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**Paper 09: Entrepreneurship & Project Management**

**Module 24: Entrepreneurial Development: Intellectual Property Rights (IPR) and Micro, Small and Medium Enterprises**



  	
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Items	Description of Module
<b>Subject Name</b>	Management
<b>Paper Name</b>	Entrepreneurship & Project Management
<b>Module Title</b>	Entrepreneurial Development: Intellectual Property Rights (IPR) and Micro, Small and Medium Enterprises
<b>Module Id</b>	Module no 24
<b>Pre-Requisites</b>	Basic knowledge of what Entrepreneurship is.
<b>Objectives</b>	To study the basics of Intellectual property Rights and its need.
<b>Keywords</b>	IPR, MSMEs, Patents, Trademarks, Copyrights

## QUADRANT-I

Module 1: Rural Entrepreneurship
1. Learning Outcome
2. Introduction
3. IPR & MSMEs
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### 1. Learning Outcome

After completing this module students will be able to:

- i. Understand the concept of Intellectual Property Rights
- ii. Understand the Types of Intellectual Property Rights

iii. Understands the need of Intellectual Property Right for the MSMEs.

## **Entrepreneurial Development: Intellectual Property Rights (IPR) and Micro, Small and Medium Enterprises**

### **2. Introduction**

Small scale industries are very important for the growth of the Indian economy. It has a significant contribution in the exports, employment generation etc and recorded higher growth than the other industrial units. Therefore, MSME sector has higher contribution for the development of the economy in the country. Hence, government is making continuous efforts to exploit the potential of the MSME's to the fullest but because of the small size these industries are facing problems in the marketing, production, technology, capital, skilled manpower etc. which leads to the industrial sickness. Thus, the future of these MSME's is in dark. It is a matter of concern that how these industries can be made competitive. The intellectual property rights can be one solution to make these industries competitive and can help in generating wealth.

### **3. IPR and MSME's**

Intellectual property is growing out of one's ideas, thoughts and intellectual creation of the mind. Today Government is making efforts to increasing its efforts considering its importance for the economy development. IPR means a number of legal monopolies over creation of the mind, both artistic and commercial, and their use (Raysman, et.al. 1999-2008). In simple words, IPR are the intellects emerged from the human mind and the legal rights on these human intellects are called as Intellectual Property Rights. These laws are applicable only in the country in which it is imposed. There is nothing like international patent.

World Intellectual property organization was formed in 1967 as a part of United Nations although it has been in use since long from 1888. India also has enacted various laws related to Intellectual property from time to time.

In past, only the tangible assets were given importance and there were laws related to the protection of those assets, but now there are seven forms of IPR, viz. patents, trademarks, copyrights, geographical indications, industrial designs, trade secrets, integrated circuits, and new plant variety.

### **4. Patents**

These are the oldest form of the intellectual Property Rights and are enforced to promote technological and economic development by recognizing the individual's creativity and intellect. According to the act, patent is the allowance from the government to the inventors and giving them the exclusive right to make and use their invention and it is for a limited period of the time. According to the Trade Related

Intellectual Property Rights, this exclusive right is for a period of 20 years and after that Government has the right to publish it. Government publishes it so that new and better ideas can be generated and the better products can be made so that old one can be replaced. Intellectuals have the right to commercialise, transfer or to sell the license of their invention during this time period.

The Indian Patent act, 1970 has classified the patentable inventions as follows:

**Process:** According to the law, process means new methods of production, research, testing analysis or the technological process that can be validated as new or unique. These are not the physical objects are in documented form.

