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ABSTRACT:

“Trade secrets are Intellectual property rights, which can be sold or licensed on confidential information. It can take a variety of forms like instrument, pattern, design, formula, recipe, methods etc. It is not a public information; trade secrets are the confidential information as their secrecy provides an economic benefit to their holder. In the period of globalization, Trade secrets have gained expanded importance especially in the view of opening up of world market and improved competition. Moreover, the fact that, as a method for protection of confidential information has leveraged its significance as trade secret protection is being preferred over patent protection. If trade secrets are property, then laws protecting them are normatively justified. We all know businesses are the backbone of a nation’s economy and they contained sensitive information that is essential for gaining and maintaining a competitive edge in the marketplace. Businesses can suffer intractable losses if the sensitive information of economic value is disclosed to other entities so laws were made for the protection but no specific law protects trade secret or confidential information in India. This paper addresses the laws related to protection of trade secrets in India, Comparison of Trade secrets and patent law, Analysis of Indian Intellectual Property Laws”.

Keywords: Trade Secret, Intellectual Property Law, Confidential Information, Patent Law.

I. OVERVIEW ON INTELLECTUAL PROPERTY RIGHTS AND LAWS RELATING TO PROTECTION OF TRADE SECRETS IN

INDIA:

Trade secrets include any protected business information - whether technical, financial or strategic - that is anonymous and provides a competitive advantage to the owner. New businesses use trade secrets throughout their work, and they respect them as a way to manage their personal information. Trade secrets and copyright protection go hand in hand, and businesses tend to use these tools collectively to manage their intellectual property. Modern

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communication methods require a lot of confidential business information. Business privacy protection can enhance collaboration between partners by enabling rescue if a third-party misuses important information.¹ In the absence of protection, 40 companies in the European Union (EU) report that they can keep business details internally, to avoid losing them (EU 2013). From a practical point of view, secret trade regimes do not work because of low levels of legal protection, international and regional legal separation, and inadequate enforcement. The emerging legal uncertainty is a major problem given the current state of the business, characterized by extensive research and development (R&D), staff mobility, and reliance on information and communication technology (ICT).

An example of this is the storage and processing of digital information on external servers, allowing commercial privacy to be used from anywhere in the world. This forces companies to recover from abuse - often in areas that offer little or no protection. Land redistribution and freedom are two factors that have marked the beginning of competitive markets due to the large number of companies entering the sector and the commercial sector. These markets have opened the door to various customer groups around the world. Such considerations of global business and competition have highlighted the need to revitalize and protect privacy, which is the lifeblood of any business. Trade secrets refer to such business secrets or confidential information, unauthorized use that could be considered illegal. Trade secrets not only inform the business about the business but may also include the facts the business intends to keep. Trade secrets reach a business refuge where it seeks to gain and maintain its competitive advantage in the market². While it is an intangible asset that is unavoidable in any business, trade secrets such as intellectual property are unattractive when compared to other patents. Such unpopularity can be caused by a number of factors: First, trade secrets do not require mandatory registration. The emergence of trade secrets and their protection is

¹ Trade secret definitions are similar across jurisdictions, generally corresponding to the criteria articulated in Article 39 of TRIPS (Schultz & Lippoldt 2014), reflected in the United States’ 1985 Uniform Trade Secret Act (UTSA), and set forth in the 2013 Proposal for a Directive of the European Parliament and of the Council on the protection of undisclosed knowhow and business information (trade secrets) against their unlawful acquisition, use, and disclosure.

² James Pooley, Trade Secrets: The Other IP Right, WORLD INTELLECTUAL PROPERTY ORGANISATION, (Mar. 2013), http://www.wipo.int/wipo_magazine/en/2013/03/article_0001.html.

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often the result of common business practices with companies. Second, confidential trading regulations are based on changing legal principles; however, a coercive regime is not well established. Thirdly, disputes about such secrecy are not open to the public and therefore familiarity with such matters is often limited to making trade secrets unpopular. Fourth, unlike other intellectual property rights, trade secrets do not give the right to use information to the owner. This right may be granted to an individual as the information is developed independently or is acquired through intellectual property.

Trade Secrets The defined global definitions of trade secrets meet the requirements of TRIPS. Member states must protect trade secrets or "confidential disclosure details"; has a sales value because it is confidential; and the necessary steps to take privacy. The information must be protected from disclosure, disclosure, or third-party use in a manner that is inconsistent with trustworthy trading practices. TRIPS does not specify a specific method to protect trade secrets; in fact, member states have confidential trading laws, including the protection of trade secrets from competitive or contractual laws, and / or reliance on common law. According to TRIPS standards, the list of items that can be considered “trade secrets” is extensive. It may include confidential business information, such as a company's customer list, price list, or marketing strategies; to know, such as facts about production methods or processes for obtaining certain results; and technical knowledge, such as programs, algorithms, and chemical formulas³.

Trade secrets can be especially important if the value-added work is at the forefront of research and development (R&D) - and thus does not meet copyright requirements - or where changes in legal standards make patents remain unclear. For example, uncertainty over patent ownership of a particular biotechnology, business process, and / or software development under U.S. law. It can entice firms to rely heavily on trade secrets.

³ “Contrary to honest commercial practices” includes “practices such as breach of contract, breach of confidence or inducement to breach, and includes the acquisition of undisclosed information by third parties who knew, or were grossly negligent in failing to know that such practices were involved in the acquisition.” WTO, TRIPS, Article 39.2 note 10.

