

Impact of IPR in Indian Agricultural Sector

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Abstract: The study is meant to deal with the problems associated with IPR and Indian farmers. The method of technology development and transfer would have multiple impacts on the farmers, researchers and organizations concerned within the commercial enterprise wherever the multiple sectors and networks work along. This additionally brings some problems with ethics in diffusion of technology and food safety and security concern. One amongst the most problems is whether or not information processing and analysis ought to relate with agriculture, as a result of over sixty percentage folks area unit concerned in agricultural activities. The actual fact that human well-being depends on food, and a few of the important queries during this space are: will IPR really stimulate analysis investment in agriculture?

Keywords: IPR, Patent, Plant variety rights, Bio piracy, Breeder's right, Geographical Indications.

1. Introduction

Intellectual property rights embrace patents, copyright, industrial style rights, trademarks, plant selection rights, trade dress, geographical indications, and in some jurisdictions trade secrets. The most purpose of property law is to encourage the creation of an outsized form of intellectual product. To attain this, the law offers individuals and businesses property rights to the knowledge and intellectual product they produce – sometimes for a restricted amount of your time. This provides economic incentive for his or her creation, as a result of it permits individuals to exploit the knowledge and intellectual product they produce. These economic incentives are expected to stimulate innovation and contribute to the technological progress of nations that depends on the extent of protection granted to innovators. There are additional specialized or derived types of single exclusive rights, like circuit style and supplementary protection certificates for pharmaceutical product and info rights. Plant breeders' rights (PBR), conjointly referred to as plant selection rights (PVR), rights granted to the stock raiser of a replacement form of plant that offer the breeder exclusive management over the propagating material (including seed, cuttings, divisions, tissue culture) and harvested material (cut flowers, fruit, foliage) of a replacement selection for variety of years.

Table 1
Types of IPR

IPR	Instrument	Field of Application
Industrial property	Patent, copy right, trademark	Manufacturing
Plant breeders right	Breeder's right	Agriculture
Trade secrets	Integrated circuits	Electronic industry
Artistic property	Copy right	Books, Films, Audio etc.

2. IPR an overview

A. Trips

The Trade Related Property Rights (TRIPS) agreement was appointed as a region of the international organization agreement. Journeys are meant to maximize the contribution of property systems to economic process through fast trade and investment. It establishes minimum universal standards altogether areas of property with the aim of implementing these standards globally through a social control mechanism established in international organization. The Agreement needs universal patent protection for any invention in any field of technology. Journeys are a global agreement that sets minimum standards for several varieties of information processing regulation. All international organization member countries are needed to adopt in their laws minimum standards of protection for patents, trademarks, copyrights and different property rights.

B. Contents of trips

1) Patents

A patent is associate agreement between the government and therefore the creator. The government sets statutory standards on what kinds of materials is also proprietary. In some jurisdictions this might embody living organisms, in some they'll be exempted, and in several the law is silent on the matter. In exchange for a limited-term right (20 years) to exclude others from creating, victimisation or marketing the potential invention, the creator should give a whole and correct public description of the invention and therefore the best mode of "practicing" it. This right to exclude means a patent could be a "negative right" since a patent holder could solely exclude others from the victimisation, producing, repetition or marketing his or her invention.

2) Trade Secrets

A secret is any formula, pattern, device, process, tool, mechanism, compound, etc., important to its owner, that isn't protected by a patent and isn't well-known or accessible to others. As long because it is unbroken secret, the owner could get an excellent deal of economic profit.

3) Copyrights

In distinction to a patent, that protects a concept and its implementation, copyright protects the expression of a concept, not the thought itself. Such expression should be in some recoverable type like handwriting, set in sort, recorded on memory device or different medium. Copyright covers the

expression in literary or musical works, pc programs, video or motion photos, audio recording, pictures, and sculpture.

4) Trademarks

A trademark may be a word, name, image or device utilized by someone or legal entity to spot their product and distinguish them from others. Industrial logos area unit common samples of emblems. Trademark rights are often declared by victimisation the acquainted trademark indicator TM in association with explicit product or services. Emblems play a vital role within the development of associate degree “image” for a product or service. This results in the informatics idea of “branding”. stigmatisation has been employed in the agricultural sector extensively over the years, from seed firms, food and drink makers, and even developing country artifact associations.

5) Geographical Indications

As per WIPO, geographical indication right enables people who have the right to use the indication to prevent its use by a third party whose product doesn't conform to the applicable standards. An Act to supply for the establishment of an efficient system for cover of plant varieties, the rights of farmers and plant breeders and to encourage the event of latest varieties of plants. As per the Objectives of the PPV & FR Act, 2001, it is needed to acknowledge and protect the rights of the farmers in respect of their contribution made at any time in conserving, improving and making available plant genetic resources for the event of latest plant varieties. Eg: Darjeeling Tea.

6) Geographical Indication and Indian farmers

A geographical indication explains the product's quality and helps to guard it from imitation in both the national and international markets. Pursuant to the Agreement on Trade-Related Aspects of Intellectual Property Rights provision that a product cannot be protected internationally unless it is protected in its country of origin, it is vital to preserve the rich wealth of traditional arts, crafts and food products that are an inseparable part of Indian culture. According to Geographical Indications Registry records, since the Geographical Indications of Goods (Registration and Protection) Act 1999 came into force, 97 products have been granted geographical indication protection in categories such as agricultural, natural and manufactured goods, handicrafts, textiles and foodstuffs and almost 140 applications are being examined by the registry. For example, Pokkali, a saline tolerant rice variety cultivated in the coastal regions of Alappuzha, Thrissur and Ernakulam districts of Kerala.

