
IPR policy sets a new agenda - Creative India; Innovative India

After more than a year of deliberation since the first draft was released by task force constituted to prepare the policy, the Department of Industrial Policy and Promotion (DIPP) released new National IPR Policy on 13th May, 2016. The policy sets out the objective of promoting a holistic and conducive ecosystem in India in order to catalyse the full potential of Intellectual property for country's economic growth and socio-cultural development, while protecting the public interest. The rationale behind the policy lies in the need to create awareness about the importance of IPRs as a marketable financial asset and economic tool.

With an attractive vision statement of *"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"*, the Policy lays down seven Objectives which are elaborated below. Each of the objectives lay down steps to be undertaken by the identified nodal Ministry/ department in order to achieve those objectives.

The government has notified DIPP to act as a nodal department, to coordinate/guide and oversee implementation and future development of IPRs in India. Further, it has brought the administration of the Copyright Act, 1957 and the Semiconductor Integrated Circuits Layout-Design Act, 2000 under the aegis of DIPP, besides constituting a Cell for IPR Promotion and Management (CIPAM) to facilitate more effective and synergetic working between various IP offices, as also promotion, creation and commercialization of IP assets. As a result of this the Controller General of Patents, Trademarks and Designs has been re-designated as Controller General of Intellectual Property.

1. IPR Awareness:

The policy highlights the importance of IPR awareness, stating that "many IP holders are unaware of the benefits of IP rights or of their own capabilities to create IP assets". At the same time, "they may be unaware of the value of others' IPR and the need to respect the same". Given this, its suggestions on educating consumers about the benefits of IP rights and fostering a culture of creativity and innovation constitute a proactive approach to the protection and enforcement of intellectual property.

2. Generation of IPRs:

Policy suggests about providing statutory incentives for IP Creation, like tax benefits; considering financial support for a limited period on sale and export of products based on IPRs generated from public funded research; 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. All of the recommendation

seems effective steps to associate the IP to a direct monetary Incentive to motivate public for registering their IPRs.

3. Legal and legislative framework

The suggestion to “review and update IP related rules, procedures, practices and guidelines for clarity, simplification, streamlining, transparency and time bound processes in administration and enforcement of IP rights” is an important one. One of the main reasons for the current backlog of cases before the courts and the trademark offices is the over-emphasis on procedure. A project to streamline these procedural aspects (eg, a white paper on particularly contentious areas or guidelines that could be applied by all Patent and trademark offices in order to ensure consistency in decision making) would be extremely helpful in reducing this backlog and ensuring that similar bottlenecks do not recur.

4. IP administration and management

The policy recognises that “IPOs now have the twin challenge of making their operations more efficient, streamlined and cost effective while administering national laws and global protection systems 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.” This is an important observation which emphasises how important it is for IP offices to put service at the heart of their operations. The suggestions of timeframes for the grant of legislation registrations, the creation of a service-oriented culture and the adoption of best practices with respect to filing and docketing documents are all good.

5. Commercialising intellectual property

The policy aims at public-private partnerships and talks about encouraging the commercialisation of intellectual property. Promoting licensing and technology transfer for IP; devising suitable contractual and licensing guidelines to enable commercialization has also been recommended.

6. Enforcement and adjudication

Policy notes that piracy and counterfeiting result in losses to rights holders and to the exchequer, besides causing harm to consumers. In order to strengthen enforcement, it suggests: “establishing a centralized ‘Multi-Agency Task Force’ for coordination between the various agencies and providing direction and guidance on strengthening enforcement measures; creating a nationwide database of known IP offenders; 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.”

7. Human capital development

The Policy proposes various education initiatives, including the introduction of IP courses/modules in the following major training institutes, which shape the country's IP policy and play an active role in administering the various laws: Judicial Academies, National Academy of Administration, Police and Customs Academies, Institute for Foreign Service Training, Forest Training Institutes.

Implementation

Finally realising that the objectives set out by the Policy may not just remain on paper, the policy has set out a section on Implementation giving DIPP the role of nodal agency to co-ordinate, guide and oversee implementation and future development of IPRs in India. The Policy makes it clear that the responsibility for actual implementation of the plan 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

To sum up

The policy document sets the bar high and comes out as a good intent document. It will be interesting to see how the action on ground matches the paper layout.

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