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Trade Secrets and Patents Compared:

Apart from the emergence that exists between trade secrets and patents, the protection given to each individual is very different. Trade secrets do not end with a broad topic, and they do last a long time. For example, while copyright laws are usually limited to 20 years, commercial security may remain as long as confidentiality is maintained. In addition, trade secrets do not need to be added or updated by a management agency before they can be implemented. Whether the information meets the requirements of legal protection is not determined by the patent holder prematurely but usually by a judge thereafter in court. The firm protects its privacy through sound security measures - for example, by providing limited access to information only, and only to "need-to-know" employees. On the other hand, business security protection is less effective than copyright-related issues in important ways. Business privacy policies do not always protect a company from accessing information in a fair and honest manner. Instead, a violation of the law requires negligence - a breach of trust (such as an employment relationship), a breach of contract, or any other act of dishonesty or misconduct.⁴

Therefore, recurring items that can be obtained with retrieval technology - for example, other medical-related items - cannot be successfully protected by trade secrets. Moreover, unlike copyright, as long as trade secrets are disclosed, protection is often lost. A firm can bring in a suit, but "putting a genie back in the bottle" or showing damage (which may not be permanent) is often difficult. Courts may impose restrictions on efforts to reduce restrictions. In copyright law, by comparison, an engineer who develops copyrighted technology without copyright infringement is usually detained if its construction is subject to copyright requirements. The developer who prepares a valid application file is granted the right to exclude others from making, using, selling or importing inventions at the time of patent. This

⁴ See, e.g., Aquino, "Attorneys Tell PTO," September 15, 2015 (representatives of innovators in the field of biopharmaceutical diagnostics state that currently inventors are more likely to rely on trade secrets because of uncertainty about patent eligibility for inventions in the fields of diagnostics and personalized medicine due to court decisions and patent office guidelines); Barnhard and Klann, "Navigating the Sea Changes," 2015, 14-30 (describing changes to U.S. patent law that may spur changes in IP protection strategies).

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special right often makes the innocent motive of the perpetrator or good business practices irrelevant to the decision. In addition, the power to enforce intellectual property rights persists even if copyright infringement is violated by others. To obtain these exclusive rights, however, the patent applicant must disclose the invention in "clear, concise, and concise terms" and set the best course of action for the invention. "This disclosure aims to have a positive impact on the community, which includes public awareness and encouraging innovation; facilitate clear communication by identifying property rights; and restrict the scope of patents by preventing over-demand.

While there is controversy over working with disclosure, trade secrets do not allow for public disclosure at all. Instead, by increasing the chances that investment in R&D and staff training can be disclosed to the public, confidential business protection aims to encourage firms to invest first. Copyrights and trade secrets thus take various forms of promoting new things⁵.

Positive Protection and the Hurdles of Patent and Copyright:

Patent Indigenous knowledge is often considered by copyright law, as it relates to traditional medical or agricultural practices. It is also subject to copyright law, whether or not it is related to traditional expressions, such as mythology or traditional art. These IP forms are often unpopular with owners of traditional data. Governments provide copyright and innovation disclosure, innovation, usefulness, and non-discrimination based on past knowledge (or "prior art") for a period of time (usually twenty years from the date of application). In addition, patent applications must explain the invention in sufficient detail to allow others with artistic skills to make it a requirement of "empowerment". Copyright protects the original forms of speech, such as novels, songs and images, for a long but limited time. In addition, many countries, including. The American state, however, needs to be regarded as a thinker - a need for "correction". When the term of copyright or copyright protection expires, secure or creative work enters the public domain, so that we can use it "freely" freely or for others to use it.

⁵ Thomas, "The Role of Trade Secrets," January 15, 2014, 4.

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Certain aspects of traditional knowledge make copyright infringement or copyright infringement impossible. For example, as patents and patents are temporarily denied, long-term traditional knowledge is often unsuitable for protection. Instead, modern IP rules take it as part of a public domain. Also, natural materials that do not involve some form of technical intervention are usually not included in the copyright problem. In addition, the unwritten method of traditional knowledge violates copyright requirements for "preparation" and copyright.⁶

And while patent applications should identify the real founder or creator groups responsible for creation, community growth and the expansion of traditional knowledge often make it difficult or difficult to identify specific creators in society. Finally, the invalid cost of obtaining a patent is an important limitation that applies to traditional knowledge holders. Compared to patents and patents, other categories of intellectual property, such as trademarks, geographic references (GIs), and trade secrets, appear to be very promising for owners of traditional knowledge. These types of intellectual property, for example, do not have a set period of protection; they may not end there. And it's cheaper to get than copyright. But trademarks and GIs can only protect the names and symbols associated with traditional knowledge, not the use of the information itself. For this reason, they may have a limited number of other indigenous and local communities.

Mechanism and Modalities of Trade Secrets:

The TRIPS Agreement recognizes trade secrets under 'undisclosed information', but discloses them in a certain way and in certain ways. The environment and methodology vary from state functions and scope from privacy laws to unfair competition and breach of contract. **Outstanding ways to protect trade secrets are described as below:**

Employment Agreement:

⁶ The term "local customary law" (or law governing a traditional community) is used here to avoid confusion with the concept of international customary law (governing relations between states). See Antony Taubman, Saving the Village: Conserving Jurisprudential Diversity in the International Protection of Traditional Knowledge, in INTERNATIONAL PUBLIC GOODS, supra note 2, at 521, 555 (using that term).

