



INTELLECTUAL PROPERTY RIGHTS AND ITS IMPLICATIONS ON BUSINESS

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Abstract:

Such a strategy is based on a strong intellectual property framework. The intellectual property system is a dynamic tool for wealth creation in knowledge-based, innovation-driven economies because it offers incentives for businesses and individuals to create and innovate, a favourable environment for the growth and exchange of intellectual assets, and a secure investment environment for both domestic and foreign capital. Information, in one form or another, is the core component of the majority of goods and services in the age of knowledge or the information age. One may have noticed that there are currently an infinite number of websites, virtual businesses, and virtual goods. The foundation for all of them is "information," whether it be in digital or analogue form. These are currently the most important IPR issues, but the Internet will also raise a number of new ones. Such information is frequently of a proprietary nature; as a result, the investment in the information product, knowledge product, or virtual product must be safeguarded to support subsequent ventures of a same sort. With more people having access to electronic distribution on a global scale, content producers may experience total destruction of the value they have invested in their intellectual property as a result of piracy. Intellectual property rights are the legal protections for the creations and works of knowledge, concepts, invention, technology, models, literary or creative works, etc. A growing number of industries, including the Internet, healthcare, practically every field of research and technology, as well as literature and the arts, depend heavily on intellectual property. It frequently necessitates extensive new research and study in order to fully comprehend the significance of intellectual property in various fields, many of which are still developing. The new engines of the global economy are innovation and creativity.

Keywords: Indian Patent Act, Intellectual Property Rights, Patents, Patent Office, TRIPS.

INTRODUCTION:

The policies that a nation adopts will influence its prosperity and how it develops its trapped intellectual capital. This article is an attempt to underline the importance of a helpful ecosystem of Intellectual Property Rights in Indian context and also present its importance and implications concerning business enterprises. The current study is descriptive in nature and is based mainly on secondary data sourced from the available relevant

literature. Focus has been put on Patents ecosystem and its concurring challenges and benefits. Pertinent data pertaining to Patents has been sourced from the statistical databases of WIPO and analysed. The data reflects that India's ascent in Patents and other Intellectual Properties ecosystem has been gradual but steady. Although the growth looks abysmal historically, the prospects are certainly bright. Intangible works of human creativity are included in the category of property known as intellectual property (IP). Different nations recognise different kinds of intellectual property to varying degrees. Copyrights, patents, trademarks, and trade secrets are the most popular varieties. Although societies like Ancient Rome had early forms of some types of intellectual property, the modern idea of intellectual property emerged in England in the 17th and 18th centuries. Although the concept of "intellectual property" was first coined in the 19th century, it wasn't until the late 20th century that it was widely accepted in the majority of the world's legal systems. The same situation applies to businesses whose brand names and trademarks have gained consumer recognition. A well-known brand name or trademark exemplifies the goodwill that has been ingrained in a product or service. Customers frequently connect well-known brand names or trademarks with distinctive qualities that belong only to them. Because of this, businesses should regulate, safeguard, and preserve their investment in associated intellectual property rights. Additionally, they should watch out for any instances of this intellectual property being misused or infringed upon by others. The fundamental principle of intellectual property rights is to provide credit where credit is due. The need to protect the investment in information-based products has unquestionably grown in importance with the development of the knowledge society and virtual goods. We can't afford to be uninformed about intellectual property rights as information chain consumers or creators! The promotion of a creative culture, financial success, market leadership, and aid in wealth creation for the person and the country are only a few of the clear (concrete) advantages of IPR protection. India, which is a developing nation, still has a long way to go due to her vulnerable collection of traditional, oral, folklore, customary, agricultural, and traditional medicines like Ayurveda, among other things. In addition to her lack of wealth and infrastructure, India also faces significant challenges due to the lack of awareness of IPRs among its population as a whole.

Encouragement of the production of a wide range of intellectual commodities is the primary goal of intellectual property legislation. To do this, the law grants individuals and organisations ownership rights to the knowledge and intellectual products they produce, typically for a finite amount of time. Because it enables people to make money from the knowledge and intellectual products they produce, this provides an economic incentive for their creation. Depending on the level of protection provided to innovators, these economic incentives should encourage innovation and advance technology in countries.

