

EVOLUTION OF TRADEMARK LAWS IN INDIA

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INTRODUCTION

Intellectual Property Rights allows people to assert ownership rights on the outcomes of their creativity and innovative activity in the same way that they can own physical property.² Intellectual Property arises out of human labour hence it is bound by a number of changes. The four main types of Intellectual Property are Patents, Trademarks, Designs and Copyrights. This article will deal with Trademarks, which is an important aspect of Intellectual Property.

WHAT IS A TRADEMARK?

A trademark is any sign that individualises the goods of a given enterprise and distinguishes them from goods of its competitors.³ Marketing of a particular good or service by the producer is much better off as by trademark because recognition becomes easier and quality is assured. The owner of the mark can prevent the use of similar or identical signs by competitors if such marks can lead to confusion.⁴ By this way similar low quality substitutes will be prevented from replacing good quality ones.

A trademark is a word or symbol or combination thereof used by manufacturer or vendor in connection with a product or service.⁵ The distinctiveness is maintained as well as sales are much smoother as people are able to identify with that particular commodity or service.

The Trade Mark Act, 1999 defines “well Known Trade mark” as a mark in relation to any goods and services which has become so to the substantial segment which uses such goods or receives such services that the use of such mark in relation to other goods or services would be likely to be taken as indicating a connection in course of trade or rendering of services between those goods or services and a person using the mark in relation to the first mentioned goods or services.⁶

Trademark is one of the areas of intellectual property and its purpose is to protect the mark of the product or that of a service. Hence a trademark is defined as a mark capable of being

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² Anita Rao and V.Bhanoji Rao, Intellectual Property-A Primer(1st edition, Eastern Book Company),pg 1

³ *Introduction to Intellectual Property-theory and practice(Kluwer Law International,1997)pg184*

⁴ Trade Related Aspects on Intellectual Property Rights(TRIPS) Article 16

⁵ *Earnst Graft, Isreal Sam Sagrey ,Isreal Saguy Food Product Development(Springer 1991)pg 367*

⁶ P.K. Vasudeva, World Trade Organization: Implications for Indian Economy(Pearson Education,2005)pg 169



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represented graphically and which is capable of distinguishing the goods and services of one person from those of others and may include shape of goods, their packaging and combination of colours ,they include a device ,brand, heading ,label ticket ,name ,signature, word ,letter ,numeral ,shape of goods, packaging or combination of colours or any combination thereof.⁷ Registration of trademark is not mandatory but in the present day scenario there is increasing infringement and a lot of cases are challenged so it is advisable to register Trademarks. There is also a need for trademarks to be globally protected. This is said because most have regional or local name brands and most constantly push these weak names while struggling to get global clearance.

A trademark can thus be called a device that gives distinctiveness and a mode of identification to a particular product or service. An increasing number of countries also allow for the registration of less traditional forms of trademarks such as single colours, three dimensional signs (shapes of product packaging), audible signs (sounds) or olfactory signs (smell).⁸

It is said that a trademark is a valuable business asset and a marketing tool which could help in financing of the business in a way. A brand is always a trademark but a trademark is not always a brand.⁹ This is quoted because there is often confusion between trademarks and brands, a brand is simply a name, logo or symbol whereas a trademark is a distinctive sign or indicator of some kind in a business organisation, because of these trademarks has a wider connotation than brands. A trademark may also function to symbolize or guarantee the quality of goods which bear the trademark.¹⁰ People are often induced to buy a particular product due to its distinctive trademark that denotes quality .Trademark symbolises the value or goodwill associated with the goods and which can be assessed by the extent to its perception in the public mind with regards to its quality and specific source.¹¹

Trademarks are generally placed in any manner on the goods, their containers, and displays or on tags or labels attached to the goods or service.¹² The immense economic value a successful trademark has is the primary reason for their protection under the law. Trade mark owners by powerful advertising campaigns in collaboration with licensees create a brand loyalty and establish product differentiation.

This results in establishing an enviable goodwill and market power so as to nip competition in the bud and place a barrier to the entry of new firms in that particular field of activity.