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Depending on their needs, businesses include appropriate confidentiality, non-disclosure agreement (NDA) and non-competitive clause (NCC) in employee agreements. This may include the type of information that may be disclosed, how it should be used and the restrictions on disclosure after suspension.

Trade Secret Policy:

Confidential trading policies are based on business secrets in terms of their value and sensitivity and therefore employees are warned of violations.

Non-Disclosure Agreements (NDAs):

Businesses enter into NDAs with third parties while discussing business and business prospects. In this way, third parties can be prevented from disclosing any trade secrets.

Adequate Documentation:

Sufficient records are kept of the amount of proof of trade confidentiality. This is subject to periodic research and refinement.

Security Systems:

Access to trade secrets and confidential information is not permitted in the selection of security personnel. In the event of a power outage, businesses use sufficient software, scanner, logs and other security and safety measures to protect their trade secrets. It is important to remember that the trade secret does not need to be novel or real; the only secret.

Infringement of Trade Secrets and Remedies:

The owner of a trade secret has the right to keep others from using and using his trade secret. While use is sometimes the result of industrial testing, it is often a matter of private business involving the involvement of older employees, the use of new businesses or new employers. Business privacy protection is tolerated as long as security requirements - frequency, value to

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the owner and privacy continue to be met. Security is lost if the owner fails to take reasonable steps to keep the information confidential. In addition, the disclosure of trade secrets does not occur in all cases, that is, the owners of trade secrets can only be assisted in the negligent use and *there are many ways to prevent the disclosure of trade secrets as follows:*

General Knowledge:

In common law, it is a well-established principle of public policy that a former employee is free to utilize the general skill and knowledge acquired during his or her employment. Similarly, in USA, the Economic Espionage Act, 1996 (EE Act) does not apply to individuals who seek to capitalize on their lawfully developed knowledge, skill or abilities.⁷ Although the EE Act, 1996 declares theft or misappropriation of trade secret as a federal crime, exclusion applies not only to the exploitation of the information for the employee’s own benefit, but also to the employee’s use of it for other employers.

Parallel Development:

The owner of a trade secret does not possess a monopoly on the data that comprises the trade secret. Other companies and individuals have the right to discover the elements of trade secret through their own research and hard work. Thus, it is a defence if the defendant demonstrates that he has independently developed the trade secret.

Reverse Engineering:

Discovery by reverse engineering, namely, starting with the known product and working backwards to find the method by which it was developed, is considered proper means. Therefore, to avoid a successful claim by the defendant that he discovered the trade secret by reverse engineering, prosecutors should establish the means by which the defendant misappropriated the trade secret. If the prosecution could show that the defendant unlawfully obtained access to the trade secret, it would refute his claim that he learnt the trade secret

⁷ Verma S K, Legal protection of trade secrets and confidential information, *Journal of the Indian Law Institutes*, 44 (3)(2002) 336-353.

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through reverse engineering. However, a defendant cannot defeat a prosecution by claiming that the trade secret could have been discovered by reverse engineering⁸.

Innocent Acquisition of Information:

Where the defendant acquired the information innocently, that is, without knowing that it was a trade secret belonging to a person who did not consent to the defendant's acquisition of it, he is not liable to infringement of a trade secret under English law. However, under the US law, a person who learns of a trade secret innocently, without notice, is liable after receipt of notice unless he can prove that he has in good faith paid value for the secret or has so changed his position that to subject him to liability would be inequitable⁹.

Public Interest:

It is well established that no liability is attached to the use of information, which was in public interest to use or disclose. Thus, a defendant in proceedings for breach of confidence shall not be liable to the plaintiff in respect of any disclosure or use of information by the defendant in breach of an obligation of confidence if (a) the defendant raises the issue of public interest in relation to that disclosure or use; and (b) the plaintiff is unable to satisfy the court that the public interest relied on by the defendant under that sub-section is outweighed by the public interest involved in upholding the confidentiality of the information.

Statutory Obligation:

If the information is used or disclosed in accordance with a statutory obligation or power, the defendant is not liable. For instance, if the information is disclosed pursuant to a court order, or otherwise for the purpose of legal proceedings, it comes within the exemption. Similarly, the use or disclosure in the interests of national security or for the prevention, investigation or prosecution of crime is permissible. However, the disclosure must be to

⁸ <http://www.annauniv.edu/ipr/tradecatagories.php> (12 January 2009).

⁹ Nair M D, Protection of trade secrets, undisclosed information.

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someone who has a ‘proper interest’ in receiving the information in question¹⁰.

International Legal Framework:

It is appropriate at this juncture to look into the international and comparative norms governing trade secret laws. In this connection, it is necessary to understand the American law and precept in proper context because it represents one of the most advanced forms of trade secret law in the world. Article 39(2)¹¹ of the TRIPS lays down the essentials for undisclosed information but avoids using the nomenclature of trade secret. The US enactment on trade secrets, ***Uniform Trades Secrets Act, 1970 provides the most comprehensive definition of trade secrets (Section1) found anywhere in any statute, as under:***

- *Information, including a formula, pattern, compilation, program device, method, technique, or process, that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means, by other persons who can obtain economic value from its disclosure or use, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.*
- *Another significant development in US law is the Economic Espionage Act, 1996, which deserves closer scrutiny in relation to the essentials of trade secret. The EE Act, 1996 clarified what makes theft or misappropriation of trade secrets a federal crime. This law contains two provisions criminalizing two sorts of activity. The first, provided for in 18 USC §1831(a) criminalizes the misappropriation of trade secrets, including conspiracy to misappropriate trade secrets and the subsequent acquisition of such misappropriated trade secrets, with the knowledge or intent that the theft will benefit a foreign power.*
- *Penalties for violation are fines of up to US\$ 500,000 per offence and imprisonment of up to 15 years for individuals, and fines of up to US\$ 10 million for organizations.*

¹⁰ Shah Aashit, Protecting your trade secrets, www.indlegal.com/ProtectingYourTrade.htm (15 February 2009).

