

Exigency of Criminal Retribution for Patent Infringement

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Abstract

Intellectual Property rights give a person an exclusive right over the creation of his mind for a definite period of time. Broadly classified into copyrights and industrial property a person who owns them has a right to seek a remedy for their infringement which can be civil or criminal. Though in practicality criminal remedy turns out to be more beneficial as it acts as a general deterrent and the social embarrassment attached to police search and seizure proceeding impedes the person or the entire distributor from carrying out such an act which amounts to infringement of the Intellectual Property Rights. Furthermore, Article 61 of the TRIPS agreement to which India is a signatory contains the provisions of criminalization for IPR violation which the countries signatory to it can implement. Despite this India has a criminal remedy available only in copyright and trademarks ignoring the indispensable need of covering patent infringement as an offence under criminal law. Patent is a person's most valuable asset and it takes a lot of deliberation to come out with an invention. Further, the cost of obtaining a patent and maintaining it is tremendous which adds to the need of protecting the patents with more stringent laws. Thus, in light of the above this paper analyses the need for criminalization of patents in India taking into account the considerations and procedures followed by the countries which incorporate patent infringement under purview of criminal law and hence, presenting valuable suggestions for implementation of criminalization of patent infringement.

Key Words: Article 61, Criminalization, Intellectual Property Rights, Patents, Remedies.

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Introduction

"Patents play an important role in this war of ecosystems," said Alexander I. Poltorak, chairman and chief executive of U.S.-based General Patent Corp., which represents clients on intellectual-property enforcement matters and licensing. "Therefore, the courtrooms became part of the playground, not just the marketplace. It's a new reality." -Wall Street Journal, April 5, 2011.

Patents are selective property rights of incorporeal array of human personality. It is an absolute right accorded by the government to an Inventor to produce, utilize or to put on sale the invention for specific number of years, restricted in time span with the pandemic standard of over 20 years. The significance of Intellectual property protection to build up the scientific and technological limit of nations and assistance derived from the improved level of development has additionally turned into a matter of basic comprehension. The time of globalization has ushered another transformation in such regard and the present century appears to stand at the limit of the purported information economy, alongside the innovative arena. Since innovation and knowledge both are vital for economic growth and development, patents in a way by offering exclusive rights for a constrained period helps an inventor to recoup R&D expenses and funding. It additionally elevates Investment along with mercantilism and advertisement of new innovations so that the general populations can procure the maximum benefits out of it. Thus a patent is the most developing mania in the Intellectual property at present. The presence of patent might be sufficient all alone to prevent others from attempting to abuse the development. If, in the event that it doesn't, it gives patentee the privilege to make lawful move to stop them misusing his innovation and to claim remedies for the same.

Despite the fact that there has been generous advancement and a sea of changes in patent law yet the reality remains that till date patent infringement is under the purview of Civil law in many common law countries and is not an offence in the Criminal law. Civil remedies are accorded to the patent owners in respect to the infringement of patents. In viability, Criminal sanction should be effectuated to provide for an effective approach for protection of rights in intellectual property as collated with civil remedies. The criminal sanction has a tendency to have a progressively outstretching influence all through the market which can't be achieved by instating of a civil sanction. The need of criminalization of patent is essential for the economic growth and development and for common good of maximum number of people.

Intellectual Property Rights

Intellectual property is the creation of the mind. It can be broadly classified into Copyrights and Industrial Property. Industrial Property further includes Trademarks, Geographical Indications, Patents, Industrial Designs and Trade Secrets.³The subject matter of Intellectual Property is generation of new ideas by man. These ideas when applied to human needs and desires can be of substantial benefit to mankind. For the realization of benefits associated with Intellectual Property its protection is must.⁴

Intellectual Property Law provides this protection by means of Intellectual Property Rights which are like any other property rights and allow the creators of copyrighted works or owners of patents, trademarks to benefit from their own works.⁵

History of Intellectual Property Rights

The evolution of Intellectual Property Rights emerged in the 500 BCE in the Greek state known as Sybaris where it was made possible for citizens who created “a new refinement in luxury” to obtain a one-year patent. In the ensuing centuries, countries established Intellectual Property Laws to encourage creativity and to give benefits to the creators of their originality. Subsequently in medieval Europe in Britain, legislation was passed called Statute of Monopolies, 1633 which allowed the author or inventor to retain the ownership rights.⁶In India the patent legislation was passed in 1911 which brought its IP status in conformity with developed world status.⁷