3. Issues related to intellectual property rights in agriculture

1) Problems facing by Indian farmers

For instance, during the revolution (GR) period in India, many hybrid and high yielding varieties were introduced—particularly in rice and wheat. These were the kinds of seed variety which will be replanted annually, which made GR very successful. Furthermore, these seeds were then not protected by

any property rights (IPR) measures. It was only after the Uruguay Round of talks in 1994 that IPR was extended to agriculture, mostly thanks to the insistence of developed countries, although some sort of protection already existed in a number of developed countries. (N. Lalitha, 2003.) In some cases, IPR protection could limit the diffusion of technology by making agriculture more market-dependent and create more inequities in income and distribution partly as a result of size disparities.

The creation of sterile seeds from Genetically Modified plants to prevent farmers from re-using the seed for future crops perpetuates a system that allows the technology itself to do the self-policing, rather than using laws and legal barriers for prevention of misappropriation of the technology. The genetic seed sterilization patents maximise seed industry profits by destroying the rights of farmers to save their seeds and breed their own crops. The policy decisions benefit the bio-tech industry and compound the problems of the farmers and consumers by the transfer of the costs and burdens of the new technology onto them. Thus, corporate greed has vacuumed away public interest concerns of the world as a whole. The following are the main problems occurring due to TRIPs on Indian agriculture.

With its focus on commercial crops, bulk procurement and retail chains, such corporatization can only weaken the small farmer even more. Already in Punjab, corporate interests like Monsanto, Reliance et al. are making a beeline for agri-retail trade. With gradual withdrawal of the government from procurement, more and more of retail trade for agriculture goes pass into these hands. The presence of Wal Mart on the US side also makes clear the interest that the US has in opening India's internal and external trade in agriculture to US companies. The first Green Revolution grew from an international public research system that began in the 1940s and built up a chain of research centres worldwide. These centres collaborated through the Consultative Group on International Agricultural Research (CGIAR), a consortium of donors including foundations, national governments, United Nations institutions, etc. These centres operated during a world without property Rights and distributed seeds and new varieties everywhere the planet. The other major shift that has taken place in agriculture is that before the 80's, the only protection available for plants were plant breeder's rights.

On the opposite hand plant breeders are keen to get take advantage of their research investment. Breeders are not able to recoup their investment because of the high rate of High Yield Varieties; farmers are not easily adopting these technologies in context of India. IPRs normally impose restrictions on farmers' ability to replant exchange or sell seed. Most of the crops have been developed elsewhere and Indian manufacturers are only back-crossing the local hybrids with transgenic seeds to develop commercially viable hybrids that can be grown in different agro-climatic regions of the state, by paying a licensing fee.

2) Case on basmati rice

Basmati rice means “queen of fragrance or the perfumed one” and is additionally acclaimed the “crown jewel” of South Asian rice. It's treasured for its intense fragrance and taste, famous in national also as international markets. This type of rice is grown within the Himalayan hills, Punjab, Haryana, Uttar Pradesh and parts of Pakistan, since times immemorial. Basmati is that the finest quality of rice, long grained, and therefore the costliest within the world. U.S.A could also be a serious importer of basmati rice totaling 45,000 tonnes, accounting for 10 percent of the whole exports of India. Thus, the year 1997 marked the foremost important case within the history of geographical indication (bio-piracy).

Royal Rice Tec Inc. was a small American rice company with yearly income of around U.S. \$10 million and working staff totaling to 120. They constituted a little fraction of the world's (basmati like) rice production, with names ‘Kasmati’ and ‘Texmati’. They had been trying to enter the planet rice market since long, but vainly. On September 2, 1997, Rice Tec Inc. was issued a patent of the same by USPTO (United States Patent and Trademark Office) bearing patent number 5663484, on basmati rice lines and grains. This gave them the last word rights to call the odoriferous rice Basmati within U.S, and label it an equivalent for export internationally.

Since times immemorial, majority of farmers from India and Pakistan have been sustaining majorly on cultivation of rice, as these countries have constantly been among the leading rice producers of the world. Cultivation of rice isn't merely a life sustainer but also a neighborhood of socio-culture in India and Pakistan. Basmati is a ‘brand name’ of the rice grown in India and Pakistan particularly. In the words of Dr. Vandana Shiva, director of a Delhi based research foundation involved in monitoring issues associated with patents and bio-piracy: “the theft involved within the basmati rice patent is, therefore, a theft of collective intellectual and biodiversity heritage on Indian farmers, a theft from Indian traders and exporters whose markets are being stolen by Rice Tec Inc and also a deception of consumers since Rice Tec is employing a stolen name of BASMATI for rice which are derived from Indian rice but not grown in India, and hence not an equivalent quality.”

4. Conclusion

Many developing countries are concerned that the globalization of property rights under the WTO's TRIPs agreement has some negative consequences within the traditional indigenous knowledge and biodiversity. Since the growing concentration within the seed industry, public sector research on agriculture, and its international component, should be strengthened and better funded. The target might be to make sure that research is oriented to the requirements of poor farmers that public sector varieties are available to supply competition for personal sector varieties which the world's plant genetic resource heritage is maintained. Additionally, this is often a neighborhood during which nations should consider the utilization of competition law to reply to the high level of concentration within the private sector.

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