

Intellectual Property (IP) In India: Present Scenario

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Abstract:

Intellectual Property (IP) deals with any basic construction of human intelligence such as artistic, literary, technical or scientific constructions. Intellectual Property Rights (IPR) refers to the legal rights granted to the inventor or manufacturer to protect their invention or manufacture product. The intellectual property right is a kind of legal right that protects a person's artistic works, literary works, inventions or discoveries or a symbol or design for a specific period of time. Intellectual property owners are given certain rights by which they can enjoy their property without any disturbances and prevent others from using them, although these rights are also called monopoly rights of exploitation, they are limited in geographical range, time and scope. India announced its first National IPR policy in 2016. Today, the portfolios of Patents, Designs, Trademarks, Copyright, Geographical Indications, and Semiconductor Integrated Circuits Layout Design all fall under the Department for Promotion of Industry and Internal Trade (DPIIT). Under DPIIT, the Cell for IPR Promotion and Management is tasked with implementing India's National IPR Policy. It spearheads the Indian government's efforts to streamline IP processes, increase IP awareness, promote commercialization, and enhance enforcement. Through this research paper, we will know that what is the position of India in various indicators of intellectual property? This research paper is based on secondary data. India has improved its overall International Intellectual Property (IIP) score from 38.4% to 38.6%, and the country is ranked 43rd out of 55 countries on the International Intellectual Property Index 2022.

Keywords: Intellectual Property Index, Intellectual Property rights, GI, Patent, Copyright, Trademark

1. Introduction

Hundred years ago economics governs by two factors of production: labor and capital. But now this is changing, information and knowledge are replacing wealth creating asset. In the era technology development changes Majority of wealth creating work from physically based to knowledge based. In today's globally competitive environment intellectual property plays important role in economic growth of nation. Intellectual property is the fuel that powers the engine of prosperity, encouraging invention and innovation. IPRs are now being used as tools to protect creativity and generate revenue. There are several reasons to promote and protect the intellectual property first is progress and well-being of humanity in creation, invent new work in technology and culture, legal protection of new creations of innovation and promotes economic growth, creates new industries & job, enhance the quality and enjoyment of life. Anything we are surrounded by us comes under in any one form or type of intellectual property. We face intellectual property at every stage of our life now days like design of home appliances, electronic gazettes, office consumables and furniture such as design of pressure cooker, water bottles shape, tiles design, bed sheet design, ornamentals and so on.

1.1 Intellectual property

Intellectual property is intangible that is it cannot be defined or identified by its own physical parameters. Intellectual property is referring as creation of intellect or human mind. Intellectual property refers as creator of mind such as invention, design or any kind of creation, literature, artistic works, symbol, name, image, music, drama. Intellectual property right can be defined as rights given to people over creation of their minds or idea.

Intellectual property divided into two categories –Industrial property and copyright.

Industrial property includes patent for innovation, trademarks, Industrial designs, geographical Indications, trade secrets, plant varieties, integrated circuits.

Copyright covers software, performing arts, sculptures, film, recording, broadcasting on radio and television, music artistic work (drawing, painting, and photograph) literature work such as novel, poem, and drama.

1.2 Rights protected under Intellectual Property

IP law which protects the expression of idea, these Ideas expressed in different manner and take shapes of differ laws of intellectual properties such as

- Patents
- Copyrights
- Trademarks
- Industrial designs
- Protection of integrated circuits layout design
- Geographical indications of goods
- Biological diversity
- Plant varieties and farmers right
- Undisclosed information

1.3 Importance of Intellectual property

Importance of intellectual property was first recognized in Paris convention (1983) in the field of industrial property. Intellectual property rights are protected to help ensure creation and productivity. Intellectual Property as property can be sold, bought, can be lease or rent, can be assigned. Intellectual Property is an asset and can be misused by the others for commercial profits so Intellectual Property owner can stop others from manufacturing and selling products and services which are dully protected by the IP owner. Intellectual Property owner can sell and/or license the IP for commercial gains. Intellectual Property can be used to establish the goodwill and brand value in the market. Share knowledge promotes progress and the general welfare by disclosing invention. IPR certificate establishes legal and valid ownership about an intellectual property.