¹¹ Radcliffe M F *et al.*, Patent, trademark and trade secret, <http://library.findlaw.com/1999/Jan/1/241479.html> (26 September 2008).

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The second, defined in 18 USC §1832, criminalizes the misappropriation of trade secrets related to or included in a product that is produced for or placed in interstate (including international) commerce, with the knowledge or intent that the misappropriation will injure the owner of the trade secret. Penalties for violation of Section 1832 are imprisonment of up to 10 years for individuals (no fines) and fine of up to US\$ 5 million for organizations. A combined reading of EE Act, 1996 along with Sections 1831 and 1832 presents criminal liability notions on theft, misappropriation and espionage of trade secret. This law provides a model for fixing penal liability in case of trade secrets¹².

II. CURRENT LEGAL LANDSCAPE FOR TRADE SECRET

PROTECTION:

State Law:

As mentioned in the section above, trade secrets primarily serve as a protection against the misuse of state property. Individuals or companies may seek to sue the public in public courts for the common practice of violating or enforcing certain state laws. The Uniform Trade Secrets Act (UTSA) sets out basic principles for the protection of common trade law and has been adopted by 47 states and the District of Columbia, although many state legislatures have made some changes to the original draft text before enacting it. These corporate rules define the terms “commercial fraud,” “money laundering” and “improper means,” and specify the various benefits and financial controls (including compensation damages, punitive damages, and attorney's fees) public action and misuse of trade secrets. A few provinces even see the theft of trade secrets as a crime that can be prosecuted. However, according to a report by the Justice Committee in March 2016, the separation of state law and UTSA has led to various levels of process and operation in state courts in the event of private trade:

Although the difference between state laws and UTSA is very small, you can prove your guilt: you can contact the responsible party to ensure that trade secrets are not readily

¹² Seetharaman R, Legal protection of trade secret, 1 *Supreme Court Cases* (2004) 22.

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available, to meet the need for the owner to use "appropriate" methods to keep the information confidential.

Federal Law:

Trade Secrets Act:

Prior to 1996, apparently, the most important law regarding trade secrets was the Trade Secrets Act. The system, adopted in 1948, is actually less effective. Prohibits provincial government employees and government contractors from making unauthorized disclosure of confidential government information, including trade secrets. The law does not apply to government or domestic actors or employees of private companies.¹³

Economic Espionage:

Law In 1996, Congress passed a comprehensive trade secret law, the Economic Espionage Act of 1996 (EEA). The EEA's legal history reflects the church's concern over the increase in foreign and domestic economic intelligence in US businesses that has led to the development of a comprehensive trade security system:¹⁴ American companies and the U.S. Government spend billions on research and development. The benefits derived from these costs can be easily realized, however, if a competitor simply steals trading secrets without resorting to development costs. ... For years now, there has been growing evidence that many foreign countries and their companies have been seeking competitive advantage by stealing trade secrets, which are the intellectual ambitions of local founders Since to end the Cold War, foreign nations are increasingly developing their own resources to try to steal American economic secrets. The EEA defines two different criminal offences: (1) theft of trade secrets to facilitate trade (economic intelligence, 18 U.S.C. 1831), and (2) commercial theft aimed at providing economic benefits to another party (trade secrets, 18 U.S.C. 1832). As a rule, to

¹³ 18 U.S.C. §1905.

¹⁴ 142 CONG. REC. S12207, S12208 (daily ed. October 2, 1996) (statement of Sen. Specter).

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initiate action under any provision of the EEA, the information must be treated as a trade secret. The EEA elaborates on "trade secrets".¹⁵

Forms and methods of financial, business, scientific, technical, economic or engineering information, including patterns, systems, integration, system devices, formulas, formations, examples, methods, strategies, processes, processes, systems, or codes, or tangible or intangible, and how it is stored, assembled, or remembered in the body, by computer, drawings, photographs, or writing if—

- a) the owner has taken reasonable steps to keep that information confidential; and*
- b) information is available at an independent, real or costly economic level, and is generally anonymous, and is not readily available through appropriate public means.*

Given the EEA economic "assessment", 18 U.S.C. 1831, punishes those who misuse, or attempt to conspire to misuse trade secrets or know that this case will benefit a foreign government, tool or agent. This reckless use should be done "knowingly"; in other words, one should know that the information entered is important to the owner and that the owner has taken steps to keep it confidential. According to the EEA's legal history, the "profits" taken from foreign intelligence services include not only economic benefits, but also "profits for a reputation, strategy or strategy." "External tool" includes any "organization that is highly regulated, owned, sponsored, managed, owned or controlled." Therefore, a foreign company operating without intelligence without proof of sponsorship or foreign control may be prosecuted under 18 U.S.C. 1831 of Economic espionage. Prosecution, however, by a person or organization responsible for trading trade secrets, even if it is not intended for foreign trade, is liable to violate section 1832¹⁶.

