

Confidential
Final Draft
April 18, 2015

NATIONAL IPR POLICY

Submitted by: IPR Think Tank

Justice Prabha Sridevan (Retd) - Chairperson
Mrs. Prathiba M. Singh, Senior Advocate - Member
Mr. Narendra K. Sabharwal - Member & Convener
Ms. Punita Bhargava, Advocate - Member
Mr. Rajeev Srinivasan - Member
Dr. Unnat P. Pandit – Member

New Delhi
INDIA

Justice Prabha Sridevan (Retd.)
Chairperson, IPR Think Tank

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April 18, 2015

To,

Ms. Nirmala Sitharaman
Minister of State for Commerce and Industry (IC)
Government of India
Udyog Bhawan
New Delhi 110001

Dear Hon'ble Minister,

Re: National IPR Policy

I have the honour to present to you the final draft of the National IPR Policy, on behalf of the IPR Think Tank.

You may kindly recall that the first draft of the IP Policy was submitted to you on December 19, 2014. The Department of Industrial Policy and Promotion (DIPP) posted the draft Policy on its website on December 24, 2014, inviting comments from stakeholders by January 30, 2015.

The draft Policy evoked tremendous interest among stakeholders from India and abroad who responded in overwhelming numbers. Comments were received from various Ministries and Departments of the Government of India, representatives of foreign governments, international organizations, stakeholders from India and abroad, business and industry associations including MSMEs, NGOs, IP Offices, IP organizations, law firms, lawyers, IP professionals, research institutions, universities, academicians, civil society groups and members of the public. In all, 290 stakeholders/delegations sent in their comments, some of them sending multiple comments.

Simultaneous to the written comments, the Think Tank also received many requests for in-person meetings. In consultation with DIPP, we designated February 5, 2015 for such meetings but due to the large number of requests, we extended the days to February 6 and 18 as well. However, the Think Tank continued meeting stakeholders and receiving comments from them till the end of March 2015. We benefited from these in-person meetings with 60 delegations comprising 132 stakeholders. It was a revelation that so many stakeholders felt it important to be a part of the policymaking process and contributed their views.

Stakeholders' comments were diverse and in some cases diametrically opposite. All comments were duly reviewed and deliberated upon. The first draft was revised and expanded and the views were incorporated wherever considered appropriate.

Justice Prabha Sridevan (Retd.)

Chairperson, IPR Think Tank

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We have now added Special Focus Areas indicated in my letter of December 1, 2014. These sectors are industry-based like creative industries, textiles; technology-based like ICT, biotechnology, new and renewable energy; subject-based like public health, agriculture, science and technology or IP-based like geographical indications and traditional knowledge. These do not exhaust the list of areas which could have been included for indeed creativity and innovation permeate practically all aspects of life. Given the time available to us, the areas covered by us represent a fair share of the economy where IP has particular relevance.

The Policy is a result of objective consideration and informed discussion amongst us, always keeping national interest uppermost in our minds.

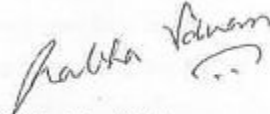
The process of drafting this Policy has been an elevating yet humbling experience for each of us. We have been conscious of the unique responsibility given and the deep trust reposed in us.

We thank Secretary, Department of Industrial Policy and Promotion and his officers, CGPTDM's office, Director General and staff of the National Productivity Council and the interns for their valuable support.

The Think Tank conveys its deep gratitude to the Government of India and to you, Hon'ble Minister for entrusting this important task to us.

We submit the final draft of the National IP Policy with the awareness that this will be the blueprint for the future, and with pride that we had the opportunity to contribute to the Nations policy framework.

Yours sincerely,



Prabha Sridevan

Encl: National IPR Policy – Final Draft

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Textiles

Traditional Knowledge

COORDINATION, IMPLEMENTATION, BENCHMARKING, MONITORING AND EVALUATION OF
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ACKNOWLEDGEMENTS

EXECUTIVE SUMMARY

The National IP Policy envisages Intellectual Property (IP) as an integral part of the overall development policy of India and adopts the motto "Creative India; Innovative India: सृजन भारत; रचित भारत". The Policy will guide and enable all creators and inventors to realize their potential for generating, protecting and utilizing IP which would contribute to wealth creation, employment opportunities and business development

The Policy aims to foster predictability, clarity and transparency in order to augment research, trade, technology transfer and investment. It will protect concerns such as public health, food security and environment, and encourage generation and diffusion of knowledge by laying a roadmap for holistic, effective and balanced development of the Indian IP system.

India has a strong legislative framework balancing its developmental priorities and international obligations. This balance will be maintained in all international negotiations and TRIPS plus provisions will be avoided. International, regional and South-South cooperation will be promoted. The strength of the substantive laws will be reinforced by equally strong administrative, enforcement mechanisms and improved judicial infrastructure.

The Policy will also ensure that IP rights are not abused and that implementation and enforcement of IP rights do not adversely affect India's developmental objectives. Towards this end, the Policy will catalyze the full potential of intellectual property for India's economic growth and socio-cultural development while promoting public interest.

The Vision and Mission of the Policy capture the spirit of IP stimulated growth in India. The Policy lays down seven Objectives which are elaborated with a set of strategies that shall be calibrated to suit the nature and requirement of each form of IP. The Objectives are briefly mentioned below.

Objective 1 - IP Awareness and Promotion: This objective envisages launch of a nationwide campaign to create public awareness about the benefits of IP, its value to the right holders and the public. The campaign will be customized to the specific needs of relevant stakeholders to accelerate development. It will propagate the value of transforming knowledge into IP assets and promote the idea of high quality and cost effective innovation as an Indian competence. Public events and ongoing programs to emphasize the importance of IP will be organized. Innovators and creators will be celebrated and honored through awards and prizes, IP Museums and a Hall of Fame.

Objective 2 - Creation of IP: This objective envisages generation and growth of IP through various measures to create a vibrant innovation ecosystem in India. A baseline survey of IP status among different stakeholders will be carried out to evaluate areas of strength and potential as well as to develop specific programs for such groups. Other measures include improving IP output of public funded research institutions, universities, technology

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institutions; setting up IP facilitation centers in industry and innovation university clusters; creating an industry-academia interface; providing 'first-time patent' fee waiver and support systems for MSMEs and grass root innovators; improving awareness among creators of the value of copyright and the importance of their economic and moral rights; streamlining payment mechanisms for them; encouraging innovation in agriculture, assistance to GI community and creation of design rights. A *sui generis* system for protection of traditional knowledge is proposed. Statutory incentives will be expanded to encourage creation and commercialization of IP. Use of global protections systems (PCT, Madrid, and Hague) will be promoted.

Objective 3 - Legal and Legislative Framework: This objective envisages a strong and effective IP legal framework that is consistent with national priorities and international obligations and which balances the interests of IP right owners with public interest. India will continue to utilize the legislative space and flexibilities available under international instruments while considering amending or enacting new laws.

Steps will be taken, in national interest and within the framework of India's international obligations to (i) review existing laws to upgrade, improve and remove anomalies; (ii) enact laws to address national needs, fill gaps in the IP regime like utility models and trade secrets; (iii) strengthen IP and innovation system and protect TK; (iv) engage actively in negotiation of international treaties and agreements and examine accession to multi-lateral treaties in India's interest; (v) review IP related rules, procedures, practices and guidelines for clarity, simplification, streamlining transparency and time bound processes; (vi) study the role of IPRs in standard setting and encourage development of global standards based on technologies and IP generated in India; and (vii) identify important areas of study and research for future policy development, such as, interplay amongst IP laws and between IP laws and other laws, IP interface with competition law and policy, protection of undisclosed information not extending to data exclusivity, exceptions and limitations and exhaustion of IP Rights.

Objective 4 - Administration and Management: This objective aims to modernize and strengthen IP administration for efficient, expeditious and cost effective grant and management of IP rights and user oriented services. It is proposed to, inter alia, (i) restructure, upgrade and grant adequate autonomy to IPOs; (ii) augment manpower; (iii) review the processes of recruitment, training career development, organizational and cadre structure; (iv) modernize the infrastructure (v) establish close cooperation between IPOs and create a common web portal; (vi) promote cooperation with IP offices in other countries for capacity building, access to databases, search and examinations and user oriented services; (vii) enhance international and bilateral cooperation and post IP attaches in select countries. Specific measures have been proposed for strengthening the Office of the Controller General of Patents Designs and Trademarks, Registrar of Copyrights and other IPOs.

Objective 5 - Commercialization of IP: This objective envisages commercialization of IP and supporting valuation, securitization, licensing and technology transfer. It proposes the

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establishment of an 'IP Promotion & Development Council' (IPPDC) as the nodal organization for the promotion, creation and commercialization of IP. Financial aspects of commercialization will be supported by suitable mechanisms. Public sector initiatives for commercialization will be promoted by utilizing technologies acquired under TADF and going-to-market activities will be supported

Objective 6 - Enforcement and Adjudication: This objective aims to (i) strengthen the enforcement and adjudicatory mechanisms for combating IP violations, piracy and counterfeiting, (ii) facilitate effective and speedy adjudication of IP disputes and (iii) promote awareness and respect for IP rights among all sections of society. It proposes specialized patent benches in four High Courts, one IP court at the district level, regional benches of IPAB and increased autonomy to the IPAB. It also proposes a centralized 'Multi-Agency Task Force' for coordinating between the various agencies and providing direction and guidance on strengthening enforcement measures,

Objective 7 - Human Capital Development: This objective aims to strengthen and expand human resources, institutions and capacities for teaching training, research and skill building in IP. Steps to be taken include establishing a national level 'Institute of Excellence' to provide thought leadership in IP; strengthening RGNIPM, Nagpur to conduct training for IP administrators and other stakeholders; energizing IP Chairs in educational institutes of higher learning; introducing IP courses/modules in major national academies and making IP a compulsory subject in all legal educational institutions and specialized apex institutions; creating of IPR cells in major professional institutes; formulating institutional IP Policy/Strategy in Government Departments, higher education, research and technical institutions; developing distance learning and on-line courses on IP; and collaborating with international organizations and reputed universities for IP research and training.

Integration with other initiatives

This IP Policy will be integrated with other government initiatives, especially Make in India, Digital India and Smart Cities, Indian inventors and creators will be enthused and enabled to create IP assets in India and utilize them in manufacturing. Foreign companies will be encouraged to bring their IP protected inventions and creations to India along with investment and technology transfer and establish their manufacturing, R&D and outsourcing bases in India. The strategies and approaches in this Policy will support other policies and initiatives of the Government.

Special Focus Areas

The Policy also deals with the IP aspects of certain specific sectors/areas, namely (i) Agriculture & Food (ii) Creative Industries (iii) Geographical Indications (iv) Information Technology & Communications (v) New & Renewable Energy (vi) Public Health (vii) Science & Technology (viii) Textiles and (ix) Traditional Knowledge.

