

FUTURE OF IPR IN INDIA VIA THE LENS OF REPORT 161

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Abstract/Meta-Description

The Parliamentary Standing Committee on Commerce [Hereinafter Report 161] submitted on July 23, 2021, a report on the Intellectual Property Rights Regime in India. This report presented an overview of the current IPR regime in the Union along with exploring various lacuna in the current system which ought to be looked upon by the government. Concludingly the report also presented various proposals and other initiatives to promote innovation, entrepreneurship, and development in the IPR regime. Furthermore, the report comes at a crucial stage in the Indian economic juncture wherein the pandemic hit economy is trying to recover and new giants trying to enter the market through IPO and various other methods.

This report therefore naturally holds special significance for India in light of its developing entrepreneurial spirit which can be seen in various sectors throughout the country. The need for the timely protection of the unique brand identities of these new and old start-ups in the country is a must for allowing proper growth.

Therefore, in light of these reasons the present article will try to analyze report 161 and provide subsequently provide an analysis of the suggestions and recommendations provided in the report. The article will analyze the major policy changes suggested in the report. Concludingly an overall analysis of the report will be done and other important aspects of the IPR industry particularly in India will be focused upon which would be suggestive concerning the new IPR policy which is to be created by the Government of India.

INTRODUCTION

With the development of Society and Civilization, the work of the human was not limited to physical work instead become expanded into the mental creation and work of the man also. Therefore to understand, develop and protect the mental creation of man the idea of Intellectual Property and Intellectual Property rights was started in the world. The first example of intellectual property dates back to the 6th Century BCE, in a region know as

Sybaris in Ancient Greece wherein the rights were assigned to a person for the creation of a unique brand or type of Bread.¹

Furthermore, with the renaissance in Europe and then around the world, the development of various types of intellectual property happened which gave rise to its protection aspect also. In India, the first Act regarding the IPR was the act VI of 1856 or the Indian Patent System, subsequently with the development of the jurisprudence around the same various development in the protection and other allied sectors of IPR happened in India throughout the 20th Century.²

However, now with the rise of the 21st Century and the country going to another industrial revolution process, it is pertinent that focus is given again to the IPR regime in India and its allied developments. This is must not just from an economic and legal point of view but also for the socio-political development of India. The IPR policy of 2016 is the first supporting pillar in promising development in the IPR sector in India however with the recent committee report 161 and the various other developments in and around the sector, it becomes important that a proper understanding of the current policy's loopholes and backdrops is down.³

CURRENT REPORT

To improvise the IPR regime in the union a comprehensive national IPR policy was introduced and adopted in May 2016 in India. After which, a Parliamentary Standing Committee was formed to evaluate the progress made by the policy in the next five years since the adoption of the national policy in 2016. The committee has now made a review report of the national policy to identify the lacunas and gaps existing in the IPR policy and to address the said gaps. Furthermore, the present report has also presented various new methods to encourage innovations and creativity in the union via the means of incentivization.⁴ Furthermore, other methods to strengthen the IPR regime through the

¹ www.mondaq.com. (n.d.). History And Evolution Of Intellectual Property - Intellectual Property - United Arab Emirates. [online] Available at: <https://www.mondaq.com/trademark/977124/history-and-evolution-of-intellectual-property#:~:text=The%20earliest%20records%20relating%20to> [Accessed 28 Aug. 2021].

² abounaja.com. (n.d.). History and Evolution of Intellectual Property. [online] Available at: <https://abounaja.com/blogs/history-of-intellectual-property#:~:text=Intellectual%20Property%20may%20sound%20like> [Accessed 31 Aug. 2021].

³ Norton, N. (n.d.). LibGuides: Intellectual Property Research Guide: Agencies or Other Entities Handling IP. [online] lawlibguides.luc.edu. Available at: <https://lawlibguides.luc.edu/c.php?g=610777&p=4239680> [Accessed 31 Aug. 2021].

⁴ PRS Legislative Research. (n.d.). Committee Reports. [online] Available at: <https://prsindia.org/policy/report-summaries/review-of-the-intellectual-property-rights-regime> [Accessed 31 Aug. 2021].

financing of IP, the introduction of IP in agriculture, methods of tribal cures, etc among the various new and emerging trends for the developing technological trends were also suggested.⁵

OBSERVATIONS IN THE REPORT:

The committee whilst making various recommendations also made various observations regarding the situation of the IPR in the country and its involvement in other important aspects.⁶ The primary observations made by the report are as follows:

- I. Contribution in Economy:** the report identified the contribution of the IPR sector in the Indian economy, the constant rise in the development of FDI concerning trademark, patent and copyright was also noticed. Furthermore, the constant benefits of IPR were also noted in the report.
- II. Comparison with world economy:** The report noted the comparison between the IPR filings in India concerning the filings in the USA and China. It noted that the filling in India comparatively less and therefore initiatives should be made to improve the same.
- III. Awareness of IPR:** The committee also noted the lack of awareness of IPR in the Country which is also visible in the form that the majority of filings done in the union are done by non-residents or foreign entities. Furthermore, the domestic filling is at a minority portion of 34% only. Therefore to counter the same various recommendation and multidisciplinary solutions have been suggested.
- IV. Lack of personal in Patent Offices:** It is pertinent to take the preview of the fact that with the rise of patent applications now more than ever, there is a need for updating the manpower present in these offices. Furthermore, it is important to note here that AI could be used as a way to improve the situation in this area.