¹⁵ For a comprehensive description and analysis of all the statutory elements of the EEA, see CRS Report R42681, Stealing Trade Secrets and Economic Espionage: An Overview of 18 U.S.C. 1831 and 1832, by Charles Doyle.

¹⁶ The legislative history of the EEA opined that this mens rea element of the offense would not be too difficult for government prosecutors to establish: "Most companies go to considerable pains to protect their trade secrets. Documents are marked proprietary; security measures put in place; and employees often sign confidentiality agreements to ensure that the theft of intangible information is prohibited in the same way that the theft of

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Theft of Trade Secrets:

EEA prohibits “theft of trade secrets”, 18 U.S.C.1832, applies generally. The main features of EEA trade secrets are (1) intentional theft and / or knowing, money laundering, fraud, alteration, or duplication (2) trade secrets related to a product or service used or intended to use domestic or foreign trade (3) trading trade secrets and (4) the intention or knowledge that the act may injure the owner. Examination of these additions reveals significant differences between 18 U.S.C. 1832 and 1831. First, 18 U.S.C 1832 does not require the debt to benefit a foreign business; it is the law of normal operation. It also requires that economic theft benefit those who do not have trade secrets, and In 18 U.S.C.1831, the provision of foreign economic intelligence, specifically addresses the misuse of any purpose, including non-economic benefits such as “reputation, strategy or strategy.

“Establishing that the perpetrator intended to harm the owner of a trade secret” does not require the government to show a malicious or malicious intent, but simply that the actor knew or knew that his action would create the right owner.” In 2014, the assistant director of the FBI testified before Congress on the difficulty of bringing prosecution under 18 U.S.C.1831 compared 1832.

Often, a major challenge in prosecuting economic intelligence, in contrast with secret theft, is the ability to prove that theft is intended to benefit a foreign government or foreign currency. A person who discovers stolen trade secrets may be exposed by a foreign business, but obtaining evidence to prove a business relationship with a foreign government can be difficult. The decision to pursue these cases under 18 U.S.C. 1832 (theft of trade secrets) in lieu of 18 U.S.C. 1831 (economic examination) may depend on the availability of external evidence and witnesses, political concerns, and the presence of indivisible or sensitive data required to verify the external nexus feature.

physical items are protected.” 142 CONG. REC. S12213 (daily ed. October 2, 1996) (Managers’ Statement for H.R. 3723, The Economic Espionage Bill).

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Authorized Penalties Under the Economic Espionage Act:

The EEA authorizes full criminal fines and arrests of economic spies and theft of trade secrets. In economic intelligence, large fines go up to \$ 5 million for individuals and 15 years in prison; in the case of companies found guilty of a crime, the maximum penalty is more than (a) \$ 10 million or (b) three times the amount of confidential secrets stolen. Theft of trade secrets is punishable by a fine of up to \$ 250,000 and imprisonment for up to ten years, and organizations can be fined up to \$ 5 million. In addition, in any prosecution or prosecution case under the EEA, state courts are required to make protection orders, or to take other measures, "as may be necessary and appropriate to maintain trade secrets, in accordance with the requirements of the State Criminal Procedure and the Public Procurement Act, applicable laws. "EEA's legal history reflects the church's interest in ensuring that courts use security laws to protect business confidential information.

We were deeply concerned about the efforts taken by the courts to protect trade confidentiality. It is important that in the early stages of prosecution, the issue of whether these devices are confidential should not be prosecuted. Instead, when the courts made these orders, they always thought that the most important thing was trade secrecy. The EEA also allows the Attorney General to file a public action to obtain "appropriate security assistance" for any breach of EEA provisions relating to the protection of trade secrets. However, the EEA does not provide victims of secret theft for private public reasons.

Extraterritorial Application of the EEA:

Confidential violations of trade taking place inside and outside the United States could lead to criminal prosecution by the EEA national government. The U.S. Supreme Court also stated that "[it is a long-standing law in the United States that Congress law, with no contradictory purpose, be intended to apply only to the United States. "With this in mind, Congress has identified a number of measures aimed at monitoring economic intelligence and trade secrets in terms of EEA's overseas operations. Any case can be prosecuted if (1) the perpetrator is a

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U.S. citizen. It can be a permanent resident or a legal entity in U.S. law, or (2) the act of taking a case forward occurs in the United States.

Statutory Exceptions to EEA Prohibitions:

The EEA provides for two alternatives to (1) any legal action taken by an American government agency, country, or political party; or (2) report a breach of any alleged breach of any United States government agency, state, or political organ of state, if the entity has the power to do so. The initial release allows the government to perform a legal duty of "investigation, security or intelligence" in some way with respect to trade secrets. The second exception allows for the reporting of criminal allegations to law enforcement.

