THE ROLE OF INTERNATIONAL AGREEMENTS IN PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

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Abstract

Creation of mind is referred as Intellectual Property. The intellectual property needs protection for economic development and social and cultural well-being. International agreements offer legal protection for intellectual property. This paper attempts to define the categories of intellectual property, various international agreements and its role in protection of intellectual property.

1 Introduction

Product of human creativity is known as intellectual property (IP). IP refers to Copyright, Geographical Indications, Industrial Designs, Patents, and Trademarks. International Agreements play a key role in protection of IP legally.

2 Intellectual Property Rights

2.1 Copyright

Copyright protects all literary works available in any form. Example of work eligible for copyright protection is the Star Wars movies.

Use of one’s work offers monetary benefit to proprietor of right is termed as economic right. The owner can prohibit or authorize its production, its public performance, its recording, its broadcasting, its translation, and its adaptation. Non-monetary benefits are provided by moral right.

The Berne Convention for the Protection of Literary and Artistic Works is an international agreement with six articles in appendix and 38 articles for protection of copyright.

Economic rights have a time limit. In member countries of Berne Convention, the time limit should be equal to or longer than 50 years after the creator’s death. Even though copyright protection is automatic in all states party to Berne Convention, in addition to nuances of particular national laws, there will be high degree of harmony. In order to protect copyright internationally, the work should comply with relevant legal requirements in that particular country. Right owner of a copyright work can provide authorization for others to use that work. Such authorizations are termed as licenses.

2.2 Geographical Indications

Any product having geographical origin is called a geographical indication (GI).
2.3 Industrial Designs
Industrial designs are applicable to packages, containers, furnishing and household goods, lighting equipment, jewelry, electronic devices, and textiles. The shapes of ergonomically designed pieces of furniture, tools, tool handles, boar handles and sunglasses are example of industrial designs.

2.4 Patents
The inventions have come about both as a solution to a problem and as an attempt to help someone else. Some of the example of patents are pen with scanner, system for shorter flight times, steel kidneys.

2.4.1 Eurasian Patent
Eurasian patent is granted by Eurasian Patent Organization based in Moscow, Russia. Eurasian patent grants inventions created in all fields of science, technology and economy. The member states of Eurasian Patent Convention are Russian, Kazakhstan, Turkmenistan, Belarus, Tajikistan, Azerbaijan, Kyrgyzstan, and Armenia. Eurasian patent is automatically valid on the territory of all the member states.

2.4.2 European Patent

2.4.3 African Intellectual Property Organization
Bangui agreement established African Intellectual Property Organization.

2.4.4 European Union Intellectual Property Office
European Union Intellectual Property Office (EUIPO) based in Alicante, Spain. Community designs and the European Union trademarks are officially registered by EUIPO valid in 28 countries of the European Union.

2.4.5 Intellectual Property Protection in Benelux

2.5 Trademarks
A trademark is a symbol that differentiates service of one venture from those of other. At international level, an application can be filed through Madrid System.

2.5.1 Madrid system
Registration and management of trademarks worldwide is being done Madrid system. One has to file an application, in one language, and pay one set of fees to protect your mark in the territories of 98 members.
3 International Agreements

The requirement for the grant of patents is disclosure of the invention. Microorganism is a biological material. Inventions in the field of food and pharmaceutical, the deposit of microorganism is must for the This treaty saves money through single application and it provides security by way of standardized deposit mechanism.

3.2 Hague Agreement Concerning the International Registration of Industrial Designs
Hague Agreement enables to register an industrial design by filing a single application with minimum formalities in multiple countries. Any subsequent changes can be renewed though a single procedural step. The Locarno Classification has a list of 32 classes and 219 subclasses with 7000 items.

3.3 Lisbon Agreement for the Protection of Appellations of Origin and their International Registration (1958)
Lisbon Agreement provides protection for GI in countries other than the country of origin.

3.4 Madrid Agreement Concerning the International Registration of Marks (1891)
The Madrid system protects trademark owners. An international registration is possible by filing one application in one language.

3.5 Madrid Agreement for the Repression of False or Deceptive Indications of Source on Goods (1891)
All goods bearing a deceptive indication must be seized on importation.

3.6 Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (1957)
The Nice Classification consists of 34 for goods and 11 for services with 11000 items.

3.7 Paris Convention for the Protection of Industrial Property (1883)
Paris Convention applies to intellectual property in any form.

Patent Cooperation Treaty provides protection for an invention globally by filling an international patent application. It reduces the cost of protection and provides a strong basis for patenting decisions.

Patent Law Treaty streamlines formal procedures of patent applications to provide user friendly procedures.

3.10 Strasbourg Agreement Concerning the International Patent Classification (1971)
Strasbourg Agreement provides International Patent Classification classifies technology with 8 sections and 70,000 subdivisions.
3.11 Trademark Law Treaty (1994)
Trademark Law Treaty streamlines trademark registration procedures by less complex application and more predictable registration for trademark.

3.12 Vienna Agreement Establishing an International Classification of the Figurative Elements of Marks (1973)
Vienna Classification has 29 categories, 145 divisions and 1700 sections.

4 Role of International Agreements in Protection of Intellectual Property Rights

The International Agreements are listed viz. 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, 3.10, 3.11 and 3.12. The International Agreements 3.1, 3.7, 3.8, 3.9, 3.10 protect Inventions while International Agreements 3.4, 3.5, 3.6, 3.11, 3.12 protect Trademarks, Certification Marks and Collective Marks. Industrial Designs are protected by International Agreement 3.2 while Geographical indications and appellations of origin are protected by International Agreement 3.3.

5 Conclusion

Problems and challenges demand solutions and inventions. Growth of knowledge economy and globalization seem to have made a major change in perception of knowledge empowerment. Enormous expansion of information technology field made an easy access to any intellectual knowledge available around the world. In this context, protection of intellectual property by international agreements is necessary for economic growth of a country.

References


