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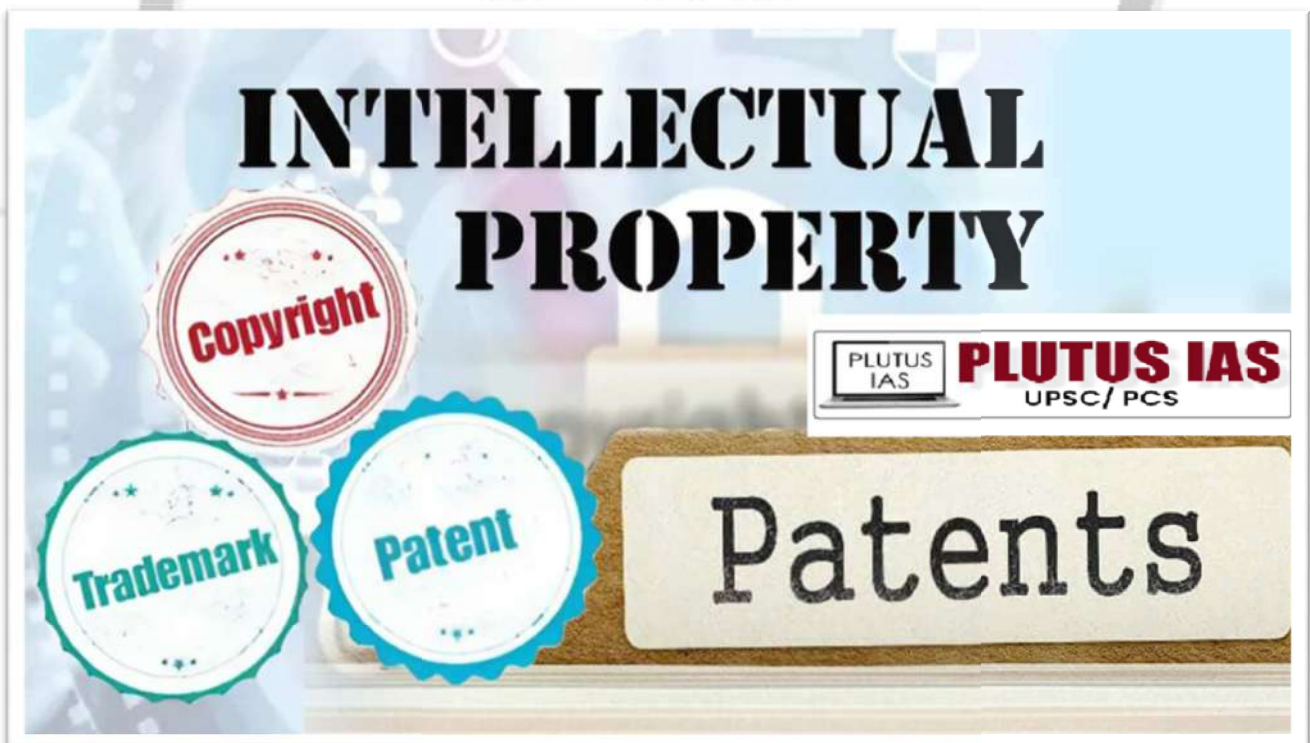
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“INDIA’S IP SURGE: TOP 10 IN PATENTS, TRADEMARKS, AND INDUSTRIAL DESIGNS – WIPO 2024”

WHY IN THE NEWS?

The World Intellectual Property Organization (WIPO) has released its **World Intellectual Property Indicators (WIPI) 2024**, highlighting global trends in intellectual property (IP) filings. The report shows a significant rise in patent, trademark, and industrial design applications across leading economies. India has secured a place among the global top 10 for all three major IP categories—patents, trademarks, and industrial designs—solidifying its position as a key player in the global IP arena and marking notable achievements in IP activity. In 2023, India experienced the fastest growth in patent filings (+15.7%) among the top 20 countries, achieving double-digit growth for the fifth consecutive year. With **64,480 patent applications**, India now ranks **sixth** globally in patents, with resident filings comprising over half of the total submissions (**55.2%**), a first for the nation. Additionally, the Indian patent office granted **149.4% more patents** in 2023 compared to the previous year, highlighting the rapid development of the country’s IP ecosystem.



PATENT SCENARIO IN INDIA:

A patent is a statutory right granted for an invention by the Government, which gives the patentee exclusive rights to make, use, sell, or import the patented product or process for a limited period, typically 20 years. This right is granted in exchange for full public disclosure of the invention, allowing others to understand how it works but preventing them from exploiting it without the consent of the patentee. In India, the patent system is regulated by the Patents Act of 1970, which has been amended over time, including significant changes through the Patents (Amendment) Act of 2005 and the Patents Rules 2003. These laws have been consistently updated to keep pace with global standards and technological advancements, with the most recent updates being made under the Patents (Amendment) Rules, 2021.