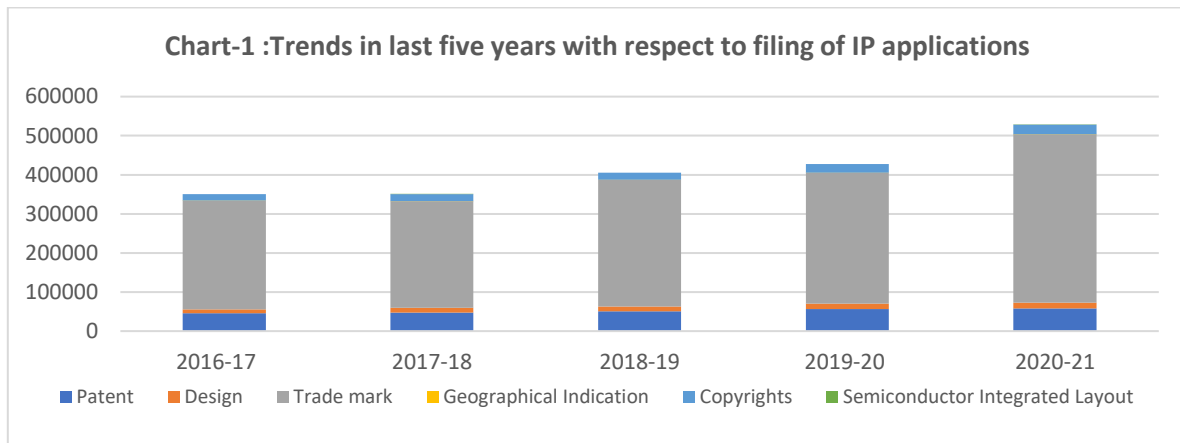
2. Recent Trends in IPR in India

2.1 At a Glance: Filing of applications for protection of various Intellectual Property Rights (IPRs) in IP offices under the administrative control of Controller General of Patents, Designs and Trade Marks (CGPDTM) has been showing consistent growth over the years.

Table -1: Trends in last five years with respect to filing of IP applications

Application	2016-17	2017-18	2018-19	2019-20	2020-21
Patent	45444	47854	50659	56267	58503
Design	10213	11837	12585	14290	14241
Trade mark	278170	272974	323798	334805	431213
Geographical Indication	32	38	32	42	58
Copyrights	16617	17841	18250	21905	24451
Semiconductor Integrated Layout	0	2	0	0	5
Total	350476	350546	405324	427309	528471

Source: Annual Report (2020-21), DPIIT, GOI



This year, overall filing of applications for various IPRs (528471) has been higher as compared to the previous year (427309), exhibiting an overall increase of 5.42%. The increasing trend in filing of applications for patents, designs, trademarks, copyright and geographical indications has been observed during this year as compared to last year.

2.2 Patents: The trends of last five years in respect of patent applications filed, examined, granted and disposed are given below. Disposal of applications includes patents granted and refused by the Patent Office, as also, applications abandoned and withdrawn by the applicants.

Table -2: Trends in Patent Applications

Year	2016-17	2017-18	2018-19	2019-20	2020-21
Filed	45444	47854	50659	56267	58503
Examined	28967	60330	85426	80080	73165
Granted	9847	13045	15283	24936	28385
Disposal	30271	47695	50884	55945	52755

Source: Annual Report (2020-21), DPIIT, GOI

During 2020-21, a total of 58503 patent applications were filed exhibiting an increase of about 3.97% as compared to previous year. Domestic filing of patents applications has also increased to 24326, which is 41.58% of total filing as compared to 37.05% in 2019-20.

