



National IPR Policy

For Prelims: Intellectual property Rights (IPR), International Treaties, Related Initiatives

For Mains: Need for IPR, Treaties, Regulation of IPR, Issues Related to IPR Regime.

Why in News?

Since the inception of the [National Intellectual Property Rights \(IPR\) Policy](#), both the IPR ecosystem in this **country has witnessed many changes**. However, it appears that the patent **establishment of the country overdrive to prove its patent-friendliness, rather patentee-friendliness.**

- As per the structural and legislative changes in the IPR, **the dissolution of the Intellectual Property Appellate Board (IPAB)** took place in 2021 and **dedicated IP divisions were established in the Delhi [High Court](#) to address the issues.**

What is the National IPR Policy?

- **About:**
 - The [Department for Promotion of Industry and Internal Trade \(DPIIT\)](#) under the Ministry of Commerce **adopted the National Intellectual Property Rights (IPR) Policy in 2016.**
 - The main goal of the policy is "**Creative India; Innovative India**".
 - The **policy covers all forms of IP**, seeks to create synergies between them and other agencies, and **sets up an institutional mechanism for implementation and review.**
 - **DPIIT is the nodal department for IPR development in India** and the **Cell for IPR Promotion & Management (CIPAM)** under DPIIT is the **single point of reference** for implementing the policy.
 - India's IPR regime complies with [World Trade Organisation's \(WTO\)](#) agreement on [Trade Related Aspects of Intellectual Property \(TRIPS\)](#).
- **Objectives:**
 - **IPR Awareness:** Outreach and promotion are important to create public awareness about the economic, social and cultural benefits of IPRs among all sections of society.
 - **Generation of IPRs:** To stimulate the generation of IPRs.
 - **Legal and Legislative Framework:** To have strong and effective IPR laws, which balance the interests of rights owners with larger public interest.
 - **Administration and Management:** To modernise and strengthen service-oriented IPR administration.
 - **Commercialisation of IPRs:** Get value for IPRs through commercialisation.
 - **Enforcement and Adjudication:** To strengthen the enforcement and adjudicatory mechanisms for combating IPR infringements.
 - **Human Capital Development:** To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IPRs.

What are Intellectual Property Rights?

- **About:**
 - IPR are the **rights given to persons over the creation of their minds**. They usually give the creator an **exclusive right over the use of his/her creation for a certain period of time**.
 - These rights are outlined in **Article 27 of the [Universal Declaration of Human Rights](#)**, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions.
 - The importance of intellectual property was first recognized in the **[Paris Convention for the Protection of Industrial Property \(1883\)](#)** and the Berne Convention for the Protection of Literary and Artistic Works (1886).
 - Both treaties are administered by the **[World Intellectual Property Organization \(WIPO\)](#)**.
- **Types of IPR:**
 - **[Copyrights](#):**
 - The rights of authors of literary and artistic works (such as books and other writings, musical compositions, paintings, sculpture, computer programs and films) **are protected by copyright, for a minimum period of 50 years after the death of the author**.
 - **Industrial Property:**
 - **Protection of distinctive signs, in particular trademarks and geographical indications:**
 - Trademarks
 - **[Geographical Indications \(GIs\)](#)**
 - **Industrial Designs and Trade Secrets:**
 - Other types of industrial property are protected primarily to stimulate innovation, design and the creation of technology.
- **Need for IPR:**
 - **Encourages Innovation:**
 - The legal protection of new creations encourages the commitment of additional resources for further innovation.
 - **Economic Growth:**
 - The promotion and protection of intellectual property spurs **[economic growth](#)**, creates new jobs and industries, and enhances the quality and enjoyment of life.
 - **Safeguard the Rights of Creators:**
 - IPR is required to safeguard creators and other producers of their intellectual commodity, goods and services by granting them certain time-limited rights to control the use made of the manufactured goods.
 - **Ease of Doing Business:**
 - It promotes innovation and creativity and ensures ease of doing business.
 - **Transfer of Technology:**
 - It facilitates the transfer of technology in the form of foreign direct investment, joint ventures and licensing.

What are the Treaties and Conventions related to IPR?

- **Global:**
 - India is a member of the WTO and committed to the Agreement on TRIPS Agreement.
 - India is also a member of WIPO, a **body responsible for the promotion of the protection of intellectual property rights** throughout the world.
 - **India is also a member of the following important WIPO-administered International Treaties and Conventions relating to IPRs:**
 - Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure
 - Paris Convention for the Protection of Industrial Property
 - Convention Establishing the World Intellectual Property Organization
 - Berne Convention for the Protection of Literary and Artistic Works
 - **[Patent Cooperation Treaty](#)**
- **National:**

◦ **Indian Patent Act 1970:**

- This principal law for patenting system in India came into force in the year 1972. **It replaced the Indian Patents and Designs Act 1911.**
- The **Act was amended by the Patents (Amendment) Act, 2005**, wherein product patent was extended to all fields of technology including food, drugs, chemicals and microorganisms.

What are the Issues Related to IPR Regime?

- **Patent-Friendliness Over Public Health:** The National IPR Policy recognizes the contribution of the Indian pharmaceutical sector in providing affordable medicines globally. However, India's patent establishment has prioritized **patent-friendliness over public health and national interest in the pharmaceutical sector.**
- **Data Exclusivity:** Foreign investors and **Multi-National Corporations (MNCs)** allege that Indian law does not protect against unfair commercial use of test data or other data submitted to the government during the application for market approval of pharmaceutical or agro-chemical products. **For this, they demand a data exclusivity law.**
- **Resulting in Anti-Competitive Market:** The **Patents Act has four stakeholders:** society, government, patentees, and their competitors, and interpreting and enforcing the act to only benefit patentees undermines the rights of other stakeholders and leads to anti-competitive market outcomes.

Conclusion

- It is not sufficient to just promote a pro-IPR environment to attract investment. The promotion of IPR should be balanced with the national interest and public health obligations. **"Make in India" should not compromise "Atmanirbhar Bharat", and the latter should take priority.**

UPSC Civil Services Examination, Previous Year Questions (PYQs)

Prelims

Q1. With reference to the 'National Intellectual Property Rights Policy', consider the following statements: (2017)

1. It reiterates India's commitment to the Doha Development Agenda and the TRIPS Agreement.
2. Department of Industrial Policy and Promotion is the nodal agency for regulating intellectual property rights in India.

Which of the above statements is/are correct?

- (a) 1 only
- (b) 2 only
- (c) Both 1 and 2
- (d) Neither 1 nor 2

Ans: (c)

Q2. Consider the following statements: (2019)

1. According to the Indian Patents Act, a biological process to create a seed can be patented in India.
2. In India, there is no Intellectual Property Appellate Board.
3. Plant varieties are not eligible to be patented in India.

Which of the statements given above is/are correct?

- (a) 1 and 3 only
- (b) 2 and 3 only

(c) 3 only

(d) 1, 2 and 3

Ans: (c)

Mains

Q. In a globalized world, Intellectual Property Rights assume significance and are a source of litigation. Broadly distinguish between the terms—Copyrights, Patents and Trade Secrets. **(2014)**

Source: IE

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