operating environments will be examined.

5.13. Promote going-to-market activities by:

5.13.1. Creating mechanisms to help MSMEs and research institutions to validate pilots and scale up through market testing;

5.13.2. Providing seed funding for marketing activities such as participating in trade fairs,

industry standards bodies and other forums;

5.13.3. Providing guidance and support to IPR owners about commercial opportunities of e-commerce through Internet and mobile platforms;

5.13.4. Encouraging enterprises to create brand equity from their IP rights, such as Trademarks and GIs.

OBJECTIVE 6

Enforcement and Adjudication

To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements

IP rights are essentially private rights. The primary obligation of protecting IP rights is on the IPR owners who can seek legal remedies for enforcement of their rights. Along with providing an effective mechanism for enforcement of IP rights, it is equally important to balance the rights of the public in a manner conducive to social and economic welfare and to prevent misuse or abuse of IP rights.

There is a need to build respect for IPR among the general public and to sensitize the inventors and creators of IP on measures for protection and enforcement of their rights. At the same time, there is also a need to build the capacity of the enforcement agencies at various levels, including strengthening of IPR cells in State police forces.

Measures to check counterfeiting and piracy also need to be identified and undertaken. In this regard, the definitions of “counterfeit trademark goods” and “pirated copyright goods” as referred to in the footnote of Article 51 of the TRIPS Agreement shall serve as the guiding principles.

Regular IPR workshops/colloquia at judicial academies and other fora for judges would facilitate effective adjudication of IPR disputes. Multi-disciplinary IP courses/modules for other stakeholders are also needed.

It would be desirable to adjudicate on IPR disputes through specialised commercial courts. Alternative Dispute Resolution mechanism may also be explored. The steps to be taken towards attaining this objective are outlined below:

6.1. Create awareness of the value of IP and respect for IP culture by:

6.1.1. Educating the general public, especially the youth and students, on ills of counterfeit and pirated products;

6.1.2. Engaging with all levels of industry, including e-commerce, in order to create respect for IP rights and devise collaborative strategies and tools;

6.1.3. Sensitizing inventors, creators of IP on measures for protection and enforcement of their rights.

6.2. Take strong measures against attempts to treat generic drugs as spurious or counterfeit.

6.3. Undertake stringent measures to curb manufacture and sale of misbranded, adulterated and spurious drugs.

6.4. Public awareness as also legal and enforcement mechanisms, including technology based measures, will be reinforced to combat offline and online piracy.

6.5. Small technology firms will be supported in safeguarding their IP rights; for instance, support for IPR in ICT focus areas will be provided through easy to-use portals.

6.6. Assistance to smaller firms for protection of their IPRs internationally will be enhanced, such as DeitY's Support for International

- Patent Protection in Electronics and IT (SIP-EIT).
- 6.7. Pursue incidents of misappropriation of TK, GR and TCE in other countries vigorously.
 - 6.8. Strengthen the enforcement mechanisms for better protection of IP rights by:
 - 6.8.1. Enhanced coordination between the various agencies and providing direction and guidance on strengthening enforcement measures; coordinating with and sharing of intelligence and best practices at the national and international level; studying the extent of IP violations in various sectors; examining the implications of jurisdictional difficulties among enforcement authorities; and introducing appropriate technology based solutions for curbing digital piracy;
 - 6.8.2. Working closely with state governments for establishment of IP cells for curbing IP offences;
 - 6.8.3. Augmenting manpower, infrastructure facilities and technological capabilities of the enforcement agencies and building capacity to check proliferation of digital crimes;
 - 6.8.4. Providing regular training, including refresher training, for officials in the enforcement agencies at their academies;
 - 6.8.5. Encouraging application of technology based solutions in the enforcement of IP rights;
 - 6.8.6. Initiating fact-finding studies in collaboration with stakeholders concerned to assess the extent of counterfeiting and piracy and the reasons behind it as well as measures to combat it;
 - 6.8.7. Taking up the issue of Indian works and products being pirated and counterfeited abroad with countries concerned.
 - 6.9. Licensing practices or conditions that may have an adverse effect on competition will be addressed through appropriate measures, including regulation of anti-competitive conduct in the market by the Competition Commission of India.
 - 6.10. Facilitate effective adjudication of IP disputes through different measures including:
 - 6.10.1. Adjudicate IP disputes through Commercial Courts, set up at appropriate level;
 - 6.10.2. Creating IP modules including case laws for the benefit of judges who deal in IP; conducting regular IP workshops/colloquia at the judicial academies;
 - 6.10.3. Promoting ADRs in the resolution of IP cases by strengthening mediation and conciliation centers, and developing ADR capabilities and skills in the field of IP.