Coordination Implementation Benchmarking, Monitoring and Evaluation

Justice Prabha Sridevan (Retd.)
Chairperson, IPR Think Tank

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It is proposed to either establish a new Ministry/Department of Intellectual Property or designate an existing Ministry/Department in the Government to coordinate, guide and oversee implementation and future development of IP in India. This Ministry/Department will be the nodal agency for overall coordination of this Policy and future development of IP in India. It will supervise preparation of Plans of Action for time bound implementation by the different Ministries and Departments. Each program or activity under the said plan of action will be benchmarked with the best practices and parameters applicable to the Indian situation. The responsibility for actual implementation of the plans of action will remain with the concerned Ministries and Departments. State governments and stakeholders will be involved in the implementation process of this Policy. Monitoring the progress of implementation will be done by the nodal Ministry/Department. The overall working of the Policy will be evaluated every year. A major review of the Policy will be undertaken after three years.

NATIONAL IPR POLICY

INTRODUCTION

Creativity and Innovation are the forces which drive growth, development and progress in the knowledge economy. "Creative India; Innovative India: सृजन भारत; रचित भारत" is the motto which will inspire India to take a lead in various fields of human accomplishments. Our Constitution enjoins us to "develop the scientific temper" and "spirit of inquiry" and "to strive towards excellence in all spheres of individual and collective activity so that the nation constantly rises to higher levels of endeavour and achievement".

India's range of intellectual creations is as diverse as its people, from patents to plant varieties, trademarks to traditional knowledge, copyright to designs and geographical indications. It has robust intellectual property (IP) laws and a strong IP jurisprudence. The legal framework does reflect the underlying policy orientation and national priorities, which have evolved over time, taking into account development needs and international commitments. An all-encompassing IP Policy will promote a holistic and conducive ecosystem to catalyze the full potential of intellectual property for India's economic growth and socio-cultural development while promoting public interest. Such a Policy will nurture the IP culture and address all facets of the IP system including legal, administrative and enforcement infrastructure, human resources, institutional support system and international dimensions. The Policy will guide and enable all creators and inventors to realize their potential for generating, protecting and utilizing IP which would contribute to wealth creation, employment opportunities and business development

The idea of being a creator and innovator must capture the imagination of our people to maximize the generation of all genres of IP rights. The Policy intends to harness the full benefits of creation and innovation in the larger interest of society and citizens. It shall weave in the strengths of the Government, research and development organizations, educational institutions, corporate entities including MSMEs and other stakeholders in the creation of an innovation-conducive environment. Government shall take a pro-active role in leveraging the strengths of the IP regime for effective development and transfer of technology, promoting creative industries, stimulating small innovations, empowering local communities in securing benefits from their knowledge base including traditional knowledge, encouraging institutions which focus on IPRs like plant breeding and farming, and protecting our bio-diversity from inequitable bio-prospecting.

India is party to a number of international treaties and conventions including the TRIPS Agreement. India is fully conscious of its international obligations and has always abided by them. At the same time, it has protected the national interest and balanced the rights of IP owners with their obligations to society. In future negotiations in international forums and with other countries, India shall continue to give precedence to its national development priorities whilst adhering to its international commitments and avoiding TRIPS plus provisions. The policy space and flexibilities available under the international instruments

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will continue to be used judiciously. India will strengthen its negotiating profile and engage constructively and proactively in international negotiations with a view to evolving fair and balanced consensus based solutions. International co-operation as well as regional and South-South cooperation will be promoted.

The Policy intends to reinforce the strengths of our substantive laws with equally strong administrative and procedural mechanisms and improved judicial infrastructure. The Policy aims to foster predictability, clarity and transparency in the entire IP regime in order to provide a secure and stable climate for stimulating inventions and creations, and augmenting research, trade, technology transfer and investment. Piracy and counterfeiting discourage creators of IP and have a deleterious effect on the economy and consumers, and the same shall be sternly dealt with. The Policy will ensure that IP rights are not abused and that implementation and enforcement of IP rights do not adversely affect India's developmental objectives.

The National IP Policy envisages IP as an integral part of India's overall development policy. The Policy recognizes that IP will sub-serve the current and future national priorities. It will integrate and create synergies with IP related aspects of various sector specific policies. It will provide a roadmap for holistic, effective and balanced development of the IP system in India.

AN OVERVIEW OF THE IP SYSTEM IN INDIA

India has made definite strides in the protection, administration, management and enforcement of IP. The growth of the IP system has acquired a palpable vibrancy during the last two decades.

The statutes governing different kinds of IP in India are Trade Marks Act, 1999; Patents Act, 1970 (as amended in 2005); Copyright Act, 1957 (as amended in 2012); Designs Act, 2000; Geographical Indications of Goods (Registration and Protection) Act, 1999; Protection of Plant Varieties and Farmers' Rights Act, 2001; Semiconductor Integrated Circuits Layout-Design Act, 2000 and Biological Diversity Act, 2002.

The nodal department for trademarks, patents, designs and geographical indications is the DIPP which functions under the Ministry of Commerce and Industry; copyright is administered by the Ministry of Human Resource Development; semiconductor integrated circuits layout-designs by Department of Information Technology; plant varieties and farmers' rights by the Ministry of Agriculture; and biodiversity by the Ministry of Environment and Forests.

India's statutory framework is robust, effective and balanced. It is in consonance with national development priorities and in conformity with international treaties, conventions

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and agreements to which India is a party. India's laws are notable for their far-sightedness and have also anticipated international developments.

IP offices have been modernized and there is a perceptible change for the better. The accession to the Madrid Protocol in 2013 is a step towards global alignment for proprietors of marks. The Indian IPO has become an International Search Authority and an International Preliminary Examination Authority under the PCT. This should lead to a further increase in IP filings. The increase in manpower for the IP offices has already been sanctioned and so backlogs should reduce considerably over the next 2-3 years. The strengthening and modernization of IP offices is a continuous process to which the Government is committed.

Indian laws provide for both civil and criminal remedies for IP enforcement. The Government has taken effective steps at all levels to enforce IP rights. The legal, administrative and enforcement machinery has been strengthened. The customs and police enforcement machinery has been streamlined and the measures for curbing piracy and counterfeiting related activities have become progressively more effective.

The IP regime in India has adequate safeguards in the form of judicial review and appellate provisions. The Indian judiciary is a strong and independent pillar of the State and has made immense contribution in enforcing IP rights. Judgments of Indian courts relating to IP disputes have clearly expressed the intent and purpose of our laws.

India has a very large copyright-based creative industry. The Copyright Act is comprehensive and with the recent amendments, the rights of creators have been strengthened. India was the first country to ratify the Marrakesh Treaty 2013 for Access to copyright works for visually impaired persons. Enforcement in copyright has been significant and will be further reinforced. Judgments of Indian courts have adequately balanced the rights of copyright owners with the rights of public. Moral rights are fully recognized. The challenge in future is enforcement of copyright in digital platforms for which the statute has adequate provisions. Indian copyright owners are also victims of global copyright violations and piracy. India will continue to engage with international community in efforts to protect copyright owners in general and Indian copyright owners in particular.

India is one of the few countries that recognized concepts like well-known marks, protection for colour combinations and shapes in its trademark jurisprudence even before statutory recognition. One of the positive features of trademark protection in India is that trademarks are being registered and enforced by small and big entrepreneurs alike.

India has adopted a balanced approach towards patent law. It is committed to protect innovation while promoting the larger goal of welfare of its citizens. Courts and tribunals have upheld key provisions of India's patent law by their authoritative pronouncements. The system of pre-grant and post-grant oppositions introduced in 2005 ensures that only deserving patents are granted. Many of the procedural issues that arose from these amendments have been resolved. Patents of addition are also available for improvements

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and modifications. It is expected that there would be a steady evolution of patent jurisprudence in India. Patent filings too have gone up by 10.56% from 2008-2009 to 2013-2014. Over 75% of patent filings are by foreign entities and so there is a need for concerted action to be taken to increase filings by Indians.

Industrial designs law was amended in the year 2000. Courts have recognized passing off rights and copyright in designs. Overall, the law of industrial designs and enforcement thereof has been quite positive. At present, approximately 8000 applications are filed annually. This is much below India's potential and there is scope for considerable improvement. Concerted steps shall be taken particularly to increase sensitization to this law especially in the MSMEs and the informal sector.

Geographical indications have seen a recent spurt in filings and over 200 registrations have been granted. The Government is committed to ensure greater and effective protection of GIs nationally and internationally.

The creation of the Traditional Knowledge Digital Library (TKDL) has been a major achievement for India which has a vast pool of traditional knowledge. India has been able to thwart attempts to misappropriate its traditional knowledge. The next challenge is to use India's strength in traditional knowledge for its effective promotion, development and utilization

The Protection of Plant Varieties and Farmers' Rights Act, 2001 is a *sui generis* legislation in India providing protection for plant varieties and rights of farmers. The trends in registration under this Act are very encouraging. Since 2007, over 8000 applications have been filed for plant varieties out of which about 50% are by farmers. Benefit sharing and commercialization are two areas which need attention.

The first registration under the Semiconductor Integrated Circuits Layout-Design Act, 2000 was granted in October 2014. It is expected that the industry will make increased use of this right to protect integrated circuit layout designs.

The present status of IP systems in India is quite positive. IP consciousness is on the increase amongst the creators and innovators leading to the development of a strong IP culture. India shall continue to strike the right balance between protection of innovation and the larger goal of betterment of society. '

VISION AND MISSION

The National IP Policy has been formulated with the following Vision, Mission and: "" Objectives. Each Objective has been elaborated with a set of strategies or measures which5 are proposed to be taken for the achievement of that objective and will be tailored to suit the nature and requirement of each form of IP.

VISION

An India where creativity and innovation are stimulated by Intellectual Property for the benefit of all; an India where intellectual property promotes advancement in science and technology, arts and culture, traditional knowledge and biodiversity resources; an India where knowledge is the main driver of development, and knowledge owned is transformed into knowledge shared.

MISSION

Establish a dynamic, vibrant and balanced intellectual property system in India to:

- Foster creativity and innovation in a knowledge economy;
- Accelerate economic growth, employment and entrepreneurship;
- Enhance socio-cultural development; and
- Protect public health, food security and environment, among other areas of socio-economic importance.

OBJECTIVES

Objective 1: IP Awareness and Promotion

To create public awareness about the economic, social and cultural benefits of IP among all sections of society for accelerating development, promoting entrepreneurship, enhancing employment and increasing competitiveness.

Traditionally, knowledge was viewed in India as something that is created and put in the public domain. Monetization of knowledge was not the norm and in one sense ideas blew in from all directions. While laudable and altruistic, this does not fit with the global regime of strongly protected IP. Hence, there is a need to propagate the value of transforming knowledge into IP assets.

Many IP holders are unaware of the benefits of IP rights or of their own capabilities to create IP assets or the value of their ideas. They are often discouraged by the complexities of the process of creating defensible IP rights. Conversely, they may be unaware of the value of others' IP rights and the need to respect the same. The proposed outreach and promotion programs will illuminate both perspectives

A nation-wide program of promotion will be launched with an aim to improve the awareness about the benefits of IPRs and their value to the rights-holders and the public. Such a program will build an atmosphere where creativity and innovation are encouraged in public and private sectors, R&D centers, industry and academia, leading to generation of protectable IP that can be commercialized. It is also necessary to reach out to the less-visible IP generators and holders, especially in rural and remote areas. The immediate economic

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rationale for individuals and the community, as well as the pride in being innovative, should be conveyed effectively to the public.