Non-Preemption of Other Federal and State Laws:

While the EEA is used in part due to the apparent consequences of other organizational laws relating to the protection of trade secrets, the EEA explicitly states that this act does not allow or remove any other public or criminal solutions provided by other state or state laws for the misuse of trade secrets. Prosecutors can bring criminal charges under the following laws, or on behalf of the EEA, on the grounds that the act involved in violating the EEA and violating the organisation's rules: (1) Fraud and Harassment Act, with intent to defraud; (2) National Stolen Property Act (NSPA), which prohibits the export of "goods, merchandise, or commercial products", or the deliberate acquisition of such goods; and (3) government fraudulent legislation, which makes it legal to use telephone, radio, or television communications for the purpose of forming a fraudulent scheme.¹⁷

III. ANALYSIS OF INDIAN IPR LAWS:

Intellectual Property Right (IPR) in India was imported from the west. The Indian Trade and Merchandise Marks Act 1884, was the first Indian law regarding IPR. The first Indian Patent law was enacted in 1856 followed by a series of Patents. They are the Indian Patent and

¹⁷ 142 CONG. REC. S12213 (daily ed. October 2, 1996) (Managers' Statement for H.R. 3723, The Economic Espionage Bill).

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Designs Act of 1911 and the Indian Copyright Act of 1914.¹⁸ The Indian Trade and Commerce Act and the Indian Copyright Act have been replaced by the Commercial Trade Act of 1958 and the Copyright Act respectively, 1957 respectively. In 1948, the Government of India appointed the first committee to review the existing Patent and Designs Act. In 1957, the Government appointed Judge Rajagobala Ayyangar Committee (RAC) to review the Patent Act. The Rajagobala Ayyangar Committee presented its report in 1959, which sought to measure the constitutional guarantee of economic and social justice included in the preamble to the constitution. This report gives the patent for the drug. The report outlined the policy for the Indian Patent program.

The concept from which the patent system is derived, that is, the opportunity to obtain exclusive patents, revives the technological process in four ways.

- 1. Encourage research and innovation.*
- 2. Encourage the engineer to disclose his findings.*
- 3. Gives prize for the cost of building inventions.*
- 4. It provides an opportunity to invest in new production lines that may seem profitable.*

According to the Rajagobala Ayyangar Committee, the Bill was introduced in 1965 and the constitution was passed in Lok Sabha but ended in Rajya Sabha and ended in Lok Sabha in 1966 due to the dissolution of Lok Sabha. But it was re-introduced in 1967 and passed in 1970; the draft laws were incorporated into the Patent Act and passed in 1971.

- Creating a single integrated window for the National IPR Commission to address IPR policy issues;*
- Integrate national technology planning with IPR and best practices in international trade and technology;*
- Implement the formal literacy work of the IPR;*
- Establish IPR training centers for trained representatives;*

¹⁸ <http://www.wipo.int>.

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- *Introduce a policy that allows national taxation to promote the construction, construction and portfolio of IPR and its use in technology and business transfer; l*
- *Promoting the modern management of IPR management structures;*
- *Improving infrastructure to access and effectively use IPR data. There is an urgent need to simplify patent separation to simplify and improve processes in patent search;*
- *Reorganizing the justice system and enforcing professional and speedy response to IPR matters;*
- *Training of corporate and institutional managers in the effective management of IPR;*
- *Evaluation of measurement models and IPR testing;*
- *Transforming the national development, tax and trade policy linked to the IPR. The following steps are proposed in view of the situation in India with regard to IPR in the formulation of national policy.*

Evaluation of an International Intellectual Property Regime¹⁹:

The foundation for international protection was laid in the 19th century by various Congressmen in Vienna and throughout Europe. The defense of the Construction Industry was made at a conference held in Paris in 1883. Copyright, Trade Marks and industrial construction were the three major structures that were given protection at the summit. In 1998, India became a member of the Paris agreement. In 1886, the International Copyright Act was passed (which led to the creation of the Berne Convention to protect works and works of literature). The Paris agreement marks the commencement of the International Security Act and the introduction of a visible sign. Unions and special arrangements made for member states of the Paris Agreement. The Madrid agreement is one of a special arrangement designed to mark the general trademark. The Madrid Treaty contains the basic principles set out in the Paris Agreement. ²⁰ The General Agreement on Taxes and Trade (GATT) was

¹⁹ Ganguli P. Indian Path towards TRIPS compliance. World Patent Information, 2003; 25: 143.

²⁰ http://en.wikipedia.org/wiki/United_Nations_Conference_on_Trade_and_Development.

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negotiated during the UN Trade and Employment Summit and was the result of a failure to negotiate with the government to establish an International Trade Organization (ITO). GATT was established in 1949 and continued until 1993, when it was replaced by the World Trade Organization in 1995. In 1960 the World Intellectual Property Organization was formed. Contains the Paris and Berne Convention. In 1967 the World Intellectual Property Organization (WIPO) was established by these conferences. In 1977 the World Trade Organization (WTO) was established and became an important international organization in the development and understanding of the IPR; who will replace the General Tax Agreement. The creation of the United Nations Conference on Trade and Development was based on the concerns of developing countries in global markets, international corporations, and the significant differences between developed countries and developing nations. The United Nations Conference on Trade and Development was established in 1964 with the aim of providing a forum where developing countries could discuss issues affecting their economic development. The aim of the organization is to increase trade, investment and development opportunities in developing countries and to assist them in their efforts to achieve a more equitable global economy.

As world trade began to gain momentum in the 1960's, national governments began recognizing the need for laws and regulations to harmonize national and regional laws, which had existed until then. United Nations Commission on International Trade. A law (UNCITRAL) was enacted by the United Nations General Assembly in 1966 to promote continued consensus and consolidation of international trade law. The value of intellectual property in India is well established at all levels - legal, administrative and judicial. India ratified the agreement establishing the World Trade Organization (WTO). This agreement, inter alia, contains the Trademark Agreement (TRIPS) which came into effect on 1 January 1995. It sets minimum standards for the protection and enforcement of intellectual property rights in member states required to promote the effective and efficient protection of intellectual property. . . rights. The obligations under the TRIPS agreement relate to the provision of minimum standards of internal protection and legal procedures and procedures.

