

INTELLECTUAL PROPERTY RIGHTS (IPR)

“Trademark as a tool for strengthening service sector”

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Man is blessed with a wonderful gift called brain and Mother Nature has bestowed him with ample physical and biological resources on the earth. By the application of his imagination and creativity, and utilisation of these natural resources, he has been producing diverse range of commodities for his needs, comfort and convenience. Earlier, his creations and inventions happened to fall under a public domain due to which anybody could use, benefit and copy them without any curb, notice, courtesy or payment. However, by the end of the twentieth century, the significance and gravity of the creations of human brain were recognized as **intellectual property (IP)** of the owner. These rights of the owners over their respective intellectual property was acknowledged and accepted and is known as **Intellectual Property Rights (IPR)**. Like any other property rights, Intellectual Property Rights allow the creators or owners of the IP to reap the profits of their work or creation. Every individual comes across IP from dawn to dusk - the goods associated with food, shelter and clothes; the diverse things of necessity, comfort and luxury. Right from waking up in Sleepwell mattress and pillows, using Pears soap, Pepsodent brush and toothpaste to freshen up, wearing a Nike tracksuit and shoes for a morning walk and on returning sipping a cup of Darjeeling Tea or Nescafe coffee along with Britannia biscuits and leaving in Enfield bike to the office, using Dell laptop and iphone; In the evening watching National geographic channel and later setting wakeup alarm in Titan watch before going to bed, he uses the products which are the IP of someone and which are protected under laws of Intellectual Property Rights. The imitation, duplication, adaptation, or unauthorized reproduction of these goods, without the permission of the owner, may amount to a serious offence. Therefore, knowledge on Intellectual Property Rights is indeed necessary for every individual. Article 27 of the Universal Declaration of Human Rights outlines these rights, which provides for the benefit from the protection of moral and material interest resulting from authorship of scientific, literary or artistic productions. The significance of IP was first sighted in Paris Convention for the Protection of Intellectual Property (1883) and the Protection of Literary and Artistic Works (1886). World Intellectual Property Organisation (WIPO) administers both these treaties.

There are several compelling reasons for the need to promote and protect intellectual property. IP protection promotes publication, distribution and disclosure of the creation to public, rather than keeping it secret while at the same time, boost commercial enterprises to select creative works for exploration. The progress and prosperity of humanity rest on its capacity to carry out novel and improved works in the fields of technology and culture. The legal protection of IP not only provides due recognition and incentive to the owners, but also encourages the commitment of additional resources for further innovation. The promotion and protection of IP spurs economic growth, open windows for new jobs and industries along with enhancing the living standard. An effective and equitable IP system can help to throw light to the potential of IP as a driving factor for economic growth, development and competitiveness; thus, providing an environment in which creativity and invention can flourish. Intellectual Property Rights are divided into two categories: Firstly, **Industrial Property Rights**, which cover patents for inventions, trademarks, industrial designs, geographical indications, protection of plant variety and farmer's rights, trade secrets, etc. Secondly, **copyright**, which includes literary works (such as novels, poems and plays), films, music, artistic works (e.g. drawings, paintings, photographs and sculptures) and architectural design.

As mentioned above, one of the types of IPR is trademark. A **trademark** is a distinctive sign, or any combination of signs that identify the goods and services produced or provided by an individual or company. It distinguishes the goods or services of one enterprise from those of other enterprises. The origin of trademarks dates back to the era when artisans/craftsmen reproduced their signatures or 'marks' on their artistic works. These marks have evolved into today's system of trademark registration and protection which aids consumers to identify and purchase a product or service on the basis of their choice or need of specific quality or characteristics as promised by its unique trademark.

Since the past decade or so, Sikkim has been steering towards the field of Tourism, Agriculture and Commerce. The people of the state are now fully aware of the true potential of trade and tourism for the betterment of their lives. Even the government has taken a front foot in promoting, guiding and providing outmost support in service sector. It is important for the people of the state to know the potential of trademarks as a catalyst to boost and strengthen their trade in the various fields due to the fact that trademark being the brand identifier, is one of the most effective tools in the service industry. It plays a vital role for the

commercialization and growth of a business/industry. The purchasing decision of the consumers are immensely influenced by the brand name and reputation such brands represent. It is essential for the people in the service industry to have a clear concept and understanding of why trademarks are assets and help flourish their business. Apart from laying the foundation of any business to the ultimate purchaser, trademark provides a link between the goods and the manufacturer. Trademarks, on the account of their quality or performance, build the reputation of products or services among the consumers and coupled with the costumers' satisfaction, trademarks influence their mind for repeat orders. Due to cutthroat competition and several similar products or services, the marketplace is crowded and it is very essential to distinguish one's business from his/her competitors. Trademarks/brands are efficient commercial communication tool to get hold of customer's attention and make your business, product or service stand out among the rest. The purchasers may not even know the name and address of the manufacturer but its mark, as an ambassador of the manufacturer impacts their decision to buy or not to buy a particularly branded product. In a single brand or logo, trademarks can convey messages to the purchasers about the proprietor, his company/ business and company's reputation, products and services. For example, the Nike "Swoosh" design and the iPhone "Apple" is recognised globally, regardless of whether the native language is Hindi, Chinese, Russian, Spanish, Arabic or English. To establish goodwill or reputation in the eyes of the ultimate customers and to reap long-term benefits, it takes a long journey for any manufacturer and it is the publicity of the trademark by the proprietor, which has immense significance in a reputation build up exercise. Trademarks allow businesses to effectively use internet and social media too because the brand is the first thing customers enter into a search engine or social media platform when looking for the product or service of their choice. Higher traffic on website or social media platform translates into higher ranking, bringing in even more consumers and brand recognition.

However, businesses are not compelled to register their trademarks, but registration discourages imposters and counterfeiters. If one registers his/her brand name, as a trademark, he /she will receive a statutory right to protection of that name throughout the country. This right can be evidenced by the use of ® to indicate to consumers and other traders the trademark is already registered. If a competitor uses the same or a similar name, trademark registration gives the owner of the trademark a quicker, easier and cheaper way to prevent that competitor from using that. Thus, trademark protection ensures that the owners of marks have the exclusive right to use them to identify goods or services, or to authorize others to use

them in return for payment. Trademarks are valuable business assets and they can be sold or licensed. The system enables people with skill and enterprise to produce and market goods and services in the fairest possible conditions, thereby opening doors for international trade.

For more information on this topic or any other forms of Intellectual Property Rights, kindly visit Patent Information Centre (PIC), Biotechnology Division, Sikkim State Council of Science & Technology (SSCS&T), Department of Science & Technology & Climate Change (DST&CC), Vigyan Bhawan, Deorali, Gangtok.