

Accepted Manuscript

Title: Innovation and intellectual property rights law – an overview of the indian law

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PII: S0970-3896(17)30586-4
DOI: <https://doi.org/10.1016/j.iimb.2017.12.003>
Reference: IIMB 276

To appear in: *IIMB Management Review*

Received date: 12-9-2016
Revised date: 11-5-2017
Accepted date: 6-12-2017

Please cite this article as: Justice S. Ravindra Bhat, Innovation and intellectual property rights law – an overview of the indian law, *IIMB Management Review* (2017), <https://doi.org/10.1016/j.iimb.2017.12.003>.

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Innovation and Intellectual Property Rights law – An overview of the Indian law

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Short Title: Innovation and Intellectual Property Rights Law in India.

Keywords: Innovation and Intellectual Property Rights law, Indian law, IPR, TRIPS, Patent law, Copyright law, Moral rights, Trademarks

Abstract:

The present article provides an overview of the various laws dealing with innovation and intellectual property rights in India. In India, the many facets of intellectual property rights are dealt in particular legislations enacted by the Parliament. These legislations operate within the overarching guarantee of the right to property provided by the Indian Constitution. While providing brief insights into the law of patents, copyrights, trademarks, designs, and remedies for violation of these rights, the article also covers questions relating to the inter-section of these rights in practice. Where appropriate, the article also refers to seminal judicial decisions on these areas of law.

Introduction

The Indian Constitution assures various fundamental rights such as the right to life¹ (expansively interpreted so as to include dignity, privacy, livelihood, right to shelter, access to emergency healthcare and clean environment), the right to equality² and non-discrimination³ (on specific grounds such as gender, descent, race, caste, religion, etc.), right to primary education,⁴ freedom of speech,⁵ association,⁶ movement and the right to business, trade, commerce.⁷ Property rights (subject to expropriation through eminent domain, based on the determination of fair compensation) were deleted from

¹Article 21, Constitution of India, 1950. *See for instance*, Kharak Singh v. State of Uttar Pradesh, AIR 1963 SC1295, Francis Coralie v. Union Territory of Delhi, AIR 1981 SC 746, ParmanandaKatara v. Union of India, AIR 1989 SC 2039.

²Article 14, Constitution of India, 1950.

³Article 15, Constitution of India, 1950.

⁴Article 21A, Constitution of India, 1950.

⁵Article 19(1)(a), Constitution of India, 1950

⁶Article 19(1)(c), Constitution of India, 1950.

⁷Article 19(1)(g), Constitution of India, 1950.

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