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The state of IPR in India has undergone significant changes since 1995 with the development of various Intellectual Property tools.²¹

Impact of stronger IPR in developing countries:

- *Public benefits of the following four benefits by granting those new administrative rights:*
- *Encouraging new establishment by private companies, the first social benefits of IPR.*
- *Use of new information in productive activities.*
- *Distribution of new information to other businesses.*
- *Revitalization of naming of other businesses.*
- *The TRIPS agreement provides for practices and standards in respect of the following areas of intellectual property:*
- *Copyright*
- *Copyright and related rights*
- *Trademarks*
- *Location Directions*
- *Industrial Designs*
- *Integrated Regional Buildings*

Data Protection (Trade Secrets):

Plant species:

The rights to cultural property are traditionally divided into two main parts:

- *Copyrights (such as books and other works, music, paintings, photographs, computer graphics and films) are copyrighted, for a period of 50 years after the author's death. Other copyrights and related rights (sometimes called "neighbours") are copyrights (e.g., actors, artists and actors), phonograms (sound recorders) and*

²¹ http://en.wikipedia.org/wiki/United_Nations_Commission_on_International_Trade_Law.

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broadcasters. The main social purpose of protecting patents and related rights is to encourage and reward creative work.²²

- Industrial Property is divided into two main parts. One area can be considered as protection of distinctive signs, especially trademarks (separating goods or services from the same object) and geographical indicators (indicating good as appearing in an area where a particular positive aspect is due to local origin). The protection of these unique products aims to promote and ensure fair competition and protect consumers, by enabling them to make informed decisions between different goods and services. Protection can last forever, as long as the symbol in question remains the same. Some types of industrial property are protected primarily by promoting construction, construction and technology. In section 83 the invention is protected from such things as ownership, industrialization and trade secrets. The purpose of social work is to provide protection from the effects of investment in the development of new technologies, thereby providing incentives and ways to support research and development activities. The state of mind should also facilitate the transfer of technology in the form of direct foreign investment, joint ventures and licensing. Protection is usually given for a limited period of time (usually 20 years in a patent case). While the basic social objectives of intellectual property protection as described above, it should also be noted that the exclusive rights granted are generally subject to certain limitations and exceptions, which aim to accurately measure the equality to be achieved between the legitimate interests of right holders. .*

Transition Period:

India, as a developing country, has a flexible five-year period (from January 01, 1995) to January 01, 2000 to implement the Convention. An additional five-year transition period, i.e.,

²² Ganguli P. Intellectual Property Rights in transition. World Patent Information, 1998; 20: 171.

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until January 01, 2005, is available to extend patent protection to unprotected technologies to date. This will be especially true in the areas of pesticides and agricultural chemicals.²³

a. Patents:

A patent is for making and granting special rights, temporarily granted by the State to a patent holder, to fully disclose the copyright and release of others, in making, using, selling, importing products or processes for that purpose. The aim of the program is to promote innovation by highlighting the promotion and use of it to contribute to industrial development, which in turn contributes to the promotion of new technologies and to the transfer and distribution of technology. Under the system, copyright guarantees the rights of the copyright owner, which can be of great benefit to the person or company. Copyrights will be acquired and patents will be enjoyed without discrimination on the basis of construction, technology and whether products are imported or manufactured locally. Copyright trends over the past 25 years in India are based on the drafting and implementation of the Indian Patent Act 1970, which came into effect on 20 April 1972. Restrictions on copyright ownership are mainly in the chemical, pharmaceutical, pharmaceutical and food industries. Imported patents require intellectual property or power to use such as food, medicine or drug or all items from the chemical disposal process. The conditions for obtaining compulsory licenses were made extremely comfortable, including the introduction of the “patented” concept of patents related to patents related to drugs, drugs and food.

b. Copyright:

The patent guarantees that computer programs will be protected as copyright under the Berne agreement and explains how this information should be protected. It also extends international copyright laws to cover rental rights. Writers of computer programs and audio recording systems must have the right to ban the commercial employment of their works to the public. The same exclusive right applies to films where commercial rental

²³ Ganguli P. Intellectual Property Rights. Imperatives for the knowledge industry. World Patent Information, 2000; 22: 167.

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has led to copyright infringement, affecting copyright owners the potential benefits of their films. Players must also have the right to prevent unauthorized recording, reproduction and broadcasting of live broadcasts under the age of 50. Audio record producers must be entitled to prevent unauthorized reproduction for a period of 858 years. Berne Convention on Copyrights, of which India is a party. In addition, India is a party to the Geneva Convention for the Protection of Copyright and the International Copyright Convention. India is also an active member of the World Intellectual Property Organization (WIPO), Geneva and UNESCO. Copyright law has been changed from time to time to suit changing needs. The latest amendments to copyright law, which came into effect in May 1995, brought radical changes and compliance with copyright law in line with advances in satellite broadcasting, computer software and digital technologies. The amended law provided for the first time, the protection of the rights of the player as stated in the Roman Statement. Several measures have been adopted to strengthen and facilitate copyright enforcement. This includes setup Copyright Advisory Council, law enforcement training programs and setting up special policy cells to deal with copyright infringement cases.

