

preface to the first edition

Intellectual Property includes Patents, Designs, Trade Marks, Copyrights, Trade Secrets and know-how. The principles of intellectual property law are substantially the same in all countries with variations to suit the national requirement of each country. Intellectual property plays a vital role in the transfer of technology. In the present work, the book deals with the Indian Law on Patent and Industrial Designs with the salient features and amendments for the same. The obligation in the area of patents is that, invention in all branches of technology whether products or processes shall be patentable if they meet the three tests of being new involving an inventive step and being capable of industrial application. In addition to the general security exemption which applied to the entire TRIPS Agreement, specific exclusions are permissible from the scope of patentability of inventions, the prevention of whose commercial exploitation is necessary to protect public order or morality, human, animal, plant life or health or to avoid serious prejudice to the environment. Further, members may also exclude from patentability of diagnostic, therapeutic and surgical methods of the treatment of human beings and animals and plants and animals other than micro-organisms and essentially biological processes for the production of plants and animals.

The TRIPS Agreement provides for a minimum term of protection of 20 years counted from the date of filing.

India had already implemented its obligations under Articles 70.8 and 70.9 of TRIPS Agreement.

The Obligations envisaged in respect of industrial designs are that independently created designs that are new or original shall be protected. Individual governments have been given the option to exclude from protection, designs dictated by technical or functional considerations, as against aesthetic consideration which constitutes the coverage of industrial designs. The right accruing to the right holder is the right to prevent third parties not having his consent from making, selling or importing articles being or embodying a design, which is a copy or substantially a copy of the protected design when such acts are undertaken for commercial purposes. The duration of protection is to be not less than 10 years.

A new designs law repealing and replacing the Designs Act, 1911

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has been passed by Parliament in the Budget Session, 2000. This Act has been brought into force from 11.5.2001.

Piracy of intellectual property has become international character. This book will be useful by foreign business executives and lawyers who have to deal with transfer of technology and piracy of Indian Patent and Designs including case laws for the same.

The Appendix deals with “The Patent and Designs Acts and Rules of UK and the International Convention for the Protection of Intellectual Property (Paris Convention) and other related Acts which will be useful to those who are interested in assessing the consequences of India becoming a member of this convention.

Volume 2 of the book is under preparation which will cover exhaustive commentary on the Copyright Act and other related laws on the subject.

The author is grateful to the publishers who have provided many materials for bringing out this publication in record time.

19th APRIL, 2007
“AKSHAYATRITI DAY”

RAMA SARMA
