Intellectual property is integral to the progress of humankind and an indispensable element in economic development in a global environment and so it is essential that its utilization also assures protection of basic human values. The intellectual property plays a momentous role in furtherance of economic interests of a country. The technology developed, research made or the invention done in a country is protected which in turn strengthens the economy of the country as the other countries will have to buy the products of the country inventing, researching and developing the new things or products. Thus, the intellectual property accumulates the foreign currency and enhances export of the country. It is no denying the fact that the intellectual property of a man develops him on the pattern of country likewise.

Benefits of Intellectual Property should reach evenly to creators and users without distinction or discrimination of any kind and the deployment of resources should be directed in such a manner so as to ensure equal opportunity among nations to enjoy the fruits of knowledge based progress. To prevent piracy and to protect our knowledge system there is an urgent need of its documentation. There is also a need to institute mechanism for sharing of benefits arising out of commercial exploitation of biological resources using such traditional knowledge. In India this is proposed to be done through the bio-diversity legislation.

The Paris Convention is an international convention for promoting trade among the member countries, devised to facilitate protection of industrial property simultaneously in the member countries without any loss in the priority date. All the member countries provide national treatment to all the applications from the other member countries for protection of industrial property rights. As India is also the member of the Paris Convention hence our Indian Laws are compatible with the Paris Convention as our Indian laws are providing the national treatment to all the applications for the protection of the industrial property.

Paris Convention does not deal with appellation of origin but covers cases of direct or indirect use of false indication of source on the goods or the identity of
producer, manufacturer or merchant. Infringement of this provision results into seizure upon importation or failing that other measure according to the domestic legislation. The action may be taken not only by the public prosecutor, but also by an interested party, producers, merchants or industrialists before a competent authority.

The Berne Convention is administered by the World Intellectual Property Organisation, which is one of the specialised agencies of the U.N. Berne is now the base on which important agreements are founded, and the way in which incorporated provisions and declaratory statements are to be interpreted are now matters of great importance to national legislators and international bodies.

Under the Madrid Agreement a mark to be registered in member states should be first registered at the national level in the country of origin of the applicant. The first registration is called 'basic registration'. There is no provision for directly filing a request under the Agreement. The role of the office of the country of origin is not only to send the application for international registration but also to certify that the mark, which is the subject of the international registration, is the same mark, i.e. the subject of the basic registration. India cannot take advantage of this Agreement as India is not yet a member of the Agreement.

The Hague Agreement aims at providing a mechanism for securing protection of an industrial design in all the member countries by means of an international deposit. The international deposit could be in the form of the industrial product or drawing or photograph or any other graphic representation of the said design. The duration of protection was 15 years from the date of deposit, this divided in two periods namely, one period of five years and the other of ten years. This Agreement is now being implemented by the WIPO. India is not yet a member of the Hague Agreement and hence the above provisions or description may not be of immediate relevant for us. However, there is a strong need to monitor the developments in this area.

The three main objectives of GATT i.e., elimination of discrimination, abolition of unfair trade practices of all kinds and removal of barriers to the smooth flow of international trade and these objectives has been achieved with the cooperation of the member States. Under the terms of the WTO, India is
required to implement WTO-standard intellectual property rights protection laws by 2005. And because of that Indian legislature has passed the Trademark Act, 1999, the Design Act, 2000, the Geographical Indications of Goods Act, 1999, the Protection of Plant Varieties and Farmers Rights Act, 2001, the Patent (Amendment) Act, 2005 etc. Protection of intellectual property rights in India continues to be strengthened further. The year 1999 witnessed the consideration and passage of major legislation with regard to protection of intellectual property rights in harmony with international practices and in compliance with India’s obligations under TRIPS.

The WIPO was established as a vehicle for promoting the protection, dissemination and the use of intellectual property throughout the world. The major functions of WIPO are Registration activities, Promotion of intergovernmental cooperation, Substantive or programme activities. WIPO is playing an eminent role in the protection of intellectual property rights but there should be a balance between the monopoly privileges given to the patent or copyright holders, and the rights and welfare of the public.

Through Patent Cooperation Treaty, an inventor of a member country contracting State of Patent Cooperation Treaty can simultaneously obtain priority for his/her invention in all/any of the member countries, without having to file a separate application in the countries of interest, by designating them in the Patent Cooperation Treaty application. India is also the member of Patent Cooperation Treaty. All activities related to Patent Cooperation Treaty are coordinated by the World Intellectual Property Organization (WIPO) situated in Geneva. In order to protect your invention in other countries, the applicant is required to file an independent patent application in each country of interest; in some cases, within a stipulated time to obtain priority in these countries. This would entail a large investment, within a short time, to meet costs towards filing fees, translation, attorney charges etc. In addition, due to the short time available for making the decision on whether to file a patent application in a country or not, may not be well founded. No concessions are available in the national phase or regional phase applications; respective fees in these phases will have to be paid by the applicant.
Under the Patent Cooperation Treaty system, by the time the international application reaches the national office, it has already been examined as to form by the receiving office, been searched by the International Searching Authority and possibly examined by an International Preliminary Examining Authority. These centralized procedures at the international phase thus reduce the workload of the national Patent Offices.

