



INTELLECTUAL PROPERTY RIGHTS IN SOLE PROPRIETORSHIP FORM OF BUSINESS

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Abstract: *Sole proprietorship means when there is single ownership in business. Intellectual property of a sole trader requirements and concerns are, therefore, dependent on the nature and scale of operations and on relationship of business with other entities and enterprises. As this form of business has least government intervention in formation and liability is unlimited. This form is treated suitable where a single person can control over all the activities. What about Intellectual Property Right? Need to answer this question initiate the researcher to make a study on this topic. Present study aims at exploring the IP Culture in Sole proprietorship and finds includes in general that businessmen are not well informed about the potential benefits of using Intellectual Property assets in business strategy.*

Key Words: *Sole proprietorship, IP Rights, Competitiveness, innovative.*

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INTRODUCTION

In the era of Liberalization, Privatization and Globalization (LPG), Intellectual Property (IP) is a very important element in day-to-day business decisions. New products, brands and creative designs appear almost daily on the souk and are the result of continuous individual innovation and creativity. Sole proprietorship is dynamic force behind such innovations. Innovative and creative capacity, of sole trader is not always fully exploited as much Sole proprietorship are not aware of the intellectual property system or the protection it can provide for their inventions, brands, and designs. If left unprotected, a good invention or creation may be lost to larger forms like corporations that are in a better position to commercialize the product or service at a more affordable price, leaving the original inventor or creator without any financial benefit or reward. Adequate protection of an individual intellectual property is a crucial step in deterring potential contravention and in turning ideas into trade assets with a real market value. To help Sole proprietorship more fully utilize their IP assets in their business activities, the World Intellectual Property Organization (WIPO) has established a program to assist entrepreneurs, Sole proprietorship form the backbone of the Indian manufacturing sector and have become engine of economic growth in India. Why the most of the Sole proprietorship don't use or don't get the best out of their use of IP system? Need to answer this question initiate the researcher to make a study on this topic.

OBJECTIVES OF THE STUDY

- To know the status of Sole proprietorship in India.
- To assess the potential offered by IP system for enhancing the competitiveness of SME sector in India.
- To acknowledge the legal framework in respect of IPRs in India.
- To suggest the measures to be taken by Government as well as Sole proprietorship to protect their creativity and innovative capacity.

RESEARCH METHODOLOGY

This study is mainly based on secondary data gathered from various newspapers, magazines, journals, and websites. In addition to this primary data has also been collected through a snap survey using the questionnaire designed for this purpose to know the actual position



and status of application of IPRs in Sole proprietorship. Sample size is 10 sole proprietors. Study is based on sampling not the census method which limits its universality. Being the study exploratory in nature, it has been through sampling, data collection, and its analysis. Validity of the study has been tested with t-values.

OVERVIEW OF IP:

Intellectual property (IP) is an expression belonging to a number of separate types of legal monopolies over creations of the mind, both artistic and commercial, and the corresponding fields of law. Under intellectual property law, proprietor are granted certain exclusive rights to a variety of insubstantial assets, such as musical, literary, and artistic works; discoveries and inventions; and words, phrases, symbols, and designs. Common types of cerebral possessions include copyrights, trademarks, patents, industrial design rights and trade secrets in some area boundaries. There is a well-established statutory, administrative and judicial framework to safeguard intellectual property rights in India, whether they relate to patents, trademarks, copyright or industrial designs. Protection of intellectual property rights in India continues to be strengthened further. The year 1999 witnessed the consideration and passage of major legislation with regard to protection of intellectual property rights in harmony with international practices and .The Patents (Second Amendment) Bill, 1999 to further amend the Patents Act, 1970 and make it TRIPS compliant was introduced in the Upper House of Indian Parliament on December 20, 1999. In addition to the above legislative changes, the Government of India has taken several measures to streamline and strengthen the intellectual property administration system in the country. Projects relating to the modernization of patent information services and trademarks registry have been implemented with help from WIPO/UNDP. The Government of India is implementing a project for modernization of patent offices at a cost of Rs.756 million incorporating several components such as human resource development, recruiting additional examiners, infrastructure support and strengthening by way of computerization and re-engineering work practices, and elimination of backlog of patent applications.

