

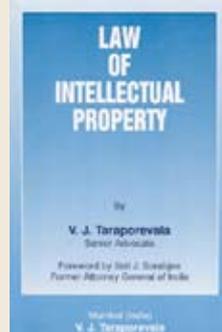
A CONCISE GUIDE TO IPR LAW

The Uruguay Round of Multilateral Trade Negotiations under the General Agreement on Tariffs and Trade (GATT) has substantially expanded the normal purview of trade agreements to include trade in investment, services and intellectual property. As a result, an Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) has been in effect by majority of the developing and developed nations alike under the World Trade Organisation (WTO).

TRIPS– the convention on Trade related aspects of intellectual property rights – is the most comprehensive multilateral agreement on Intellectual Property to date and has come into effect on January 1, 1995. The TRIPS document covers all aspects of Intellectual Property Rights (IPR): copyrights; trademarks; geographical indications; and patents information, including those protecting new varieties of plants, industrial designs, integrated circuits, and undisclosed information such as trade secrets and test data. Essentially, TRIPS tackles three main issues: Standards, Enforcement and Dispute settlement. The basic principles are taken from well-established international instruments, namely the 1951 Paris Convention for the Protection of Industrial Property and the 1977 Berne Convention for the Protection of Literary and Artistic Works, along with their respective amendments. TRIPS is often referred to as the “Paris and Berne Plus” agreement. TRIPS is a minimum standards agreement, setting the lowest common denominator while allowing countries to provide further protection. The agreement also lays down some general principles for the local enforcement of

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IPR. Concepts from GATT, such as national and most-favoured nation treatment are integrated into TRIPS, along with other provisions to ensure that difficulties in acquiring or maintaining intellectual-property rights do not outweigh the benefits of compliance. Phase-in periods, for example, vary depending on a country's development status.

Intellectual Property Rights represent a complex area that will have an increasing impact on businesses of the future. Every country will be affected by the evolving Intellectual Property Laws. IPR infringements come in many flavours, like multinational pharmaceutical companies see their products systematically copied by local manufacturers, with generic versions sold at a fraction of the cost and rampant piracy of music recordings. IPR violations have discouraged major international companies' labels from establishing offices in countries where the IPR law is lax.

Being a member of the WTO and with increasing globalisation of trade, India has made far-reaching changes in its IPR Laws in the last decade in order to harmonise the same with the laws in developed countries and simplify its administration in IPR areas.

The protection of intellectual property rights is a key element for assessing risks in prospecting investments, since products are

heavily dependent on their “uniqueness” to recoup costs. Pharmaceuticals, in particular, involve significant capital investment in this regard, but once in the market they are very easily duplicated. As a result, the pharmaceutical industry incurred worldwide losses of around \$6 billion in the wake of piracy of patented medicines in 1992, and this figure has increased ever since.

The book ‘Law of Intellectual Property’ authored by V. J. Taraporevala, a Senior Advocate, addresses several aspects of the law of IPR. It begins with a complete analysis of the law of Patents, Copyrights, Designs, Trademarks and Geographical indications of Goods Act, Confidential Information and the enforcement and licensing of IPR, focusing on the remedies available for infringement (injunctions, various forms of damages, and damages issues). The author has examined in detail developments related to the IPR regime within the national and international legal frameworks and their impact.

This book, aimed primarily at a legally trained audience, attempts to provide a much-

needed guide to legal problems, which await the interpreters of the IPR law. As such, it does provide a great deal of analysis of legal issues and also concentrates upon the practical implications of breaches of various aspects of the IPR law. This analysis blends with the authors’ stated aim of providing a concise guide to the IPR law.

One of the unique and welcome features of the book is the numerous references to the IPR law — in fact 780 of them, out of which more than 450 are those rendered by international courts. These are not just references but detailed and keen analysis of the judgments.

The book is an extremely valuable contribution to the discourse on the highly complex questions surrounding the external dimension of the IPR Law. The work is most thoroughly researched and covers every aspect of the subject and stimulates academic discussion. This book does not have any pretensions of being a quick read. Written in matter of fact manner but packed with information, it is a comprehensive text and essential reading for those interested in this subject. □

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