In pursuit of this objective, steps will be taken to:

- 1.1 Adopt the national slogan "Creative India; Innovative India: सृजन भारत; रचित भारत" and launch an associated campaign on electronic, print and social media by linking the campaign with other national initiatives such as "Make in India", "Digital India", "Skill India" and "Smart Cities";
- 1.2 Create a systematic campaign for promotion of India's IP strengths by conveying to all stakeholders the value and benefits of IP by:
 - 1.2.1 Customizing programs for specific needs of industries, MSMEs, R&D institutions, science and technology institutes, universities and colleges, inventors and creators, entrepreneurs;
 - 1.2.2 Reaching out to small businesses, farmers/plant variety users, traditional knowledge holders, designers and artisans through campaigns tailored to their needs and concerns;
 - 1.2.3 Including case studies of successful use of IPRs in campaigns to create value in the respective domains;
 - 1.2.4 Promoting the idea of high quality and cost-effective innovation as a particularly Indian competence leading to competitive advantage;
 - 1.2.5 Involving eminent personalities as 'ambassadors' to spread awareness and importance of IP in India;
 - 1.2.6 Using audio/visual material in print/electronic/social media for propagation;
 - 1.2.7 Creating moving exhibits (e.g. a train with a theme that will criss-cross the nation, road shows) that can travel to all parts of the country;
 - 1.2.8 Creating materials for IP promotion in multiple languages and pictorial form for those who cannot read;
 - 1.2.9 Studying best practices and success stories in other countries to design and launch public outreach programs
- 1.3 Create awareness programs specifically targeting industry and R&D entities, both private and public by:
 - 1.3.1 Providing scientists/researchers with a deeper level of understanding about the need to protect their inventions even before publishing;
 - 1.3.2 Engaging public funded research organizations and the private sector to create campaigns highlighting the process of IP creation and the value generated therefrom;
 - 1.3.3 Encourage multi-national corporations and other large corporate entities to develop IP programs for their employees and adapt and propagate them to the public;

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- 1.3.4 Creating materials for MSMEs highlighting special support mechanisms for them to develop and protect IP.
- 1.4 Create well-publicized events and ongoing programs to emphasize the importance of IP by:
 - 1.4.1 Partnering with industry bodies, large corporations and institutions of R&D and higher learning to establish Innovation, Creativity and IP museum(s);
 - 1.4.2 Announcing with the help of State governments, Innovation and IP Days especially in major industrial, innovation and university clusters; celebrate 'World IP Day' in different cities and institutions;
 - 1.4.3 Setting up India's 'Hall of Fame' to celebrate IP innovators and creators;
 - 1.4.4 Instituting prizes and awards to encourage IP creation activity in specific sectors.
- 1.5 Create suitable course materials for:
 - 1.5.1 Educational institutions at all levels to emphasize the importance of IP rights;
 - 1.5.2 Online and distance learning programs for all categories of users.
- 1.6 Engage with the media to sensitize them regarding IP related issues.

Objective 2: Creation of IP

To stimulate the creation and growth of intellectual property through measures that encourage IP generation.

The IP generators in India come from diverse groups. There is a need to strengthen the creativity and innovation ecosystem to tap this fertile knowledge resource and stimulate creation of IP assets. While promoting IP creation in areas which need improvement, it is necessary to simultaneously bring to limelight those IPs which are India's special strengths and where India has future potential. Increased IP generation will play a significant role in establishing a vibrant innovation ecosystem in India.

To plan for a comprehensive strategy to augment the creation of IP assets, a base line survey using research and data from all stakeholders is desirable. This will help identify the actual, potential and untapped areas of creativity and innovation and facilitate preparation of a focused strategy to channelize efforts and financial resources where they are needed.

The profile of IP filings and registrations/grants is one of the parameters, though not the only one, to assess the current status and potential of IP creation in a country. In India, the number of patent filings has increased in the last few years, but the percentage of filings by Indians is relatively low. In the case of trademarks, India is among the top five filers in the world, the majority of which are filed by Indians. The number of design applications filed is

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nowhere near India's potential, given its vast pool of designers, artisans and artists. GIs is an area of strength and optimism for India where it has accorded protection to a number of manufactured products especially in the informal sector. The copyright based sector contributes significantly to the Indian economy and its future potential is immense. In the area of plant varieties and farmers' rights, the number of filings and registrations are very encouraging. There is considerable unexplored potential for developing promoting and utilizing traditional knowledge, which is a unique endowment of India. In each of the above areas, concerted efforts and targeted measures will help Indian creators and innovators to significantly augment generation of IP.

India has one of the largest pools of scientific and technological talent in the world. In several sectors they have created considerable technological output without commensurate IP generation This talent pool is spread over R&D institutions, large, medium and small enterprises, universities and technical institutes. It is necessary to come up with targeted programs to encourage them to generate IPRs and utilize them in developing new technologies, products and solutions particularly in areas of national priority.

India has a large number of inventions that may not satisfy the criteria of patentability under the Patents Act. Such inventions can be protected by a law on 'utility models' – a form of IP successfully applied in many countries but not available in India. This leaves out a large number of inventors from protecting their inventions by IPRs, particularly the MSMEs and in the unorganized/informal sectors, MSMEs account for about 45% of manufacturing output, but their potential IP assets are recognized only in a limited, often informal, manner. Therefore, the need exists for a new law on utility models with defined applicability, in harmony with other IP laws and easy to administer and enforce.

One of the results of enhanced IP creation will be to raise India's position in the global indices of innovation and competitiveness.

In pursuit of this objective of IP creation, steps will be taken to:

- 2.1 Use the campaign "Creative India; Innovative India: सृजन भारत; रचित भारत", to propagate the value of creativity and innovation, and the resultant benefit to the public; to create a mindset and culture that encourages knowledge generation and its application through IP;
- 2.2 Carry out a comprehensive IP audit or base line survey in various sectors in cooperation with stakeholders to assess and evaluate areas of strength and potential, prioritize target groups of inventors and creators, develop specific programs to address their needs, provide resources to enable them to create IP assets and utilize them for their own and social benefit;
- 2.3 Undertake studies to assess the contribution of different IP based industries on the economy, employment, exports and technology transfer;

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- 2.4 Focus on improving IP output of national research laboratories, universities, technology institutions and other researchers by encouraging and facilitating the acquisition of intellectual property rights by them;
- 2.5 Include IP creation as a key performance metric for public funded R&D entities as well as technology institutions, and gradually extend such evaluation from Tier-1 to Tier-2 institutions;
- 2.6 Provide guidance to researchers and innovators about national priority areas to focus on, for instance in energy and food security, healthcare and agriculture, as well as specific sectors such as biotechnology, data analytics, nanotechnology, new materials and ICT;
- 2.7 Establish and strengthen IP facilitation centers as nodal points especially in industrial and innovation university clusters;
- 2.8 Create an industry-academia interface for encouraging cross-fertilization of ideas and IPR-driven research and innovation in jointly identified areas;
- 2.9 Stimulate large corporations, both Indian and foreign, that have R&D operations, to create, protect and utilize IP in India;
- 2.10 Improve awareness of the value of copyright for creators, the importance of their economic and moral rights and streamline the payment mechanisms for them;
- 2.11 Facilitate creation and protection of small inventions through a new law on utility models;
- 2.12 Introduce the 'first time patent' fee waiver and support systems for MSMEs and grass root innovators, and reduce transaction costs in other ways (e.g. prior art search);
- 2.13 Provide statutory incentives, like tax benefits linked to IP creation, for the entire value chain from IP creation to commercialization;
- 2.14 Increase awareness of international mechanisms and treaties (e.g. PCT, Madrid, Hague) to encourage creation and protection of IP in global markets;
- 2.15 Encourage and incentivize IP generation and utilization among students at all levels, use awareness programs and educational materials to inculcate an appreciation for the value of IP;
- 2.16 Encourage innovations in the agriculture sector through application of IP for a higher sustainable agricultural production;

- 2.17 Encourage the registration of Geographical Indications through support institutions; assist GI producers to define and maintain acceptable quality standards and providing better marketability;
- 2.18 Create a *sui generis* system for protection of Traditional Knowledge and Traditional Cultural Expressions to safeguard them from misappropriation as well as promote their future development;
- 2.19 Encourage creation of design related IP rights by identifying nurturing and promoting the aspects of innovation protectable under the design law and educating designers to utilize and benefit (from their designs; involve the NIDs, NIFTs and others institutions in sensitization campaigns.

Objective 3: Legal and Legislative Framework

To have strong and effective laws with regard to IP rights that are consistent with national priorities and international obligations and which balance the interests of rights owners with public interest.

India recognizes that effective protection of IP rights is essential for making optimal use of the innovative and creative capabilities of its people. India has a long history of IP laws which have evolved taking into consideration national needs and international commitments. The existing laws were either enacted or revised after the TRIPS Agreement and are fully compliant with it. These laws along with various judicial pronouncements provide a stable and effective legal framework for protection and promotion of IP. India will continue to utilize the legislative space and flexibilities available in international treaties and the TRIPS Agreement while considering amending or enacting new laws.

It is acknowledged that laws need revisiting to keep up with several factors including issues of national importance global developments, progress in science and technology as well as socio-economic needs. Since it is difficult to predict the reach of existing laws in a changing and dynamic knowledge field, it becomes necessary to carry out legislative changes, as may be required from time to time. For this purpose, objective and analytical studies will be garnered and inputs will be invited from all stakeholders to keep the laws updated in consonance with national needs and priorities. The aim is to provide a legal framework for strong, effective and balanced protection of IP rights and to impart predictability transparency and efficiency in the administration and enforcement of IP laws. This will ensure a secure climate is available to all stakeholders for fully realizing the benefits of IP.

In pursuit of this objective, steps will be taken, in national interest and within the framework of India's international obligations, to:

- 3.1 Review existing IP laws, where necessary, to update and improve them or to remove anomalies and inconsistencies, if any;

- 3.2 Enact laws to address national needs; to fill gaps in the protective regime of IPRs such as Utility Models and Trade Secrets; to keep up with advancements in science and technology; to strengthen the IP and innovation eco-system, for example by a law on IP created from public funded research; to protect and promote traditional knowledge;
- 3.3 Engage constructively in the negotiation of international treaties and agreements in consultation with stakeholders; examine accession to some multi-lateral treaties which are in India's interest; and become signatory to those treaties which India has *de facto* implemented to enable it to participate in their decision making process;
- 3.4 Review and update IP related rules, guidelines, procedures and practices for clarity, simplification; streamlining, transparency and time bound processes in administration and enforcement of IP rights;
- 3.5 Study the role of IPRs in setting standards in the various areas of technology; actively participate in standards setting processes at national, international and industry Standard Setting Organizations' levels and to encourage the development of global standards that are influenced by technologies and IP generated in India
- 3.6 Identify important areas of study and research for future policy development, such as:
 - 3.6.1 Interplay amongst IP laws; and between IP laws and other laws to remove ambiguities and inconsistencies, if any;
 - 3.6.2 IP interface with competition law and policy;
 - 3.6.3 Protection of undisclosed information not extending to data exclusivity;
 - 3.6.4 Guidelines for authorities whose respective jurisdictions impact administration or enforcement of IPRs such as patents and biodiversity;
 - 3.6.5 Exceptions and limitations;
 - 3.6.6 Exhaustion of IP Rights.