⁷ Source <http://www.businessgyan.com/content/view/623/220/> article written by Santhosh Vikram Singh as on 15th Nov,2003,accessed on May 4th,2009

⁸ *Making a Mark: An Introduction to Trademarks for Small and Medium-sized Enterprises* by WIPO ,2003 edition page 3

⁹ *Ronald Hildret, Siegrun Kane Trademark Law(4th edition,Practising Law Institute,2002)pg2*

¹⁰ *Carl W Battle, Legal Forms for Everyone(5th edition,Allworth Communications Inc,2006)pg143*

¹¹ *Vinod Sople, Managing Intellectual Property(PHI Learning Pvt Ltd,2006) pg 104*

¹² *Carl W Battle, Legal Forms for Everyone(5th edition,Allworth Communications Inc,2006) pg 145*

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Trademarks are of many kinds they may be logos, moving image marks, pictorial marks, slogans etc.

TYPES OF TRADEMARKS

There are basically four types of trademarks they are

- Service Mark
- Collective Mark
- Certification Mark
- Trade Dress

All these types of Trademarks are equally important and promote activity as well as maintain the distinctiveness of the product.

SERVICE MARKS

A service Mark is any word, name, symbol, device, or any combination used or intended to be used in commerce to identify and distinguish the services of one provider by others and to indicate the source of services¹³. It is basically useful in distinguishing one service provider from the other. Service Marks do not cover physical goods but only the provision of services. Service marks are used to identify a service, as Trademarks are used for protection of goods

Service Marks are used in a number of day to day services some examples of them are:-

- Management and investment services
- housing development services
- Advertising Promotional services
- sponsorship
- speed reading instruction
- Hotel and motel services
- Entertainment services rendered by individual , group or theatre¹⁴.

A service mark is generally adopted so that it can play a crucial role in marketing, promoting and sales of a product or service, it also plays the role of referring to a particular quality or standard for which the service mark is used.

¹³<http://www.uspto.gov/web/offices/tac/tmfaq.htm#DefineServiceMark>, United States Patent and Trademarks Office

¹⁴ Dana Shilling, *Essentials of trademark and unfair practices*(John Willey and Sons,2002)pg 22



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Service mark is denoted by the letters SM. “Mark” may sometimes be used to refer to both a trademark and a service mark, because the terms are nearly but not completely interchangeable.¹⁵ Like trademark when choosing a name for a service mark a full research has to be conducted to make sure no other firm is using the same name.

COLLECTIVE MARK

A collective Mark is one used by members of a cooperative association, union or other collective group or other group or organisation to identify source the of goods or services.¹⁶ A collective mark means a mark which is utilised for goods and services with same characteristics which are to be traded by one or more person acting jointly or legal entity for differentiation with other goods or services of same kind.¹⁷

There are two types of Collective Marks or legal entity for differentiation with other goods or services of same kind.¹⁸ They are:-

1. Collective Membership Mark

These marks are not used to indicate source of goods or services but they indicate that the seller is part of a defined group.

2. Collective Trademarks and collective Service marks

These are used to indicate the source. Such collective marks are used by a group to indicate that the goods or services offered by each individual member of the group are products or services of the collective.

A collective mark is for use by the individual members of an organisation but is registered as a whole. That is a collective mark may be used by the collective association that owns the mark.¹⁹ This provision was added to the Trademark Revision Act 1988, which came into effect on November 16th 1989 in the United States, so the collective is the owner of the mark, a conceptual problem may arise when an association is unincorporated because an unincorporated association does not have legal personality and so cannot normally own property itself.²⁰

¹⁵ Fred Steingold, Legal Guide for starting and running a small business(10th edition,Nolo,2008)pg96

¹⁶ Marcia Rorke, Edward Asolfi, Bernad I Friedlach Licensing in the Federal Laboratory(DIANE Publishing,1993)pg13

¹⁷ Andrew Sriro, Sriros desk reference of Indonesian Law(Equinox Publishing,2006)pg367

¹⁸ Andrew Sriro Sriros desk reference of Indonesian Law (Equinox Publishing,2006)pg367

¹⁹ Siegrun D Kane(4th edition,Practising Law Institute,2002)Pg 1-5

²⁰ Christopher Wadlow,The Law of Passing Off(2nd edition, Sweet and Maxwell, London 1995)pg 53-56



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CERTIFICATION MARK

A certificate is evidence or probative matter providing assurance that some act has or has not been done or some event occurred or some legal formality has been complied with.²¹

A certification Mark is a mark which indicates that certain qualities of goods or services in connection with which the mark are used is certified.²² A certification mark is thus defined in the Trademarks Act 1994, Section 50 as a mark indicating that the goods or services in connection with which it is used are certified by the proprietor of the mark in respect of origin, material, and mode of manufacture of goods or performance of services, quality, accuracy, or other characteristics.²³

Registration of Certification Mark is done according to the Trademarks Act 1994. An important requirement for registration of certification mark is that entity which applies for registration is “competent to certify” the products concerned. Thus owner of certification mark must be representative of products to which certification mark applies.²⁴ An authorised user of a certification Mark is expressly likened to a license of a trademark in specified circumstances, namely unauthorised application of the mark to certain material, prohibition of importation of infringing goods and order as to disposal of infringing goods.²⁵ A registered mark maybe assigned according to registrar.