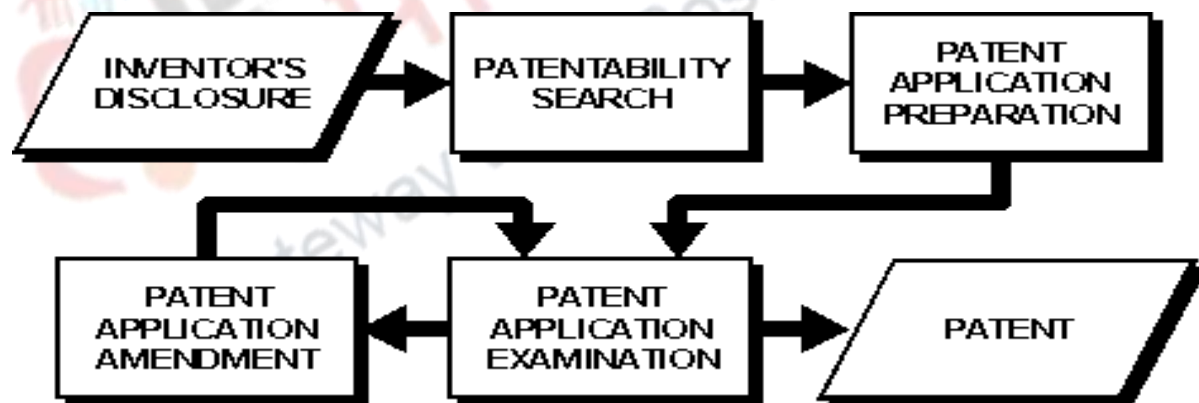
**Machines:** In the patent law, machines are physical objects. It can be any product, instrument, or any other physical item that is new or useful.

**Manufacture:** According to the patent law, manufacture means any physical item has been made up by a new and unique way or materials.

**Composition of matter:** Composition of matter in a patent law refers to the mixture of the chemical compounds, medicines and botanical compositions which are new , unique and are useful and do not exist in the nature in that particular state

#### 4.1 The Patent Process

Obtaining patent involves a certain steps as follows:



##### a. Document Disclosure:

This is the first step of the process and comes when the inventor discloses his idea in the written. When the idea is disclose it need to be filed for the patent. This is necessary to protect it and to give it legal recognition so that if someone steals the idea, there is a written record.

### **b. Patent Search:**

This step involves searching for the validity of the patent whether such patent exists or not. The main objective is to find that whether the patent to be registered is original or not. Search can be done by the inventor himself/herself or by the attorney. Patent search includes searching for the resembling patent in the patent room of each office. This process ends, when it is confirmed that no such patent exists.

### **c. Patent Application:**

Once the patent search is over, inventor fills an application for the registration which includes three parts:

1. First part includes a written document which contains invention, its specification and claim.
2. Second part contains the drawings which need to be clean and clear.
2. Third part includes the declaration and oath by the inventor.

Once the form is completed with all three parts, it is submitted to the Patent office and if they find it complete, then notification is sent to the inventor.

### **d. Patent examination:**

This step includes the thorough examination by the patent office and informing the inventor about the various problems of the patent.

### **e. Patent Grant:**

Once the examination is over then after confirmation patent is registered and the letter of the same is sent to the inventor.

## **4.2 Types of the Patents:**

According to the patent law, patents can be classified as follows:

- a. Utility Patents
- b. Design Patents
- c. Plant Patents

**a. Utility Patents:** Patents approved for Process, Machines, Manufacture and Composition of matter comes under this category and is granted for a period of 17 years. This is the most common patent type and excludes botanical creations related to plants and agricultural use.

**b. Design Patents:** These are the patents for any new or original ornamental design. When a manufacturer builds a new ornamental design for any of his product then to avoid its duplicity, he/she

applies for design patent. For e.g: Bicycle manufacturer who manufactures the new design for the bicycles or the shoe companies apply for such patents. The life of the design patent is very short is from 3.5 to 7 years.

**c. Plant Patent:** Plant Patent is provided for the plants which are new and unique and do not exist in the nature. It is also granted for the period of 17 years.

#### 4.3 Who can file for a Patent?

According to the patent law, only the inventor can file for the patent but there are certain other exceptions as per the law:

- a. If the inventor dies before applying for the patent for the invention then his/her executor or legal administrator can file the Patent
- b. If the inventor has become insane or is not in sound condition, then his/her guardian can file for the patent.
- c. If there are two or more inventors then they can jointly file the patent and if any of the inventor disappears, then the joint inventor can file patent on his/her behalf too.