As regards the aspect enforcement, Indian enforcement agencies are now working very effectively and there has been a notable decline in the levels of piracy in India. In addition to intensifying raids against copyright infringers, the Government has taken a number of measures to strengthen the enforcement of copyright law. Special cells for copyright



enforcement have been set up in 23 States and Union Territories. In addition, for collective administration of copyright, copyright societies have been set up for different classes of works.

WHAT THE SOLE PROPRIETORSHIP IS?

Sole proprietorship is a common form of organization in retail trade, professional firms, household and personal services. This form of organization is quite popular in India. This sector contributes significantly to the manufacturing output, employment, and export also.

NEED FOR IP PROGRAMMES FOR SOLE PROPRIETORSHIP IN INDIA

National Manufacturing Competitive Council (NMCC), set up by the Government of India as a continuing forum for policy dialogue to energize and sustain the growth of manufacturing sector in India, has suggested a five year National Manufacturing Competitiveness Programme (NMCP), particularly for the small & medium enterprises (Sole proprietorship) in India. Accordingly, they have identified and recommended nine schemes, including the programme on IPR to sustain the growth of SME sector in India.

Many new products or services embody different types of intellectual property. Forward-looking enterprises face the challenge of extracting the latent value of their IP and using it effectively in their business strategy. Companies that dedicate time and resources to protecting their intellectual property assets can increase their competitiveness in a variety of ways. Intellectual property protection helps in:

- preventing competitors from copying or closely imitating a company's products or services;
- avoiding wasteful investment in research and development (R&D) and marketing
- creating a corporate identity through a trademark and branding strategy
- negotiating licensing, franchising or other IP-based contractual agreements
- increasing the market value of the company
- acquiring venture capital and enhancing access to finance
- obtaining access to new markets

In addition, enterprises which search systematically for conflicting IP rights of others prior to seeking IP protection are able to avoid unnecessary litigation, thereby saving time and resources.



RESULTS & DISCUSSIONS

A structured questionnaire was sent to 10 Sole proprietorship to collect their perceptions and information about 5 aspects of IP Offices to encourage and protect their creativity and innovative capacity. Respondents reacted as below:

1. General Information:

- 60% respondents stated that IP offices have different contact for WIPO Sole proprietorship Division from that for WIPO in general.
- 50% of respondents stated that IP Offices have total staff of less than 50 persons and only 5% have over 500 persons.
- 30% of the respondents have declared that they have full time staff for their IP awareness and capacity building activities.
- Only 50% respondents replied about their budget for IP awareness and capacity building services. It ranges from 15% to 40%.
- All respondents have included IP services in their work plans.

2. IP Services:

- 80% respondents are satisfied with the IP awareness and capacity building services provided by IP Offices as a part of their regular plan of activities.
- Most targeted sectors are manufacturing, innovative and agribusiness enterprises.
- Inventors, entrepreneurs, customs, police and chamber of commerce are top five recipients of assistance.
- Top services offered by the IP Offices are guidance for procedure for registration of Patents, Trade Marks, and Industrial Designs, patent and trade mark information services and general training awareness creation programmes on IP for Sole proprietorship, training programs for police, customs and judiciary.
- There is lack of financial resources to IP offices to deliver IP awareness and capacity building services to entrepreneurs of Sole proprietorship.
- Only 70% of respondents are dissatisfied to maintenance of a database of contact of Sole proprietorship support institutions with IP Offices.



3. Marketing:

- Only 15% of IP Offices have a formally approved marketing policy, plan and strategy for their IP awareness and capacity building activities.
- Only 10% of the IP Offices have the official websites

4. **Sole proprietorship Support Institutions:** 90% of Respondents stated that there is lack of Sole proprietorship support institutions.

5. **WIPO Assistance:** World Intellectual Property Organization (WIPO) has established a program to assist entrepreneurs, SME-support institutions, and national governments in increasing awareness and use of the IP system among Sole proprietorship across the globe.