At the global level the need for Intellectual Property protection was felt when foreign exhibitors refused to attend the International exhibition of Inventions in Vienna, 1873 because they had the fear of their ideas being stolen and exploited in other countries. It was then that the first step towards protection of intellectual property was taken in the form of Paris Convention for the Protection of Industrial Property, 1883. It covered Inventions and Trademarks. After that came the Berne Convention for the Protection of Literary and Artistic Works, 1886. In 1893 United International Bureaux for the Protection of Intellectual Property

³What is Intellectual Property, (April 5, 2017, 4:27pm),http://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pub_450.pdf.

⁴Catherine Colston, Principles of Intellectual Property Law, at 1 (1st Edition, 1999).

⁵Supra note 1.

⁶The Evolution of Intellectual Property, (April 5, 2017, 5:40 pm), <https://www.txpatentattorney.com/blog/the-history-of-intellectual-property>.

⁷A Brief History of Intellectual Property in China and India, (April 5, 2017, 5:44 pm), <https://www.techdirt.com/articles/20090530/1620345062.shtml>.

(BIRPI) was formed, in which the two secretariats set up to administer Paris and Berne Convention were combined. In 1970, BIRPI was transformed into World Intellectual Property Organization (WIPO).⁸

Exclusive rights

Intellectual Property Right provides the owner an exclusive property right with an exception of breach of confidence. Thus, Intellectual Property can be assigned, licensed, mortgaged and bequeathed. In providing a protection to the creator a balance has to be drawn between the interests of the conceiver, entrepreneur, competitor, consumer and the public which is done by grant of licenses voluntarily by the right owner, the duration of the rights, the scope of the right and the defenses in case of IPR infringement.⁹

Patent Infringement

The legislation through which India's patent law is regulated is called as the Indian Patent Act of 1970. The patent act, 1970 bestows for the imposition of suits for infringement of the patent. The patent granted under the act of 1970 shall confer upon the patentee to exclude third parties from making, importing, using, offering for sale or selling the patented invention, patented product or patented process.¹⁰ Thus any of the aforementioned privileges, if violated shall be construed as patent infringement. However, there are some non-infringing activities such as government use, supply of essential medications which are patented to health institutions, Bolar- like provisions, Parallel imports, patent invention on foreign vessels and for research and development purposes which does not constitute as patent infringement under the Indian Patent Act. Patent infringement proceedings can only be initiated after grant of patent in India but may include a claim retrospectively from the date of publication of the application for grant of the patent. Infringement of a patent consists of the unauthorized making, importing, using, offering for sale or selling any patented invention within India¹¹. Where the person infringing the patent utilizes all components guaranteed in the patent however modifies at least one unessential element then also it'd be deemed a patent infringement.

⁸WIPO- A Brief History, (April 5, 2017), <http://www.wipo.int/about-wipo/en/history.html>.

⁹*Supra* note 2, at 3.

¹⁰Section 48, Indian Patent Act, 1970.

¹¹Indian Vakil, Patent Infringement in India, Jashvaidya, (April 4, 2017, 3:14pm), <https://jashvaidya.wordpress.com/2015/11/26/patent-infringement-in-india/>.

In the case of *Ericsson v. Micromax*¹², Ericsson, the Swedish Multinational company in March 2013 filed a complaint against Micromax asserting that it has infringed eight of its standard essential patents (SEP's) which were registered in India. Micromax filed a dissension with Competition Commission of India (CCI) asserting that Ericsson had mishandled its overwhelming position in the market by forcing excessive royalty rates. The CCI decided prima facie that Micromax's case was substantial and requested an investigation. Meanwhile, Ericsson challenged this order by filing a writ petition contending that the Patent Act provided the remedy of compulsory licensing in such cases and would override the Competition Act, 2002 ('the Act'), the court dealt in detail with the question of whether there was any irreconcilable inconsistency between the Patent Act and the Act.¹³ The court held that CCI can't meddle in the on-going patent infringement claim. The Delhi High Court granted an ex-parte injunction restraining Micromax from selling, importing, or manufacturing mobile devices that implemented 3G, AMR and EDGE standards.¹⁴ Micromax and Ericsson afterwards entered into a covenant in which the Micromax would pay interim royalty. Also, In November 2014, The Delhi High Court ordered Micromax paying quarterly royalty to Ericsson at the rates indicated by the Court varying from 0.8% to 1.3% on sales of per unit.