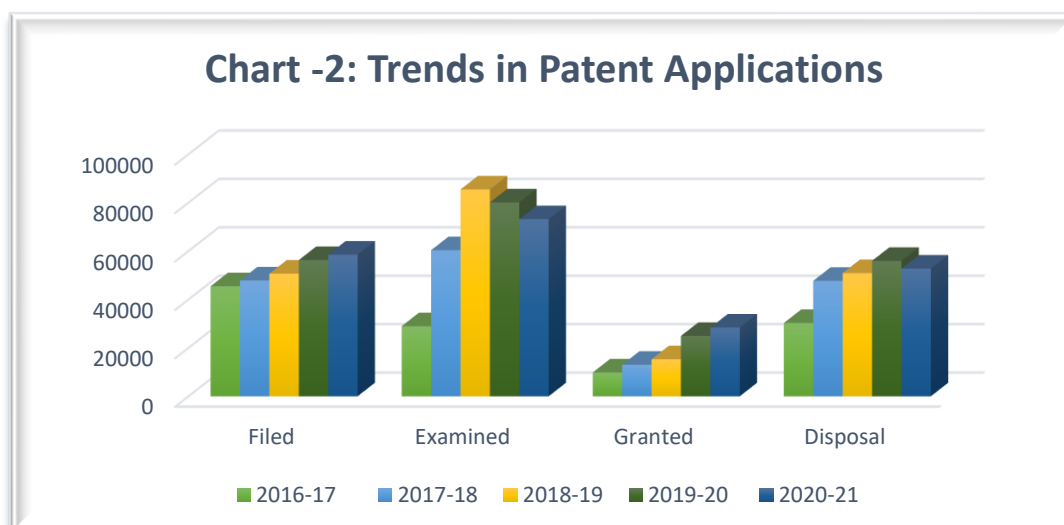
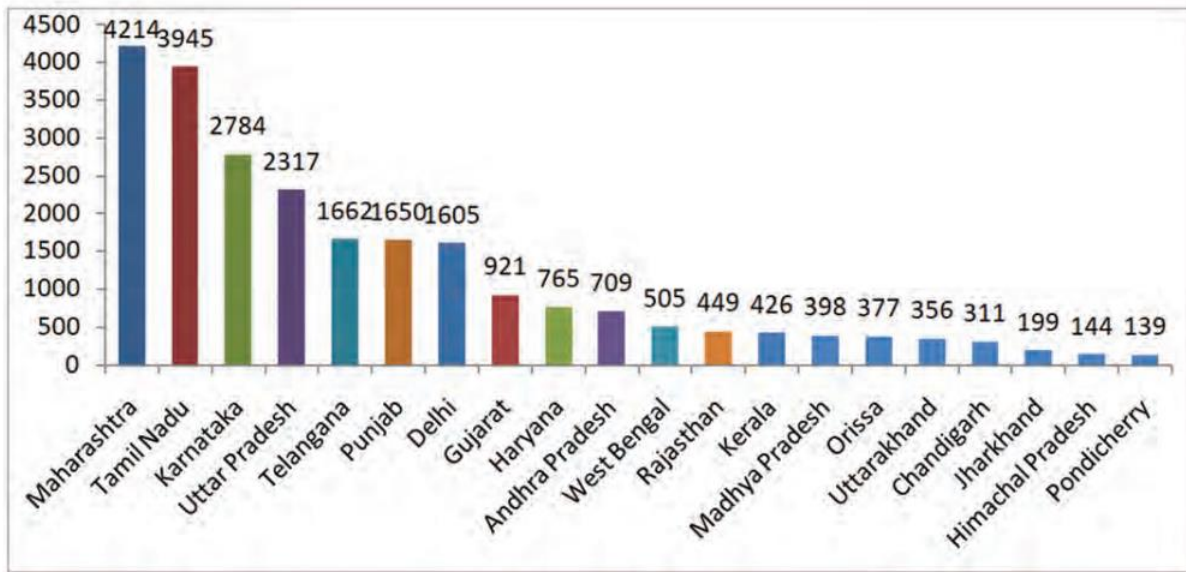


Chart -3 Application Filed by Indian Applicants (State-wise)