TRADE DRESS

Trade dress refers to combination of elements that make up the look, feel, or environment of a product or business; the term can refer to individual elements of a product or business image as well as to the image the combination of those elements creates as a whole.²⁶ Trade Dress is non functional physical detail. Trade Dress may include a few important features like:-

- Packaging
- Size
- Shape
- Colour
- Colour Combination

²¹ Henry Campbell Black, Blacks Law Dictionary(4th editions Paul West Publishing Co 1968)pg285

²² Jeffery Belson, *Certification Mark*, (Sweet and Maxwell 2002)Pg6

²³ Provision of 1994 act subject to section 1 and 2

²⁴ http://www.wipo.int/sme/en/ip_business/collective_marks/certification_marks.htm ,Intellectual Property Reading Material by WIPO, accessed on May 19th,2009

²⁵ Neil Wilkof, Daniel Burkitt , Christopher Stothers, *Trade Mark Licensing*(2nd edition Sweet and Maxwell)

²⁶ Ruper Barkoff ,Andrew C Selden *Fundamentals of Franchising*(American Bar Association ,2005)pg 17-f



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- Texture
- Graphics
- Design
- Placement of words and decorations on a product
- Particular Sale Technique

Trade Dress can be mere colouring, surface ornamentation or a general appearance, a design patentable invention has to be a shape or appearance of a specific article which is more than a surface appearance, which relates to the overall appearance of the article and which is different enough to be considered unobvious.²⁷ Trade Dress may be protected under Lanham Act. It is advisable for every manufacturer to protect his trade dress as it can be easily copied

ORIGIN OF TRADEMARKS

BAKERS LAW PRECEDENT

The Anglo Indian trademark law had its origin dating back to 1266. It was also called as the Bakers Marking Law. As the name says the law required bakers to place a mark on the loaves of bread that they sold, identifying the baker.²⁸ Any bread offered for sale unstamped was at once confiscated by the “officer of abundance” and the offending baker was mulcted in heavy damages.²⁹

BAKERS LAW

One of the important acts in the history of trademarks is the law of bread and beer assizes. The statute laid down a uniform acceptable standard of measurement, it defined the statute by declaring that, by the consent of the whole realm of England, the measure of the king was made that is to say that an English penny, called a sterling round and without any clipping shall weigh thirty two wheat corns in the midst of the ear, and twenty pence do make and twelve ounces one pound and eight pounds do make a gallon of wine, and eight gallons of wine do make a London bushel, which is the eighth part of a quarter³⁰.

Section 38 of the Usages of Winchester, which probably antedate 1275, requires every baker to put his recognised stamp (sun sel sunu) upon his bread.³¹ Marks were registered with the local officer and were made with wood or metal and simple flower techniques and designs

²⁷ David Pressman, Patent it yourself (13th edition, Nolo, 2008) pg 29

²⁸ Aaron Schwabach, *Intellectual Property (ABC-CLIO, 2007)* pg 9

²⁹ E Stalley, *The Guilds of Florence (2nd edition)* pg. 440: G Lastig pg 28

³⁰ Davies, Charles. *The Metric System, Considered with Reference to Its Introduction Into the United States.* A. S. Barnes and Company. 1871.

³¹ J S Furley, *City Government of Winchester from the records of xiv and xv centuries*, pg 82



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were incorporated. This was basically done for easy recognition and for standardisation of the qualities supplied, if inferior goods were being circulated then severe action was taken and even the fraudulent bakers were fined.

VENETIAN LAW

The Venetian Law of 1474 is the first systematic Intellectual Property Law. On March 19th, 1474 it declared “each person who will make in this city any new and indigenous contrivance, not made heretofore in our dominion, as soon as it is reduced to perfection...it being forbidden to any other in any territory and place of ours to make any other contrivance in the form and resemblance thereof, without the consent and licence of the author up to ten years”. There was a need to submit the individual works to get privilege in exchange for state censorship and control. The Venetian statute also specified that all produce and new inventions must be reported to the Republic of Venice to protect against copiers and infringers.

