Original Research Paper | Law | Volume : 6 ¦ Issue : 2 ¦ Feb 2021 ¦ e-ISSN : 2456-5040

SMEs AND INTELLECTUAL PROPERTY RIGHTS

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ABSTRACT

Intellectual property rights have become increasingly appealing since intangible assets have become a more important source of wealth generation for businesses. Most governments have made efforts to establish the SME sector in their various countries, where SME's account for 95 percent of the company population and also play a vital role in the economy by adding to GDP and attaining sustainable national economic development. The authors of this work have attempted to explain the importance of intellectual property for SMEs, as well as the constraints that cause poor use of the IP system and have an impact on the ability to utilise innovative talents. In addition, the authors of this study have proposed a number of strategies for encouraging more effective use and enforcement of the IP system by entrepreneurs, so that SME's can incorporate IP into the larger framework.

KEYWORDS: Intangible Assets, Economy, Intellectual Property, SME's.

INTRODUCTION:

The Micro and Small Enterprises (MSEs) sector of the Indian economy is still thriving. The given sector employs almost 31 million people and has approximately 12.8 million units (over 90% of total industrial units). This sector accounts for roughly 33% of overall industrial production and nearly 33% of total exports. This industry has grown at a faster rate than the rest of the industrial sector. Small businesses in India manufacture about 6500 products ranging from traditional to high-tech things. Following agriculture, the MSE sector offers the most chances for self-employment and employment in the country. The small business sector has a lot of room for expansion and growth in the future. In fact, no other sector of the economy can equal the sector's employment potential. Small and Medium Enterprises (SMEs) in India are currently at a fork in the road, and there is a lot of discussion about what the future holds for these businesses. How can SMEs compete in the marketplace? What role should the government play in helping these SMEs become more competitive? How may intellectual property in the firm generate wealth?

The World Trade Organization (WTO) was established with the goal of establishing global trade that provides equal opportunity to all member countries. This entails a level playing field for all members, free of unfair protectionism or any other hurdles, such as entry barriers, tariff barriers, and so on. This also entails respect for other countries' intellectual property. There will be no more cloning or reverse engineering of the research products of other companies. As a result, the impacts will be-This will influence SMEs in three ways, and the mere survival of SMEs will be determined by the Tripod of (1) Cost (2) Quality (3) Delivery.

While the government may be supportive of SMEs in terms of policies, consumers may not distinguish between major firms' and SMEs' "goods and services." Customers nowadays expect more and more for less and less. Intense Competition will result as a result of this. The greater the number of players in the market, the more fierce the competition, implying that only the "fittest" will survive. In recent years, the concept of intellectual property rights has gained traction. Intellectual property is also regarded as a valuable source of competitive advantage and a tool of wealth generation. IPRs are intended to promote innovation. The legislation that accompanies it permits the entire society to profit from the new knowledge that has been developed. It enables a society's economic development, which leads to greater living standards. The monopoly provided by these rights is a powerful motivator for people to work on new knowledge production without fear of wrongful appropriation. Furthermore, knowledge disclosure leads to the expansion of the knowledge base. It also reduces redundancy, allowing for the creation of newer knowledge. Also, and perhaps most significantly, a window of opportunity to profit commercially from the new understanding opens up. There would be no proprietary value in knowledge if this system did not exist.

Significance of Intellectual Property for Small and Medium Enterprises (SMEs):

SME's are the backbone of India's manufacturing industry, and they've played a key role in the country's steady monetary expansion. In India, there are over lakhs of SME entities with an investment of more than Rs. 1 lakh crore. The sector has experienced considerable development in recent fiscal years, accounting for over 40% of industrial production and 6% of the country's GDP. Small and medium-sized enterprises (SMEs) account for over 70% of job growth in Asia, contributing to 90% of industrial units in India and 40% of value addition in the manufacturing sector. They are responsible for 90 percent of India's industrial units1. These businesses range from tiny firms and trading concerns to major retail chains, as the name implies. According to estimates, India has around 13 million small and medium-sized businesses (SMEs) that employ 42 million people. Because of these factors, it is critical for these businesses to invest in their own intellectual property (IP). By using unique trademarks and brand names, each trader may establish a strong recall value and a market position for its product and/or service.

Previously, only tangible assets were valued highly when calculating a company's value. Intangible assets, such as Intellectual Ventures (IV), Innovation, and Technologies, now play a crucial role in adding value to a company, perhaps even more so than tangible assets.

Intangible assets include:

1. Patents and utility models for new items and methods are available.
2. Copyright and associated rights for cultural, artistic, literary, and computer software works Copyright and related rights for their unique signs
3. Industrial Design is used to create innovative designs, such as textiles.
4. Integrated circuit topographies for microchips
5. Geographical Indication of items of a certain quality or reputation that may be traced back to their origin.
6. For commercial purposes, trade secrets are secrets about a company's operations.

INTELLECTUAL PROPERTY RIGHTS:

IPR law stands for intellectual property law, and it governs the procedures for acquiring and protecting legal rights in inventions, designs, and artistic creations. The law protects exclusive control of intangible assets in the same way that it protects ownership of personal property and real estate. The goal of these laws is to encourage people to develop creative works that benefit society by ensuring that they can profit from their work without fear of misappropriation by others. Intellectual property includes concepts, inventions, industrial models, trademarks, songs, literature, symbols, names, brands, and other intellectual property. Intellectual property rights are similar to other types of property rights. They enable their owner to fully benefit from his or her product, which began as an idea and eventually crystallised. They also provide him the right to restrict others from utilising, dealing with, or tampering with his or her product without his or her permission. He or she has the legal right to sue them and demand that they stop and recompense for any harm. The following are the two types of intellectual property: Patents for inventions, trademarks, industrial designs, and geographical indicators are all examples of industrial property. Literary works (novels, poetry, and plays), films, music, artistic works (drawings, paintings, pictures, and sculptures), and architectural design are all covered by copyright. Copyright includes performing artists' rights in their performances, phonogram makers' rights in their recordings, and broadcasters' rights in their radio and television programmes.