OBJECTIVES OF THE STUDY:

1. To understand the concept of IPR and patents.
2. To recognize the importance of Patents in Indian business context
3. To identify the contribution of IP's towards economy.

RESEARCH METHODOLOGY:

This study carried out completely based on secondary data source such as articles, journals, magazines, government reports, WIPO Statistics database and many more.

PATENTS:

An exclusive right to make, use, sell, and market an invention is known as a patent. This right is awarded by a nation to the inventor, providing the creation complies with specific legal requirements. An exclusive right means that the innovation cannot be created, used, manufactured, or marketed by anyone else without the patent holder's permission. This privilege is only valid for a short while.

A patent is an intellectual property right that the relevant government office grants to the inventor in relation to his original technological creation. The concept of innovation suggests finding a solution to any issue with new product or process development. Among the various IPR forms, patents are regarded as being the most significant. So, any invention has to meet the following conditions for patentability:

Novelty: The innovation must be brand-new technology that was not previously published, made available, or used anywhere else in the world before the patent application date.

Non obviousness: An invention that can be carried out by a person with ordinary skill is obvious and ineligible for patent protection. Thus, for an invention to be patentable, it must not be obvious.

Industrial Application: An invention's processes or embodiments must have a commercial market in order to be considered anything other than utility models. The invention qualifies for patentability and so satisfies the requirements for patentability if it has some industrial use.

As per Section 3 of the Patent Act, 1970 the following are not patentable:

- Frivolous invention
- Invention against the natural laws
- Inventions which are not fair to health of human, animal, plant life, environment as well as contrary to public order or morality
- Discovery of any living thing; discovery of any non living substances occurring in nature; formulation of any abstract theory;
- Discovery of any scientific principle.
- Substance or chemical obtained by mere admixture resulting in the aggregation of the properties; mere arrangement or rearrangement of known devices.
- Invention relating to atomic energy and related to security of India.

Even though the rights are owned, additional laws in the nation where the patent was granted may prevent the owner of the patent from using or exploiting the rights. These laws may deal with things like food, security, safety, and the like. Furthermore, pre-existing patents in related fields might also be a hindrance. According to the law, a patent is a property right and can therefore be given, inherited, sold, transferred, or licenced. Even if the patent has since been sold, licenced, manufactured, or marketed, because the right was granted by the state, it could still be withdrawn in very limited circumstances. The patent right is territorial in nature, thus inventors and their assignees must submit separate patent applications in the nations in which they

are interested, together with the required fees, in order to be granted patents there. If all legal requirements are met, any novel chemical procedure, drug molecule, electronic circuit, medical device, or vaccination qualifies as a patentable subject matter.

THE INDIAN PATENT ACT

In 1856, the country of India passed its first patent laws. These underwent periodic modifications. Following independence, new patent laws in the shape of the Indian Patent Act 1970 were created. The Act has recently undergone significant revisions to fully comply with the TRIPS's requirements. The changes from 2000 and 2003 came before the most recent one, which was issued in 2005. India joined the Paris Convention, Patent Cooperation Treaty, and Budapest Treaty while the process of introducing changes was ongoing.

IMPORTANCE OF PATENTS IN INDIAN BUSINESS CONTEXT:

Exclusive Rights: As was already noted, patents grant the owner of the invention the exclusive right to prevent others from utilising it. Especially for 20 years from the patent application's filing date.

Strong Market Position: Since the creator now has the sole right to use the innovation, he or she can exercise that right by forbidding others from utilising it for profit, which would lessen competition and help the inventor carve out a niche in the market.

Higher Returns on Investments: After spending a lot of time and money on the invention's development, the creator could commercialise it under the protection of exclusive rights and increase the return on his or her investment. Of course, the economic utility of the patent will determine this. For this reason, the inventor must ensure the commercial viability of the patent before investing in a patent.

