



SME segment ‘not benefitting’ from post-TRIPS dispensation: TERI Study

A study carried out by The Energy and Resources Institute (TERI), with support from the UK's Foreign and Commonwealth Office, reveals that Indian innovations in patents related to wind power, solar energy and agro-biotech seeds have seen poor trends, as compared to high patenting activity seen in western economies.

New Delhi, March 13, 2013: In the last few years, India's Intellectual Property Rights (IPR) regime has undergone thorough revision in accordance with the TRIPS (Trade-Related Aspects of Intellectual Property Rights) Agreement. India became a member of WTO in 1995, and this mandated India to be a TRIPS (Trade Related Aspects of Intellectual Property Rights) compliant country by 2005. Given the context, understanding the impacts of post-TRIP changes is of high importance considering India's unique developmental status. However, research in this direction is restricted to few issues like patents, and study in organised or cottage/SMEs based industries are neglected.

Against this backdrop, The Energy and Resources Institute (TERI) undertook a study funded by the UK's Foreign and Commonwealth Office to examine the extent to which India has been able to put in place appropriate regulations and enforcement measures so that the recent changes in IPR laws bring out balanced outcomes as well as the impacts of such amended laws on the stakeholders.

One of the key foci of the study was examination of the extent to which the stakeholders have been successful in harnessing the potential of IPR and the benefits accrued as a result of such protection. The study engaged with the stakeholders as to their perspectives on the findings of the survey and putting in overall perspectives the needs of the socio-economic and legal regime.

Within the patents landscape, the study found that Indian innovations in patents related to wind power, solar energy and agro-biotech seeds have seen poor trends, as compared to high patenting activity seen in western economies. The SME segment is not benefitting much from the post-TRIPS dispensation and there continue to exist issues such as poor access to the IP regime, and lack of awareness of the overall patent debate.

“In a developing country like India, it is very challenging to measure creativity. There is no wide market for IP products and can be considered as a key reason for poor innovative market. Certain developed countries consider India having a poor patent regime and such conclusions are very narrow. There is poor registration of innovations. This gives good opportunities to copy makers, where in they can copy and register. Hence, the original innovators don't get due recognition,” Mr Nitya Nanda, a Fellow at TERI, said at the regional seminar on 'Post TRIPS IPR Regime in India: Opportunities and Challenges' held in New Delhi earlier today. The event was held by TERI in association with Federation of Indian Chambers of Commerce and Industry (FICCI) and British High Commission.

The study has also revealed that design-related issues in the leather footwear and the gems and jewellery industry are seized with low number of design application, high infringement and poor enforceability of design violations, lack of awareness and poor integration of design related innovations with that of industry. The piracy paradox, wherein it is better to evolve quickly rather than seek protection of a design, is a key factor observed in this study. The informal nature of these sectors is in itself a great limiting factor to protection of innovation-related benefits.

The geographical indicators aspect of the study focussed on sectors of Muga silk, Banarasi sari, Bikaneri Bhujia and Malabar Pepper. The TERI survey indicated that despite high number of registrations enforcement has been weak and most of the GIs have not been able to capitalise on the legal protection. Also, the socio-economic benefits which should ideally accrue post registration, has not been achieved. Many registered GIs face continued threats to their quality like presence of cheap fakes and absence of inspection and monitoring structures.

The impact of findings bear upon on the larger policy positions in key IPR sectors of Patent and Industrial Design and Geographical Indicators and the extent to which the Indian IPR regime balances the needs of different stakeholders. The study went through examining the mandate of implementing/ procedural difficulties in managing the IPR regime in these two sectors. The patent-related issues, particularly in the context of unique socio-economic realities in these sectors wherein socio-economic, business and market realities vary was studied and conclusions made. The study also examined the difficulties that the SMEs in India face in drawing benefits from the IPR regime and the issues and challenges faced by the stakeholders in patenting their products under patent laws in light of the key findings of the survey.

About TRIPS

TRIPS is an international agreement, under WTO, that covers three major features like setting minimum standards of protection, domestic procedures and remedies for the enforcement of intellectual property rights and disputes between WTO Members subject to the WTO's dispute settlement procedures. The areas of intellectual property covered under TRIPS are, copyright and related rights, trademarks including service marks, geographical indications including appellations of origin, industrial designs, patents including the protection of new varieties of plants, the layout-designs of integrated circuits and undisclosed information including trade secrets and test data.

In the process of becoming a TRIPS compliant country, India amended various earlier intellectual property acts. Some changes include the Patents Act 1970 that underwent three amendments – 1999, 2002 & 2005, New Designs Act, 2000, Indian Trademarks Act, 1999, that came into force on September 15, 2003, enactment of the Geographical Indications of Goods (Registration & Protection) Act, 1999 has come into force with effect from 15th September 2003, Indian Copyright Act. 1957 experiencing amendments in 1981, 1984, 1992, 1994 and 1999, etc.

About TERI

Led by world-renowned environmentalist, Dr. R.K. Pachauri, TERI is an independent, not-for-profit research institute working on energy, environment, and sustainable development and devoted to efficient and sustainable use of natural resources. Since its inception in 1974, TERI has emerged as an institution of excellence for its path-breaking research, and is a global brand widely respected by the political leaders, policy makers, corporate entities as well as the civil society at large.