Remedy for Patent Infringement

As the preservation and protection of Intellectual property is getting stronger by each day passing, Patentees are more likely to challenge their patent infringement. There are certain remedies accessible to the patent holders which can be broadly categorized into civil remedy and criminal remedy.

India

In India, patent infringement is an offence under the purview of civil law. The proceedings or the lawsuit can be filed in a district court or high court. According to section 19 of the Civil Procedure Code 1908, the patentee can bring the suit for infringement in the court which has jurisdiction in the area where he/she resides or carries on a business or personally works for

¹² *Ericsson v. Micromax*, CS(OS) 442/2013.

¹³ SahithyaMuralidharan, *Ericsson v. Micromax – A Kick-Start to SEP-FRAND Antitrust Jurisprudence in India*, Kluwercompetitionlawblog, (April 4, 2017, 4:30pm), <http://kluwercompetitionlawblog.com/2016/07/13/ericsson-v-micromax-a-kick-start-to-the-sep-frand-antitrust-jurisprudence-in-india/>.

¹⁴ Indian Vakil, *Patent Infringement in India*, Jashvaidya, (April 4, 2017, 4:43pm), <https://jashvaidya.wordpress.com/2015/11/26/patent-infringement-in-india/>.

gain and can also bring the suit for infringement in a court which has jurisdiction in the area where the infringing activity took place.¹⁵ In the cases of counter claims made by the defendant the cases are automatically handed over to the high court to determine about the validity of the patent. The reliefs which a court may grant in any suit for an infringement include an injunction (subject to such terms, if any, as the court thinks fit) and, at the option of the plaintiff, either damages or an account of profits.¹⁶ The remedies that are accessible to a patentee in suit for patent infringement against an infringer are permanent injunction, Ex-parte injunction, Temporary Injunction, Damages to the patent holder, Seizure, relinquishment or obliteration of infringing items/merchandise and/or materials and executes transcendently utilized as a part of the formation of the infringing items/products.

Bajaj Auto Ltd vs. TVS Motors Ltd.¹⁷

Facts of the Case:

On July 7, 2005 Bajaj was conceded with a patent with the title application “An enhanced Internal Combustion Engine” working on four stroke principle. The development was called ‘DTS-I Technology’ and it identified with the utilization of twin start plugs found oppositely inverse to each in a small displacement engine with barrel bore distance across going between 45 mm to 70 mm. According to Bajaj, this position of the start plugs empowered a superior control over the start timing and lesser time was taken for the flame to go amid the procedure of ignition. Bajaj propelled "Pulsar," a bike which utilized the DTS-i Technology in regard of which the patent was then pending. In the initial eight months of that financial year itself, Bajaj produced and advertised 814,393 bikes with the "DTS-i Technology" out of an aggregate of 1,501,241 bikes were sold by it, which added up to 54.25% of its aggregate deals.

In 2007, TVS reported the launch of a 125 cc bike under the trademark "Flame" which was to be fueled by lean burn internal combustion motor of bore size 54.5 mm with a twin start plug design just as Bajaj. TVS additionally expressed that on September 1 and 3, 2007, Bajaj had issued certain baseless threats to deter TVS from propelling "Flame." Hence in October 2007, TVS recorded a suit under section 105 and 106 of the Act in the Madras High Court, affirming that the announcements made by Bajaj on September 1 and 3, 2007 constituted

¹⁵Vikrant Rana, Patent Enforcement in India, SSRana, (April 4, 2018, 5:39pm), <http://www.ssrana.in/Admin/UploadDocument/Article/Patent%20Enforcement%20in%20India.pdf>.

¹⁶Section 108, Indian Patent Act, 1970.

¹⁷BAJAJ AUTO LTD VS. TVS MOTORS LTD., (2008) I.L.L.J. 726 Mad.

unfounded dangers, and to prevent Bajaj from meddling with the dispatch of "Flame". Further, TVS likewise documented an application for the revocation of Bajaj's patent before the Indian Patents Appellate Board under section 64 of the India Patents Act, 1970 ("Act"). Upon the declaration by TVS, Bajaj filed a suit for perpetual injunction under section 108 of the Act in the Madras High Court to control TVS from utilizing the internal combustion innovation protected by Bajaj and from utilizing the same in advertising 2/3 wheelers, including TVS's proposed 125-cc "Flame" bike.

