



ISSN: 2249-894X
IMPACT FACTOR : 5.7631(UIF)
UGC APPROVED JOURNAL NO. 48514
VOLUME - 8 | ISSUE - 8 | MAY - 2019



WTO, TRIPS AND CHALLENGES IN INDIA- A STUDY

Dr. M. Gurumohan Reddy

**M.A., Ph.D. , Assistant Professor in Economics ,
SKSC Degree College , Proddatur Mandal, YSR Dist, A.P.
India.**

ABSTRACT:

Intellectual Property is a term that refers to the work or inventions that are created as a result of some one's creativity. The person responsible for the creation is given rights to them in the form of patents, copyrights and trademarks. The main purpose of Intellectual Property Rights is to give incentive, protection and encourage research innovations. Without intellectual property rights, the creators and inventors would derive no benefit or gain from new ideas from their work and investment made in the works would never be compensated. It can be valuable because it represents ownership and an exclusive right to use, manufacture,

reproduce or promote a unique idea or creation. Like other forms of property, intellectual property is also an asset which can be owned, sold and exchanged. The intellectual property rights are essentially recognized and accepted all over the world due to some important reasons.

The paper highlights the role of WTO, trade related intellectual property rights in India and challenges faced.

KEYWORDS: *Intellectual Property , unique idea.*

INTRODUCTION:

Intellectual Property is a term that refers to the work or inventions that are created as a result of some one's creativity. The person responsible for the creation is given rights to them in the form of patents, copyrights and trademarks. The main purpose of Intellectual Property Rights is to give incentive, protection and encourage research innovations. Without intellectual property rights, the creators and inventors would derive no benefit or gain from

new ideas from their work and investment made in the works would never be compensated. It can be valuable because it represents ownership and an exclusive right to use, manufacture, reproduce or promote a unique idea or creation. Like other forms of property, intellectual property is also an asset which can be owned, sold and exchanged. The intellectual property rights are essentially recognized and accepted all over the world due to some important reasons. Some of the reasons for accepting such rights are:

1. To provide incentive to the individual for new creation.
2. To provide due recognition to the creators and inventors.
3. To ensure material reward for intellectual property.
4. To ensure the availability of the genuine and original products.

Intellectual property is divided into two categories-Industrial property which includes patents, trademarks, industrial designs and geographical indicators of source and copy rights which include literary and artistic works such as novels, poems, plays, films, crafts, music and dance works. The importance of intellectual property was first

recognized in the Paris Convention in 1883 for the protection of industrial property and the Berne Convention in 1886 for the protection of literary and artistic works. Both the treaties are administered by the World Intellectual Property Organization (WIPO), an office of the United Nations. The intellectual property rights have assumed significant importance since the signing of the agreement on Trade Related Intellectual Property Rights (TRIPS) under the World Trade Organization (WTO). India joined WTO and became a signatory of the TRIPS agreement in the year 1995.

WORLD TRADE ORGANIZATION: (WTO)

The General Agreement on Tariff and Trade (GATT) was established in the year 1948 in Geneva to pursue the objective of free trade in order to encourage the growth and development of all member countries. The principal purpose of GATT was to ensure competition in industrial goods trade through removal of trade barriers. There were eight rounds of negotiations among the participating countries between 1947 and the last year of GATT. The first six rounds were related to curtailing tariff rates. Seventh round included non tariff obstacles. The eighth round was entirely different from the previous rounds because it included a number of objects for consideration. The eighth round of GATT, popularly known as Uruguay Round was started in September 1986. The negotiations which were expected to be concluded in four years could not be completed on account of differences among the participating countries, on certain crucial areas, agreement could not be reached. To break the dead lock, Mr.Arthur Dunkel, Director General of GATT, compiled a very detailed document, popularly known as Dunkel Draft. The Dunkel Draft culminated to the Final Act on December 15th, 1993. The signing of the final act of the Uruguay round by the member nations of GATT in April 1994 paved way for setting up of World Trade Organization (WTO). The WTO came into force on January 1st 1995.