The first patent was granted by King Henry VI in 1449 to John of Utynam for a method of making stained glass.³² This was a landmark in those days as patents weren't ordinarily granted.

EVOLUTION OF TRADEMARK LAWS

From ancient times human beings have been under the process of creating and innovating things, during pre-historic period man had made stone, jewellery, hunting materials, vessels etc, when spirituality started to sprout up he made figurines of gods and goddesses. Originally, marks were placed on objects to identify ownership and to deter would be thieves.³³ By this way the ancient people tried to control low quality goods, and as the maker of the product was identified automatically the infringers were punished.

The more a trademark came to be known the more it inspired confidence in the goods and services to potential clients³⁴. When a mark was placed it meant that any other third party other than the manufacturer did not have any right over it, in a large way it helped deter people with vested interest. In the middle ages two basic kinds of marks could be found:-

- **Merchants Mark**
- **Production Mark**

³² Adil E Shamoo, David B Resnik, *Responsible conduct of research* (2nd edition, Oxford University Press, 2009) pg 168

³³ 2. Michel SOLIS, *Votre PME et le Droit*, 2e éd., Les Éditions Transcontinental inc., Montréal, 1994, 136 p., p. 96.

³⁴ 4. Siegrun D. KANE, *Trademark Law, A Practitioner Guide*, 1989, Supplement, Practising Law Institute, New York, 1989, p. 9-10.



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The Merchants Mark indicated ownership whereas the Production mark indicated the Origin. Production marks were used by guilds to guarantee quality and to control entry to particular trade.³⁵ People also started engraving their names in ships this was the first widely recognised method of using trademarks, where in case of ship wreckage, identification would be possible. The other people who started using trademarks were people doing business or in guilds started asserting it as a mark on their goods. This made the manufacturer responsible for the quality of the goods that are being produced and to retain their customers.

Nowadays it is up to a seller to use or not use a mark. Modern marks do not aim at identifying ownership as was the case with the proprietary marks of the Middle Ages. Modern marks are an asset for the producer whereas in earlier times the trade marks were a liability.³⁶ Many of the laws like the aforesaid law of bread and beer assizes fought to bring about a mode of standardisation as well as protect the consumers so that they do not get cheated with adulterated goods. A specific mode of measurement was fixed.

TRADEMARK LAWS IN INDIA

While some form of proprietary protection for marks in India dates back several millennia, India's statutory Trademarks Law dates back to 1860.³⁷ Prior to 1940 there was no official trademark Law in India. Numerous problems arose on infringement, law of passing off etc and these were solved by application of section 54 of the specific relief act 1877 and the registration was obviously adjudicated by obtaining a declaration as to the ownership of a trademark under Indian Registration Act 1908.

To overcome the aforesaid difficulties the Indian Trademarks Act was passed in 1940, this corresponded with the English Trademarks Act. After this there was an increasing need for more protection of Trademarks as there was a major growth in Trade and Commerce. The replacement to this act was the Trademark and Merchandise Act 1958. This Act was to provide for registration and better protection of Trademarks and for prevention of the use of fraudulent marks on merchandise. This Law also enables the registration of trademarks so that the proprietor of the trademark gets legal right to the exclusive use of the trademark.³⁸ The objective of this act was easy registration and better protection of trademarks and to prevent fraud.

The reappellation of the Trademarks and Merchandise Act gave rise to the Trademark Act 1999; this was done by the Government of India so that the Indian Trademark Law is in compliance with the TRIPS obligation on the recommendation of the World Trade Organisation. The object of the 1999 Act is to confer the protection to the user of the

³⁵ Ashwani KR Bansal, Law of Trademarks in India, Commercial Law Publishers(2001)pg 21

³⁶ Supra UNCTAD, on trademark, pg 2

³⁷ Paul Goldstein Intellectual Property In Asia(Springer 2009)pg 73

³⁸ Pk Jalan, Industrial Sector Reforms in Globalisation Era(Sarup and Sons,2004)Pg 33



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trademark on his goods and prescribe conditions on acquisition, and legal remedies for enforcement of trademark rights.³⁹