Trademark Registration Treaty is administered by the World Intellectual Property Organization and aims at acquisition of trademark protection in a number of countries through a single application filed in a central office in the WIPO. There is no need to file the application first in the national office in the home State. In fact many advanced countries having strong trademark laws are not members of this treaty. India is not yet a member of this treaty, if it becomes its member, than it helps in the acquisition and protection of the trademark.

The Budapest Treaty on the International Recognition of the Deposit of Micro-organism for the Purposes of Patent Protection, which provides for the deposit of micro-organisms in an International Depository Authority. The Treaty calls as the "international depository authority" is a scientific institution capable of collecting micro-organisms. A deposit would require to meet the descriptive requirements of patent legislation governing invention involving a micro-organism or the use of a micro-organism. Any deposit can be accessed by for the purpose of testing and experimenting and for commercial use when the patent expires. Only those countries which were the members of the Paris convention are qualified for becoming members of the Budapest Treaty. India is also the part of the same. The Indian Patent Act does not allow patenting of microorganisms isolated from nature. However, genetically modified microorganisms are patentable. Microbiological processes are also patentable.

The Madrid Protocol was formed to remove some of the features of the Madrid Agreement, which posed obstacles to accession by several countries. For an international registration, it is essential first to register a mark at the national level. The time required for obtaining a mark at the national level varies from country to country, hence some parties do suffer. The only working language of the Madrid Agreement is French. The Madrid Agreement further obliges member countries to protect indications of source against false and misleading use and
lays down that such goods bearing false and misleading indications of use must be seized on importation by the contracting states. The accession to the Madrid Protocol is a step in the right direction for India in as much as it will be beneficial to the Indian companies and foreign companies seeking to register in India. It would also streamline the functioning of the Registrar of Trademark and will ensure that the system becomes more transparent.

To become the member of the Madrid Protocol it is necessary that the member country should make their trade marks law in compliance with the provisions of the Madrid Protocol. India has laid a Bill for the amendment of the Trade Marks Act before the Parliament in August 2007 which was passed by the Lok Sabha on 25 Feb., 2009. The Trade Marks (Amendment) Bill 2007 has inserted Chapter IVA which relates to the provisions for the protection of the trade marks through International Registration under the Madrid Protocol. This Bill is positive and would speed up the accession of India to the Madrid Protocol.

The TRIPS Agreement establishes a minimum level of harmonized intellectual property law to be adopted by all members of the World Trade Organisation. Least developed countries have been given an extended period in which it has to make the necessary changes. There is an equal treatment for foreign and domestic individuals and companies and non-discrimination between foreign individuals and companies. But the TRIPS work exclusively for the benefit of industrialized world. The standard of protection for developing world are too high, one size does not fit for all the developing and developed countries. The TRIPS does not offer incentives for indigenous innovation. It does not comply with the Rio-Convention. It does not take into account traditional knowledge. TRIPS should lays down some provisions regarding the protections of the traditional knowledge and speedy remedy should be provided in case of infringement of the same.

Ever since, intellectual property rights were introduced in the legal system, it has been the objective of both national and international law to grant its beneficiaries a monopoly by means of exclusive rights. The WTO is successfully acting as a forum for the trade negotiations between the nations while handling of the trade disputes between the nations and monitoring the national trade policies.
These international laws for the protection of the intellectual property rights play an important role. The convention requires that the member countries should not discriminate in conferring, protecting and enforcing the rights in intellectual property as between their own citizens and those of others. The law made by them shall be fair and equitable to all. Detailed procedure shall be enacted in the laws which are reasonable for the enjoyment of the rights. Provisions shall be made for giving all the parties adequate opportunity for making representations, wherever necessary for affirming and defending their rights. It is the impact of these international conventions and agreements that Indian laws are amended so as to make them compatible to the international standards.

These international laws are the base for the protection of the intellectual property rights in different member states. The parties to the convention provide equal treatment to all other member states for implementing and enforcing the intellectual property rights. They give the national treatment to all the intellect concerned, and there is no such discrimination upon the implementation of the same. In order to build a strong and competitive economy, the member States need to invest in technology, infrastructure and human resource development. New technologies are becoming the dominant factor in determining international competitiveness and there is a great need to protect these new technologies of the intellectual property rights at the international level.

A good intellectual property protection system will also help in stimulating private investment in research and development as well as acquiring advanced technology from abroad. The new intellectual property regime poses a challenge to our ability to compete in the global market and the solution is not to keep away but to participate in order to do better than others. It is the impact of all these International Conventions or Agreements that we (India) have amended our Indian laws on intellectual property so as to make them compatible with the international standards.

There are adequate provisions envisaged in the international agreements or conventions to safeguard the interest of the creator who plays an important role in the development and advancement of the socio-cultural, economic and political environment in the country. There is a need for a well-trained and equipped specialized police force for the detection and enforcement of crimes
relating to the violation of the intellectual property rights. Stress should also be
laid on the speedy justice so that justice should not only be done but should
manifestly and undoubtly seems to be done. But unfortunately no such provision
has been made in any agreement or in convention.

