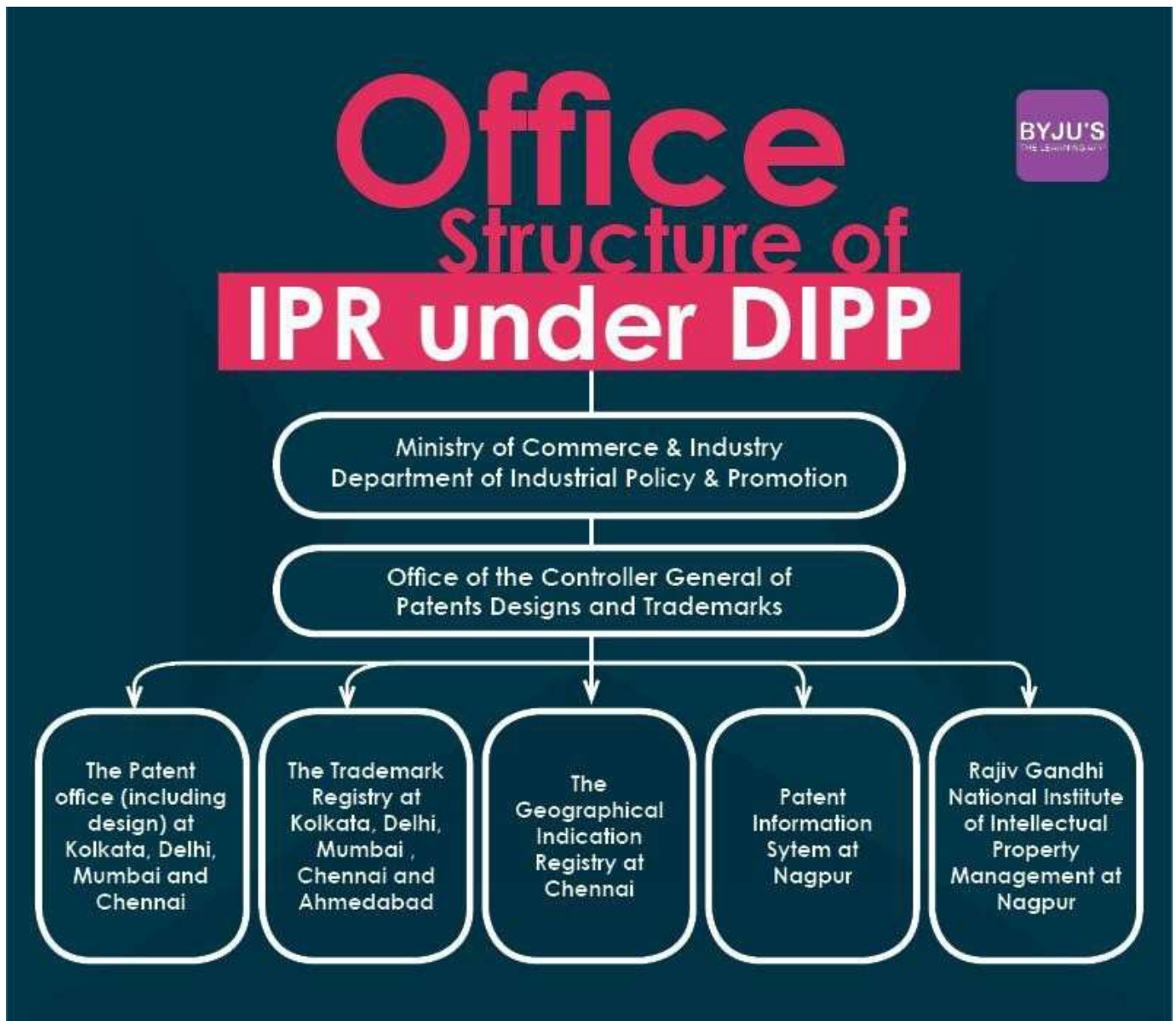


NATIONAL IPR POLICY

The government recently released the National IPR policy to promote the IP regime. The policy will encourage creativity, innovation and entrepreneurship in India. It will check the theft of one person's innovation by another. This is India's first IPR policy.



About the Policy:

'Creative India, Innovative India' is the tagline of the policy. This is to incentivize entrepreneurship, creativity and innovation and curb manufacturing and sale of counterfeits. It promotes an India where

- creativity and innovation are stimulated by Intellectual Property for the benefit of everyone;
- intellectual-property promotes advancement in S&T, arts and culture, traditional knowledge and

biodiversity resources;

- knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared.

Objective:

There are seven major objectives:

- IPR, awareness, outreach, and promotion
- Create an atmosphere of inventibility and innovation
- Replace existing outdated laws
- Human Capital Development for teaching, research and skill building in Intellectual Property Rights
- Administration and management of innovation
- Commercialization of IPRs
- To combating IPR infringements by reinforcing the enforcement and adjudicatory mechanisms

The policy put in place a legal framework that will encourage the IPR regime and reduce the time taken by the government to approve a trademark to a month. Currently, the process takes more than a year.