It will for the first time protect service marks and give provision of registration for collective marks, it will also differentiate between well known trademarks and trademarks in general, and also special treatment and rights are envisaged for well known trademarks. The act of 1999 also gives police the right to arrest in case of infringement. There are some points of changes that are present between the 1958 act and 1999 act, it can be said that the 1999 act is a modification of the 1958 act, it has provided exhaustive definitions of terms frequently used, enhanced punishment for offenders, increased the period of registration, registration of non-traditional trademarks. The rules of this act are called as Trademark Rules 2002. Both the Act and its set of rules came to effect on September 15th 2003. The trademark act 1999 and its trademark rules 2002 presently govern Indian Trademark Laws in India. Laws of trademarks are based on distinctiveness and deceptive similarity. If distinct signs are freely used the brand equity created by one person will be freely used by another. The value of distinctive sign depends on sales volume and public association of sign with quality.

EXPANDING BOUNDARIES OF SCOPE OF TRADEMARKS

DOMAIN NAME

Every business on the web has a domain name—a unique address in cyber space at which the website is located.⁴⁰ Nowadays businesses both big as well as small have web pages online as the producer and consumer are distantly located as well as every business is going global the other reason is that Internet has become an indispensable tool in business. The system came to be developed as IP numbers are difficult to remember hence came up the Domain Name System (DNS).

A user of the internet will find the domain name highly useful in finding the goods or services that he intended to find. But sometimes a particular name of a highly acclaimed business or person maybe appropriated and passed off as the genuine one. This has happened to Maruthi, Tata, and Google. People reach a website or domain name through a website or a URL (Uniform Resource Locator) Cyber squatting or Cyber piracy generally refers to registration of another party's mark as a domain name for the purpose of either selling the domain name to a legitimate owner at a profit or for trading upon the goodwill associated with a mark.⁴¹ A domain name has to be relevant to the services or product offered and it has to be unique and distinct. It is advisable to hire a search firm to find out if a particular domain

³⁹ Vinod V Sople, *Managing Intellectual Property* (PHI Learning Pvt Ltd, 2006) pg 107

⁴⁰ Stephen Fishman, *Working for yourself* (7th edition, Nolo, 2008) pg 45

⁴¹ Micheal D Scott, *Scott on Information technology Law* (3rd edition, Aspen Publishers) pg 192



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name is available or not. There are many trademark consultants or trademark brokers who specialise in this kind of domain name search services.

The World Intellectual Property Organisation (WIPO) Arbitration and Mediation Centre has been resolving domain name cases using online arbitration since 1999, the process is conducted by ICANN (Internet Corporation for Assigned Names and Numbers), a non profit organisation responsible for IP address allocation, protocol agreement and DNS management.⁴²

While designating a domain name for a website it is advisable that it is distinct and not like any other found online. A high level of uniqueness has to be followed as no two domain names could be close in either spelling or sound as it may lead to confusion. There are two types of disputes that arise with regards with domain name the first type is that both the parties have the legitimate right to words forming the domain name in use. In this way the court decides who the original owner is and who the infringer is. The second type is cyber squatting where a party with no legitimate right challenges the real owner. In this type of issue there are number of ways by which a trademark owner can combat cyber squatters

SMELL

This is a non traditional type of trademark. They are also called Smell trademarks. There is a huge difficulty in registering this type of trademarks as there is no graphical representation as well as due to its high level of peculiarity for example, the smell of a perfume strawberry etc .

In some countries Smell marks are accepted if they are included with a graphical representation. Smell trademark is sometimes protected under copyright. Many smells are associated with a particular manufacturer. In some cases a particular scent is also a product by itself in other cases it is a scent applied or added to the product not the natural smell of the product itself.

Different countries adopt different methods of Registration of Trademarks, Germany allows trademarks to be registered if they are distinctive, but it has not found a way to represent olfactory signs graphically in the requisite clear, precise, self contained, easily accessible, intelligent, durable and objective manner: a description of a scent in worlds is not objective, a chemical formula is insufficiently intelligible and a sample of the scent is not durable enough.⁴³ Hence there is no reliable system of coding for scents.