Types of Intellectual Property Rights:

There are four types of intellectual property include:

1. Trade Secrets
2. Trademarks
3. Copyrights, and
4. Patents.

KEY HURDLES:

Many small and medium-sized enterprises (SMEs) in India export raw materials to large corporations in various parts of the world, including developed countries, but they are unable to comprehend the significance of intellectual property rights (IPR) in the business sector to protect and preserve their ideas and innovation in their products and services because they are primarily concerned with the production of goods, the generation of profits, and the operation of raw materials. If these small and medium-sized enterprises (SMEs) are knowledgeable about intellectual property rights, they should undoubtedly pursue IP protection to safeguard their product and to build an asset from which cash can be created.

In India, the majority of small and medium-sized enterprises (SMEs) operate their businesses without enough technical expertise of their products and services, and they manufacture their products without regard to intellectual property rights (IPR) or profit. They are unconcerned about the potential profit their company may generate if their intellectual property rights were protected.

Businesses utilise business intelligence to transform data into valuable information, and then from the useful information into knowledge. It is possible that one of the most difficult challenges SMEs confront is determining their business plan. It enables corporate entities to make business decisions while being aware of the potential rewards and consequences of their decisions. Small and medium-sized enterprises (SMEs) should employ all available tools to ensure an effective and timely decision-making process. Due to a lack of proper expertise, experience, and intelligence in dealing with the business, this sector is in danger of being drowned. They do not conduct market research or consult with any experts, which ultimately leads to the failure of their firm.

SOLUTION TO SMES WITH GOVERNMENT ASSISTANCE:

In recent years, there has been an increase in the importance of intellectual property rights, which has begun to affect the landscape of intellectual property rights at the national, state, and municipal levels in the knowledge-based business. Several countries have made a shift in the location of their national initial public offerings (IPOs). Patents, trademarks, and industrial designs are among the IP rights that are typically granted by IPOs, which are typically limited to patents, trademarks, and industrial designs, among other things. IPOs are broadening their scope of work and offering services that enable a greater number of users of the intellectual property system, including academics, entrepreneurs, and small and medium-sized enterprises (SMEs), to have access to and reap the benefits of the IP system.

CONCLUSION:

Legislators are finding it increasingly challenging to formulate policies that address SMEs' creativity and knowledge. The most important subject that SMEs must address is how to combine their knowledge with innovation in order to reap maximum benefits from developing a new product and making high revenues from research undertaken by small creative businesses. The answer to such SMEs' failure rests in Intellectual Property Rights, which may be used to create new inventions and exploit such assets. As a result, it has become critical for upcoming new entities to manage the IP system and have in-depth, up-to-date understanding of the IP systems in order to convert their assets into profit-generating tools.

In the current day, it is critical for emerging knowledge-based enterprises, particularly in the areas of agriculture, biotechnology, software, and technology, to manage such IP tools and convert their grey areas into profits while meeting customer needs and wants. They have a number of challenges that they are unable to overcome, resulting in market lag and a minimal market share. Evidence suggests that many SMEs in industrialised countries, even new technology-based businesses, are unable to manage their IP systems effectively and efficiently and have limited expertise of their respective fields. They face challenges such as a lack of funding, a lack of legal understanding, and a lack of a commercial and technical support strategy.

SMEs have made efforts to precisely manage the present issues and impediments that such entities confront, and have come up with the alternative of hiring fresh professionals and launching their own R&D sector. However, it is clear that all SMEs must put in more effort and attention to ensure that the IP system functions properly. In order to meet such demands, it is necessary to focus not only on the firms' knowledge, but also on the IP management cycle, including how to utilise IP rights and transform them into profit-generating assets, as well as the valuation and enforcement of IP rights.

REFERENCES:

I. 2nd OECD Conference, Network, Partnerships, Clusters and IPRs, 3rd June, 2004

II. Building Awareness on Intellectual Property Rights (IPR) for MSME in India Asian Region Meet on IPR 13th-14th Dec.2007,Jeju Island ,Republic of korea

III. Derwent (2001), Cordes (1999), European Patent Office (1994).

IV. European Commission, Enforcing Small Firms' Patent Rights (2000)

V. http://mpra.ub.uni-muenchen.de/8232/1/MPRA_paper_8232.pdf

VI. Jyoti SA Bhatt, Small and medium enterprises and IPR,ACSI Journal of management(6 February, 2014), http://journal.asci.org.in/Vol.37(2007-08)/37_1_2008_JYOTI%20S.%20A.%20BHAT.pdf

VII. K.D Raju,RGSOIPL, IIT Kharagpur,"Small and medium enterprises in India"

VIII. Protection of Intellectual property and leveraging its strengths ,IPR conference,27 Oct, Chandigarh, punjab

IX. The Economic Times-Newspaper, The intelligent path Ahead,15th Jan, 2008

X. The Intelligent Path Ahead, The Economic Times, 15th January, 2008