There is also a need on the part of the Government and non-governmental
organization to create general awareness among the public about the importance
of protection of intellectual property rights, so that the infringers be demoralize.
Not only this, there is also a need of cooperation of the Nations throughout the
world to control the infringement of the intellectual property. There are various
agreements between the States for the cooperation among them to control the
infringement of the intellectual property, there is a need of cooperation among the
general public for proper implementation of these rights.

There is a lot of oppositions raised by the developing countries and least
developed countries regarding the issue of patents, but for the advancement of
science and technology in the field the patenting of the same is required very
much. It is rightly said by Edwin H. Land, 1976

*The only thing that keeps us alive is our brilliance*
*The only thing protecting our brilliance is our patents.*

The law makers in the developing and least developed countries should
take into account the need of protection of the intellectual property so as to
control the infringement of the same in these countries. It is also suggested that
representatives of developing countries in WTO countries considers laws relating
to patents as instrument for development policy, and not only as a contentious
issue to mould in response to political pressure and demands of various
economic groups. There is a general need for the cooperation among the states
throughout the world to tackle the infringement of the intellectual property rights.

The provisions specified for the registration of the copyright in the Indian
Copyright are in compliance with the international standards. The term of
protection for the copyright work is more than that prescribed by the TRIPS
Agreement. On the whole the registration of the copyright work is not mandatory
but registration is the Prima facie evidence in favour of the author. On the
legislation front, copyright laws in India are comparable to those of many
developed countries. In order to keep a pace with the contemporary technological
developments, India's copyright legislation had been amended from time to time, e.g. in 1983, 1984 and 1994, since its commencement in 1958. The punishments for copyright violations had been made progressively more stringent. The present law is almost in full conformity with the Uruguay Round Agreement on Trade Related Intellectual Property Rights (TRIPS). In spite of all these, awareness on copyright is rather poor in the country and piracy is believed to be wide spread. Piracy of copyrighted products is a problem as old as the copyright itself. Only in recent years it has received prominence, especially in the academic and policy circles. In India, no official estimate is available to indicate the extent of piracy and associated economic loss. But perceptions are that the piracy is a big problem.

The piracy takes away certain portion of revenue from the legal owner of copyrights. The commercial exploitation of copyrights also yields income to the creative persons in the form of royalties. The State gets income in the form of excise duty, sales tax, income tax etc, which pirates do not pay. Therefore, piracy brings losses for all involved in the legitimate production and distribution of copyright items. The important among these are the trade loss and loss to the state exchequer.

The development of the society depends on the development of science and technology which ultimately depends on the encouragement and support provided through rewards. Patents are a reward for the efforts and labour in producing new and novel innovations. The object behind the patent is to serve the purpose of the society by encouraging and simulating further research and development. The purpose of any research should be the benefit of common man.

The Patent (Amendment) Act, 2005, has successfully brought the Indian Patent law in compliance with the obligations of the TRIPS Agreement and as a result the Indian Patent regime is now globally competitive and harmonized with the international norms, but India is developing country; about 28% of the population was living below the poverty line, the major concern is not only to make the patent laws compatible with the international scenario but how to provide proper health to the persons who could not afford the price of the medicine. There is a need to amend the Indian Patent Act so as to exempt the
drugs, medicines, food and food products from the purview of product patent regime. The Patent Amendment Act, 2005 has been issued to fulfill India’s obligation to the World Trade Organization. The Act, allowed for full introduction of product patents and for deletion of the exclusive marketing rights, a transitional arrangement provided to drug companies until a full product patent regime was introduced.

The use of the trademark is not a new concept in the Indian scenario; it is there at the time of the kings and emperors that the traders use the mark so as to differentiate the goods from that of other. For the acquisition of trademark the Trademark Act prescribed the procedure to be followed before the Registrar, no doubt the registration of the trademark is optional but if the mark is registered then the civil and criminal action can be initiated against the infringer, but whereas the non registered mark are concerned the action for passing-off is the only remedy available against the infringer. Indian Trademarks Act, 1999 is basically not only based upon the previous Acts on the Trademarks but it is also in compliance to the Trade Related Aspects of the Intellectual Property Rights. Presently in the Trademarks Act, 1999 there is no such provision to have single application for obtaining the registration in various countries. The traders desiring the protection in other countries has to file separate application in the countries in which they wants to protect their trademarks. To facilitate the foreign nationals and Indian who wants to protect there trademark in other countries the Trademarks (Amendment) Bill, 2007 has been introduced in the Parliament on 23 August, 2007, which was passed by the Lok Sabha on 25 Feb., 2009, which facilitates to secure the simultaneous protection of trademarks in other countries.