Opportunity to License or Sell the Invention: Sometimes the innovator may not wish to use the invention for personal gain. In such circumstances, the inventor may sell or provide a licence to another company for the commercialization rights. The innovator would benefit financially from this by receiving royalties.

Positive Image for the Enterprise: Investors, stockholders, and business partners could view the patent portfolios as a demonstration. Especially the depth of knowledge that the subject matter experts offer. This serves as a showcase for the company's abilities. Additionally, this might be helpful for recruiting business partners, obtaining capital, and improving the company's market worth.

Overcome Competition: With the use of a patent, you have the power to prevent anyone from making, selling, or importing your idea without your consent. Observe intellectual property protection. You get protection for a pre-determined period, allowing you to keep competitors at bay. In a country like India, where there is a possibility of powerful countries stealing and appropriating inventions and ideas from emerging and

underdeveloped countries like India, Patents give recognition, protection and legal sanctity to inventions, ideas, knowledge and other intellectual pursuits.

Stimulant for Economic Growth: Additionally, patents encourage the expansion of domestic industry since they enable local businesses to draw foreign investment and create export-ready products. Profits from patent exploitation can be used to fund new research and development, which could promote economic growth on a commercial and industrial scale. Particularly in the case of a rising country like India, this is true.

Defends the Market Share of a Business: Many Indian corporate houses have successfully fought out legal battles. There have been instances of Indian companies successfully defending and winning patent related cases in international courts without ceding any business ground. To put it simply, any company with recognisable patent rights remains on top of its competitors and shares a substantial competitive edge.

Increases the Valuation of a Business

Your company will have an intangible asset if you patent your idea. Your company's value may rise thanks to your business patent, just like with real assets. The value of your business patent will increase the overall estimate with the help of a few instruments and strategies. Therefore, your business patent could help improve the overall value of your firm if you ever feel like merging with another company or if you want to acquire any other company.

Better Brands a Business and its Products

Your business's innovations or goods will be identified as "Patent applied for" when you have submitted a patent application for them. Additionally, the item will be labelled as "Patented" once your patent has been approved. These labels can be seen on your business's website, social media profiles, corporate presentations, etc. Your company's patent will assist you in publicising your products and services. Additionally, it will be simpler for your customers to believe in you and your inventions.

STEPS TO CONSIDER BEFORE FILING FOR A PATENT

Businesses may submit an application for a patent registration for a variety of reasons. Before submitting an application, it is wise to carry out some preliminary research to make sure the patent will be valuable and add to the company's value. Any organisation that prioritises research must establish a store of fresh concepts for patenting and properly direct them. Here are a few steps to help you do that –

- Execute some initial internal audits to keep track of the ongoing research projects
- Form a repository for all new ideas and inventions. It is always a good idea to have an Invention Disclosure Form (IDF) to help the research team maintain documentation of their innovations. And you can even send these forms to the IP committees directly
- From all the generated inventions, do an initial screening and prioritise the options. This way, you will know which patent to file first