Objective 4: IP Administration and Management

To modernize and strengthen IP administration for efficient, expeditious and cost-effective grant and management of IP rights and user oriented services.

Legislation of strong and good IP laws requires efficient and motivated administration and management to implement them effectively to the satisfaction of the user community. Sensitization of the IP officers at all levels with regard to the objects and reasons of our laws, international obligations and linkages between different IP laws; their continuous education and training and regular audit of their work will translate the law from paper to reality.

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The Offices that administer the different Intellectual Property rights (IPOs) are the cornerstone of an efficient and balanced IP system, administering laws, granting IP rights, providing IP related services to the users and serving as a bridge between the government, IP support institutions and the user community. As intellectual property increases in significance and contributes to economic development, the importance and role of IP administration and management has also expanded. This in turn, influences the organization, structure and functions of modern IPOs.

IPOs now have the twin challenges of making their operations more efficient, streamlined and cost effective while administering national laws and global protection systems with expanding work load and technological complexity on one hand, and enhancing their user-friendliness by developing and providing value added services to the user community on the other,

The trend in most countries is to upgrade the IPOs, to provide them adequate autonomy in their management, personnel and financial working and regard them as important developmental agencies rather than just regulatory bodies. Therefore, the organization, structure and funding patterns of the IPOs in India also need to evolve.

In pursuit of this objective, steps will be taken in all offices administering IP (IPOs) to:

- 4.1 Restructure, upgrade and grant adequate autonomy to IPOs taking into account the rapid growth and diversity of IP users and services, higher responsibilities and increased workload;
- 4.2 Augment manpower after analyzing projected workload, speedy liquidation of backlog, requirements of global protection systems and productivity parameters;
- 4.3 Study and review the organizational and cadre structure, processes of recruitment, training career development, performance based incentives to attract and retain the best talent to enhance efficiency and productivity,-
- 4.4 Modernize further the physical and ICT infrastructure taking into account the expanding needs of the IPOs and to accelerate e-filings, e-processing and other services;
- 4.5 Collaborate with various R&D institutions, universities, funding agencies, chambers of industry and commerce in providing advisory services to improve IP creation, management and utilization;
- 4.6 Establish close cooperation between IPOs and create a common web portal for ease of access to statutes, regulations, guidelines, databases and for better coordination;

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- 4.7 Promote cooperation with IP offices in other countries in areas of capacity building, human resource development, training, access to databases, best practices in search and examinations, use of ICT and user oriented services;
- 4.8 Introduce approaches and mechanisms so that benefits of the IP system reach all inventors including MSMEs, informal innovators and holders of traditional knowledge;
- 4.9 Enhance international and bilateral cooperation and post IP Attaches in select countries to follow IP developments and advice on IP related matters.

4.10 Office of the Controller General of Patents Designs and Trademarks

The office of CGPDTM, which administers patents, designs, trademarks and GIs, will:

- 4.10.1 Fix and adhere to timelines for grant of registrations and disposal of opposition matters;
- 4.10.2 Adopt best practices with respect to filing and docketing of documents, maintenance of records and digitizing the same including document workflow and tracking systems;
- 4.10.3 Create a service-oriented culture, including appointing public relations officers who would make the IP office user friendly;
- 4.10.4 Take steps to expedite digitization of the Design office and enable online search and filing;
- 4.10.5 Ensure that public records in the IP office are easily available and accessible both online and offline;
- 4.10.6 Conduct periodic audits of processes being adopted in IP administration for efficient grant and management of IP rights;
- 4.10.7 Implement quality standards at all stages of operations with the aim to obtain ISO certification;
- 4.10.8 Establish effective coordination between its office and National Biodiversity Authority to enable harmonious implementation of guidelines relating to grant of patents on inventions using biological resources and associated TK;
- 4.10.9 Provide continuous training to staff of the IP Office to update them of developments in procedures (especially search and examination), substantive laws and technologies, with the Rajiv Gandhi National Institute of Intellectual Property Management, Nagpur (RGNIPM);
- 4.10.10 Remove disparities among different branches of the trademark registries and patent offices and adopt standardized procedures in examination/grant of applications including maintenance of rights;
- 4.10.11 Implement centralized priority field-wise on a national basis for patent applications;

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- 4.10.12 Examine joining Centralized Access for Search and Examination(CASE) and WIPO Digital Access Services (DAS); examine the desirability of a pilot project for assessing the benefits of the Patent Prosecution Highway;
- 4.10.13 Existing guidelines published by the Patent Office shall be reviewed periodically and revised to reflect legislative provisions;
- 4.10.14 value added services in the form of helpdesks, awareness and training materials, patent mapping, licensing and technology transfer support services, ease of remote access of the international patent search mechanisms and other IP related databases;
- 4.10.15 Implement incentives for MSMEs and grass root innovators to encourage filing by the said sector like waiver of official fee, support of examiners and pro bono legal help for first time filing;
- 4.10.16 Conduct patent and trademark agent examinations at regular intervals; arrange training programs and involve them in capacity building activities.

4.11 Office of Registrar of Copyrights

The Government will:

- 4.11.1 Take measures to expedite modernization of the Copyright Office in terms of office space and infrastructure organizational structure, e-filing facility including e-applications, processing and issue of final extracts of registrations;
- 4.11.2 Digitize copyright records and introduce on-line search facility
- 4.11.3 Provide necessary manpower and adequate training facilities to personnel in the Copyright Office;
- 4.11.4 Take urgent measures for effective management and administration of copyright societies to ensure transparency and efficiency in the collection and disbursement of royalties in the best interest of the right holders;
- 4.11.5 Provide user friendly services in the form of helpdesks, awareness and training materials.

4.12 The Protection of Plant Varieties and Farmers' Rights Authority

The Protection of Plant Varieties and Farmers' Rights Authority will:

- 4.12.1 Support increased registration of new, extant and essentially derived varieties of plants and streamline procedures;
- 4.12.2 Facilitate development of seeds and their commercialization by farmers;
- 4.12.3 Establish links between the Authority and agricultural universities, research institutions, technology development & management centres and Krishi Vigyan Kendras;
- 4.12.4 Coordinate with other IPOs for training, sharing expertise and adopting best practices;
- 4.12.5 Augment awareness building, training and teaching programs,-
- 4.12.6 Modernize office infrastructure and use of ICT.

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4.13 Registrar of Semiconductor Integrated Circuits Layout Design

The Registrar will study the reasons for lack of interest in filings under The Semiconductor Integrated Circuits Layout Design Act, 2000 and suggest appropriate remedial measures.

4.14 National Biodiversity Authority

4.14.1 The Government will formalize a consultation and coordination mechanism between the NBA and IPOs with a view to harmonious implementation of guidelines for grant of IP rights and access to biological resources and associated traditional knowledge and benefit sharing;

4.14.2 The NBA will streamline approvals by the NBA for expeditious grant of IP rights and benefit sharing and introduce efficient and user friendly mechanisms for a meaningful interface between the NBA and applicants.

Objective 5: Commercialization of IP

To augment commercialization of IP rights: valuation, licensing and technology transfer.

The value and economic reward for the owners of IP rights comes only from their commercialization. Presently the extent and scope of commercialization of IP rights is limited and there is no coordinated platform or agency for encouraging and promoting it. Commercialization needs to be stimulated by infrastructural and financial support to creators and inventors; and by business-to-business and industry-academia collaborations. This can be achieved by means like sale, productization, licensing and technology transfer; business collaboration such as joint ventures and M&A; public private partnership; securitization; venture funding; financial incentives; and support for innovative startups.

The major generators of IP from various sectors need to focus on maximizing the commercial value from their IP by devising appropriate strategies and exploring the most suitable avenue available for development and marketing of their products and services.

A concerted effort should be made for capitalizing the existing IP assets in the country. Both entrepreneurship and intra-preneurship should be encouraged so that the value from IP may be captured. Existing mechanisms (e.g. Incubators and Accelerators) set up to promote entrepreneurship will be strengthened with IP-oriented services.

In the case of IP generated by informal or economically disadvantaged sectors, importance of commercialization cannot be overemphasized. Government shall support such sectors in commercialization of IP. This will help in overall development where no IP owner is left behind. In addition, the opportunity to reach an international audience should be made visible to smaller IP rights holders.

Financing is a major impediment for entrepreneurs and therefore it is necessary to connect investors and IP creators. Another constraint faced is valuation of IP and assessment of the

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potential of the IP for the purpose of marketing it. Such an assessment should also involve access and analysis of IP documentation to determine technology mapping, market niches and marketing links (e.g. patentscaping, franchising, licensing)

In pursuit of this objective, steps will be taken to:

- 5.1 Establish an IP Promotion & Development Council (IPPDC) as the nodal organization for the promotion, creation and commercialization of IP assets. IPPDC shall have adequate representation of the main stakeholders in its governing structure, It shall:
 - 5.1.1 Provide a platform for IP owners and users of IP by establishing an IP Exchange in the Council as a facilitator for creators and innovators to be connected with potential users, buyers and funding agencies;
 - 5.1.2 Promote licensing and technology transfer for IP; devising suitable contractual and licensing guidelines to enable commercialization of IP; promote patent pooling and cross licensing to create IP based products and services;
 - 5.1.3 Provide support for MSMEs, individual inventors and innovators from the informal sectors with enablers like facilitation centers for single window services to help them commercialize their IPRs;
 - 5.1.4 Identify opportunities for marketing Indian IP-based products and services to a global audience;
 - 5.1.5 Establish links among different organizations for exchange of information and ideas as also to develop promotional/educational products and services;
 - 5.1.6 Facilitate access to databases on Indian IP and global databases of creators/innovators, market analysts, funding agencies, IP intermediaries;
 - 5.1.7 Study and facilitate implementation of best practices for promotion and commercialization of IP within the country and outside;
 - 5.1.8 Establish IP Promotion and Development Units (IPPDUs) in various regions
- 5.2 Promote collaborative IP generation and commercialization efforts between R&D institutions, industry, academia and funding agencies;
- 5.3 Support the financial aspects of IP commercialization by:
 - 5.3.1 Enabling valuation of IP rights as intangible assets by application of appropriate methodologies and guidelines; IP rights and their use as collateral;
 - 5.3.2 Facilitating investments in IP driven industries and services through the proposed IP Exchange for bringing investors/funding agencies and IP owners/users together;
 - 5.3.3 Providing financial support to the less empowered groups of IP owners or creators like farmers, weavers, artisans, craftsmen, artists etc. through financial institutions like rural banks or cooperative banks offering IP loans;