While many specialty Indian products have historically enjoyed worldwide recognition, the concept of geographical indication is a new one it is only after the acceptance of the Trade Related Aspects of the Intellectual Property Rights that the Indian Parliament has enacted the procedure for acquiring Geographical Indication under the Geographical Indications of Goods Act, 1999, which marks an important milestone in this recent policy of the Indian government. Once a Geographical Indication is registered in India, it becomes relatively easier to seek its protection in other countries, particularly the member countries of WTO. The Geographical Indications of Goods Act, 1999 protects the work in the field of
agriculture goods, natural goods or manufactured goods of handicrafts or goods of industry. The main aim of the Geographical Indications of Goods Act, 1999 is to provide for the registration and the better protection of the geographical indication relating to the goods.

Registration of an industrial design is not necessarily the only means of protection. It is possible, if certain conditions are met, to protect industrial designs under copyright law or the law against unfair competition. Protecting industrial designs helps economic development, by encouraging creativity in the industrial and manufacturing sectors, as well as in traditional arts and crafts. They contribute to the expansion of commercial activities and the export of national products. Industrial designs can be relatively simple and inexpensive to develop and protect. They are reasonably accessible to small and medium-sized enterprises as well as to individual artists and craftsmen, in both industrialized and developing countries. The Designs Act, 2000 provides the procedure for the registration and its enforcement of the same. As India is the member state to the various international conventions relating to the industrial design, its Designs Act is compatible with the international standards.

To acquire the intellectual property right and to enforce the same, various statutes have been enacted by the Indian Parliament. The Government of India not only provides the basic provisions but also helps the intellectual person for the acquisition of the same; the Patent Facilitating Centre is one of such facilitating centre. The Patent Facilitating Centre (PFC) was set up by Department of Science and Technology under Technology Information Forecasting and Assessment Council (TIFAC) in 1995. It aims at introducing patent information as a vital input in the process of promotion of research and development programmes, providing patent facilities to scientists and technologists in the country for Indian and Foreign patents on a sustained basis.

With the advancement of science and technology the law should also adopt these changes, and the intellectual property laws in India have always adopted such modification by amending its law so as to make it compatible with the international laws. With the passage of time law develops to meet new challenges, and the amendment in the last decade is the aftermath effect of the
development in the field of science and technology so as to protect the right of the intellectual creator.

The penal provisions along with civil provisions sufficiently safeguard the interests of the creators who play very important role in socio-cultural, economic and political advancement and welfare of a country. The need of the hour is to take stock of the practicality as each day infringement increases as is shown by the number of raids conducted by the police. Unfortunately, what is seized is not even one percent of infringing copies. No amount of legislation can check this phenomenon. Even though it is generally said that a person who by habit is a creator would never bother about violations and returns, the fact remains that the investigating and detecting machinery in the form of police is ill suited for this kind of work. With the changing and fast paced technological developments, there is a crying for trained and well equipped specialized police force for detection and enforcement of crime relating to violation of rights conferred under industrial and intellectual property laws. It would obviously mean massive expenditure in training and procurement of machines, but we should not hesitate to invest in safer future for people who in turn are so important for our development. It is high time that we as a nation change our mind set and try to eradicate the disease rather than treat the symptoms.

Indian Judiciary is weak and ineffective as there is inadequate staff and lack of funds. There is a need to fill the vacant posts in the judiciary. The Indian judiciary does not adopt new technology tools for managing Justice Administration. No doubt that the Courts in India have been interlinked with each other through the internet so as to give on line information but there is a lot more to be done in this field because not only the High Courts and Districts Courts but there is a need to link the lower judiciary with the on line information.

There is opinion of the peoples in general that, enforcing agencies do not enforce any right satisfactorily and they are not being partial to the enforcement of intellectual property rights. Definitely there is a need to improve the techniques used by the investigating agencies because the maximum infringement of the intellectual property rights are from the electronic modes, either it is piracy or transfer of information illegally on the internet. In India the Information Technology Act, 2000 tries to solve the cyber crime but there are few limitations
in the Act. Under Section 79 of the Information Technology Act, 2000 the service provider is not liable for the crimes committed by his customers if he proves that the same was committed without his knowledge or he has exercised all due diligence to prevent the commission of such offence. But there is a question that the service provider will always take the benefit of Section 79 of the Information Technology Act, 2000, but to fix his liability it is required that his liability for the negligence should be fixed so as to control the infringement of the intellectual property by the use of cyber technology. There is a need that all the states should come together unanimously to form the global village to protect the infringement of copyrights through the internet keeping in mind the interest of the user in relation to free information and right to information.

There are two types of rights of the author i.e., moral and economic rights. Moral rights always remain with the author. The author should, at the time of transferring the economic right, take into account the Copyright law so that the right which is assigned or licenced can be effectively enforced. If any dispute arises the matter will be referred to the Court for the settlement of the dispute. The Copyright Act provides that the licence should be in writing and should be signed by the author or his duly authorised agent. For the exploitation of the copyright, the author can give the licence on the terms agreed between them. In the Copyright Act, provisions have been made for the compulsory licence if the owner of the copyright which earlier publishes or performed in the public refuses to publish or performed. The provision of the compulsory licence is based on the principal of general interest that the general public should not be withheld from the work which was earlier available to the general public.