Any person, who files for the patent and is not an inventor or does not come under any category of rules, is subject to criminal penalties under the law.

#### 5. Trademarks

There is trademark act 1999 in India which administers the matters related to the trademarks in the India. Trademarks are for the indefinite term. According to Section 2 (zb) of the Trade Marks Act, 1999, “trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours.” A mark can include a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colors or any such combinations. For example: Slogan of Mc Donalds (I’m Loving it), the symbol of Puma etc. Trademarks help in identifying and purchasing a product or service because of its unique trademark and quality which meets the consumer needs.

#### Types of Trademarks:

1. **Service marks:** These are the marks used to protect the service industry. All the trademarks of the service industry come under this mark. It includes hotels, restaurants, beauty and health care, software and hardware assembly and maintenance, courier and transport etc.
2. **Collective marks:** these marks are used by companies who produce the products collectively and can apply for the trademark in a group.

**3. Certification Mark:** These marks are for the standards. These marks confirm that the product has gone through the certain standard test and helps in assuring the customers. For e.g.: Electrical goods.

**4. Well known marks:** These are the marks which are extremely popular and are protected more. Therefore, people cannot imitate these popular marks.

### **Registration of Trademark:**

Registration of the trademark is done through a valid process. Firstly, the applicant has to apply for the trademark in the written by giving all the information like address, identification proof, citizenship proof etc. If the authorities are satisfied, then he/she has to provide the drawings in the written and clear format and then to provide at least five specimens of the drawings. If the application found complete after all the examinations then trademark will be issued.

### **6. Copyrights**

Like patents, copyrights also protect the individual but it is for the intellectual work and is related to the musical, dramatical, literary works, cinematography and sound recordings. It protects the individual's original work and gives him/her the right to authorize others to do certain acts on it. A copyright protects the work for the age of the originator plus period of 50 years. For the cinematographic work, it is protected for the period of 50 year after it is made public and for the photographic work is for the period of 25 years after the work has been done. There is an Indian Copyright Act, 1957 for granting the copyright.

Copyright is not granted for every work, there are certain principles as following:

- a. It is not granted for an idea and is always granted for the ideas expressed in the material form.
- b. It should not be the violation of the already existing copyright in a different manner.
- c. there is no copyright for the live events.

Creators generally sell the copyrights of their work to individuals or the companies who offer them the best payment and can utilize their work effectively. These payments are always on the basis of the amount of the work used and thus help creators in making money out of their unique work.

Objectives:

According to the law, there are two main objectives:

1. Encouragement to the original work: The main objective of granting copyright is to encourage the writers, composers, artists, and designers etc to create original works and for that their work is being protected for a certain period of time. This encouragement is given to exploit the work for monetary benefits and issuing the license to the film producers, publishers in return of money to use their work.

2. Protection to the Originator: Another objective of the copyright is to protect the original work of the originator so as to avoid its reproduction and prevent the originator from the exploitation.

Therefore, copyright helps in avoiding piracy and protecting the original work.

### **7. Geographical Indications**

These refer to the words, qualities or symbols that describes about the origins of the product and the reputation is attached because of the origin. It is essential that the qualities, reputation etc must be because of the place of the origin. It can be any geographical place name, a symbol, outline of geographical idea or anything else capable of identifying the source of the product. For e.g: Darjeeling Tea, Banaras Silk, Kullu Shawls etc. It is a special right given to a particular community, therefore the benefits of the registration of geographical indications is mutually shared by the all members of the community. These indications are protected under the act so that the uniqueness of the product can be maintained. In India, there is Geographical Indications of Goods (registration & Protection), Act 1991 which was enacted in India being the member of the World Trade Organization.