Judgment:

The learned single judge after analyzing the contentions made and different facets of the case came to the conclusion. The court relied upon the principles in granting interlocutory injunction including any patent action which are that the plaintiff must establish that it has a prima facie case, that its patent is valid and that its rights have been infringed; that the balance of convenience is in favor of the plaintiff and that the plaintiff would suffer irreparable loss and injury, if the interlocutory injunction, as sought, is not granted.¹⁸ The learned single judge held that the grant of injunction was in favor of the applicant. However, the interim order was challenged before the Division Bench of the Madras High Court, where the appeal was permitted. The appeal finally went before the honorable Supreme Court, through the Special Leave Petition and in the matter before it; the Supreme Court criticized the pendency of the matters relating to the intellectual properties, even at interlocutory stage as the suit for the permanent injunction was also pending before the court.¹⁹ Bajaj's patent was deemed to be valid and also patent right was given to it as it was manufacturing goods from the past five years. The respondents were also allowed to sell their product in the market with Twin spark plugs provided it maintained all record of all India and export sales.

The Supreme Court of India by this landmark judgment has directed all the courts in India for speedy trial and disposal of intellectual property related cases in the courts within four months from the date of filing of the suit.²⁰

Other Countries

¹⁸The "Bajaj Auto – TVS Motors" Patent Controversy, psalegal, (April 4, 2017, 10:46pm), http://psalegal.com/upload/publication/assocFile/IPR-Technology-Bulletin-Issue-XII01082010101650AM_1288786403.pdf.

¹⁹Anoop Kumar, Bajaj Auto Ltd. Vs. T.V.S. Motor Company Ltd., poseidon01.ssrn, (April 4, 2017, 11:07pm), <https://poseidon01.ssrn.com/delivery.php.pdf>.

²⁰Umang Raj, Bajaj Auto Ltd. Vs. T.V.S. Motor Company Ltd, Legalservicesindia, (April 4, 2017, 11:17pm), <http://www.legalservicesindia.com/article/article/bajaj-auto-ltd-vs-t-v-s-motor-company-ltd-1654-1.html>.

Different countries have different approach while dealing with Patent infringement. Generally, there are civil and criminal remedies available for patent infringement. In civil remedy an injunction is granted or damages are awarded to the patent owner or both. The court may also bring about an agreement between the parties under which the infringing party has to pay the other party royalties in exchange of use of infringing device.

Generally civil suits are undertaken for patent infringement but there are countries which have criminal remedy for patent infringement namely, Austria, Norway, Spain, Canada, Belgium, Romania, Germany, Denmark, Netherlands, Hungary, Czech Republic and others.

Austria: Any person who violates a patent shall be condemned by the court to a fine of up to 360 times the per diem rate for calculating fines. Prosecution shall take place only at the request of the injured party.²¹

China: China's Patent law states that a person guilty of patent infringement in case of serious circumstances will be prosecuted according to criminal procedure.²²

Denmark: A person liable for patent infringement shall be punished with a fine. If the infringement is carried out intentionally and in aggravating circumstances then penalty may increase to 1 year and 6 months unless a heavier penalty is provided for by section-299 b of Penal Code.²³

Netherlands: Patent infringement is a criminal act punishable with fine and imprisonment. There is 6 months imprisonment for a single act of infringement and 4 years if infringement takes a professional form.²⁴

Germany: Patent infringement is a crime with up to 5 years imprisonment.²⁵

Norway: Patent infringement is punishable if intentional with fine and imprisonment up to 3 months.²⁶

Hungary: Section 329 D Criminal Code-

²¹ Article 159, Austria Patent Act, (1970).

²² China's Patent Infringement Remedies, (April 5, 2017, 11:05 pm), http://www.tsinghuachinalawreview.org/articles/PDF/TCLR_0502_ZHAOMeisheng.pdf.

²³ Article 57, The Consolidate Patents Act (Denmark), (2016).

²⁴ Article 79, Patents Act (Netherlands), (1995).