The agreement establishing WTO consists of various aspects of Uruguay Round negotiations like agreement on agriculture, agreement on market access and dispute settlement body etc., but most important and very controversial agreements are Trade Related Intellectual Property Rights (TRIPS) and Trade Related Investment Measures (TRIMS).

TRADE RELATED INTELLECTUAL PROPERTY RIGHTS (TRIPS)

Under the TRIPS agreement, the member countries were forced the adoption of stringent conditions for the protection of the intellectual property rights. Moreover, the scope of the agreement was also widened to cover patents, copy rights and related rights, geographical indicators, industrial designs, layout designs of integrated circuits and protection of undisclosed information. In the field of food, medicines, drugs, chemical products, the TRIPS agreement provides for granting product patents. Such product patents will be available for 20 years. In the case of copy rights and related rights, protection will be available for 50 years.

In order to meet its commitment to the WTO to introduce product patents by January 1st 2005, the Government of India promulgated an ordinance December 23rd 2004. This was followed by the adoption of Patents Amendment Act in March 2005. The new patent regime provides for product patents in drugs and farm products. In respect of plant varieties, a decision was taken to put in place a sui generis system as it is perceived to be in our national interest. For this purpose, the Indian Parliament passed the protection of Plant Varieties and Farmers Right Legislation in August 2001.

CHALLENGES OF TRADE RELATED INTELLECTUAL PROPERTY RIGHTS (TRIPS) IN INDIA:

There are many problems and challenges of TRIPS agreement in India. Some critics are of the view that TRIPS as embodied in WTO agreement will have disastrous effects on our economy, more especially in two vital areas, Pharmaceuticals and agriculture. Both these areas affect the well being of our people.

(A) From Process to Product Patents:

One of the binding points in TRIPS agreement is that all member countries are required to shift their patent regime from process patent to product patent. The fundamental difference between a

process patent regime and a product patent regime lies in the fact that the former protects for processes only while the latter products. It becomes a contentious issue while it comes to getting intellectual property rights in Pharmaceuticals and the farm products.

(B) Section 3 (d) of the Indian Patent Act:

Another challenge that is facing is the condemnation of section 3 (d) of Indian Patent Act. This section prevents multinational companies ever greening their patents simply by making minor changes.

(C) Compulsory Licensing:

With the provision of compulsory licensing, the Government of India can compel the owner of a company or other companies to mass produce some drugs in emergency irrespective of who got the patent.

(D) Provision of Drug Price Control Order:

With this provision, the companies cannot charge an unfair price for drugs that they are producing.

(E) Food Security:

India is a land of farmers where most of the people are engaged in farming for their livelihood. The Governments offer many subsidies to farmers. Our domestic support schemes are generally in the form of "minimum support price" for major agricultural commodities and "input subsidies" provided to farmers in the form of electricity, fertilizers, seeds and etc.,. However, for the implementation of TRIPS agreement these subsidies will have to be reduced or eliminated.

(F) IPRS, Community Property Rights and Indigenous Knowledge:

Traditional knowledge gives ready-made leads for pharmaceutical companies and they simply come up with the new formulation to show efficacy of the general traditional understanding. The Government of India is bound to protect the rich source of traditional knowledge by not allowing the multinationals to get patents on traditional culture.

CONCLUSION:

There are many problems and challenges of TRIPS agreement in India. IPR awareness is the key to technological innovations and in the emerging knowledge based economy, getting intellectual property rights is a complex process. India has rich Biodiversity and rich traditional knowledge and culture. We must strive hard to improve our intellectual property and protect our traditional knowledge and culture.

REFERENCES:

1. Gauray Datt and Ashwin Mahajan: *Indian Economy*.
2. V.K. Puri and S.K. Misra: *Indian Economy*.
3. Uma Kapalia: *Indian Economy- Performance and Policies*.
4. J.C. Dhingara: *The Indian Economy-Environment and Policy*.