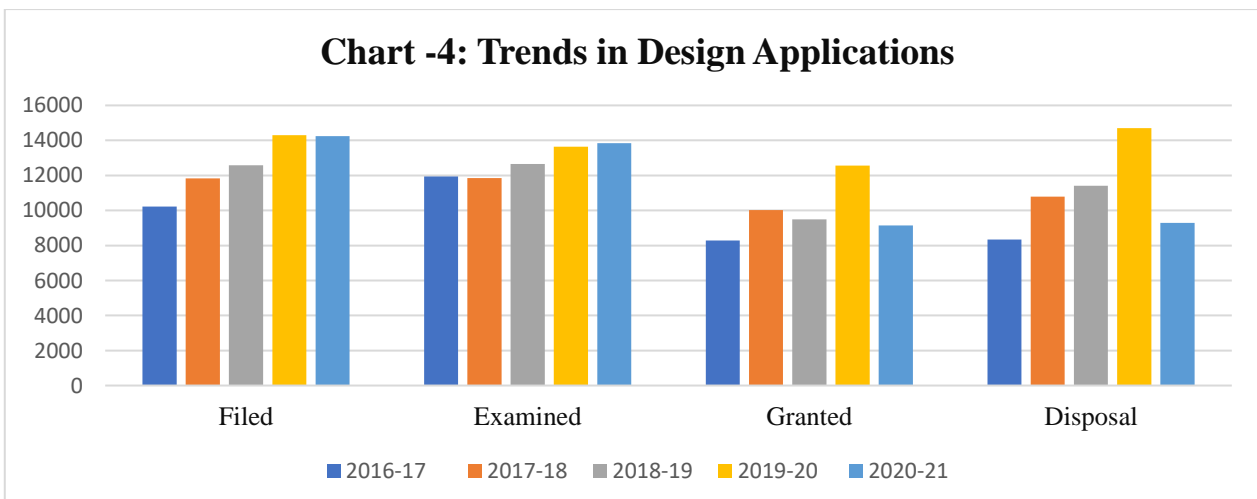
2.3 Designs: The registration and protection of industrial designs in India is administered by The Designs Act, 2000 and corresponding Designs Rules, 2001. The Designs Act, 2000 came into force on May 11, 2001 repealing the earlier Act of 1911. The Designs Rules, 2001 was further amended by the Designs (Amendment) Rules, 2008, the Designs (Amendment) Rules, 2014 and the Designs (Amendment) Rules, 2021. The industrial design recognizes the creation of new and original features of new shape, configuration, surface pattern, surface ornamentations and composition of lines or colours applied to articles which in the finished state appeal to and is judged solely by the eye. During this year, a total of 14241 design applications were filed showing 0.34% decrease over the last year. The number of design applications examined was 13847 showing the increase of 1.48%, whereas registration and disposal of design applications during 2020-21 decreased by 25.36% and 36.8%, respectively, as compared to last year.

Table-3 : Trends in Design Applications

year	2016-17	2017-18	2018-19	2019-20	2020-21
Filed	10213	11837	12585	14290	14241
Examined	11940	11850	12661	13642	13847
Granted	8276	10020	9483	12556	9147
Disposal	8332	10788	11414	14701	9281