The main purpose of the compulsory licence is to reduce the price of the patented products or for other public interest purposes. The Indian Patent Act, 1970 requires that an assignment, licence or a creation of any other interest in a patent must be in writing, clearly specifying all the terms and conditions governing the rights and obligations of the parties. This document must be registered in the prescribed manner within the prescribed time. The person getting such entitlement in a patent has to apply in writing to the Controller for the registration of the title. The effective and efficient issuance of compulsory licences is imperative to curb the abuse of patent rights by the patentee.
However, the compulsory licence provisions in the Patents Act do not satisfy the abovementioned processes. Even though, the language of Section 83 of the Patent Act reflects the spirit of Articles 7 and 8 of the TRIPS and Public Health, the subsequent sections fail to reflect the spirit of Section 83. With the exception of a national emergency, extreme emergency or public non-commercial use, a compulsory licence is available only after three years from the date of grant of the patent. Further, clear and effective grounds for the issuance of a compulsory licence have not been provided in the legislation. There is no ceiling on the remuneration payable to the patent holder, which will inevitably lead to demand for excessive royalty and unnecessary litigations. Furthermore the injunction remedy, not required under TRIPS, with regard to compulsory licence litigations, gives an extra power to the patentee to block the compulsory licence for a long period of time. All these requirements cumulatively make the compulsory licence system potentially an unworkable option in India.

Therefore, in total the request for a compulsory licence does not have to be considered for at least three years and six months from the date of the grant of the patent. Furthermore, one also has to take into the account that the Act fails to provide a timeline within which the Controller must deal with a compulsory licence application after the six-month period mentioned above lapses. This could lead to a further delay before any licence can be issued. In the Patents Act as there is no such provisions for the fixation of the royalty to the patentee in case of compulsory licence, the pharmaceutical multi-national companies often refuse to deal with requests for compulsory licences or demand exorbitant royalties while considering such requests.

Although the provision relating to export of drugs falls under the heading of ‘General and Special Provisions’ in the Act, that normally should be treated as an urgent matter, there is no clarity in the amendment about the procedure. Further, absence of a ceiling on royalty and availability of injunction remedy will be used by the patent holder to slow down the matters, it could quite possibly argue this point, and delay the introduction of new drugs that a developing or least developing country may urgently require.

The Act further fails to provide the safeguard available within Article 44 of TRIPS, which effectively allows member states to limit remedies on the
remuneration that would be available to the patent holder where third parties are authorised by the government, without the authorization of the right holder, to use the patented good rather than issue an injunction. The grounds to seek compulsory licences have been expanded. The newly inserted Section 92A(1) of the Patents Act extended the scope of issuance of compulsory licenses for manufacture and export of patented pharmaceutical products to countries having insufficient manufacturing capacity in the pharmaceutical sector, if that country has by notification allowed such importation.

A system of compulsory licensing could only have the effect of making investment in patented inventions less secure and less attractive. "Rather than engage in expensive research, companies would be inclined to sit back and let others do the scientific exploration, and then apply for a license as of right if a worthwhile invention was developed." Compulsory licensing is therefore viewed as having no place in U.S. Patent law. In addition, those nations which implement provisions of this nature have been strongly criticized by the U.S. Government as well as by foreign multinational firms on the grounds that while they reap the benefits, they do not contribute their fair share to research and development costs.

Under the provisions of the Trade Marks Act, the trade marks can be transmitted by the way of assignment or licence but the same should be registered with the Registrar. For the exploitation of the goodwill the proprietor or owner of the trademarks needs to increase the manufacturing capacity of the goods or services. The owner can also increase the manufacturing capacity by authorising some other to manufacture or provide the service by using his trademark. As the registration of the trademark is not mandatory hence the unregistered trademark can also be assigned to others. The infringement proceedings can be initiated by the user of the trademarks or by the licensee or assignee of the trademarks. The Trademarks Act has imposed a limitation on the rights of the registered user that the registered user cannot assign or give licence to any other person for the use of the trademarks.

In order to stop infringements that could damage the reputation of a business or undermine the value of the intellectual property rights, the owner or proprietor must actively monitor the marketplace for unauthorized uses of his
trademarks, copyrights, or patents. Monitoring can be done by putting the program or hiring a service that monitors the market for infringement techniques such as conducting wholesale, retail, and Internet buys; telephone physical surveillance; undercover operations; and market analyses or trademark watch service to monitor official publications showing applications registrations for trademarks in various countries in the world.

Criticism has focused around the enormous market expenditure incurred in advertising centered on marks. Although advertising might be considered as wasteful, trade marks are not the same as such advertising, merely its tool; in fact, the trade mark itself facilitates such advertising. The same can be said of the often exaggerated claim of some advertising. Despite such criticism the importance of the trade marks cannot be ruled out. It is the duty of the consumer to approach the appropriate Consumer Court if there is some similarity between two trademarks so as to create confusion in the mind of the average consumer.

