

# A Descriptive Study on Intellectual Property Rights in India– Challenges for MSMEs & Institutional Support

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**Abstract:** *Despite the prominent role of MSMEs in Indian economy, they are suffered from plethora of problems like less exposure to finance, raw material issues, problems in marketing their products and services, global competition, low product differentiation etc. Even SMEs cannot protect the product and service differentiation because of high fee structure for acquiring Intellectual Property Rights (IPRs). As a result MNCs may copy the unique process or methodology of their SME counterparts. To reduce the vulnerability of SMEs and to protect their unique products and services from large and Multi National Companies, Government is encouraging SMEs to acquire IPRs. Present study is an attempt to identify the opportunities for SMEs to acquire IPRs, Government incentives to SMEs in getting patents and identify and analyse the number of SMEs applied and acquired IPRs with the help of government incentives.*

**Keywords:** Intellectual Property Rights, Patents, Institutional support to MSMEs, Challenges to MSMEs in IPRs

## 1. Introduction to Intellectual Property Rights

Intellectual property refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. Intellectual property is divided into two categories: Industrial Property includes patents for inventions, trademarks, industrial designs and geographical indications.

Intellectual Property Right can be defined as “A right that is had by a person or by a company to have exclusive rights to use its own plans, ideas, or other intangible assets without the worry of competition, at least for a specific period of time. These rights can include copyrights, patents, trademarks, and trade secrets.” The reasoning for intellectual property is to encourage innovation without the fear that a competitor will steal the idea and / or take the credit for it.

## 2. Importance of the Study

Contribution of MSME sector in Indian economy is remarkable in various aspects. The significant contribution of MSME sector in Indian economy can be measured by below statistical evidences. “Over 36 million SMEs are generating more than 80 million opportunities. MSME sector contributes 8% of the GDP, 45% of the total manufacturing output and 40% of the total exports. “

Despite the prominent role of MSMEs in Indian economy, they are suffered from plethora of problems like less exposure to finance, raw material issues, problems in marketing their products and services, global competition and low product differentiation etc. Even SMEs cannot protect the product and service differentiation because of high fee structure for acquiring Intellectual Property Rights (IPRs). As a result MNCs may copy the unique process or methodology of their SME counterparts. To reduce the vulnerability of SMEs and to protect their unique products and services from large and Multi National Companies, Government is encouraging SMEs to acquire IPRs. Present study is an attempt to identify the opportunities for SMEs to

acquire IPRs, Government incentives to SMEs in getting patents and identify analyse the number of SMEs applied and acquired IPRs with the help of government incentives.

## 3. Objectives of the Study

- To identify challenges faced by MSMEs in acquiring IPRs
- To brief the institutional support to SMEs in acquiring IPRs..
- identify and analyse the number of SMEs applied and acquired IPRs with the help of government incentives

## 4. Scope and Limitations of the Study

- As the nature of research is descriptive, present study is aimed to observe the position of IPRs and support of government in acquiring IPRs through various institutions.
- Limited scope is there for analysis as the researchers intention is to finding facts in present IPR system of MSME sector in India
- Statistical data is presented on the basis of availability of data

## 5. Research Methodology

Present study is a descriptive in nature and data collected from previous articles, journals and MSMED website though secondary sources.

## 6. Intellectual Property Rights in India

Intellectual Property Rights are legal rights governing the use of creations of the human mind. The recognition and protection of these rights is of recent origin. Patents, designs and trademarks are considered as industrial property. As per International Convention for the protection of industrial (Paris Convention) the protection of industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations or origin and the repression of unfair

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competition when copyrights, Geographical indicators, layout Designs and confidential information were included to industrial property, they all become intellectual property. With the trade related Aspects of Intellectual Property Rights (TRIPS) Agreement of World Trade Organisation (WTO), the intellectual property rights attained the authority to enforce the law internationally. According to TRIPS, the intellectual property rights are:

1. Copyright and Related Rights
  - a) Rights of artists, painters, musicians sculptors, photographers, and authors for copyright in their works;
  - b) Rights of computer programmes whether in source or object code for a copyright in their programmes and compilation data;
  - c) Rights of performers producers of phonogram's and broadcasting organizations in respect of fixation on their programmes for copyright in their work.
2. Right of traders in their trade marks.
3. Right of manufacturers & producers on geographical indication in relation to such products and produce.
4. Right of designers for their distinctive design striking to the eye.
5. Patents:
  - a) Right of the inventor for patent is his invention.
  - b) Rights of plant breeders and farmers.
  - c) Rights of biological diversity.
6. Right of computer technologist for their layout design of integrated circuits.
7. Right of businessmen for protection of their undisclosed information on technology and management.

## 7. Challenges Faced by MSMEs in Acquiring IPRS

India's intellectual property (IP) legislation covers every significant aspect of the protection of IP. The regulations relating to all forms of IP have been amended or reissued in recent years, mainly in response to India's accession to the World Trade Organisation in 1995. Although Indian IP law is thorough and generally comparable with European IP laws, there are still significant concerns over IP enforcement. A major cause for concern in enforcement is bureaucratic delay, with a backlog of cases at both the civil and criminal courts. This means that cases can run for five years or more. There is also a lack of transparency, particularly at a local level. A significant feature of the IP environment in India is the large number of small players infringing IP rights. This means that seizures tend to be small, which requires a sustained and financially draining effort in order to make an impact.