⁴² Source , <http://solutionpoint.in/hosting-domain/prevent-domain-name-squatting-secure-online-assets> as on July 2nd 2008(published),accessed on 8th May,2009

⁴³Source <http://www.worldtrademarkreview.com/Issues/Article.ashx?g=df8bcb98-32dd-4c85-bba5-47df98d346f1> as on July/August 2007 by Jonas Rechtsanwalts-gesellschaft-



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SHAPE

Differentiation of one product from another ensures that the customer doesn't get confused by similar products. M Porter has said that differentiation is the key to competitiveness in today's dynamic customer driven market.⁴⁴

The shape of a product maybe registered as a trademark as long as shape is not functional. A shape is functional if it affects the products use or performance.⁴⁵ The shape of an object can be a trademark provided

- Shape doesn't provide superior function
- Shape has become associated in the minds of the purchasing public with the manufacturer.⁴⁶

When the functionality of a product is considered Aesthetics should not be taken more consideration than functionality. A shape of a product may be registered as a trademark as long as the shape is not functional. Thus if a certain shape is ornamental than more functional and serves no purpose then it may be registered.

SOUND

Every country follows various provisions for registering of sound, marks. A sound mark is a sign that is not itself capable of being perceived visually then the sound must be represented graphically by means of clear and objective images lines or characters, rather than a mere written description of a sound, this requires that the sound is represented by notes.⁴⁷ The graphical representation of the notes is also required in certain cases. Sound Marks like that of Nokia, MGM Corporation have been successfully registered. An onomatopoeic sound cannot be registered. In India sound marks are being registered after the New Trademark Act of 1999, which came into effect in 2003. Whenever a Sound trademark, is registered there is a definite certainty that the uniqueness of the particular sound has to in every possible way be distinct and distinguishable from others

⁴⁴Vinod Soplay, Managing Intellectual Property(PHI Learning Pvt Ltd,2006)pg106

⁴⁵Deborah E Bouchoux, *Protecting your company's Intellectual Property*(AMACOM Div American Mgmt Assn,2001)Pg 20

⁴⁶David Pressmen, *Patent it Yourself*(13th edition,Nolo,2008)pg 18

⁴⁷Source www.worldtradereview.com as on 7th May 2009



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CONCLUSION

Intellectual Property reflects the idea that its subject matter is the product of the mind or the intellect.⁴⁸ As it's the product of a creative and artistic mind it is bound to changes. It can be sold, bought, bequeathed and owned. As all this can be done there are bound to be issues related that have to be dealt. Trademarks and Patents are very important aspects of Intellectual Property. Trademark Protection has become important in present day competitive world because, every producer of a good or service will want his mark to be unique, eye catching as well as it should be easily distinguishable from others. Creating a mark like this is quite difficult and after all this when infringing of the mark takes place it will case utmost difficulty to the manufacturer.

Intellectual Property is not an alien concept in fact it is a concept which is seen in everyday life whether a movie, book, plant variety, food item, cosmetics, electrical gadgets, software's etc. It has become a concept of prevalence in everyday life. People have also started celebrating World Intellectual Property Day on 26th April every year.

Intellectual Property Protection is very important and there should be a movement towards Global Intellectual Property Order, if there is no IPR protection, it can be argued that inventive activity will cease. "The rationale for Intellectual Property protection is that it can stimulate creativity and innovation and encourage the exploitation of inventions for the good of the society. Public policy here aims at maintaining an intellectual Property system which encourages innovation through proactive protection initiatives, while at the same time ensuring that this is not at the cost of societal interests. In this context, the challenge for World Intellectual Property Organisation would be to incorporate public policy issues in programs carried out with developing countries, such as raising awareness of flexibilities in existing international intellectual property treaties".⁴⁹

Many treaties and conventions have taken place in the field of Intellectual Property particularly Patents and Trade Marks. If India's international affiliations' are to be talked about India is an active member of the International body WIPO (World Intellectual Property Organisation). It is also part of two treaties namely Paris Convention 1883 where Industrial Property is protected and Berne Convention 1886 where Literary and Artistic Works are protected. India adheres to TRIPS and has modified its Trademark laws to conform according to it. The purpose of all this is to protect individuality of the manufacture, prevent infringement and improper usage of signs.

⁴⁸ Source <http://dipp.nic.in/ipr.htm> accessed on 27th May, 2009

⁴⁹ Anita Rao and V Bhanoji Rao, Intellectual Property Rights-A Primer(1st edition, Eastern Book Company)pg154

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As the famous American historian and educator Daniel J Boorstein quotes” An image is simply not a trademark, a design, a slogan or an easily remembered picture. It is a studiously crafted personality profile of an individual, institution corporation, product or service”.⁵⁰ So every mark denotes an individualistic persona that has to be respected and the goodwill maintained.

⁵⁰ Source http://thinkexist.com/quotes/daniel_j._boorstin accessed on 22nd May, 2009

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