⁵ Admin, C. (2021). Report 161- “Review of the Intellectual Property Rights Regime in India” by The Department Related Parliamentary Standing Committee on Commerce. [online] IPR Law India - Indian IP Law Resources. Available at: <https://iprlawindia.org/report-161-review-of-the-intellectual-property-rights-regime-in-india-by-the-department-related-parliamentary-standing-committee-on-commerce/> [Accessed 29 Aug. 2021].

⁶ Rana, L. (n.d.). The Viewpoint: Parliamentary Committee suggests Review of IPR Regime in India. [online] Bar and Bench - Indian Legal news. Available at: <https://www.barandbench.com/view-point/parliamentary-committee-suggests-review-of-ipr-regime-in-india> [Accessed 29 Aug. 2021].

V. Knowledge of Traditional Knowledge: The committee in their report acknowledged the importance of traditional knowledge and their connection to IPR whilst giving specific attention to Geographical Indication.

RECOMMENDATIONS IN THE REPORT

In its report, the committee suggests various new recommendations to be adopted, viewed, and looked upon by the respective governing authorities including the parliament in the IPR regime in India to improve the IPR situation in the country. The Recommendations made by the committee in its report are as follows:

- I. Review of IPR policy, 2016:** The Committee in its report suggested that the IPR policy of 2016 should be reviewed and arrangements should be made to include the new and other important emerging trends concerning IPR. Furthermore, it is suggested that the involvement of the states in making the national policy and if required making state-wise changes were also suggested.
- II. Allowing products in the stage of “Patent Pending”:** The committee also noted that the products in the “patent pending” stage should be allowed to be produced by the companies, this is done keeping in mind the economic benefits of the same.
- III. Creation of IP Fund:** the committee noted that a specific fund for the fostering and development of IPR related issues should be created with the department. The primary aim of such a fund should be to encourage and financially support storehouses of traditional and indigenous knowledge in the country.
- IV. Agency against counterfeiting and piracy:** The Committee noted that an agency should be to put a check and stop IP crimes, which are on the rise in the country, furthermore, the committee also noted that there is a need for a stronger legislature in this aspect.
- V. Reconstitution of the IPAB:** The committee strongly suggested that the Intellectual property Appellate Board is reconstituted in the country. The committee also took into notice the issues faced by the IPAB during its existence and therefore suggested that in the reconstruction, these issues should be focused upon.
- VI. Amendment of the IPR laws:** The committee in its report suggested various improvements and loopholes in the Patent and other IPR laws in the country which

need to be resolved via way of amending the act. The committee also suggested that various public safeguards under the act need to be introduced.

VII. Creation of an interlinking department for connection and communication between the IPR industry and Academia: The committee in its report suggested that a new agency should be created for interlinking the IPR industry and Academics for proper research and development of the IPR regime in the country.

VIII. IPR in drugs and other allied aspects: The committee in their report noted the importance of drugs and allied aspects concerning IPR. Furthermore, the committee suggested that there should be more government support and focus upon this area of intersection of law and industry.

IX. Importance of Agriculture: The committee understood the importance of Agriculture concerning IPR in India and noted that the initiatives taken by the Indian Council of Agricultural Research (ICAR) to support and improve upon the IPR aspects in farming and allied aspects is commendable, however, the committee recommended in its conclusion to the government to further work upon this area.

ANALYSIS OF REPORT 161

The report serves as a perfect base stone for the future of the IPR regime in India to continue upon. The report in its entirety serves as an attempt to strengthen and improvise upon the current IPR regime in India. In the report of the committee, various suggestions and recommendations provided are important, seeing the current IPR climate of the country particularly with the lowering of Patent filling in 2019, Corona Virus Pandemic, and emerging latest trends in the IPR sector. Furthermore, the report whilst understanding the huge diversity of the country provides various specific and general recommendations as well.

The report whilst in its entirety provided various good measures which ought to be adopted, however out of this measure, the emphasis must also be given to some limited aspects, such as that of IP financing along with personal improvement in the IPR related offices and courts. Furthermore, the committee in its report very rightly noted that in the 2016 policy of the Government of India, very little importance is provided to the research and development aspect of the IPR economy and jurisprudence in India, therefore the same should be focused upon. Other important suggestions of the committee such as incentives to companies and innovators at the ground level are also important seeing the dwindling situation of the same.

Furthermore, one aspect which was not discussed much in the report, is the law on IPR in nations around the world, therefore this could be one aspect which ought to be discussed further and subsequently developed upon in India. Similar to the constitution of India, the IPR policy of India could also benefit from the international jurisprudence and philosophy on the same.

Thus after an analysis of the report, it would be correct to state that the government must in their entirety consider the proposals given by the report, which are aimed at improvement in almost all aspects of IPR related aspects in India. However at the same time the new policy of the government must also be sensitive to the unique situation of IPR in India.

CONCLUSION

No change can be bought with the first step neither the perfect thing is created on the first try, similarly, it is important to note that the IPR regime in India will take time to improve itself and become effective whilst answering to the specific needs of the Union. The current report 161 is the correct step in a long marathon that aims at perfecting the IPR regime in the country.