The Trade Mark Act is based on the principle for the protection of the consumer’s right that they should not be got confused at the time of purchasing goods and availing services. Under the Act specific provisions have been made to tackle the infringement of the trade marks. The civil and penal provisions have been made for the proper implementation of the Act, but there is a need on the part of the general people to aware themselves about the Act and help the enforcement agencies for the proper implementation of the Act. The owner of the trademarks should change their mind regarding the infringement of their trademark because they only approach the courts for an injunction for the penal provisions, if they take the remedy under the penal provisions will be a precedent for the infringer of the trademarks which could effectively the infringement of the trademarks.

Registration of the Geographical Indications is mandatory for the protection of the trade marks. The Act further makes it clear that the geographical indications are not a matter of assignment or licence. The only way of the transmission of geographical indications is by way of inheritance by the legal representative of the owner of the geographical indications.
the person, but the geographical indications must be registered before the Registrar.

The design can be assigned or licenced to any person, to exploit in on a commercial scale but the same should be in written and must specify clearly the terms and conditions, the amount of royalty as agreed between the parties. The name and address of the proprietor of the registered design should be entered in the register of the Registrar. During the existence of the copyright of the design, any person has been prohibited from using without the prior permission of the proprietor. The registration of the transmission of the design is an essential condition under the Design Act.

Intellectual Property Rights have always been recognized as an important civil right under Indian laws and in case of infringement of such right the infringer has to bear civil as well as criminal liability for the same. Recourse to Court by law is a well-recognized concept world over and firmly entrenched in the Constitutional and other laws of India. Therefore, any person can claim a statutorily or customarily recognized right to property. Due to the protection of intellectual property rights, the society, or State or even the whole world rises to the heights of culture, status and development. The status or standards of society as a whole are being lifted by such protection. The role of inventors is being recognized and encouragement is forwarded to them for continuing researches in their respective fields in order to make further advancement in their work. Indian Judiciary is no doubt playing a very distinctive role in determining the rights of the parties in relation to intellectual property rights.

The importance of the intellectual property law cannot be under estimated in the present scenario. This is the reason the developed countries have negotiated trade related aspects of intellectual property not under the World Intellectual Property Organisation which is a body for intellectual property but under the auspicious of General Agreement of Tariffs and Trade which is a forum for international trade.

Patent laws are one of the instruments of the national policy. They must be endeavored to promote the development of the country by facilitating the transfer of technology in consistent with basic public policy. Now the Patents Act, 1970 has been amended in conformity with the TRIPS Agreement negotiations. Like
TRIPS Agreement were not designed to fulfill the requirements of developing and under developed countries but to satisfy the overwhelming demands of developed countries. It remains difficult to isolate the effect of the patent regime on development. We have to evaluate the benefits and cost of patents on economic and scientific development. Now there is high time to give impetus to our scientific and technological research and development so that patents laws can be compatible to the development of our country. Indian scientists have to do much to compete with the inventor of other developed countries. The intangible right of patent is becoming increasingly valuable in a market place. The utility of patents has been recognizing not only in the economically developed countries but also in the developing countries like India.

There is no criminal remedy available for the infringement of patent or a registered design. Innocent infringement or without knowledge infringement of patent not require payment of damages and a share of profit. It is suggested that some deterrent provisions should be provided by imposing a penal provisions under the Patent and Designs Act. Under the Act, there is a need to have the strong penal provisions for the protection of the intellectual rights. The strong penal provision is based on the deterrent theory that the infringer think twice before infringing the law.

No doubt the Patents Act makes various provisions for the proper implementations of the Act, but still there is a need for the proper implementation of the same. Under the Patent Act, there is a lack of penal provisions if there is infringement of the patent. Without the specific provision for punishment and impositions of fines for the infringement of the patents, it will discourage the inventor for developing their skills. For research and development abundance of funds are needed but when there is not any deterrent punishment than it will motivate the infringer for making the similar process and product. There is no proper awareness among the peoples about the patents rights, in fact the traditional Universities are providing the Intellectual Property as an optional subject no doubt the national Universities are providing Intellectual Property as a complete subject, but the number of National Universities is less as compared to the Traditional Universities. Hence there is a need to impose the Intellectual
Property as a compulsory subject so as to encourage the intellectual skills in the country.

In India the Law schools do not adequately train students in esoteric areas like Intellectual Property Laws. The awareness level of intellectual property right laws among lawyers from semi urban and rural areas is rather low. In the traditional Indian University there is old course they have either not opted the subjects of intellectual property law or if opted than that is optional for the students, but these Universities should realise the need of the hour and they should opt the subject of intellectual property rights as a compulsory subject.

The essence of the copyright law is ‘thou shall not steal’. The aim of the copyright law should be to protect the rights of the intellectuals and jurists, authors who contribute a lot for the upliftment of society. Copyright law should safeguard the interests of the authors and other creators. In India there is no provision under the Copyright Act, 1957 for the award of additional damages in special circumstances such as the flagrancy of the infringement or the fortune reaped by the defendant by his misdeed. Therefore there is need that the Copyright Act should be modified in order to cover additional damages under its provisions.