EVALUATION OF IPRS OF SOLE PROPRIETORSHIP

One section of questionnaire was also designed to assess the effectiveness of various IPRs to Sole proprietorship in India. The expected scores were compared to actual perceived scores for the various constituents of IPRs to find the gap between legal framework for protection of Intellectual Property and its implementation i.e. real situation of IPRS to Sole proprietorship as given in Table 4.

Table 4: Evaluation of IPRs of Sole proprietorship

S. No.	Constituent of IPRs to Sole proprietorship	Expected Mean Values	Perceived Mean Values	t-value
1.	Patents	6.45	3.29	5.99*
2.	Copyrights	3.11	1.69	4.67*
3.	Trademarks	6.69	4.49	4.12*
4.	Registered (industrial) design	4.29	2.29	4.01*
5.	Protection of IC layout design	5.38	2.32	5.87*
6.	Geographical indications	3.38	2.19	3.15*
7.	Protection of undisclosed information	5.68	3.49	3.78*

All * t-values are significant at 5% level

Source: Survey

Sole proprietorship evaluates the laws regarding intellectual property, especially Intellectual Property Rights on the basis of real situation with reference to expectations to know the effectiveness in its implementation. The difference in Gap scores (Perceptions-Expectations) points out the failure of IP system to achieve its objective but it is not hundred percent true. To some extent it has been failed on the part of Sole proprietorship themselves. The



discrepancy in the ideology and practice of the IP system in India constitutes its continued economic backwardness. All t-values are significant at 5% level that confirms that validity of the results.

Study reveals that little has been done or achieved through IP programmes. The main reasons for the contradiction are:

- Lack of Intellectual Property Organizations to support the IP system.
- Lack of awareness of IP activities among the Sole proprietorship.
- Inadequate financial resources.
- Ineffective implementation of IP strategy in the country.

RECOMMENDATIONS

To avoid the demarcation among the Sole proprietorship in India, the accessible and feasible solution is to provide them a sound knowledge of IP to make them able to take part in economic race of the world through their ideas of innovation. The existing hurdles for Sole proprietorship can be resolved by:

- Develop a methodology by government for conducting national IP surveys/studies to better assess the need of Sole proprietorship.
- Strengthen the capacity of IP Offices to provide the assistance to Sole proprietorship.
- Organizing workshops on various aspects of Intellectual Property.
- Enhancing Sole proprietorship accessibility to equity and other funds from the market.
- Enforcing the strongly implementation of IP strategy in the country.
- Providing adequate information, orientation and facilities for protecting their intellectual property.
- Improving awareness on Intellectual Property amongst Sole proprietorship to develop a positive approach towards creation, protection and management of Intellectual Property (IP) as a source of creating competitive edge in the trade and technology market for value addition.
- Providing financial assistance such as grants, banking loans, doorstep banking ICICI and HSBC banks etc.
- Providing Intellectual Property training.



CONCLUSION

There is a still requirement the pictures of efforts before filling the colors of Intellectual Property on canvas. With the expansion of markets and growth of competition, Sole proprietorship will have to aim at Intellectual Property, Business Intelligence & technical knowledge. Before reaping the fruits of Intellectual Property in the country, Intellectual Property Organization is required to organize and promote the IP activities in the villages, towns as well as in the cities. Study reveals that role of IP Offices is eminent to protect the creativity and innovative capacity of Sole proprietorship through awareness and capacity building activities, and support institutions to enable them to contribute to the growth of national economy through employment creation, productive investment and value added exports. But the actual performance of IP system is deviating from expected outcome from Sole proprietorship point of view as stated in survey analysis. So Government should take initiatives to increase the effectiveness of IP strategy which will help Sole proprietorship to preventing competitors from copying or closely imitating a company's products or services, avoiding wasteful investment in research and development (R&D) and marketing, creating a corporate identity through a trademark and branding strategy, negotiating licensing, franchising or other IP-based contractual agreements etc.. The Sole proprietorship may become the potential sector in the country, if they are supported in the right direction by the intellectual property organizations.

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