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- 5.3.4 Providing financial support for development and commercialization of IP assets through links with financial institutions including banks, venture capital funds, angel funds, crowd funding mechanisms;
 - 5.3.5 Taking stock of all IP funding by the Government and suggesting measures to consolidate the same to the extent possible; scaling up the funding as needed and avoiding duplication; enhancing the visibility of IP and innovation related funds so that utilization is increased; performance based evaluation for continued funding;
 - 5.3.6 Regulating IP created through public funded research by a suitable law.
- 5.4 Promote public sector initiatives for IP commercialization by:
- 5.4.1 Utilizing technologies acquired under the patent pool of the Technology Acquisition and Development Fund (TADF) and licensed as per provisions in the Manufacturing Policy;
 - 5.4.2 Supporting initiatives taken by public sector research entities to commercialize their IPRs, for example by establishing corporate entities for commercialization;
 - 5.4.3 Developing skills among inventors and researchers to access, interpret and analyze the techno-legal and business information contained in IP documents
- 5.5 Promote going-to-market activities by:
- 5.5.1 Creating mechanisms to help MSMEs and research institutions to validate, scale and pilot through market testing;
 - 5.5.2 Providing seed funding for marketing activities such as participating in trade fairs, industry standards bodies and other forums;
 - 5.5.3 Providing guidance and support to IPR owners about commercial opportunities of e-commerce through Internet and mobile platforms;
 - 5.5.4 Encouraging enterprises to create brand equity from their IP rights such as trademarks and GIs

Objective 6: Enforcement and Adjudication

To strengthen the enforcement and adjudicatory mechanisms for combating IP violations, piracy and counterfeiting; to facilitate effective and speedy adjudication of IP disputes; to promote awareness and respect for IP rights among all sections of society.

IP rights are essentially private rights. The primary obligation of protecting IP rights is on the IP owners who can seek legal remedies for enforcement of their rights. Along with effective enforcement of IP rights, it is equally important to balance the rights of the public to prevent misuse or excess of IP rights.

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The Government on its part has taken steps through relevant authorities to curb violations of IP rights. The Intellectual Property Rights (Imported Goods) Enforcement Rules 2007 have been framed to implement border control measures. The Ministry of Human Resources Development has set up a Copyright Enforcement Advisory Council (CEAC) with representatives from concerned Ministries/Departments, industry bodies and police to advise the Government on measures to improve enforcement of copyright and review the progress made. Some state governments have also created IP cells in police departments including under the Economic Offences Wings.

IP owners have also realized the need to organize themselves to protect their rights. Certain IP Owners Associations and IPR Committees have been set up by national level chambers of industry to generate awareness on issues relating to infringement, piracy and counterfeiting, undertake market intelligence studies and devise action plans for better enforcement. A number of organizations in the field of creative industries and in the manufacturing sector have sensitization programs on the ills of piracy and counterfeiting and co-operate proactively with enforcement authorities. Special training programs and toolkits have been created for customs and police to detect infringing goods and take remedial actions.

Courts and specialized IP tribunals have led the way in protecting rights of the owners while balancing public interest and their judgments have a far reaching impact. It is therefore imperative that the tribunals are strengthened and their autonomy respected. In recent times, India has witnessed an increase in IP disputes. Patents have a limited term and patent disputes need to be adjudicated expeditiously.

Piracy and counterfeiting result in loss to the IP owners and to the exchequer, besides causing harm to the consumers. These violations often have links with organized crime and ramifications for security. Indian creative industries are estimated to suffer significant loss due to piracy in India and other countries. Similarly, there is considerable loss to Indian industry and business on account of counterfeiting.

Online piracy has assumed increasing significance and by its very nature blurs geographical borders, which creates difficulties in enforcement. It is in India's interest to further strengthen the enforcement authorities and step up enforcement measures so that IP violations including online piracy can be curbed effectively, efficiently and swiftly. Adjudication of IP disputes also ought to be effective and expeditious. Additionally, in order to check piracy and counterfeiting on a voluntary basis, efforts shall be made to sensitize society to the value of IP and create respect for IP rights.

In pursuit of this objective, steps will be taken to:

6.1 Create awareness of the value of IP and respect for IP culture by:

- 6.1.1 Educating the general public, especially the youth and students, on ills of counterfeit and pirated products;

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- 6.1.2 Engaging with all levels of industry, including e-business, in order to create respect for IP rights and devise collaborative strategies and tools.
 - 6.1.3 Sensitizing inventors, creators of IP on measures for protection and enforcement of their rights.
- 6.2 Strengthen the enforcement mechanisms for better protection of IP rights by:
- 6.2.1 Establishing a centralized 'Multi-Agency Task Force' for coordination between the various agencies and providing direction and guidance on strengthening enforcement measures; coordinating with and sharing of intelligence and best practices at the national and international level; studying the extent of IP violations in various sectors; examining the implications of jurisdictional difficulties among enforcement authorities; and introducing appropriate technology based solutions for curbing digital piracy;
 - 6.2.2 Working closely with state governments for establishment of IP cells for curbing IP offences;
 - 6.2.3 Augmenting man power, infrastructure facilities and technological capabilities of the enforcement agencies and building capacity to check proliferation of digital crimes;
 - 6.2.4 Providing regular training, including refresher training, for officials in the enforcement agencies at their academies;
 - 6.2.5 Encouraging application of technology based solutions in the enforcement of IP rights;
 - 6.2.6 Initiating fact-finding studies in collaboration with stakeholders concerned to assess the extent of counterfeiting and piracy and the reasons behind it as well as measures to combat it;
 - 6.2.7 Taking up the issue of Indian works and products being pirated and counterfeited abroad with countries concerned.
- 6.3 Licensing practices or conditions that may constitute an abuse of IP rights or have an adverse effect on competition will be addressed through appropriate measures.
- 6.4 Facilitate effective adjudication of IP disputes through different measures including:
- 6.4.1 Recommending designation of a specialized patent bench in the High Courts of Bombay, Calcutta, Delhi and Madras for speedy disposal of patent cases and providing infrastructural support such as video conferencing;
 - 6.4.2 Recommending the designation of one IP court at the district level depending on the number of IP cases filed;
 - 6.4.3 Creating IP modules including case laws for the benefit of judges who deal in IP; conducting regular IP workshops/colloquia at the judicial academies;
 - 6.4.4 Promoting ADRs in the resolution of IP cases by strengthening mediation and conciliation centers, and developing ADR capabilities and skills in the field of IP;

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- 6.4.5 Creating regional benches of the IPAB in all five regions where IPOs are located;
- 6.4.6 Increasing the powers of the IPAB in its administration including autonomy in financial matters and selection/appointment of technical and judicial members; and providing the necessary infrastructure for its effective and efficient functioning;
- 6.4.7 Taking urgent steps to make the Copyright Board function effectively and efficiently and provide adequate infrastructure and manpower to it;
- 6.4.8 Taking immediate steps to establish the Plant Varieties Protection Appellate Tribunal and provide adequate infrastructure and manpower to it.

Objective 7: Human Capital Development

To strengthen and expand human resources, institutions and capacities for teaching, training, research and skill building in IP.

The IP scenario is dynamic and fast changing with increasing globalization, advancement of technologies, digital environment, development imperatives and global public policy issues. It is important to build national capacity for providing thought leadership in the IP field. Continuous policy research is also needed on empirical and topical IP areas of relevance with an interdisciplinary perspective at the national and international level. This research would enrich the process of policy, law, strategy development and international negotiations at the government and organizational levels. While apex level institutes or bodies exist for most sectors of national importance, such an institution has yet to be established for intellectual property development.

In order to harness the full potential of IP for economic growth, it is essential to develop an increasing pool of IP professionals and experts in spheres such as policy and law, strategy development, administration and enforcement. IP expertise would also be developed and increased in industry, academia, legal practitioners, judiciary, IP users and civil society. In addition, there will be enhancement of multidisciplinary human and institutional capacity for policy development, teaching, training, research and skill building. Such a reservoir of experts will facilitate in increasing generation of IP assets in the country and their utilization for development purposes.

In pursuance of the objective, steps will be taken to:

- 7.1 Establish a national level Institute of Excellence to provide thought leadership in IP; conduct policy and empirical research; examine trends and developments in the field of IP at the national and international level; support the government in strategic development of IP systems and international negotiations; establish links with similar institutes and experts in other countries for exchange of ideas, information and best practices; and suggest approaches and guidelines for inter-disciplinary human capital development;

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- 7.2 Strengthen and empower RGNIPM, Nagpur to conduct training for IP administrators and managers in industry and business, academicians, R&D institutions; IP professionals; inventors and civil society; train the trainers and develop training modules; develop links with other similar entities at the international level; set up state level institutions which will work with RGNIPM; provide legal training for examiners;
- 7.3 Energize IP- Chairs in educational institutes of higher learning to provide quality teaching and research; develop teaching capacity and curricula and evaluate their work on performance based criteria;
- 7.4 Introduce multi-disciplinary IP courses/modules in all major training institutes such as Judicial Academies, National Academy of Administration, Police and Customs Academies, IIFT, Institute for Foreign Service Training, Forest Training Institutes;
- 7.5 Make IP a compulsory subject in all legal educational institutions, NIDs, NIFTs, AYUSH educational institutes, agricultural universities, technology and management institutes;
- 7.6 Create IPR cells and technology development and management units in NIDs, NIFTs, agricultural universities, technology and management institutes;
- 7.7 Encourage formulation of institutional IP Policy/Strategy in Government Departments, higher education, research and technical institutions;
- 7.8 Progressively introduce IP teaching in schools, colleges and other educational institutions;
- 7.9 Facilitate industry associations, inventors and creators associations and IP support institutions to raise awareness of IP issues and for teaching, training and skill building;
- 7.10 Link IP teaching as part of accreditation mechanism in institutes under the purview of UGC, AICTE/MCI and IITs/IIMS;
- 7.11 Develop distance learning and on-line courses on IP for all categories of users; strengthen IP teaching in open universities;
- 7.12 Strengthen IP teaching, research and training in collaboration with WIPO,WTO, other International Organizations and reputed foreign universities;

- 7.13 Encourage and support capacity building among women creators, innovators, entrepreneurs, practitioners, teachers and trainers.

INTEGRATION OF IP WITH GOVERNMENT INITIATIVES

Make In India

This initiative by the Government to transform India into a world class manufacturing hub is predicated on fostering innovation and creativity by generating, protecting and utilizing intellectual property assets. This will facilitate widening of the manufacturing base by induction of new technologies, launching of new products, establishing new industries and/or expansion of existing ones and promoting investment and trade. Setting up of Smart Cities, industrial corridors, innovation and industrial clusters/skill building initiatives and development of appropriate institutions is part of the 'Make in India' initiative. Indian inventors and creators will be enthused and enabled to create IP assets in India and utilize them in manufacturing. Foreign companies will be encouraged to bring their IP protected inventions and creations to India along with investment and technology transfer and establish their manufacturing, R&D and outsourcing bases in India.