### **8. Industrial designs**

These can be any ornamental designs or the visual appearance of the product in two dimensions or three dimensions. These designs are the part of intellectual property and are regulated by the New Designs Act, 2000. This law is enacted to protect the designs of the industrial production. For the registration of the industrial designs, designs should be new and original and should relate to the functional aspect of the article. This design registration is valid for the period of 10 years and can be renewed for the period of another 5 years.

### **9. Trade Secrets**

These are the confidential business information which must be secret i.e. not accessible to the people and information should have some commercial value. The owner should have valid reason to keep it secret. According to the Uniform Trades Secret Act, 1970, trades secrets can be defined as, “Information, including a formula, pattern, compilation, program device, method, technique, or process, that: (i) derives independent economic value, actual or potential, from no being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use, and (ii) is the subject of efforts that are reasonable under the circumstances to maintain its secrecy”.

Any type of data or information can be a trade secret but should involve the commercial person and valid reason to keep it confidential.

### **10. Integrated Circuits**

Semiconductor Integrated Circuits Layout-Design Act 2000 is enacted to protect the intellectual property related to the semiconductor Integrated circuits. It means products having circuits containing



transistors, resistors and other elements of the circuit design. It protects such integrated circuits which are new and unique.

### 11. Protection of new Plant variety

The Plant Variety Protection and Farmers Rights act 2001 was enforced in India to protect the New Plant Variety. At the early stages only 12 species of the crops were considered for registration including Rice, Wheat, Maize, Sorghum, Pearl millet, Chickpea, Green gram, Black gram, Lentil, Kidney bean etc. This law was enacted with the objective to protect the farmers and to conserve India's agro-biodiversity.

### 12. Need of IPR for MSME

Micro, Small and Medium Enterprises are actually helping in the economic development of the country by providing employment, income generation, exports etc. These industries are important for the country but due to lack of financial resources, skilled manpower etc, and these industries become sick. Therefore, for the survival, such industries should become competitive and should strive for the competitive advantages through innovations. Innovations play an important role in improving the enterprises and for innovation IPR is must. There are several reasons that why India needs IPR:

1. Indian competitiveness is based more on the cheap labour and raw material but it can be a Knowledge based economy for that there is a need of IPR to convince and protect the originators about their work. This will boost the motivation to bring knowledge to the country.
2. Moreover, India is WTO nation and all 149 WTO nations have agreed for the IPR protection by including Trade Related Intellectual Property Rights (TRIPS).

IPR has proved to be helpful and useful in various economies and therefore can also be helpful for the MSME's as follows:

- a. It can prevent the competitors from imitating other's product and services.
- b. can help in making a corporate image through trademarks.
- c. can help in preventing the resources invested uselessly in Research and Development.
- d. IPR helps in increasing the market value of the company.
- e. Uniqueness and innovations can help in reaping more profits.
- f. Patents, trademarks, copyrights can help in protecting the entrepreneurs and gaining competitive advantage.
- g. helps in generating money by issuing license, commercialization and sale of the Intellectual Property.

But to gain advantage from the IPR, they should be properly managed and entrepreneurs should be made aware of the importance of IPR. So, there is a need of IPR for MSME's but can only be of importance if entrepreneurs know about it.

### 13. Summary

Micro, Small and Medium scale industries are the support for the Indian manufacturing sector. There are about 26 million MSMEs which employ more than 60 million people, and shares about 45% in manufacturing sector and hold about 40% of exports and contribute to the 8% GDP of the country. But they face several challenges like technological problems, lack of finance , IPR related issues, unawareness etc, therefore unable to register for the patents, copyrights, trademarks and Intellectual property because of which they are losing their competitive advantage. Therefore to gain the competitive strength, they should be aware of the Intellectual property Rights and Government should take steps to promote the importance of IPR for the entrepreneurs because IPR can help them in gaining competitive advantage by being unique and innovative and moreover by commercializing these IP's they can generate good profits from the business. Therefore, IP has the potential to raise the business value of the entrepreneurs and help in making them more competitive and financially strong.