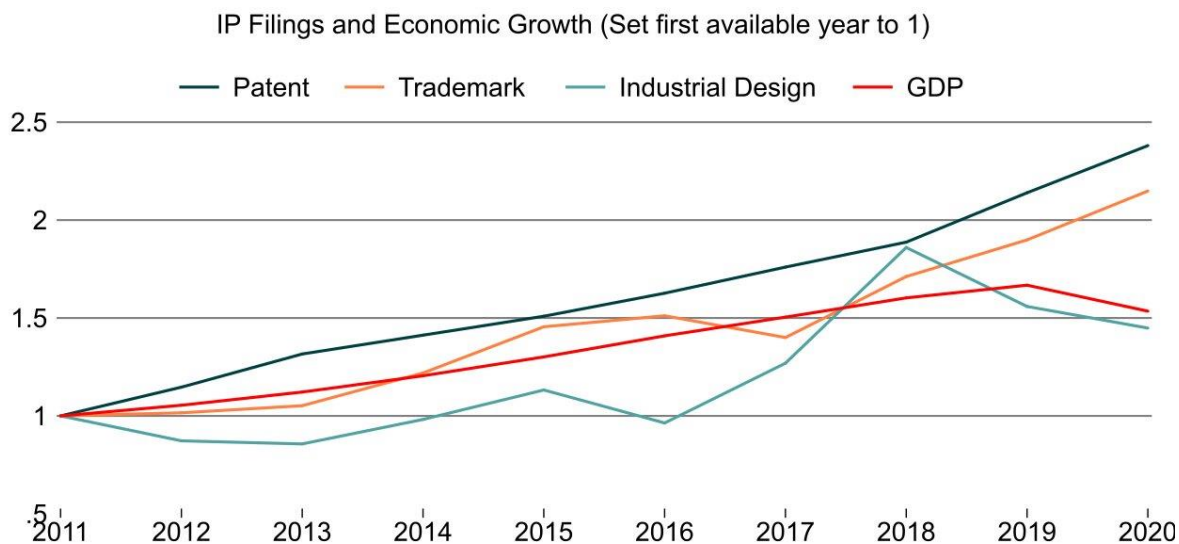
- Keep a tab on the legal framework for protecting your innovations. You may patent them as copyrights, trademarks, designs, etc
- Choose the right lawyer to assist you with the whole process of patenting.

STATISTICS OF IP AND PATENTS FILED, GRANTED AND PATENTS IN FORCE:

Table No.1: IP Filings (Resident + Abroad, Including Regional) and Economy

Year	Patent	Trademark (class count)	Industrial Design (design count)	GDP (Constant 2017 US\$)
2011	15,914	194,796	8,180	5,501.13
2012	18,250	197,877	7,139	5,801.29
2013	20,945	204,982	7,010	6,171.77
2014	22,476	237,484	8,032	6,629.11
2015	24,018	283,493	9,264	7,159.19
2016	25,887	294,412	7,885	7,750.27
2017	28,010	272,765	10,382	8,276.93
2018	30,035	333,443	15,216	8,817.67
2019	34,051	369,903	12,753	9,174.04
2020	37,880	418,560	11,849	8,443.36

Source: World Intellectual Property Organization WIPO Statistics database



Source: WIPO statistics database; last updated: 11/2021

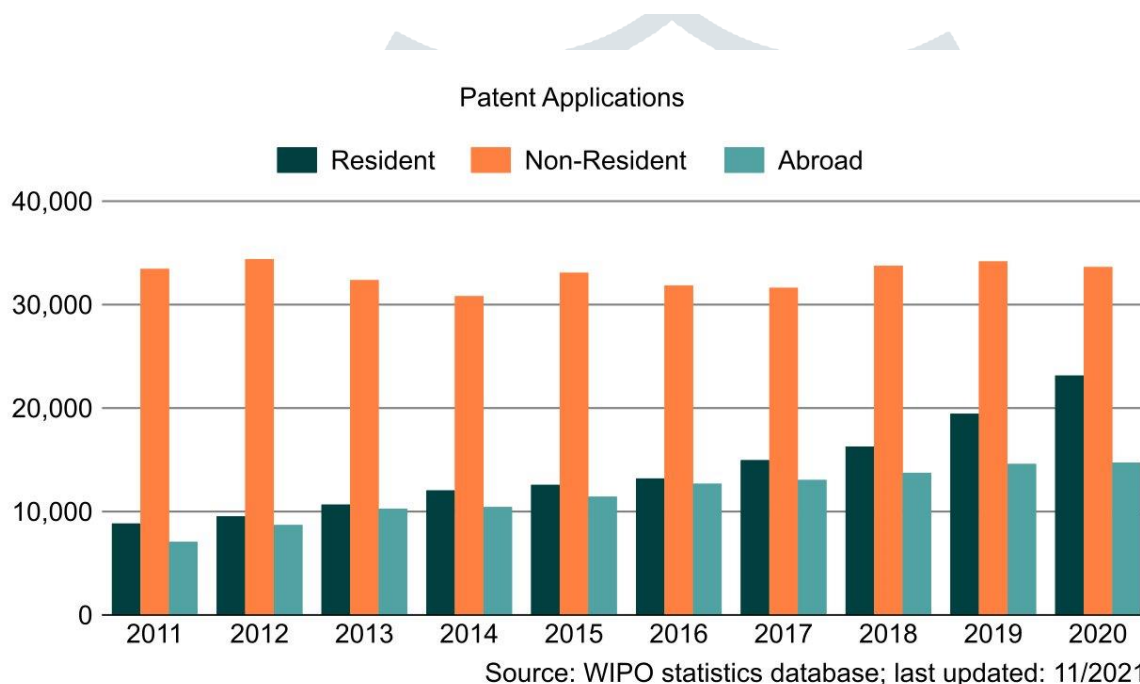
Data Interpretation:

There has been a tremendous growth in terms of applications filed for patents, trademarks and other industrial designs. Although, the growth has been more than the double with respect to Patents and Trademarks, the growth has been relatively slower in industrial designs. However, the worth as measured in GDP(\$) has not been the same.

Table No.2: Patent Applications:

Year	Resident	Non-Resident	Abroad
2011	8,841	33,450	7,073
2012	9,553	34,402	8,697
2013	10,669	32,362	10,276
2014	12,040	30,814	10,436
2015	12,579	33,079	11,439
2016	13,199	31,858	12,688
2017	14,961	31,621	13,049
2018	16,289	33,766	13,746
2019	19,454	34,173	14,597
2020	23,141	33,630	14,739

Source: World Intellectual Property Organization WIPO Statistics database

**Data Interpretation:**

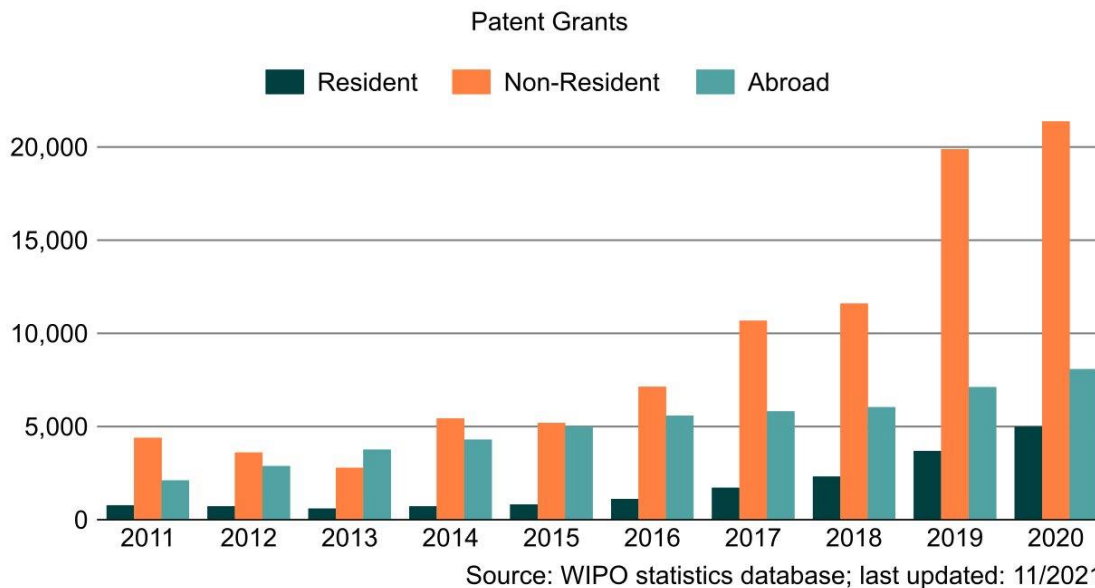
As far as the patent applications are concerned, applications from residents and from abroad have been absolutely phenomenal with both registering over 300% growth in the last ten years. However, their absolute number together are less than that of non resident applications. This is reflective of India growing as the hub of indigenous technologies and innovations. This is also a product of a favorable and conducive environment and ecosystem that support local innovations and thus puts a break on the brain drain.

