



CHAMBER

 **MCCI**
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IN-TOUCH

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Mrs. Annamma Samuel and Dr. Sudhir Ravindran

In today's dynamic and competitive business environment Intellectual Property (IP) rights are needed to maintain a competitive edge in the market. Every business, whether it is manufacturing or service oriented uses and creates IP. The IP so generated can assist the business in its marketing, product development, raising financial resources, export and also expanding the existing business through licensing and franchising.

Intellectual property encompasses creations of the human mind, labour, capital and intellect. Today, for a large and growing number of businesses worldwide, IP is the main source of income replacing large production factories and warehouses. The protection for intellectual property is accorded through a variety of tools like patents, trademarks, copyright, designs, utility models, geographical indicators, trade secrets, protection of plant breeders and farmers rights, protection for semi-conductors and integrated circuits, etc. These tools are further complemented by specific provisions of legislations relating to unfair competition, contract laws, etc. which provides for comprehensive IP protection. The gist of the prominent IP tools are:

Patents: It is an exclusive right granted by the Government to the applicant for his invention of product or process which should be new, non-obvious, useful and patentable as per the patentability criteria laid down in the Patents Act. A patent once granted has a specific term of 10 years. Patents are protected under the Patents Act.

Trademarks and Service Marks: It is a visual symbol in the form of word, name, logo, label etc, to identify the

products or services as originating from a unique source. Trademark is valid for a period of 10 years and can be perpetually renewed every 10 years. Trademarks are protected under the Trademarks Act.

Design: An industrial design includes any shape, configuration, pattern, color etc which are protected for a period of 10 years and further renewed for 5 years. Industrial Designs are protected under the Designs Act.

Copyright: Copyright gives the right to creators of literary, musical, artistic works etc for the original expression of idea or information which is fixed in a tangible medium. Copyright is covered under the Indian Copyright Act.

Trade Secrets: A trade secret is information that is kept secret by its owner and is not lawfully and independently obtained by others. There is no specific law in India that protects trade secrets and confidential information. Indian courts protect trade secret on basis of principles of equity, and at times, upon a common law action of breach of confidence.

Geographical Indications: It is a name or sign used on certain product which possesses certain qualities, or enjoys a certain reputation, due to its geographical origin. GI is protected under the Geographical Indications Act.

The strategic utilization of IP assets can substantially enhance the competitiveness of a business.

1. IP may generate an income for a business through the licensing, sale, or commercialization of the IP-protected products or services that may significantly improve a business market share or raise its profit margins.

2. IP rights can enhance the value or worth of a business in the eyes of investors and financing institutions.

3. In the event of a sale, merger or acquisition, IP assets may significantly raise the value of a business, and at times may be the primary or only true assets of value.

Business should thus introduce the concept of IP Management wherein appropriate IP tools are deployed to protect, manage and enforce the IP, so as to get the best possible commercial results from its ownership.

Organisations often face challenges in extracting the hidden value of IP and using it effectively as part of its business strategy. Further when IP is not protected somebody else might misappropriate the same. To promote innovativeness and systematically build an IP portfolio, it is very important to implement an IP Management System. An effective IP Management System would help identify & evaluate:

1. The resources that are required to meet its business objective;
2. The viability and growth potential of a particular business or division.
3. The commercial relevance of IP assets; whether owned by or to which the organization has authorized access, and the resources needed for obtaining and maintaining these assets.
4. Provide information about competitors, IP strategies and IP portfolios.

It is therefore very important that every business be aware of issues relating to IP and take concrete steps towards building an effective IP Portfolio for strategic competitive advantage.