Source: Annual Report (2020-21), DPIIT, GOI

Chart -4: Trends in Design Applications

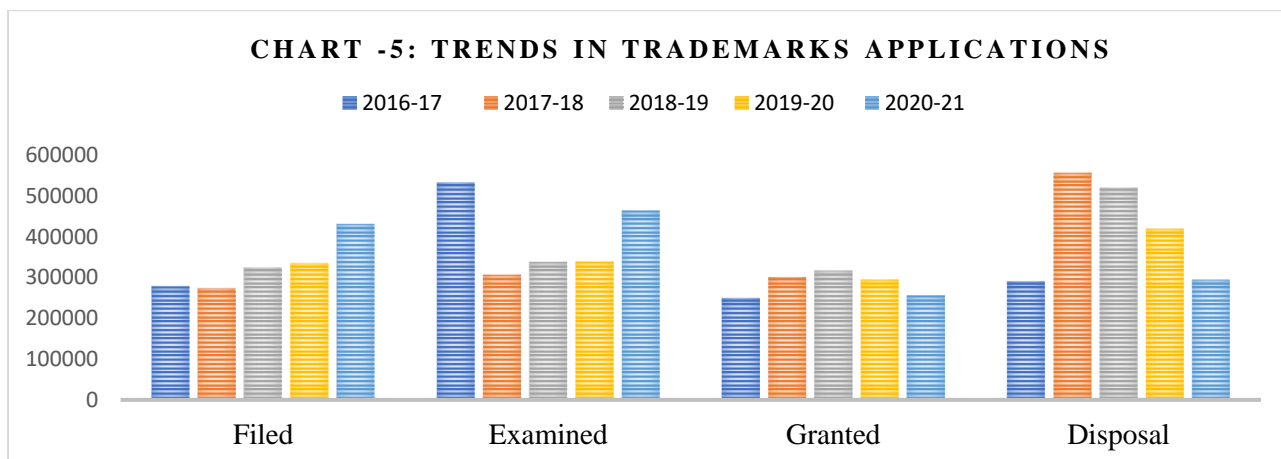


2.4 Trademarks: The purpose of trademarks legislation is to provide registration and better protection of trade marks for goods and services for prevention of use of fraudulent marks on merchandise in the country. The trademark confers statutory rights on the Registered Proprietor, which enables him/her to take legal action for infringement of the trademark. This is in addition to the right under common law to sue for passing off. During this year, 431213 applications for registration of trademarks were filed. The number of applications examined is more than applications filed during this period and pendency in examination has been brought down to less than a month. The number of trademark registrations and disposals are less during this year as compared to last year due to the fact that old pendency has been cleared during last 3 years.

Table -4: Trends in Trade Marks Applications

Year	2016-17	2017-18	2018-19	2019-20	2020-21
Filed	278170	272974	323798	334805	431213
Examined	532230	306259	337541	338551	463912
Granted	250070	300913	316798	294172	255976
Disposal	290444	555777	519185	419566	294944

Source: Annual Report (2020-21), DPIIT, GOI



2.5 Geographical Indications: The Geographical Indications Registry (GIR) is a statutory organization set up with main object to provide for the registration and better protection of geographical indications relating to goods and for the administration of the Geographical Indications of Goods (Registration and Protection) Act, 1999, which was brought into force on September 15, 2003. The GI Registry is situated at Chennai. The Registry has been organizing and participating awareness programmes throughout India to promote registration of the Indian GIs. The sectors being focused on are tea, coffee, spices, agriculture & horticulture products, handloom products, handicrafts, textiles, processed food items, dairy products, natural goods, spirits and wines. During the reporting year, 58 applications were filed, No applications were examined as the Consultative Group Meeting were not conducted due to Covid-19 pandemic and 05 Geographical Indications were registered. The trends in GI applications filed, examined and registered during the last five years are given below.

Table-5: Trends in Geographical Indication Applications

Year	2016-17	2017-18	2018-19	2019-20	2020-21
Filed	32	38	32	42	58
Examined	28	18	43	51	0
Disposal	34	25	23	22	5