OBJECTIVE 7

Human Capital Development

To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs

The IPR scenario is dynamic and fast changing with increasing globalization, advancement of technologies, digital environment, development imperatives and global public policy issues. It is important to build national capacity for providing thought leadership in the IPR field. Continuous policy research is also needed on empirical and topical IPR areas of relevance with an interdisciplinary perspective at the national and international level. This research would enrich the process of policy, law, strategy development and international negotiations at the government and organizational levels. While apex level institutes or bodies exist for most sectors of national importance, such an institution is yet to be established for intellectual property rights development.

In order to harness the full potential of IPRs for economic growth, it is essential to develop an increasing pool of IPR professionals and experts in spheres such as policy and law, strategy development, administration and enforcement. IPR expertise would thus need to be developed and increased in industry, academia, legal practitioners, judiciary, IP users and civil society. In addition, there will be enhancement of multidisciplinary human and institutional capacity for policy development, teaching, training, research and skill building. Such a reservoir of experts will facilitate in increasing generation of IP assets in the country and their utilization for development purposes.

The steps to be taken towards attaining this objective are outlined below:

- 7.1. Strengthen and empower RGNIIIPM, Nagpur to conduct training for IPR administrators and managers in industry and business, academicians, R&D institutions; IP professionals; inventors and civil society; train the trainers and develop training modules; develop links with other similar entities at the international level; provide legal training for examiners.
- 7.2. Strengthen IP Chairs in educational institutes of higher learning to provide quality teaching and research; develop teaching capacity and curricula and evaluate their work on performance based criteria.
- 7.3. Introduce multi-disciplinary IP courses/ modules in all major training institutes such as Judicial Academies, National Academy of Administration, Police and Customs Academies, Institute for Foreign Service Training, Forest Training Institutes.
- 7.4. Making IPR an integral part of the curriculum in all legal, technical, medical and management educational institutions, NIFTs, NIDs, AYUSH Educational Institutes, Agricultural Universities, centres of skill development and the like.
- 7.5. Strengthen existing and create new IPR cells and technology development and management units in NIDs, NIFTs, Agricultural Universities, Technology and Management Institutes and centres of skill development.
- 7.6. Encourage formulation of institutional IP Policy/ Strategy in Government Departments, Higher Education, Research and Technical Institutions.
- 7.7. Progressively introduce IP teaching in Schools, Colleges and other Educational Institutions and centres of skill development.
- 7.8. Facilitate Industry Associations, Inventor and Creators Associations and IP Support Institutions to raise awareness of IP issues and for Teaching, Training and Skill Building.
- 7.9. Develop distance learning and on-line courses on IP for all categories of users; strengthen IP teaching in open universities and centres of skill development.

7.10. Strengthen IP Teaching, Research and Training in collaboration with WIPO, WTO, other International Organizations and reputed Foreign Universities.

7.11. Encourage and support capacity building among Women Creators, Innovators, Entrepreneurs, Practitioners, Teachers and Trainers.

IMPLEMENTATION

Intellectual property in India is regulated by several laws, rules and regulations under the jurisdiction of different Ministries/ Departments. A number of authorities and offices administer the laws. The legal provisions need to be implemented harmoniously so as to avoid conflict, overlap or inconsistencies among them. It is necessary that the authorities concerned administer the laws in coordination with each other in the interest of efficient administration and user satisfaction. Legal, technological, economic and socio-cultural issues arise in different fields of IP which intersect with each other and need to be addressed and resolved by consensus in the best public interest. International, regional and bilateral negotiations require developing a common national position in consultation with different Ministries, authorities and stakeholders.

The present IP Policy aims to integrate IP as a policy and strategic tool in national development plans. It foresees a coordinated and integrated development of IP system in India and the need for a holistic approach to be taken on IP legal, administrative, institutional and enforcement related matters.

Thus, the Department of Industrial Policy and Promotion shall be the nodal point to coordinate, guide and oversee implementation and future development of IPRs in India. The responsibility for actual implementation of the plans of action will remain with the Ministries/ Departments concerned in their assigned sphere of work. Public and private sector institutions and other stakeholders, including State governments, will also be involved in the implementation process.

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