Establishing an Effective Intellectual Property Regime: The Indian Experience

N. N. Prasad
Joint Secretary
Department of Industrial Policy & Promotion
Ministry of Commerce & Industry
Government of India
IPR Strategy

- Meet International obligations.
- Safeguard public interest.
- Modernise the IPR Administration.
- Create awareness about IPRs.
Legislative Framework

- The Trade Marks Act 1999.

✓ India fully meets its international obligations
Patents Act, 1970

- Effectively balances and calibrates the rights of patent holders and national interest
- Safeguards in place to protect public interest in general and public health in specific
Safeguards in the Patent Law

- Exemptions from patentability (some examples):

  - The mere discovery of a new form of a known substance which does not result in the enhancement of the known efficacy of that substance or the mere discovery of any new property or new use for a known substance or of the mere use of a known process, machine or apparatus unless such known process results in a new product or employs at least one new reactant [section 3 (d)].
  - A substance obtained by a mere admixture resulting only in the aggregation of the properties of the components thereof or a process for producing such substance [section 3(e)];
  - An invention which in effect, is traditional knowledge or which is an aggregation or duplication of known properties of traditionally known component or components [section 3(p)];
Safeguards in the Patent Law

Compulsory Licenses:
- At any time after expiry of three years from the date of grant of a patent, a compulsory license may be sought on the grounds:
  - That reasonable requirements of public with respect to the patented invention have not been satisfied, or
  - That the patent invention is not available to the public at a reasonably affordable price, or
  - That the patented invention is not worked in the territory of India. [Section 84(1)]
- Special provisions to deal with (a) national emergency, extreme urgency and (c) public non-commercial use [Section 92].
- Provision to enable export of medicines to countries which do not have adequate production facilities [Section 92A].
Modernisation of IP Administration

- First phase of modernisation implemented at a cost of US $ 40 million.

- Focus on:
  - Creation of state-of-the-art infrastructure;
  - Augmentation of human resources;
  - Computerisation;
  - Awareness creation;
  - Training.
Milestones achieved

Infrastructure Development

- 4 state-of-the-art Intellectual Property Offices commissioned.
Before

Now

FACADE
Entrance

Before

Now
STORAGE SPACE

Before

Now
Milestones Achieved

Human Resources

- Five-fold increase in positions in the Patent Office.
- Two-fold increase in human resources in the Trademarks Registry.
Milestones Achieved

**Computerisation**
- Initial level of computerisation & search facilities.
- E-filing established.
- Digitisation of IPR records initiated.
- International databases acquired.

**Training & Awareness Creation**
- Intellectual Property Training Institute (IPTI) established at Nagpur to provide training and develop strategies for awareness creation.
Impact: Patent Applications

- 1999-2000: 4824
- 2000-2001: 8503
- 2001-2002: 10592
- 2002-2003: 11466
- 2003-2004: 12613
- 2004-2005: 17466
- 2005-2006: 24415
- 2006-2007: 28940
- 2007-2008: 35067
Impact: Patents Granted

1381, 1591, 1379, 2469, 1911, 4320, 7539, 15261
Impact: Trade Mark Applications

- 1999-00: 66378
- 2000-01: 84275
- 2001-02: 90236
- 2002-03: 94120
- 2003-04: 92251
- 2004-05: 78996
- 2005-06: 85699
- 2006-07: 103419
- 2007-08: 123500

Graph showing the increase in trade mark applications from 1999-00 to 2007-08.
Impact: Trade Marks Registered

In the last 3 years 3,38,000 trade marks registered – more than those registered in the preceding 50 years.
Impact: Revenue and Expenditure

In million dollars

Revenue and Expenditure (NP)

Challenges ahead

- Operationalisation of International Searching Authority/ International Preliminary Examining Authority (ISA/IPEA);
- Accession to Madrid Protocol;
- Strengthening of Infrastructure;
- Augmentation of Human Resources;
- Comprehensive computerisation;
- Awareness and sensitisation.
Second Phase of Modernisation

- Allocation – US $ 82 million.
- Components:
  - Infrastructure Development;
  - Augmentation of Human Resources- As many as 1380 personnel proposed to be inducted ;
  - Target to achieve total electronic processing;
  - National Institute of Intellectual Property Management for training, education, research and policy advice;
  - National-wide IP Awareness campaign.
Enforcement of IPRs

The Indian IPR laws contain provisions for stringent punishments and fines for IPR violations.

- Various administrative measures include setting up of the Inter-Ministerial Committee on Enforcement of IPR laws, Copyright Advisory Council, Enforcement Cells in the State Police Headquarters, conducting of special anti-piracy drives by State police, etc.
- Intellectual Property Appellate Board provides fast track mechanism for resolution of IP disputes.
- The enforcement measures have resulted in registering of large number of cases relating to IPR violations, filing of charge sheets, arrests and convictions.
Thank you