Source: Annual Report (2020-21), DPIIT, GOI

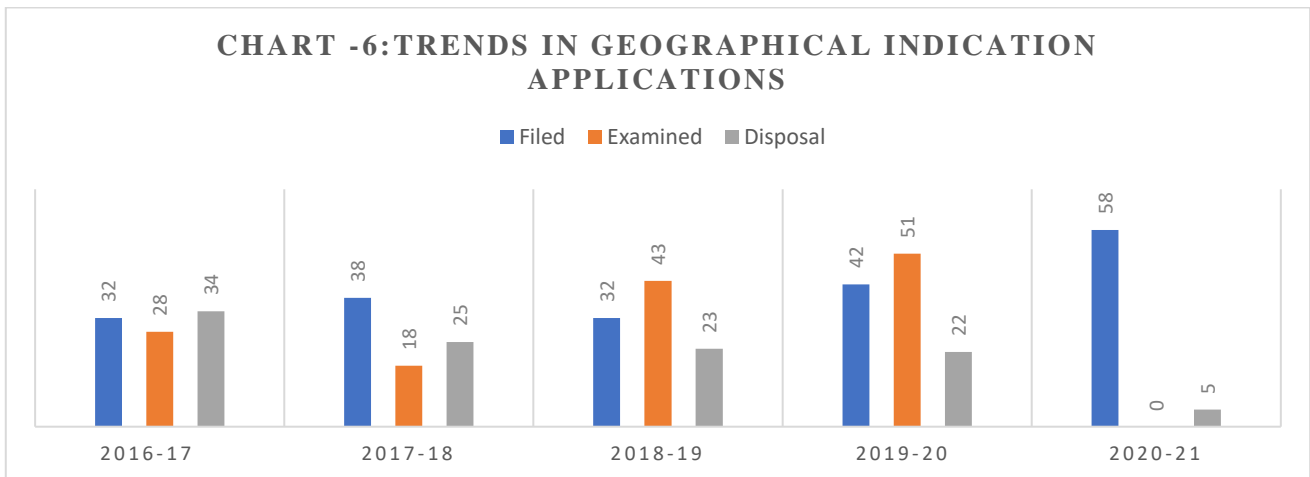


Table -6 : Year – wise breakup of GI Applications filed as on 2021

Year	No. of Applications
2003-04	6
2004-05	29
2005-06	16
2006-07	33
2007-08	37
2008-09	44
2009-10	40
2010-11	27
2011-12	148
2012-13	24
2013-14	75
2014-15	47
2015-16	17
2016-17	32
2017-18	38
2018-19	32
2019-20	42
2020-21	58
Total	745

A total of 370 (Three Hundred and Seventy) Geographical Indications (GIs) have been registered since September 15, 2003. A total number of 4885 (Four Thousand Eight Hundred Eighty-Five) GI Authorized User certificates have been issued. From April 01, 2020 to March 31, 2021, the Office has received 58 Geographical Indications Applications and 966 Geographical Indications Authorised User Applications, 05 Geographical Indications and 505 Geographical Indications Authorised Users have been registered.