c. Trademark:

Trademarks are defined as any sign, or combination of signs, that can distinguish the goods or services of a particular work or another. Such divisive marks form a secure subject. The agreement provides that the initial registration and renewal of each registration will be for a period not less than 7 years and the registration will be renewed permanently. Compulsory licensing of trademarks is not permitted. Identifying changes in trade and commerce, international trade, the need to simplify and integrate trading system registration systems etc. A full review of the Trade and Trade Act, 1958 and the Suspension and Replacement Bill 1958 have been passed since it was passed by Parliament and published in the Gazette on December 30, 1999. This Act is not limited to International Trade Law. Work is in progress for the law to work.²⁴

²⁴ . Lall S. Indicators of the relative importance of IPRs in developing countries., Research Policy, 2003; 32: 1657.

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d. Geographical Indications:

Location indicators are defined as the location of an industrial area, advertising by indicating a place or place, located there as a country or area or the origin of the product. The product offered must have a specific local origin and status or reputation due to that traditional location. The place name is sometimes used to identify the product. This location identifier not only refers to where the product is made, but more importantly, it identifies certain product features that are the result of the product. Using a place name where the product is made elsewhere or if you do not have the usual features can mislead consumers, and can lead to unfair competition. Other methods are allowed, for example if the name is already protected as a trademark or when it becomes a common name.

e. Industrial Design:

Industrial design is that aspect of a useful article, which is ornamental or aesthetic. It can contain three-dimensional objects such as the shape or location of an article, or two objects such as patterns, lines, or color. Industrial design is used in various industrial or handicraft products; from watches, jewelry, fashion and other luxury items to industrial and medical tools; from furniture, furnishings and electronics to cars and buildings, to educational and leisure facilities, such as toys and pets. The New Structures Act, which removes and replaces the Designs Act, 1911 was passed by Parliament in the Budget Session, 2000. The Act came into effect on May 11, 2001.

f. Layout Designs of Integrated Circuits:

"Architectural art (local art)" is defined as natural, but is expressed, by objects, by at least one active object, in one or all of the connected circuit communications, or the like. The task of preventing project construction applies to those environmental structures in the sense that they are the result of their creative efforts and are not a matter of agreement between developers and producers of integrated regions during creation. Special rights include the right to make and the right to import, sell and distribute for commercial purposes.²⁵

²⁵ . Narayananan P. In: Patent Law, 2nd ed, Eastern Law House, 1997.

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g. Protection of undisclosed information:

Security should be provided with confidential and non-confidential information because it is confidential and subject to reasonable steps to keep it confidential. This does not require anonymous information to be treated as an asset, but it does require that the person in charge of the information should have the opportunity to prevent it from being disclosed, discovered, or used by others without his or her consent in a manner contrary to reliable trading practices. The "anti-corruption" approach includes breach of contract, breach of trust and the promotion of breach of the law, and disclosure of disclosure of information to third parties who know, or are unsure whether such acts are involved.

h. Plant Varieties:

The protection of new plant species is one of the intellectual property rights, and therefore aims to inform farmers' success by giving them, in the meantime, a special right. To obtain such protection, new species must meet certain criteria. Varieties are defined as the collection of plants within one taxon of the lowest known plants. Depending on the size of the yard, one or two toys will fit. The organization that oversees the protection of new plant species is called UPOV (The International Union for the Protection of New Variety of Plants).²⁶

IV. CONCLUSION:

IPR are considered to achieve economic, social and technological advancement that protects the ideas and stimulates innovation, design and helps to the creation of technology. The various types of IPR were designed to provide the formal basis of ownership of developed knowledge with benefit sharing between partners in innovation to create a niche of them. It also leads to wealth creation. The function of IPR regime is also to facilitate the transfer of technology in the form of joint ventures and licensing. The social purpose of IPR is to provide protection for the results of investment in the development of new technology, thus giving the incentive and means of finance for further research and development of knowledge base; while basic social objective of IPR protection is that the exclusive rights given to the

²⁶ Ramakrishna T. In: Basic Principles and Acquisition of IPR. CIPRA, NLSIU, Bangalore, 2005.

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inventor, aimed at fine tuning the balance that has to be formed between the legitimate interests of rights holders. For over a decade, the issue of traditional knowledge protection has posed an intractable problem for advocates, scholars, and developing country governments. Traditional knowledge advocates seek greater recognition and rights within international intellectual property law-particularly, the muscular TRIPS framework.

But thus far, they have failed to effectively link their arguments to the IP framework or the broader purposes of existing IP regimes. Instead, traditional knowledge advocates have operated primarily within "human rights" and "preservation" approaches. These approaches appear more hospitable to traditional knowledge advocates than the conventional IP approach, especially given the latter's focus on ex ante "incentives to create." But the conventional IP approach need not be so narrow.

I have argued that trade secret law is useful to the traditional knowledge debate in two underexamined ways. First, a trade secret approach to traditional knowledge protection is a practical initial step forward in the international impasse. Trade secret law can be a useful legal vehicle for traditional knowledge holders when dealing with outsiders' improper acquisition, disclosure, and use of relatively secret information.

Admittedly, many traditional knowledge holders may view trade secret law as too limited-too fragile-because it does not apply to publicly available, reverse-engineered, or independently developed information.