- a) MSMEs are small in nature and cannot afford high fee for IPRS.
- b) Many entrepreneurs are not aware of the IP process.

## 8. Institutions Working for Building Awareness of IPRS among MSMES in India

To mitigate these challenges, the Government of India has come forward to offer incentives and bringing awareness through various institutions. List of few important institutions are:

- 8.1. **National Institute of Intellectual Property Management (NIIPM):** National Institute of Intellectual Property Management (NIIPM) is set up as a national centre of excellence for training, management, research and education in the field of Intellectual Property Rights. The Institute caters to the need of training of Examiners of Patents and Designs, Examiners of Trademarks & Geographical indications, IP Professionals, IP managers in the country, imparting basic education for user community, Government functionaries & stake holders involved in creation, commercialization and management of intellectual property rights.
- 8.2. **National Intellectual Property Organization (NIPO):** NIPO is an umbrella initiative destined to put India on the map of intellectual superpowers. NIPO's mandate includes developing policy initiatives in the area of IP; harnessing Intellectual Property assets & knowledge to generate economic wealth; help & assist individuals & organizations in capacity building and work as a platform for development, promotion, protection, compliance & enforcement of Intellectual Property & knowledge including through interactions with other organizations in India and abroad which are active in this field can record your website under intangible asset provided you meet all the recognition criteria.
- 8.3. **National Manufacturing Competitiveness Council (NMCC):** The Government of India has announced in the 2005-06 Budget regarding setting up of the "National Manufacturing Competitiveness Council (NMCC)" which visualized a National Manufacturing Competitiveness Programme (NMCP) to enhance the competitiveness of the SMEs sector. One of the components of the NMCP is "Building Awareness on Intellectual Property Rights (IPR)" for the MSME
- 8.4. **National Institute for Micro, Small and medium Enterprises (NI-MSME):** NI-MSME, the pioneer institute in the field of MSME is playing a major role in providing pro-business environment to foster the progress of MSME towards success and prosperity. The Ministry of MSME, in collaboration with several institutions like NI-MSME has set up an IP Facilitating Centre for MSMEs.
- 8.5. **The Intellectual Property Facilitation Centre (IPFC):** The Intellectual Property Facilitation Centre is well equipped to offer quality services in all areas of Intellectual Property Rights and comprises of technical and legal experts having extensive knowledge in the field of intellectual property rights. The centre also has a panel of Legal and Technical experts which are established brand names among their respective areas to provide assistance in this venture.

## 9. Government Assistance to MSMES in Acquiring IPRS

The Government Of India, through various means extending its support to MSMEs for acquiring Patents and other IPRS. Few important assistance programmes carried out by the Government of India are mentioned under.

**Table 1:** Means of assistance from the Government to MSMEs in acquiring IPRs

Nature of Assistance/ Purpose	Amount (Rs.)
Assistance to awareness programme	1,00,000
Assistance to Pilot study	2,50,000
Assistance to Interactive Seminar	2,00,000
Assistance to Short term training programme	6,00,000
Assistance to Long term training programme	45,00,000
Financial support for domestic patent registration	25,000
Financial support for Foreign patent registration	2,00,000
Geographical Indications of Goods Act. (one time financial support)	1,00,000
For IP Facilitation centre	65,00,000
Financial support for domestic intervention	5,00,000
International Exchange Programme	7,50,000

Source: NIMSME

**Table 2:** Government Expenditure and number of MSME beneficiaries under various IPR schemes

Year	Expenditure (Rs. in Cr)	CAGR	No of Beneficiaries	CAGR
2012-13	1.88	-	1990	-
2013-14	1.61	85.64	2340	117.59
2014-15	0.83	51.59	1072	64.76
2015-16	1.74	47.72	4938	73.2
2016-17	2.47	45.95	6355	70.19

\*Source: Development Commissioner, Ministry of MSMEs

From 2012-13 to 2016-17, Compounded annual growth rate of expenditure for IPRs is 45.95% and growth in number of beneficiaries gone up to 16,695 with CARG of 70.19%. from the statistics it is revealed that awareness on IPRs are significant with the efforts of Government agencies through various institutions and schemes. During the available tenure, expenditure was low in 2014-15 and there was a remarkable decline in beneficiaries number as well.

## 10. Conclusion

As the government implemented de-reservation of items of MSMEs with a clear intention to increase competitiveness among MSMEs. Indian MSMEs are in transformation phase as they have to move from most homogenous to product differentiation and uniqueness in production processes. During this process, IPRs help MSMEs to sustain themselves in the market and compete with MNCs and global players. Government financial support to MSMEs in acquiring IPRs and its efforts to create awareness among MSME players is significant but it needs more clustered approach to make MSMEs more creative and viable.

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