Key Features of a Patent

1. Exclusive Rights: The patentee can exclude others from making, using, selling, or importing the patented invention without permission for the term of the patent.

2. Term of Patent: The standard term is 20 years from the filing date of the application. However, for international applications filed under the Patent Cooperation Treaty (PCT), the term is 20 years from the international filing date.

3. Patentability Criteria:

Novelty: The invention must be new and not have been disclosed before.

Inventive Step: The invention must demonstrate an element of innovation that is not obvious to an expert in the relevant field.

Industrial Application: It must be capable of being made or used in an industry.

Exclusions: The invention should not fall under the provisions of Section 3 and Section 4 of the Patents Act, which outline non-patentable inventions (e.g., abstract theories, scientific principles, and certain living organisms).

4. Scope of Protection: The patent is a territorial right, meaning its protection is only valid in the country or region where it is granted. Filing a patent in India does not automatically grant protection elsewhere. However, the applicant may seek protection in other countries or regions through the PCT system or by filing directly in those countries, typically within 12 months of the initial filing.

TYPES OF PATENT:

The Indian Patents Act of 1970 covers three types of patents:

Utility patents: These patents protect the function of a machine, composition, or process. They are the most common type of patent sought.

Design patents: These patents protect the appearance of an object, including its shape, configuration, or surface ornamentation.

Plant patents: These patents protect plants.

PATENTS ACT, 1970 (AND AMENDMENTS):

The Patents Act 1970 is the principal law governing patents in India, which came into effect in 1972, replacing the Indian Patents and Designs Act of 1911. Major amendments to the Act include:

1. Patents (Amendment) Act, 2005: Extended product patents to all fields of technology, including food, drugs, chemicals, and microorganisms. This change was part of India's compliance with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) agreement under the World Trade Organization (WTO).

2. Compulsory Licensing: Introduced provisions for granting compulsory licenses, allowing others to manufacture a patented product or use a patented process under specific conditions (e.g., if the patent holder is not exploiting the invention or if the product is not available at an affordable price).

3. Pre-Grant and Post-Grant Opposition: Allowed third parties to challenge a patent either before it is granted (pre-grant opposition) or after it has been granted (post-grant opposition). This ensures that patents are not granted for inventions that do not meet the criteria for patentability.

PATENT PROTECTION AND TERRITORIALITY

Patent protection is territorial, meaning it only applies in the country or region where the patent is granted. In India, patent protection is provided by the Indian government, but this does not extend to other countries. To obtain patent protection in other jurisdictions, the applicant can file separate patent applications in those countries, or they can use the Patent Cooperation Treaty (PCT) system. This allows the applicant to file a single international patent application, which can be used as the basis for seeking patents in multiple countries.

ROLE OF ORGANIZATIONS AND MINISTRIES:

1. Ministry of Commerce and Industry: The Department for Promotion of Industry and Internal Trade (DPIIT), which operates under the Ministry of Commerce and Industry, is responsible for overseeing intellectual property rights, including patents.

2. Controller General of Patents, Designs and Trademarks (CGPDTM): The CGPDTM is the central authority in India responsible for the administration of the Patents Act. It is responsible for granting patents, conducting oppositions, and managing the overall patent system in India.

3. World Intellectual Property Organization (WIPO): India is a member of the World Intellectual Property Organization and has adopted the Patent Cooperation Treaty (PCT), which allows Indian inventors to seek international patent protection through a single application.

3. Indian Patent Office: This office is responsible for the processing of patent applications and issuing patents. It is located in four cities: Delhi, Mumbai, Chennai, and Kolkata.

4. Patent Facilitation Centers (PFCs): These centres provide assistance to inventors and small and medium-sized enterprises (SMEs) in filing patent applications and understanding the patent process.

5. Intellectual Property Appellate Board (IPAB): The IPAB is a quasi-judicial body that hears appeals from decisions made by the Indian Patent Office, such as patent refusals or revocations.

RECENT AMENDMENTS TO THE PATENTS RULES (2021):

The Patents (Amendment) Rules, 2021, were introduced to streamline the patent application process, making it more efficient and in line with international standards. Some notable amendments include:

Facilitation of E-filing: The rules encourage electronic filing of patent applications, making the process more efficient and accessible.

Extension of Time: The timelines for submitting certain documents and responses to the Patent Office have been extended.

Fee Reduction: The amendments also include provisions to reduce the filing fees for certain categories of applicants, including small and medium enterprises (SMEs) and individual inventors.

THE KEY FACTORS DRIVING THE SIGNIFICANT GROWTH OF PATENTS:

1. Innovation and Technological Advancements: Rapid advancements in technology and the increasing pace of innovation have led to a surge in new inventions, prompting more patent filings.

2. Globalization: As companies expand globally, they seek to protect their intellectual property across different markets, leading to an increase in patent applications worldwide.