Government is committed to providing a strong, balanced, predictable and transparent IP regime for this purpose. The Indian IP system will contribute to enterprise, competitiveness, employment and entrepreneurship. It will add value and support as also ease conduct of business operations.

Digital India

This initiative involves several components, all of which will benefit from IP creation, protection, enforcement and commercialization. These components include Smart Cities, e-governance, e-literacy, e-commerce, strengthening and expansion of digital infrastructure and transforming India into an Electronic System, Design and Manufacturing hub. The digital environment provides opportunities for utilizing IP in e-applications, including e-business and start-ups as also challenges in its protection and enforcement.

Several strategies and approaches outlined in previous sections of this Policy will support the above and other initiatives of the Government. In particular, the following measures will be implemented:

1. The proposed IP Promotion and Development Council (IPDC) will open IP Promotion and Development Units (IPDU) in all States, smart cities, innovation and industrial clusters in order to provide one window services to entrepreneurs, startups and manufacturing units for IP awareness, protection and utilization.
2. IP support to MSMEs will be expanded through new or existing IP facilitation centers.

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3. Links will be forged between IPPDU/Facilitation Centers with IPOs, innovation and research universities, industry associations and financing institutions in order to realize 'Mind to Market' concept.
4. Technology Acquisition and Development Fund under the Manufacturing Policy will be utilized for licensing or procuring patented technologies.
5. Appropriate licensing mechanisms, patent pools and other technology transfer arrangements will be explored so that technologies and know-how are made available for priority schemes of the Government.
6. Availability of Standard Essential Patents (SEPs) on fair and reasonable terms will be facilitated.
7. The use of global protection systems will be promoted for obtaining protection of Indian IPRs in several countries for creating wider marketing and trading opportunities.
8. Manufacturing units will be encouraged to set up IP cells in their own units and make IP an integral part of their corporate strategies.
9. Establishment of a system in IPOs for simultaneous examination and grant of several category of rights such as patents, trademarks, designs when attached to a single product will be examined.
10. Expedited examination of patent applications will be allowed where the applicant or his assignee or prospective manufacturer has either started manufacturing the invention in India or undertakes to do so within two years from the date of filing of the request for expedited examination.
11. Integrate into the Government initiatives, various policies and schemes of different Ministries/ Departments and other public and autonomous agencies for IP promotion, creation and commercialization, global protection, forging links between industry and academic/research institutes for industry oriented research, commercialization and entrepreneurship development.
12. Promotion of public awareness of IP, adoption of grass-roots innovation projects and initiatives for TK preservation will be considered for inclusion in Schedule 7 (Corporate-Social Responsibility) of the Companies Act 2013.
13. Guidelines will be issued for incentivizing procurement of goods and services based on Indian IP in government tendering process.

SPECIAL FOCUS AREAS

While the general framework of IP Policy would apply to all sectors, IP aspects in some areas/sectors of economic and socio-cultural importance are elaborated below. This is an illustrative and not an exhaustive list.

Agriculture & Food

Agriculture is at the heart of India's socio-economic fabric. Apart from making India self-sufficient in food, it is one of the significant contributors to India's GDP, exports and

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employment. A dynamic agricultural sector is essential to ensuring food and nutritional security, increase agricultural productivity, alleviation of poverty and environmental sustainability.

IP laws have an impact on the agricultural sector. India has adopted a *sui generis* law for protection of plant varieties and farmers rights to encourage the development of new varieties of seeds and plants and to encourage investment in relevant R&D. It has excluded from patentability several agriculture related products and processes. The law of Geographical Indications has also provided protection to eligible varieties of agricultural products.

Developments in molecular biology, biotechnology, nanotechnology, information technology and geo-spatial technology have significant opportunities of being utilized in the agriculture sector to boost productivity. Enhanced private investment in research and development, collaboration between public, private sector and universities and effective transfer of technology are important for sustained agricultural development and food preservation. There is a need to improve technologies for preservation of agricultural products to ensure long term availability, better quality and to deal with food shortage and wastage. Use of IP tools will enhance new innovations in agri-equipments, applications and delivery systems based on such technologies

In View of the above, the following additional IP related measures are contemplated:

- i. Indian Council of Agricultural Research (ICAR) will, in pursuance of its Vision 2030, continue to play an ever increasing role in promoting an effective invention and innovation continuum, expanding technology delivery mechanisms and enhancing capacity of all stakeholders to participate in raising productivity through science-led and technology driven agriculture, and sharing the resultant benefits;
- ii. ICAR will harmonize its institutional IP Policy with the National IP Policy for "commercialization of technologies through organized intellectual property rights and benefit-sharing system";
- iii. Farmers will be encouraged to seek protection of Farmers' Varieties; support will be extended to farmers for registration of Extant Varieties to prevent native varieties from being lost or transformed into hybrids;
- iv. Registered varieties of farmers seeds will be made available to the farming community, by on-farm conservation and storage;
- v. Efforts will be made to establish Community Seed Banks in the agro-biodiversity rich regions; supply through existing Community Seed Banks indifferent parts of fine country will be encouraged;
- vi. Mechanisms will be created to facilitate farmers' variety registered under the PV Act for putting them into the seed chain so that such registered varieties can help farmers augment their incomes;

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- vii. Database of Extant Varieties will be created and the Krishi Vigyan Kendras will propagate the listed varieties in local languages to help farmers claim royalties for such extant varieties;
- viii. Plant breeding innovations will be widely disseminated; Indian farmers, entrepreneurs and users will be provided improved access to beneficial innovations and various protected technologies through appropriate mechanisms;
- ix. Incentives will be given to develop innovation in traditional breeding and agricultural production; adequate funds will be allocated to help farmers create, develop and protect new plant varieties;
- x. Development of cost effective innovative models in agricultural infrastructure like storage, warehousing, transportation, food processing shall be encouraged;
- xi. Food processing industry will be encouraged to introduce innovations in processes, technologies and equipment relating to procuring, storing, processing, transporting, marketing and branding and to protect and promote them through the utilization of relevant IP and available incentives;
- xii. R&D on agro-biodiversity conservation and traditional breeding techniques will be supported;
- xiii. The feasibility of creation of a mechanism for the local community representation at various levels under the PV Act will be studied.

Creative Industries

The creativity of Indians in the fields of literature, music, art, folklore, dance, theatre is historically well-acknowledged and has impacted social-cultural development through generations. The creative industries owe their origin to the individuals' creativity, skill and talent. These industries which include films, television, music, performing arts, publishing, advertising, architecture, gaming, software and other copyright based industries have a significance covering culture, entertainment, education and communications that often goes beyond economic returns.

Intellectual property plays a crucial role in incentivizing the creators including authors, artists, performers, composers and designers to create, protect and commercialize their intellectual creations. Creative enterprises involved in the ideation, production and distribution of goods and services are an integral component of the vibrant economy in India. They rely on various forms of IP to boost their income streams, provide employment and contribute to sustainable development while providing widespread access to content for public. These enterprises do not depend so much upon traditional factors of production as on the abundant endowment of creativity and ideas in the country. Individuals, MSMEs, large companies are all participants in the creative economy and have the opportunity to utilize their IPRs.

Internet and digital technologies have opened up enormous potential for creating, reproducing, distributing and commercializing new products, services and intangible assets

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and opening up new market places. New mobile application based enterprises, creative start-ups utilizing latest technologies, service providers and intermediaries have shown a fast growing trend. The creative industries face challenges in efficient management of IPRs on account of complex legal, technological, business, licensing and enforcement related issues.

Exceptions and Limitations continue to be significant in the area of copyright protection to enable the delicate balancing of public interest and private rights and to safeguard access to information and knowledge. Therefore, the legitimate interests of right holders need to be properly balanced with the rights of the users of copyrighted works such as disabled persons, researchers, students, libraries, archives.

Studies conducted in a large number of developed as well as developing countries have assessed that copyright based creative industries contribute from 4% to 11% to their respective GDP and make a significant contribution to employment and exports. While no comprehensive study has so far been undertaken in India, some industry sponsored studies, for example, relating to motion pictures, television and software industries have demonstrated a notable contribution to economic growth, trade and job creation.

In view of the above, the following additional measures are contemplated:

- i. A Comprehensive study will be undertaken following internationally adopted methodologies to assess the economic contribution of all copyright based and related industries to the Indian economy, employment and trade;
- ii. Baseline surveys and follow up studies will be carried out to assess and understand the specific characteristics of the different genres of the creative industries, their funding, marketing and management of IP assets in the process of setting up and running viable creative businesses. Industry specific campaigns and programs will be designed to promote these industries and to enable them to effectively manage their IPRs;
- iii. Different Ministries/Departments and authorities are responsible for legal protection, administration enforcement and regulation of creative industries. Steps will be taken to bring about consolidation, coordination and cohesion in the administration, management, enforcement and regulation of IPRs in these industries;
- iv. Entities functioning as licensing bodies for copyrighted works of third parties shall have to mandatorily register themselves as Copyright Societies under the Copyright Act, their working will be kept under review to ensure good governance and transparency for the benefit of both rights holders and users;
- v. Studies contemplated in Objective 3 shall provide a special focus on the copyright industries;
- vi. A special Guide on principles and methodologies of valuation of IP in creative industries will be commissioned;
- vii. Piracy including online piracy has become a major problem for creators and the creative industries in India resulting in huge losses to the right holders and the

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Government. Public awareness, legal and enforcement mechanisms including technology based measures will be reinforced to combat offline and online piracy. in particular:

- The CEAC will be restructured and merged with the proposed Multi-Agency Task Force for coordinated and efficient enforcement of copyright;
 - Indian Cinematography Act, 1952 will be suitably amended to prevent camcording;
 - Effective protection against signal theft and circumvention of technological protection measures will be provided
 - An online database of copyright owners and their copyrighted works will be created, maintained and updated by IPPDC;
 - Adoption of notice-and-takedown measures by online platforms for removal of infringing content will be facilitated.
- viii. Co-operative mechanisms will be encouraged to provide common copyright licenses and develop tools to allow simple, standardized way to grant copyright permissions to individual creators, enterprises and institutions for their creative work.

Geographical Indications

India is rich in geographical indications. Few countries can boast of such richness of variety of products and creations. Indian textiles, handicrafts and food products have made a world-wide impact and are indicators of our country's varied geography. The Indian GI system encourages products linked to geographic areas and also absorbs India's cultural and traditional diversity thus providing for the rich variety of handicrafts and other creations

The importance and benefits of GI protection cannot be overemphasized. The link between product and region allows for niche marketing, brand development, building consumer loyalty, extracting value from origin guaranteed products and preservation of local culture and tradition. In addition, it can be used as a strategic tool for developing the rural economy, improving income of farmers, facilitating distribution and sale of GI products, protecting consumers against misleading information and producers against dilution. Considerable environmental and social benefits including empowerment of women also ensue to the region that receives identity and publicity due to a reputable indication.

While there is an increased vibrancy in the consciousness of GI rights amongst the GI community, this sector has an enormous growth potential. There is need for concerned effort to nurture the special GI expertise, and for intelligent marketing and promotion of GI products so that maximum potential can be harnessed.

