

IP Protection for Textile, Apparel, Footwear and Travel Goods



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Types of Protection suitable for the Textile/Apparel/Footwear/Travel Goods Sectors



- Trademarks and Geographical Indications – protect brands or logos
- Copyrights- protect drawings, designs, websites of the company and marketing materials including advertisements, pamphlets and manuals
- Patents – protect useful inventions, including processes and products (eg. a new process for making silk)
- Industrial designs – protect ornamental or aesthetic aspects of an article without a functional use
- Trade Secrets – protect valuable, undisclosed information, where the right holder takes reasonable steps to guard the information against disclosure

IP Protection in India



- Statutory protection of trademarks, geographical indications, copyrights, patents and industrial designs
- No statutory protection for trade secrets in India yet
 - Must rely upon contracts including non-disclosure agreements

IP Enforcement in India



- **Remedies**

- Civil: trademarks, GIs, copyrights, patents, designs and trade secrets
- Criminal: trademarks, GIs and copyrights
- Administrative: trademarks, GIs, copyrights, patents and designs



Major Areas of Concern For Industry

Trademarks



- Prevalence of counterfeit goods
- Opinion of the Registrar required for initiating criminal actions
- Existence of confusingly similar trademarks on the Register
- Backlog in Trademark Office especially for cancellation and rectifications matters
- Records of Trademark Office are not fully digitized

Copyrights



- Weak Enforcement
- Proposed copyright amendments-
pending with the Minister of Human
Resource Development
- Digitization of Copyright Office
records is not complete

Patents



- Draft Manual of Patent Practice and Procedure - first round of consultations complete
- Records of Patent Office have not yet been fully digitized

Industrial Designs



- No digitization of records
 - Manual search
 - Physical filing & prosecution of applications

Trade Secrets



- **No statutory protection**
 - Draft Innovation Act would provide protection for trade secrets
 - Present draft of the Innovation Act does not provide criminal penalties for infringement of trade secret

Enforcement



- Backlog of cases in the courts
- Lack of experience for judges
 - No specialized IP benches in courts
- Lack of knowledge about IP laws among prosecutors
- Lack of knowledge, experience and interest among Police
 - Specialized Police cells in Delhi and Mumbai
- Lack of experience among Customs Officers
 - Customs Recordation system implemented



Industry's Concerns About Other South Asian Countries



- High rates of counterfeiting and piracy
- Minimal public awareness about IP
- Lack of knowledge among the enforcement agencies
- Lack of legislation in some countries like Maldives and antiquated laws in others like Bangladesh
- High rate of counterfeit goods and piracy
- Lack of effective deterrents
- Limited amount of legal experts with comprehensive knowledge about IP issues
- Digitization in IP offices-not prevalent yet
- Backlog in prosecution of applications
- Active anti-IP groups
- Other crimes/issues considered bigger than IP



Practical Suggestions



- Register your IP rights immediately in South Asian countries...filing late might be too late!
- Hire local law firms to scout for any misappropriation of your IP locally
- Publish cautionary notices in leading newspapers and magazines
- Initiate legal action as soon as you come across infringement/passing off and prosecute the case till the end



- Due to the considerable length of trials, consider option of settling out of court
- Support campaigns to spread public awareness on IP
- Engage with government officials, including enforcement agencies early on

Thank you