²⁵ AasthaBagga, *Need of Criminalization of Patents*, CPJ Global Review, July 2016, at 119.

²⁶ Section 57, Patents Act (Norway), (1967).

- (1) A person who violates the right of the holder of a patent, plant variety, certification of supplementary protection, trademark, geographical indication, design rights, utility models of topographies conferred on the basis of an act, promulgated international convention or community legislation by imitating or copying the subject matter of protection, and thereby causing financial injury, is guilty of misdemeanor punishable by imprisonment of up to two years, community service work, or a fine.
- (2) The punishment for a felony shall be imprisonment for up to three years if the violation of industrial design rights:
 - a) results in substantial financial injury.
 - b) is committed in a pattern of business operation.
- (3) The punishment shall be:
 - a) Imprisonment of up to five years if the violation of industrial design rights results in particularly considerable financial injury.
 - b) Imprisonment between two to eight years if the violation of industrial design rights results in particularly substantial financial injury.²⁷

Spain: A person guilty of patent infringement shall be punishable with a fine of 6 to 24 monthly units and a prison term of 6 months to 2 years.²⁸

Romania: Patent infringement is a crime in Romania with imprisonment or fine.²⁹

Czech republic: Intentional patent infringement can lead to imprisonment up to 2 years and if infringement is serious it can lead to imprisonment up to 8 years.³⁰

A patent is granted by the government of a nation and is legitimate only inside its territorial limits. Thus different nations have different patent laws and remedies which are available to the patent holder. Unequivocally civil remedies are available to most of the Common law countries and hence there is a global cry to initiate criminal remedies for patent infringement as provided in the other categories of Intellectual Property Rights.

Need for Criminalization of Patents

When there is an infringement or a contravention of a protected innovation, it turns into the sole right of the Intellectual Property holder to get a solution for the infringement of

²⁷ Section 329, Criminal Code (Hungary), (1978).

²⁸ Article 273, Criminal Code (Spain), (1995).

²⁹ *Supra* note 5.

³⁰ *Id.*

something that he has procured with a ton of diligent work and gigantic endeavors. Thus a need arises to grant remedies to the intellectual property holders. The remedies are chiefly divided into criminal, civil and administrative remedies.

Several nations provide criminal sanction for patent infringement such as Germany, Austria, Japan and Thailand. However, in India, criminal remedies for infringement is available specifically for copyright and trademark and patent infringement is still under the purview of civil laws. As for patent infringement only, civil remedies are available; it has served to be of no good as the number of patent infringement cases has not declined since a long time and continue to be on rise around the world.

Dr. Trevor Baylis, a British inventor, who invented “wind up radio” in 90s, had put forth a very logical argument in the favor of Criminalization of patent infringement that “if I was to nick your car....I could go to jail; but if I were to nick your patent, which is worth a million pounds, you’d have to sue me.”³¹ The idea behind the argument draws the attention to the fact that a patent infringement deprives the good of its economic value and sometimes to the extent of making it worthless. In such circumstances there arises a dire need to criminalize the patent infringement.

TRIPS agreement administered by WTO also puts forth a desire for criminal sanctions to be imposed on IP infringement by Article 61 which states that “Members shall provide for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale and remedies available shall include imprisonment and/or monetary fines sufficient to provide a deterrent, consistently with the level of penalties applied for crimes of a corresponding gravity, further, in appropriate cases, remedies available shall also include the seizure, forfeiture and destruction of the infringing goods and of any materials and implements the predominant use of which has been in the commission of the offence.”³² Members may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular where they are committed willfully and on a commercial scale.”³³ The provision in the article for the member countries to have criminal sanctions for willful IP infringement and when the infringement is on a commercial scale highlights the exigency to have criminal retribution for

³¹IP and Media Law, (April 8, 2017, 6:00 pm),<https://ipmedialaw.wordpress.com/2009/09/02/patently-wrong-trevor-bayliss-looks-to-criminalise-patent-infringement/>.

³²Part- III- Enforcement of Intellectual Property Rights, WTO, (April 8, 2017, 7:47pm), https://www.wto.org/english/docs_e/legal_e/27-trips_05_e.htm.

³³*Id.*

willful Patent infringement and when the infringement causes an economic loss to the patentee.

Criminalization further accrues certain advantages to the patentee and public in general.