To give a thrust and impetus to Indian GIs and to the interests of GI producers, the following additional measures are contemplated;

- i. The Registrar of GIs will create a National Register of GIs, their registered proprietors, authorized users and geographical area;

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- ii. Efforts will be continued to enable GIs from India to receive higher level of global protection as provided to wines and spirits under the TRIPS Agreement;
- iii. Institutions like agricultural universities and State handicraft promotion councils will spread awareness of the benefit of GI registration;
- iv. GI workshops/camps will be conducted to encourage GI producers to register their GIs and ensure their active participation in the GI registration process;
- v. GI producers shall be encouraged to develop logos associated with their GIs and seek protection of the same in India and countries of interest through national and international mechanisms;
- vi. GI community will be encouraged to integrate rights in GIs with other forms of IP such as certification marks, copyrights, designs in order to ensure better protection and value for GI based products;
- vii. GI community will be sensitized to the importance of maintaining the integrity and sanctity of the supply chain of GI products and their traceability and inculcating best practices to ensure quality and premium status;
- viii. GI owners will be supported in their efforts to prevent their GIs from being misappropriated, misused or registered by unauthorized persons;
- ix. Mechanisms will be put in place for marketing, distribution and promotion of registered GI products to help producers realize their full commercial benefits;
- x. A geographical area which is the origin of the GI will be designated as a 'GI Zone' and promoted as the source of the GI products through images, films, tourism, investment, transport etc.;
- xi. The proposed IPPDC shall have a separate wing dealing with GIs to develop and promote the brand equity and commercial appeal of GIs as products of value. It will:

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Points i-iv (Pg 29) missing.

- v. International cooperation with R&D institutions and IP Offices for best practices in ICT related IP activities will be strengthened;
- vi. Wider use of Free and Open Source Software will be promoted along with adoption of open standards; possibility of creating Indian standard operating environments will be examined;
- vii. There will be an increased focus on technology forecasting and on targeted academic and industrial R&D in identified priority areas;
- viii. Institutional mechanisms for formulation of standards in e-governance will be strengthened and expanded involving all relevant stakeholders;
- ix. In support of the intent to invest in large semiconductor fabrication facilities, the Semiconductor Integrated Circuit Layout Design Act will be promoted to increase indigenous designs for semiconductors.

Telecommunications

India is one of the largest consumers of telecom equipment in the world with an estimated 943 million mobile users as on March 2015. It is moving towards ubiquitous, high-bandwidth, next-generation broadband networks that seamlessly offer connectivity and an abundance of services. India is projected to have 213 million Internet users in 2015, many of whom are on mobile devices,

IP is a key enabler for this industry. India needs to transform itself into a significant innovator and manufacturer of telecom related technologies, products and services. Implementation of the relevant national policies in this sector will stimulate IP and standards generation. Transfer of technologies and licensing of Standard Essential Patents (SEPs) are important concerns for this sector'

In view of the above, the following additional IP related measures are contemplated:

- i. Augmentation of creation, protection and commercialization of IP in the telecom sector will be supported through existing and new initiatives;
- ii. Telecommunication Standards Development Society, India (TSDSI) will develop India specific requirements in standard setting and contribute to the global Standard Setting Organizations; incentives will be provided to domestic technology developers to add on to the platform standards required in the Indian context; areas such as m-payments, m-services, m-governance and m-health will be prioritized for standards-setting because of potential social benefits;
- iii. Technology transfer, know-how and licensing relating to SEPs to entities manufacturing in India will be facilitated on fair and reasonable terms.

New and Renewable Energy

Energy is a critical enabler of sustainable development in all sectors of the economy. India's main objectives in renewable energy include energy security, affordable access for all and safeguarding the environment. A significant driver of energy security for India will be in the easy availability of technologies suited to Indian conditions. The reduction of emissions consistent with the development needs of India is a delicate balance which the country has been trying to achieve.

India has ambitious plans for renewable energy, including a target of 165 GW by 2020, as compared to an installed capacity of 34 GW in 2015. For this to fructify, R&D and IP generation needs to be encouraged so that India emerges as a serious player.

The IP content of energy-related systems has shown a rising trend in the recent past as management of demand, improved storage, alternate and energy-efficient technologies, equipment and practices have increased. There has been a global surge in patent filings in the areas of wind, solar thermal and especially solar photovoltaics. The Indian IP Office records an increase in wind and solar thermal energy patent filings but not in photovoltaics.

In line with other national policies such as Manufacturing, Environment, New and Renewable sources of energy, the following steps will be taken:

- i. Development of environment friendly technologies will be stimulated by more indigenous innovation as well as collaborative innovation;
- ii. Acquisition of environment friendly technologies will be encouraged through voluntary and involuntary licensing, creation of patent pools, technology transfer and other business collaboration arrangements;
- iii. Special incentives for creation and acquisition of IP in green technologies and manufacture of energy efficient equipment will be provided;
- iv. Technology Acquisition and Development Fund (TADF) will be operationalized for facilitating acquisition of green technologies, particularly for SMEs;
- v. India will continue to explore a fair and equitable agreement in ongoing international negotiations on measures for accelerated access to critical mitigation and adaptation technologies and related IP.

Public Health

Right to health is an integral part of the right to life enshrined in the Constitution of India. India is committed to providing its citizens access to affordable medicines, quality healthcare and innovative products and services,

The Patents Act as amended in 2005 protects innovation in pharmaceuticals and provides for measures to safeguard public health. India effectively uses the flexibilities available under the TRIPS Agreement and the Doha Declaration. India does not recognize patent linkage and

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patent term extensions. The proposed law on utility models contemplated in this Policy does not envisage inclusion of pharmaceuticals, biological material or substances.

Medicines, diagnostics, medical devices, processes and other healthcare products and services are protected by various forms of IP. There is a need for innovation in this sector to address India's public health priorities and an equal need to make new products and already known products accessible to the public at affordable prices.

India's strength as a leading generic drug producer is well acknowledged; this strength has now to be leveraged to further enhance innovation in the healthcare sector. The healthcare industry offers a huge potential in generation of intellectual property by way of offering innovative products for the betterment of society.

In view of the above, the following additional measures are contemplated:

- i. Access to affordable medicines and other healthcare solutions will be increased by (a) encouraging cross-sector partnerships between public sector, private sector, universities and NGOs; (b) promoting novel licensing models and (c) developing novel technology platforms;
- ii. Public funded R&D institutes and industry will be encouraged to develop affordable drugs relating to neglected diseases;
- iii. R&D including open source based research such as Open Source Drug Discovery (OSDD) by the Council of Scientific and Industrial Research (CSIR), will be encouraged for new inventions for prevention, diagnosis and treatment of diseases especially those that are life threatening and those that have high incidence in India;
- iv. Attempts to treat generic drugs as spurious or counterfeit will be strongly resisted;
- v. Stringent measures will be undertaken to curb manufacture and sale of misbranded, adulterated, spurious and counterfeit drugs; '
- vi. Regulatory processes will be streamlined to ensure timely approval for manufacturing and marketing of drugs while maintaining safety and efficacy standards;
- vii. To reduce dependency on active pharmaceutical ingredients (API) imports, adoption of innovative processes shall be incentivized for manufacture of APIs in India; and public sector undertakings in health care sector will be revitalized;
- viii. Based On the study recommended in Objective 3.6.3, an appropriate framework will be considered for protection of undisclosed information submitted in the drug approval process including digitization of the same;
- ix. Safety, quality and effectiveness of traditional medicines will be ensured through regulation; traditional medicinal knowledge will be integrated with national healthcare systems; further innovation based on traditional knowledge will be encouraged to create IP based products;
- x. Efforts will be continued for updating of traditional Indian medicines under International Patent Classification.

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Biotechnology

The Pharmaceutical and biotechnology sectors can contribute immensely to the nationwide flagship program 'Make in India'. Indian biotechnology industry has vast potential to offer new products by stimulating, fostering and enhancing strategic research and innovation capabilities,

With its knowledge, human resources and capacities, India is capable of producing innovative, quality products comparable with global standards, which are at the same time affordable. The opportunity for India is to offer biosimilars, vaccines, biomedical technology based devices, diagnostic products, industrial and agricultural biotechnology products and processes

The Government has played a transformative and catalytic role in boosting India's bio-economy. It has various financial assistance schemes for this industry which includes SMEs and start-ups, to enable it to offer commercially successful products to the public,

The biggest challenge in this sector is to transform biotechnology research from proof of concept to commercialization. For this industry to take off on a global platform, incubation and productization are important

In view of the above, the following additional measures are contemplated:

- i. Academia will be supported for validation and translation of research; industry will be encouraged to act as a development partner while respecting the IP rights of the inventors;
- ii. The region wise innovation clusters will be strengthened to bridge the industry-academia gap;
- iii. A central pool of infrastructure facility will be built to support multi-disciplinary basic and doctoral research;
- iv. Cooperation between university and research institutions will be strengthened to explore research in mapping the mechanism and pattern of complex diseases to design the ideas/discovery path and take them to proof of concept;
- v. The regulatory framework will be simplified while maintaining safety and efficacy standards, so that time for novel products to come to market can be optimized;
- vi. Mechanisms for trans-boundary movement of biological materials to carry out basic and advance research will be examined and optimized, while maintaining safety standards;
- vii. Measures will be taken to expedite approval of applications by National Biodiversity Authority for IP protection based on biological resource within the prescribed time limit.

Science and Technology

India's goal is to become one of the top five knowledge powers in the world in the area of Science, technology and innovation. To achieve this, it is necessary for India to increase

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public sector investment in R&D from the present 0.7% of GDP and to significantly stimulate private sector investment, which is currently half that of public sector investment, to equal it.

With its strong pool of scientific and technological experts, R&D institutions and infrastructure, India is capable of generating increased IP based inventions, technologies and engineering in agriculture, manufacturing and services, the main contributors to economic growth. Significant potential for innovation exists in new and emerging technologies like nano-technology, biotechnology, agri-biotech, life sciences, green technologies, telecommunications, new materials, space technologies.

IP components of Science, Technology and Innovation Policy, 2013 (STI) and other Policies in sectors such as health, agriculture, education, environment, manufacturing, IT/electronics and telecommunications, biotechnology, defence, space will be harmonized and integrated with the National IP Policy.

A few areas for attention are highlighted below:

- i. As provided in STI Policy:
 - Regulatory and legal framework for "sharing of IPRs between inventors and investors" and "data access and sharing as also for creation and sharing of IPRs" will be put in place;
 - Recommendations related to IP performance based public funding; policy for public funded research; IP sharing in PPP model; collaborative research and open source approach or knowledge commons for managing IPRs; march-in rights for social good when supported by public funds; and risk management in IPRs, will be considered for elaboration and implementation.
- ii. In new and emerging technologies, early filing of patent application is crucial and a predictable and transparent framework will be established to catalyze the development of such inventions;
- iii. An Expert Committee will examine the need for direct and indirect fiscal incentives to boost R&D and IP generation in public and private sectors including the following areas:
 - Simplification of procedures for availing indirect tax benefits and expansion of coverage to include expenditure in creating, developing protecting and commercializing IP;
 - Desirability of granting tax incentives for a limited period on sale and export of products based on IP generated from public funded research;
 - Creation of an effective and simple loan guarantee scheme in order to encourage start-ups and cover the risk of genuine failures in commercialization based on IP as mortgage-able asset.
- iv. Global Innovation & Technology Alliance (GITA) will be utilized to provide funding for IP generation and management for industrial R&D; commercialization of

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- resultant innovations will be facilitated through Technology Development Fund (TDF); synergy will be developed between GITA and TDF;
- v. Downstream research and IP creation will be encouraged based on research done by ISRO, DRDO, DAE and other premier R&D institutions;
 - vi. Encouragement will be given to researchers in academic and R&D institutions in IP creation by linking it with research funding & career progression apart from the number of publications.