Registration of Trade Mark and Copyright is not mandatory, but the proprietor and author respectively be motivated to register the same. If the Copyright and Trade Mark is registered than it helps in the effective enforcement of the right and the owner can initiate the civil proceedings in the form of injunction, accounts for the profit and compensation can be claimed.

Civil and criminal remedies are available against the infringement of the copyrights. The civil remedies are an injunction and either damages or accounts for profits. In addition damages can be claimed for convention which may be very substantial. Criminal remedies include imprisonment and heavy fine and seizure of infringing copies of the work which will be delivered to the copyright owner. Other than the above mentioned provisions for the enforcement of the intellectual property rights, the Customs Act, 1962 creates a liability for the violation of the provisions of intellectual property rights and provides the complete machinery for obtaining redress against any import or export in breach of law. The customs Act makes the provisions for the detention and confiscation of the pirated works,
infringing copyright or goods bearing false trademarks when they are imported into India.

It is increasing realized that national copyright legislation needs a constant review and updating since technology is developing very fast. At the same time it must also be ensured that our legislation provides for stern penal provisions for infringement. It must be borne in mind that any action against piracy should be considered not only the amount of indemnification but also the social effect that a well structured action can bring about to prevent future increases in piracy. The court administering justice may also be required to understand the technology while applying the law.

The police are under an obligation to register an FIR, investigate the case and prosecute the offenders, but generally they are apprehensive about action themselves, due to peculiar nature of the Trademarks Act, 1999 and the Copyright Act, 1957 and lack of knowledge of law and its applicability. Thus, it is advisable to file a criminal complaint in the court, which after satisfying itself as per law, may issue General Search and seizure warrant to conduct an inquiry itself or through the police.

For the enforcement of geographical indication rights the right holders, both individual and group have a locus standi under the Geographical Indication Act. The government is not the custodian of a geographical indication as envisaged under the Lisbon Agreement. There is a need to be vigilant and vary of overharnessing and check the same by way of local awareness and legal action under Biodiversity Laws. Proper awareness is needed for the geographical indication because at the local levels peoples are aware of the specialty of the product from a particular region but not even through out the country.

From the above study it is cleared that, the protection of the trademark right against the copyright, patent, design and geographical indication are more effective, though the punishment imposed is not severe and the burden of proof is shifted to the accused. The requirement that the aggrieved person alone should initiate criminal prosecution is also absent, basically the entire principal is based upon the welfare of the consumer so that he must not be get cheated by the false use of the trademarks.
No doubt that the Indian judiciary plays an important role form protecting the owner from the infringement of their intellectual property rights, but remedies are not always sufficient deterrents. When the infringement has become a profitable business, the closing down of one plant with the assistance of the courts and law enforcement authorities, may only mean that the same might open somewhere else. Not only the police and judiciary but the custom authorities and administration have to play an important role in the enforcement of intellectual property rights. In this context it is needed that these departments of the government should help each other for the protection and proper enforcement of the intellectual property rights.

Despite the magnitude of intellectual property right infringement, most of the States have not constituted a special cell for the prevention of the intellectual property right infringement. Usually these cases are handled by Corps of detectives which is over worked or by the jurisdictional police to whom the infringers have a good and friendly access.

The main objective of the European Directive for the Enforcement of the Intellectual Property Right is to protect the rights of the intellectual persons so as to motivate them for the research and development. In order the provisions of the Directive are applicable (differently from EU Regulations which are directly applicable), they should be first implemented into the national legislation i.e., the national legislators must enact certain legislation in intellectual property field transposing the Directive provisions, because generally EU Directives have no direct effect. As reported, most of the countries, for instance, France, Italy, UK, Eastern and Central European Countries (the new members of EU) have already implemented the Directive. Germany is however behind the deadline of implementation, but the implementing legislation is planned to be passed this summer.

Defining intellectual property policies to promote growth and innovation will be greatly enhanced by focusing on the process of forming such policies. In the EU there is a greater need for an inter-agency and intra-agency coordination. Such coordination can ensure that the EU's strategic goals are better reflected in the EU Directive. The main motive for the enactment of the European Directive for the Enforcement of the Intellectual Property Right is to enforce the laws in the
European countries. The Enforcement Directive is often called a TRIPS-plus document improving and adding the enforcement provisions set out in Part III of TRIPS. Where the general obligation of the member states has been prescribed so as to enforce the intellectual property laws in their States. There is nothing new prescribe in the Directive as it provides the same standard of civil measures and procedures applicable to all infringements of any intellectual property rights which is embodied in the TRIPS. Its validity is limited to the EU Member States (27 at the moment) which all are Contracting States of WTO and its pillar - TRIPS, though.

The new intellectual property regime in India is expected to stimulate large foreign investments, increase international trade and technology transfer. Disputes in these areas will need to be resolved fast and intellectual property rights are certainly be one of the main issues. The alternate dispute resolution provisions in this field are very valuable for solving the disputes between the parties. The Parliament of India have enacted the Arbitration and Conciliation Act, 1996, which was on the UNCITRAL (United Nations Commission on International Trade Law) Model and was widely acclaimed the world over as being an ideal piece of legislation. The Arbitration and Conciliation have been recognized as valuable adjuncts to the Court system and have been practiced as such in many parts of the world as viable methods of Alternative Dispute Resolution.

