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National Seminar

on

**IPR Management in Biodiversity Conservation:
Implications of Access Benefit Sharing, TRIP/CBD
and Biodiversity Acts**

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International Property Rights: An Overview of History of Patent Laws in India

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Abstract

The concept of Intellectual Property Right is not a new concept. It emerged as a result of the concept of globalization, privatization and liberalization that has necessitated the protection of rights of production, design, trademarks etc. In a broader way, the term Intellectual property refers to unique, value-adding creations of the human intellect that results from human ingenuity, creativity and inventiveness. Intellectual property law concerns the legal rights associated with creative effort or commercial reputation and goodwill. The intellectual property law protects the intellectual property owner from the infringement and counterfeiting. Patent is a right of a particular design or formula used for the manufacture of a given product. The first legislation in India relating to patents was the Act VI of 185, with the objective to encourage inventions of new and useful manufactures and to induce inventors to disclose secret of their inventions. In 1911, the Indian Patents and Designs Act, 1911, (Act II of 1911) was brought in replacing all the previous legislations on patents and designs. After Independence, it was felt that the Indian Patents & Designs Act, 1911 was not fulfilling its objective. The 1911 Act was amended in 1950 and later in 1952. In 1957 Justice N. Rajagopala Ayyangar Committee recommended major changes in the law which formed the basis of the introduction of the Patents Bill, 1965. On the basis of the recommendations of the Joint Parliamentary Committee, the Patents Act, 1970 was passed. This Act remained in force for about 24 years till December 1994 without any change. Further an amendment to the 1970 Act was made through the Patents (Amendment) Act, 2002 (Act 38 of 2002). This Act came into force on 20th May, 2003 with the introduction of the new Patents Rules, 2003 by replacing the earlier Patents Rules, 1972. Another amendment to the Patents Act, 1970 was introduced through the Patents (Amendment) Ordinance, 2004 with effect from 1st January, 2005. This Ordinance was later replaced by the Patents (Amendment) Act, 2005 (Act 15 of 2005) on 4th April, 2005 which was brought into force from 1st January, 2005.

Keywords: Patent, Human intellect, Patent Laws, Legislation, Amendment

The concept of Intellectual Property Right is not a new concept. It emerged as a result of the concept of globalization, privatization and liberalization that has necessitated the protection of rights of production, design, trademarks etc. Intellectual property first were known collectively as 'industrial property'. The Paris Convention for the Protection of Industrial Property, 1883 used the term 'industrial property' instead of 'intellectual property'. After the Paris

Convention, other rights, such as Copyright, Rights in Performance, etc. were also included in industrial property. Gradually in place of 'industrial property' 'intellectual property' was permanently coined. The word 'Intellectual' as an adjective means involving or appealing to the intellect, 'having a highly developed ability to think, reason and understand. The same word as a noun means 'a person with a highly developed intellect and great mental ability'. The term