Textiles

India is one of the largest producers of textiles and garments in the World. This sector contributes 4% to GDP, about 14% to industrial production and 27% to foreign exchange earnings of India. It is the second largest provider of employment after agriculture accounting for direct employment to over 45 million people. According to industry estimates, the domestic textile and apparel industry is estimated to reach US\$ 223 billion by 2021 from US\$ 89 billion in 2011.

The textile industry is multilayered ranging from hand-spun and hand-woven to power-looms to the organized mill sector. Textile machinery and processing are also significant to the textile industry. The apparel industry has been growing in size particularly after the disbanding of the Multi-Fiber Arrangement (MFA).

The Government has taken many policy measures to modernize the textile industry and to make it more competitive. Technological and quality improvements have taken place in practically all segments of the textile industry namely cotton, manmade, silk, jute and wool. Technical textiles have emerged as a major growth area. Special initiatives have been taken for encouraging handlooms, MSMEs and start-ups.

Innovation and intellectual creativity catalyzed by IP are central to the success of the textile and clothing industry. Different IP rights, singly or in combination, help boost profitability, competitiveness and marketability of this industry. Innovation promoted and protected by patents is important (i) in textile machinery (ii) development of new fibers, fabrics and technical textiles and (iii) enhancing technical, eco and user friendly properties of textiles. Industrial design, copyright and trademark protections are important in the clothing industry particularly fashion apparels. GIs, collective and certification marks are useful in the handloom, silk and carpet weaving sectors. Creating and capitalizing brand equity can be a rewarding exercise for all sectors of the industry.

Keeping in view the extensive and composite nature of the textile industry, extra attention will be given to the following areas:

- i. The IP Policy and Textile Policy will be harmoniously implemented;
- ii. IP promotion campaigns will particularly focus on raising awareness about the relevance and applicability of specific IP rights to specific sectors of the industry as

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- well as benefits that would flow from the strategic utilization of a bundle of IP rights as a business strategy'
- iii. A slew of capacity building measures will be undertaken for stimulating innovation and developing Indian Brands of fabrics and GI based textiles;
 - iv. Awareness, education, training and generation of IP will be particularly emphasized in textile R&D institutes, IFTs, NIDs, textile parks and clusters;
 - v. To extend global protection in the area of industrial designs, joining the Hague System for the International Protection of Industrial designs and taking necessary preparatory measures will be considered;
 - vi. Creation, protection and utilization of IP in the handloom, silk, carpet and other informal sectors will be encouraged by appropriate measures;

Traditional Knowledge

Traditional knowledge (TK) is a wealth to which no value can be assigned. The traditional, rural and tribal communities have played a very significant role in sustaining India's TK and biodiversity with their knowledge which is intrinsically linked with their lifestyles. TK provides the base for the livelihood of millions of Indians. It needs to be further harnessed for the economic uplift of the custodians of this wealth and knowledge.

Protection of TK and development of the existing knowledge resulting in innovation are not mutually exclusive so long as community rights are secure. Development of products and processes based on TK can result in wealth creation and benefit to society. TK can be the source of significant innovations in the area of medicines, biotechnology based industries and agriculture.

Traditional Cultural Expressions (TCE) have significant social and cultural value and their contribution to society cannot be underestimated. Protection of TCE promotes creativity and cultural diversity and preserves identities of local communities and cultural heritage. There is need to respect local communities as the custodians of TCE and to protect it from loss and misuse.

Article 31 of the UN Declaration of the Rights of Indigenous Peoples provides that indigenous people "have the right to maintain, control, protect and develop their intellectual property over such cultural heritage, traditional knowledge and traditional cultural expressions". One of the biggest threats to traditional knowledge and biodiversity is biopiracy. There is a need to protect traditional knowledge from being misappropriated. Protecting biodiversity conservation and local community livelihood security is essential and equally a commitment to ensure that local communities benefit from the use of their knowledge and resources.

Several measures will be taken to protect and preserve India's traditional knowledge:

- i. A *sui generis* legislation will be enacted to provide a holistic and comprehensive legal framework to preserve, safeguard, protect and develop TK and TCEs; prevent their misuse or misappropriation; provide effective recognition for the exclusive

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- rights of the local communities and the mechanism to exercise such rights either by application of IP rights or customary or other laws, as applicable; facilitate further innovation or development on the basis of such rights; ensuring equitable benefit sharing and safeguarding the traditional ways of life customs and beliefs;
- ii. An in-depth study based on fact finding missions and research will be undertaken to determine the appropriateness and extent of applying the IPR system to protecting Traditional Knowledge, Genetic Resources and Traditional Cultural Expressions (TKGRTCE) and to determine the scope of the proposed *sui generis* law;
 - iii. Guidelines for establishing prior informed consent and benefit sharing will be reviewed and strengthened so that benefit sharing is improved and assured;
 - iv. Access and benefit sharing schemes that recognize the value of local and community knowledge will be put in place to ensure fair and equitable terms for the holder of traditional knowledge;
 - v. India will continue to engage actively and constructively in the deliberations in various international forums to develop legally binding international instrument(s) to protect TK, GR and TCE;
 - vi. India will continue to take an active part in the ongoing negotiations in WTO regarding the relationship between the provisions of the TRIPS Agreement and CBD regarding access to genetic resources and associated TK;
 - vii. The scope and coverage of Traditional Knowledge Digital Library (TKDL) will be enlarged to include additional Indian medical formulations;
 - viii. Databases will be developed for documenting oral traditional knowledge taking care that the integrity of the said knowledge is preserved and traditional ways of life of communities are not compromised;
 - ix. TKDL will be appropriately utilized for defensive protection against wrong grant of patents through selective access to patent offices abroad under confidentiality agreements;
 - x. Mechanism will be established for accessing TKDL by Indian research institutes, universities and researchers for promoting further innovations based on TK in order to impart dynamism in the TK ecosystems, increase benefits to the society and benefit sharing for right holders;
 - xi. International cooperation will be strengthened and India will encourage capacity building in the area of creating TKDL in other interested countries;
 - xii. Efforts will be made to ensure that TK is widely and universally accepted within modern IP regimes and becomes a reference point as 'prior art' within the present patent systems to avoid misappropriation;
 - xiii. Guidelines will be put in place to improve and substantially strengthen search systems in respect of information that is relevant to traditional knowledge so as to evaluate novelty and inventiveness;
 - xiv. Indian authorities and right holders will be supported to challenge countries and corporations that misappropriate or usurp Indian TK and TCE;

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- xv. Cultural institutions such as museums, libraries and archives will be enabled to digitize their literary, artistic and cultural treasures and to protect and promote them utilizing applicable IPRs;
- xvi. The proposed IPPDC will hold workshops/seminars to make local communities aware of their rights in TK and TCE and benefits of protection of TK under the proposed *sui generis* law or as trade secret or by a combination of existing IP rights;
- xvii. Initiatives for international co-operation in exploration of traditional health and wellness systems will be encouraged by introducing strategic research collaborations with reputed research centres;
- xviii. Mechanisms will be put in place to ensure local communities are involved in research projects based on their knowledge and derive benefits from products developed there from;
- xix. An IP Tool Kit for Management of IP in TK and TCEs will be developed to enable TK holders to make informed choices regarding protecting and safeguarding their TK by various customary and legal tools and to manage their TK;
- xx. The IP Tool Kit will also be utilized to protect Indian IP and heritage during art and cultural festivals in India and abroad;
- xxi. Articles in journals like Indian Journal of Traditional Knowledge will be translated in regional languages.

COORDINATION, IMPLEMENTATION, BENCHMARKING, MONITORING AND
EVALUATION OF THE POLICY

Intellectual property in India is regulated by several laws, rules and regulations under the jurisdiction of different Ministries/ Departments. A number of authorities and offices administer the laws. The legal provisions need to be implemented harmoniously so as to avoid conflict, overlap or inconsistencies among them. It is necessary that the authorities concerned administer the laws in coordination with each other in the interest of efficient administration and user satisfaction. Legal, technological, economic and Socio-cultural issues arise in different fields of IP which intersect with each other and need to be addressed and resolved by consensus in the best public interest. International, regional and bilateral negotiations require developing a common national position in consultation with different Ministries, authorities and stakeholders.

The present IP Policy aims to integrate IP as a policy and strategic tool in national development plans. It foresees a coordinated and integrated development of IP system in India and the need for a holistic approach to be taken on IP legal, administrative, institutional and enforcement related matters.

For the above reasons, it has become necessary to establish a new Ministry/Department of Intellectual Property or designate an existing Ministry/Department in the Government to coordinate, guide and oversee implementation and future development of IP in India in

Justice Prabha Sridevan (Retd.)

Chairperson, IPR Think Tank

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accordance with the National IP Policy. This Ministry/Department will be the nodal authority in the Government responsible for bringing cohesion and coordination among various Ministries/Departments on IP matters under their charge. It will be responsible for laying down priorities for IP development in accordance with the National IPR Policy and preparing annual plans of action for time bound implementation of national and sector specific IP policies, strategies and programs This will be done in close consultation and involvement of all Ministries/Departments and authorities/agencies concerned. The responsibility for actual implementation of the plans of action will remain with the Ministries/Departments concerned in their assigned sphere of work. State governments will be involved in the process of implementation of this Policy. Public and private sector institutions and stakeholders' bodies will be made an integral part of the consultation and implementation process.

Each program or activity under the plan of action will be benchmarked with the best practices and parameters applicable to the Indian situation. Monitoring the progress of implementation of National IPR Policy, linked with performance indicators, IP indices, targeted results and deliverables will be done by the designated Ministry/Department. The overall working of the National IPR Policy and the results achieved through implementation of the plans of action will be undertaken on an annual basis.

A major review of the National IPR Policy will be undertaken after 3 years.

Submitted by:

Justice Prabha Sridevan (Retd)
Chairperson

Mrs Prathiba M. Singh, Senior Advocate
Member

Mr. Narendra K. Sabharwal
Member & Convener

Ms. Punita Bhargava, Advocate
Member

Mr. Rajeev Srinivasan
Member

Dr. Unnat P. Pandit
Member

Prabha Sridevan
Prathiba M. Singh
N.K. Sabharwal
Punita Bhargava
Rajeev Srinivasan
Unnat P. Pandit
18/4/2015

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Justice Prabha Sridevan (Retd.)
Chairperson, IPR Think Tank

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