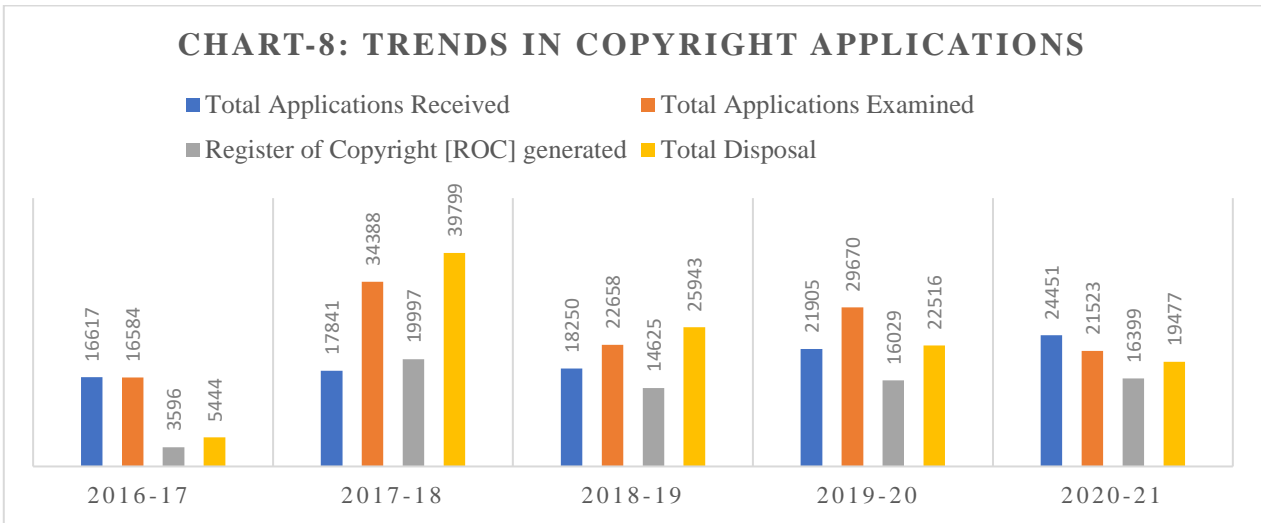
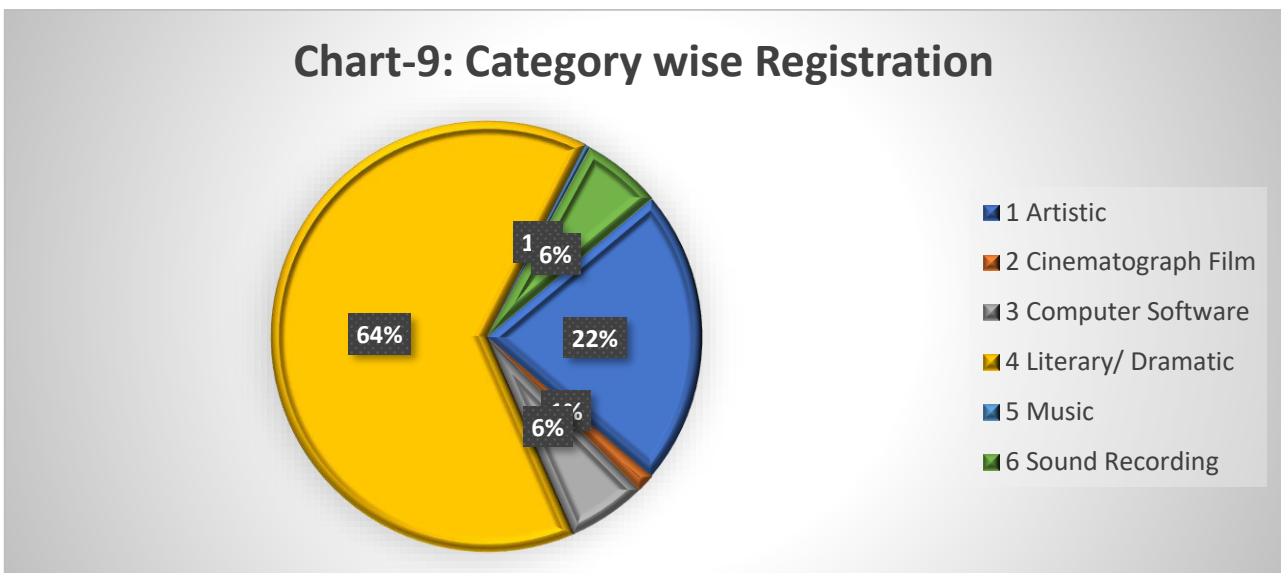


Table -8: Category wise Registration of Copyright (Year 2020-21)

Sl. No.	Category	ROCs
1	Artistic	3655
2	Cinematograph Film	230
3	Computer Software	961
4	Literary/ Dramatic	10514
5	Music	69
6	Sound Recording	970
Total ROCs		16399

Source: Annual Report (2020-21), DPIIT, GOI



2.7 Trend of IPRs granted/registered: A comparative trend of IPRs granted/registered during the last 5 years is given below. The figures in yellow cell give the total disposal of applications.

