Innovation and Intellectual Property Rights law – An overview of the Indian law

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Abstract:

The present article provides an overview of the various laws dealing with innovation and intellectual property rights in India. In India, the many facets of intellectual property rights are dealt in particular legislations enacted by the Parliament. These legislations operate within the overarching guarantee of the right to property provided by the Indian Constitution. While providing brief insights into the law of patents, copyrights, trademarks, designs, and remedies for violation of these rights, the article also covers questions relating to the inter-section of these rights in practice. Where appropriate, the article also refers to seminal judicial decisions on these areas of law.

Introduction

The Indian Constitution assures various fundamental rights such as the right to life1 (expansively interpreted so as to include dignity, privacy, livelihood, right to shelter, access to emergency healthcare and clean environment), the right to equality2 and non-discrimination3 (on specific grounds such as gender, descent, race, caste, religion, etc.), right to primary education,4 freedom of speech,5 association,6 movement and the right to business, trade, commerce.7 Property rights (subject to expropriation through eminent domain, based on the determination of fair compensation) were deleted from

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2 Article 14, Constitution of India, 1950.
3 Article 15, Constitution of India, 1950.
5 Article 19(1)(a), Constitution of India, 1950
7 Article 19(1)(g), Constitution of India, 1950.
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