3. Increased Investment in Research and Development (R&D): More businesses and institutions are investing in R&D, resulting in a greater number of novel ideas and inventions that require patent protection.

4. Stronger Intellectual Property Laws: Improvements in intellectual property rights enforcement and the establishment of more robust patent systems have encouraged innovation and patent filings.

5. Market Competition: To gain a competitive edge, companies are increasingly patenting their inventions to safeguard their innovations and prevent rivals from copying their technologies.

6. Patent Commercialization: The rise of patent monetization and licensing as business strategies has encouraged companies and individuals to patent their inventions in order to generate revenue through licensing agreements or sales.

7. Increased Awareness and Education: As awareness of intellectual property rights grows, more inventors and businesses are recognizing the value of patents in protecting their ideas and fostering business growth.

CHALLENGES STILL PERSIST:

1. Patent Thickets: The proliferation of overlapping patents in certain technologies, such as telecommunications and software, can create complex patent thickets that hinder innovation and lead to costly litigation.

2. Patent Trolls: The rise of entities that acquire patents solely for the purpose of filing lawsuits (often referred to as “patent trolls”) continues to be a significant issue, as they exploit the patent system without contributing to innovation.

3. Patent Backlogs: Many patent offices around the world face significant backlogs, leading to delays in the examination and granting of patents, which can hinder the commercialization of new inventions.

4. Quality vs. Quantity: The growing volume of patent filings has raised concerns about the quality of patents being granted. Patents that are overly broad or not sufficiently innovative can clog the system and result in legal disputes.

5. Global Patent Harmonization: While efforts to harmonize patent laws internationally have made progress, differences in patent systems across countries still present challenges for global protection and enforcement.

6. Costs of Patent Protection: For small businesses and individual inventors, the cost of filing and maintaining patents can be prohibitive, limiting access to the patent system and discouraging innovation.

7. Patent Infringement and Litigation: Ongoing patent disputes and the potential for costly litigation can create uncertainties for businesses, deterring them from investing in new technologies or expanding into new markets.

8. Ethical and Legal Concerns: Issues such as the patenting of essential medicines, genetic material, and artificial intelligence inventions raise ethical questions and legal challenges regarding what should be patentable.

WAY FORWARD:

1. Streamline Patent Processes: Reform patent systems to reduce backlogs, improve examination efficiency, and ensure high-quality patents. This includes better training for examiners and stricter standards for granting patents to protect only truly innovative ideas.

2. Focus on Patent Quality: Address patent trolling and overly broad patents by enforcing rigorous examination standards. Post-grant reviews and opposition procedures can help eliminate weak patents, ensuring that only commercially valuable innovations are protected.

3. International Harmonization: Expand global coordination of patent laws to reduce complexity for businesses operating across borders. Enhance frameworks like the Patent Cooperation Treaty (PCT) to simplify filing and enforcement worldwide.

4. Reduce Patent Litigation: Tackle excessive litigation by introducing fee-shifting for meritless lawsuits and establishing specialized patent courts to expedite dispute resolution.

5. Affordable Protection for SMEs and Innovators: Introduce programs offering subsidies, grants, or reduced fees to make patent protection more accessible for small businesses and individual inventors.

6. Promote Open Innovation: Encourage collaboration across industry, academia, and government, fostering open-source licensing and patent pools—especially in sectors like healthcare and renewable energy—to share technology for broader societal benefit.

7. Enhance Public Awareness: Educate inventors and businesses on patent value and navigate the system to avoid pitfalls and maximize benefits.

8. Address Ethical Concerns: Develop ethical guidelines for emerging technologies, ensuring patents do not hinder access to critical innovations, such as life-saving medicines or essential technologies.

CONCLUSION:

India's rising prominence in global patent filings underscores its growing role as a centre of innovation. The country has made significant strides in patenting activity, driven by advancements in technology, increased R&D investment, and stronger intellectual property laws. However, challenges such as patent thickets, litigation, and the cost of protection for small businesses must be addressed to sustain this growth. By streamlining patent processes, improving patent quality, and fostering international collaboration, India can strengthen its IP ecosystem and create a more supportive environment for innovation. With continued reforms, India is well-positioned to become a global leader in intellectual property, driving both economic growth and technological advancement.

PRELIMS QUESTION:

Q. With reference to the 'National Intellectual Property Rights Policy', consider the following statements: (2017)

1. It reiterates India's commitment to the Doha Development Agenda and the TRIPS Agreement.
2. The Department of Industrial Policy and Promotion is the nodal agency for regulating intellectual property rights in India.

Which of the above statements is/are correct?

- A. 1 only
- B. 2 only
- C. Both 1 and 2
- D. Neither 1 nor 2

Answer: C

MAINS QUESTION:

**Q. In a globalized world, Intellectual Property Rights assume significance and are a source of litigation. Broadly distinguish between the terms—Copyrights, Patents and Trade Secrets. (2014)
(250 words, 15 marks)**

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