- Firstly, criminalization of patents punishes the transgressor; to give him and others a strong incitement not to perpetrate the same or comparable violations, to change him if conceivable and maybe to fulfill general society obligations that wrongdoing should meet with retaliation.
- Secondly, Criminal sanction has a more deterrent effect than civil penalty as criminal sanctions have a radical and a balanced approach as the one who is punished and penalized is also to an extent shown virtuous directions for future. Also unlike the civil litigation which is directed towards the individual the criminal action generates general deterrence despite the wrongdoers being unknown and unidentified. The shame and embarrassment attached to the procedure of search and seizure by police not only inhibits the person against whom the proceedings are carried out but also the entire distributor and market in general.³⁴ In short, criminal penalties have a more deterrent effect than civil penalties.
- An essential stipulation of justice is that it should be dispensed with as soon as possible. There is certainly pendency of litigation due to delay in proceedings of civil cases as compared to criminal cases which has become a constituent of injustice.
- Criminal litigations are less costly and due to the speedy mechanism involved patent holder's money will be spared as he won't need to pay mammoth sum of money for protracted civil cases. This will give better affirmations and arouse in the general public confidence and faith in legitimate frameworks.
- Criminalization for patent infringement can discourage organized crimes and repeated offenders.
- Many scholars have argued about the similarity between IP infringement and property laws. There certainly exists a similarity between them in terms of deprivation of economic value of IP goods which sometimes extends to making the goods worthless on

³⁴ Vijay Pal Dalmia, India: IPR & Criminal Remedies in India: Civil vs. Criminal Remedy in IPR: Search, Seizure & Raids By Police, (April 9, 2017, 4:00pm), <http://www.mondaq.com/india/x/444510/Trademark/IPR+Criminal+Remedies+In+India+Civil+vs+Criminal+Remedy+In+IPR+Search+Seizure+Raids+By+Police>.

infringement of IP holder's rights.³⁵ It is somehow analogous to property crime of theft and gives rise to the need for criminalization in this respect.

- Imposing criminal sanctions on patent infringement can give a sense of security to the patentee and also to the future inventors by creating an environment where they no longer need to keep their innovation secret in the fear of it being stolen or exploited. Thus promoting growth and development.

Conclusion and Suggestions

Innovation and Knowledge are essential elements for a Nation's development and improvement. Since the making of the principal component to secure innovations in 15th century, the patent framework has advanced with a view to promote advancement and empowering economic enhancement. By offering exclusive rights for a restricted period, a creator may recoup R&D expenses and ventures. It likewise elevates venture to popularize and showcase new creations so that the overall population can appreciate the product of the advancement and get to utilize it. Supplementing it, the framework is intended to spread erudition to the general population through production of patent applications and conceded licenses. Patents hold a very imperative and vital position in the field of Intellectual Property Rights and thus require Protection for economic growth and development of a nation. Effective treaties, agreements and appropriate conventions should be signed between different countries for patent protection and uniformity of patent laws of these nations.

Exponential advancement in criminalizing patent infringement is called for. Article 61 mentions that "Members may provide for criminal procedures and penalties to be applied in other cases of infringement of intellectual property rights, in particular where they are committed willfully and on a commercial scale"³⁶ Thus it explicitly says that member should be imposed with criminal penalties and punishments at least in instances of 'Willful' patent piracy. Remedies should be incorporated with fines and punishments to that effect as it may be applied for crimes of corresponding profundity. Many classes of the people are not aware of the patent laws and their violation which demonstrates the need of cognizance and consciousness of patent laws and their remedies to the masses. Furthermore, there is a colossal contrast in the patent laws of different fields of Intellectual property right, giving different criminal and civil sanctions for their infringements. For instance, Trademark and

³⁵Irina D. Manta, The Puzzle of Criminal Sanctions for Intellectual Property Infringement, (April 9, 2017, 5:00pm), <http://jolt.law.harvard.edu/articles/pdf/v24/24HarvJLTech469.pdf>.

³⁶*Supra note*, 29.

copyrights are under the purview of criminal law but patent infringement is still under scope of civil laws which itself becomes one of the most imperative reasons for why patent infringement is on a rise and thus has become the main cause of concern since patent infringement does not have criminal sanctions. Thus there is a need of criminalization of patents for social prosperity and common good of people of the nation.