Need for an IPR Policy:

- The policy is important for the government to formulate incentives in the form of tax concessions which in turn will encourage research and development.
- The policy comes in the backdrop of the US Trade Representative (USTR), in its annual (2016 edition) Special 301 Report (on the Global State of IPR Protection and Enforcement) retaining India on the 'Priority Watch List'.
- To maintain the sanctity of innovations so that the litigations in this domain are minimised.
- It will help in protecting the traditional knowledge of India.
- It will help in strengthening the Make In India, Startup and Digital India schemes.

SALIENT FEATURES:

- It aims to realise IPR's as a marketable financial asset, promote innovation and entrepreneurship while protecting the public interest.
- Every five years policy will be reviewed
- The policy is in consonance with the WTO's agreement on TRIPS.
- Special focus on awareness generation and effective enforcement of IPRs, also the encouragement of IP commercialization through incentives.
- India will engage in the negotiation of international treaties and agreements in consultation with stakeholders.
- It recommends making the Department of Industrial Policy and Promotion (DIPP) the nodal agency for all IPR issues. Copyrights related issues will also come under DIPP.
- Includes a of trademark offices to reduce the time taken for examination and registration to just a month by 2017.
- Things like Films, music, industrial drawings will also be all covered by copyright.

- It seeks to facilitate domestic IPR filings, for the entire value chain from IPR generation to commercialization.
- It aims to promote research and development through tax benefits.
- To encourage start-ups, there is a proposal to create an effective loan guarantee scheme.
- The policy allows legislative flexibilities to GOI in the international treaties and TRIPS agreement like using provisions such as Section 3(d) and compulsory licensing (CLs) for ensuring the availability of essential and life-saving drugs at affordable prices.
- The government will examine accession to some multilateral treaties which are in India's interest; and, become a signatory to those treaties which India has de facto implemented to enable it to participate in their decision-making process.

Advantages of the Proposed IPR policy regime:

- It is a vision document that aims to create synergies between all forms of intellectual property, concerned statutes and agencies.
- It will streamline India's IP regime with global standards and help improve India's World Bank's Ease of Doing Business ranking.
- The policy ensures credibility and encourages potential investors and strategic partners to invest in India.
- It will cut the time taken on clearing the backlog of IPR applications.
- It prevents film and music piracy and focuses on enhancing access to healthcare, food security, environmental protection.
- Policy stimulates creativity and innovation across sectors, as also facilitates a stable, transparent and service-oriented IPR administration in the country.
- It will Increase awareness which will help in building an atmosphere where creativity and innovation are encouraged, leading to a generation of protectable IP that can be commercialized.
- Bringing the Copyright Act and the Semiconductor Integrated Circuits Layout-Design Act under DIPP would benefit industry and individuals.
- Commercial importance (of IPRs) will be better affected when it is under one roof due to better administrative convergence
- The aim is to create awareness about social, economic and cultural benefits of IPRs among all sections of society.

Drawbacks:

- The IPR Policy states "India shall remain committed to the Doha Declaration on World Trade Organisation (WTO) TRIPS (Trade-Related IPR Agreement) and Public Health". There was, however, a bit of apprehension that mention of Doha Declaration and flexibility would mean there would be attempts to find loopholes in TRIPS in order to favour pharmaceutical companies.
- The government needs to come up with funding and programmes to ensure access to medicine for all, otherwise, any change in the legislative framework would hurt not only the generic industry but the people of India.
- The policy is silent on the issue of traditional knowledge and the informal creativity/innovations based on it.
- Lack of evidence to show that the modern utility model and trade secret laws are useful to promote informal innovations.
- It envisages large government funding for protecting and promoting foreign IP in India even though it stated that the primary obligation of protecting IP rights was on the IP owners. Moreover, the

reference to State legislations in the context of copyright protection showed how the balance in the policy was tilted in favour of IP holders against society.

- Few experts feel that the National IPR policy lacks specifics and won't be enough to foster innovation.
- It assumes that more IP translates to more innovation! It fails to understand that IP is not an end in itself but a mere means to an end.
- The policy advocates that all knowledge should be converted to IP.
- Corporates also have recognised that IP does not work well in certain technology sectors, for which a free flow of open knowledge is more suitable.
- Experts are also skeptical of the policy is applied to the informal economy in rural areas. The reason is that rural economy and creativity is not understood completely. Superimposing a formal IP regime in rural areas may do more harm than good.
- Lastly, criminalising violation of the Indian Cinematograph Act is disproportionate and too harsh
- IP wrongs are essentially civil wrongs and should not be criminalised.

Way Forward and Conclusion:

- IPRs policy would go a long way to encourage the Indian industry not only to innovate but also to protect and enforce their innovations but still, certain areas require further scrutinies like the principle of knowledge sharing and knowledge access.
- At the same time, there is some concern about the enlargement of the protection to the objects which fall in the public domain.
- Better enforcement of the policy would help in attracting more foreign investment into the country.
- It appears that the approach of the policy towards copyrights and trademarks is to serve the needs of foreign companies. Faster granting of rights and strong enforcement will encourage them more.
- One great thing about the policy is the way it has addressed digital piracy, indicating stricter steps for addressing the issue.