Table -9: Comparative Trends of IPRs granted/registered (and disposed)

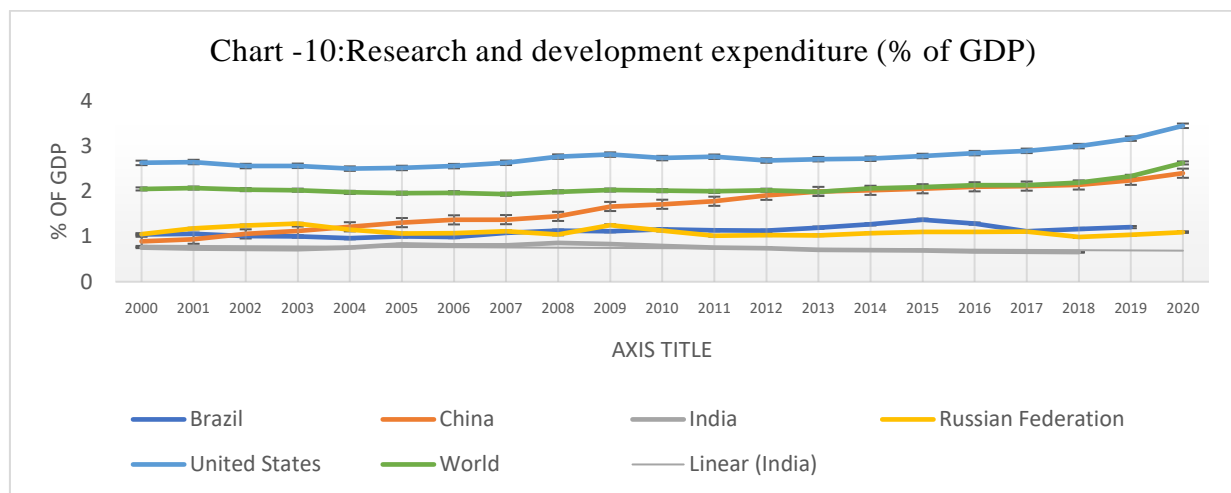
Year	2016-17	2017-18	2018-19	2019-20	2020-21
Patents	9847	13045	15283	24936	28385
	30271	47695	50884	55945	52755
Designs	8276	10020	9483	12556	9147
	8332	10788	11332	14701	9281
Trade Marks	250070	300913	316798	294172	255976
	290444	555777	519885	419566	294944
Geographical Indications	34	25	23	22	5
Semiconductor Integrated Layout Design	NIL	NIL	NIL	NIL	NIL
Copyrights	3596	19807	14625	16029	16399
		39799	25943	22516	19477

Source: Annual Report (2020-21), DPIIT, GOI

An overview of table no. 9 above shows that, every year, the application of patents, designs, trademarks and geographical indications in India is increasing, but the number of applications approved has increased relatively less.

3. Reasons for underperformance in intellectual property rights:

For a long time, the level of IPR protection was very low in India. Copying, plagiarism, piracy and other IPR violations were rampant, causing huge losses to IPR owners. There is not enough progress in the field of intellectual property rights in India because the level of research and development in India is relatively very low.



R&D investment in India, in fact, has declined from 0.8% of the GDP in 2008–09 to 0.7% in 2020-21. Data shows that India's GERD is lower than the other BRICS nations. Brazil, Russia, China and South Africa spend around 1.2%, 1.1%, above 2% and 0.8% respectively. The world average is around 2.1%.

4. Challenges of intellectual property?

- Lack of Effective Enforcement.
- Internet/Technology.
- Poverty and Poor Economic Infrastructure.
- Lack of Awareness About IPRs and IP Culture.
- Lack of a Concise National IP Policy.
- IP Administration.
- Lack of Quality Research and Commercialization.

5. Conclusion:

There are significant changes introduced in India's IPR regime, resulting in effective disposal of pending IP applications and implementing India's IP laws for various types of Intellectual property. The increasing trend in filing of applications for patents, designs, trademarks, copyright and geographical indications has been observed during last 5 years. These changes also resulted in effective innovation steps and improved India's ranking in the Geographical innovation index over the past few years. The central governments' steps in formulating a new IPR policy for promoting intellectual property rights in India and ensuring its compliance with TRIPS by WTO and other international protocols and treaties emerged India as a new face of the world in the IP field.

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