Table No.3: Patent Grants:

Year	Resident	Non-Resident	Abroad
2011	776	4,392	2,105
2012	722	3,606	2,877
2013	594	2,783	3,759
2014	720	5,433	4,294
2015	822	5,200	5,000
2016	1,115	7,133	5,584
2017	1,712	10,675	5,811
2018	2,311	11,597	6,039

2019	3,690	19,888	7,113
2020	4,988	21,373	8,081

Source: World Intellectual Property Organization WIPO Statistics database



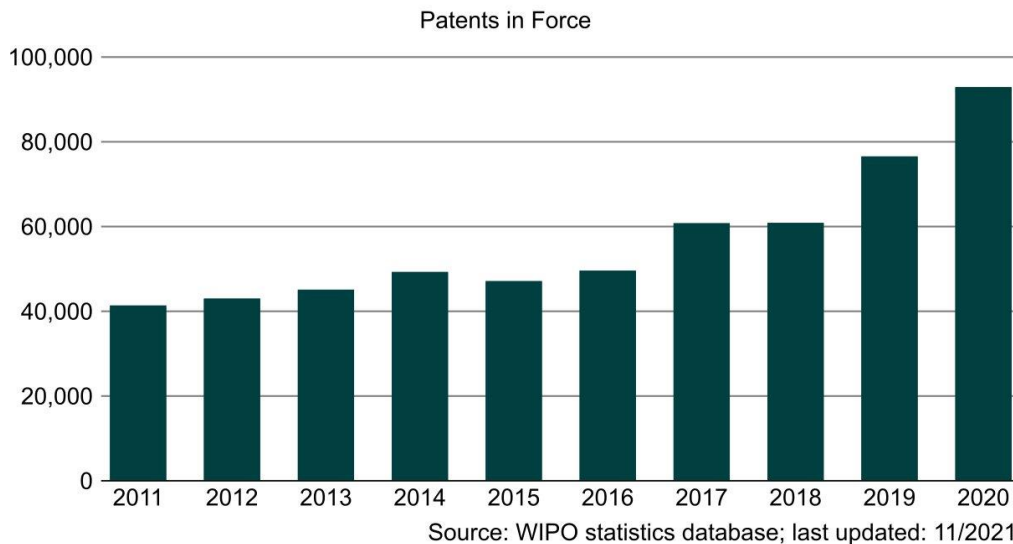
Data Interpretation:

It can be inferred that the number of patents granted is invariably higher for non-resident applications. This is despite the fact that there has been a stupendous growth in resident applications. However, the percentage of patents granted against applications from residents has seen an improvement from a mere 10% in 2011 to a little over 20% in 2020. With respect to non resident applications for patents, the percentage of grants was only a little over 12% in 2011 while the figure has reached an overwhelming 65% in 2020. The corresponding figures for abroad applications has also been encouraging with over 50% of patent grants as against applications.

Table No.4: Patents in Force:

Year	Patents in Force
2011	41,361
2012	42,991
2013	45,103
2014	49,272
2015	47,113
2016	49,575
2017	60,777
2018	60,865
2019	76,556
2020	92,897

Source: World Intellectual Property Organization WIPO Statistics database



Data Interpretation:

The patents currently in force has reached a figure of over 93,000 closing in on one lakh figure. The figure has more than doubled from a meagre 41,000 odd patents in 2011. The growth is very encouraging especially in the years 2019 and 2020 which saw an addition of 50% of the patents in force in 2018.

CONCLUSION:

The main driver of economic growth and development in the high technology sector is intellectual property protection. They promote economic growth, the general welfare of society, and the advancement of technology. Whether IPRs are beneficial or harmful, the industrialised world has long since made peace with them. Even if sometimes their negatives outweigh their benefits, the developed world generally has the national economic might and established legal processes to resolve the issues this causes. The industrialised world has the resources and infrastructure necessary to take advantage of the options presented, to the extent that their advantages outweigh their drawbacks. India is unquestionably moving toward being the global hub for innovation as more time goes by.

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