Making an arbitration clause in the transmission of an intellectual property right is an important and helpful clause in resolving a dispute as arises between the parties. The parties are further suggested to make the mediation and conciliation clause in their licence as it is for the benefit of both of the parties for resolving their future dispute among themselves.

In India there is no exclusive institution of the settlement of the disputes relating to the intellectual property rights, but there is the Indian Council of Arbitration (ICA); International Centre for Alternative Dispute Resolution (ICADR); and FICCI Arbitration and Conciliation Tribunal who are the forerunner in the field of the arbitration and mediation. There is a need for the establishment of the specialized agency to deal with the arbitration and mediation exclusively for the intellectual property rights.
For the advancement of the trade relationship among the States in the Global village there is a need for the uniformity in the laws by which they are governed. There are many conventions and treaty where the member States has realized that there should be some soft provisions in the laws in case of some disputes so as to settle the same with the help of some arbitrator or mediator to which both the parties agreed to. The UNCITRAL Model Law also focuses on the International commercial Arbitration and it is the aftermath of this Model Law that India has amended its Arbitration and Conciliation Act, 1996 so as to enforce the foreign arbitral awards in India. The UNCITRAL Model law has contributed for the establishment of the unified legal framework for the fair and efficient settlement of disputes arising in the international commercial relationships.

The Agreement on Trade-Related Aspects of Intellectual Property Rights plays an important role in the enforcement of the intellectual property rights. Part III of the TRIPS Agreement deals with the proper implementation of the decisions against the infringement of the intellectual property rights. The Agreement lays down the guidelines for the proper utilization of the rights of the owner of the intellectual property. Indian laws on the intellectual property rights has followed the TRIPS Agreement, no doubt, Indian laws are older than the TRIPS Agreement, but that is meant for the implementation in the Indian territory, but after the enforcement of the TRIPS Agreement India has amended all its Intellectual property laws so as to make them compatible with the TRIPS standards.

The World Intellectual Property Organisation has played an important role not only in the field of acquisition and enforcement of the intellectual property rights but also for the settlement of the disputes among the States. The WIPO give the assistance to States in the matter of drafting and revision of national legislation; comprehensive education and training programs at national and regional levels; for officials dealing with intellectual property and for traditional and new groups of users, on the value of intellectual property and how to create their own economic assets through better use of the intellectual property system; extensive computerization assistance to streamline administrative procedures for managing and administering their own intellectual property resources; financial assistance to facilitate participation in WIPO activities and meetings. In fact the
WIPO plays a major role in the promotion of the intellectual property rights throughout the world.

The members of the Indian judiciary need to gear up with the changing phenomenon of the intellectual property rights word. They are to keep themselves abreast with the developing intellectual property rights at international level and keep a positive bent of mind while interpreting the provisions of the amended intellectual property laws in India to bring them in harmony with the international conventions and most importantly, be able to contribute to the international community by their positivist approach and succinct interpretation.

There is the need of interpreting our laws in tune with the contemporary international law. The achievements and the exploitation of knowledgeable talent during information technology revolution have resulted in substantial economic gains. Intellectual property laws now form the backbone and are driving force in the protection and exploitation of this reservoir of new knowledge and ideas. Humanity constantly progresses in culture and the impact of judicial pronouncements in shaping the course of any nation's life cannot be denied.

The judiciary interprets intellectual property statutes while adjudicating upon intellectual property disputes. It is through the process of pronouncement and the interpretation of the laws involved therein that the judiciary leaves its imprint on the march of trade and commerce and consequently the nation's progress. A country having agreed to be a party to the TRIPs and to WTO regime is bound to legislate in harmony with the international agreements phasing out the pre-existing intellectual property legislations. These new laws not only call for the change in the existing intellectual property laws but also in many cases take up the need for setting up new and modernised institutions. Many IP laws are at times just rushed through without giving due weightage to the long-term implications of the new provisions. The judiciary would have an important role to play in interpreting these laws and in case of conflict striking a judicious balance between the interest of the nation and the demands of global justice.

Piracy is developing in the business society as an evil and so is counterfeiting. Laws are there; the need is for a proactive and tactful judiciary to handle such issues with competence, promptness and firmness. The judiciary needs to have a wider vision which can comprehend the impact on the global
Indian courts have also taken stringent action against the infringers by not only restraining them from continuing their business but also by way of awarding considerable amount of damages. India is steadily moving towards a legal framework that recognizes the importance of patent law. Various policy-level changes are being implemented for example, even affect the patentable subject matter produced within universities. Consequently, consciousness of patent rights will be accentuated. As patent rights are realized, there will be enormous scope for courts to create a vast volume of inter-disciplinary jurisprudence that will determine the future of innovation in India.

Indian courts have also taken stringent action against the infringers by not only restraining them from continuing their business but also by way of awarding considerable amount of damages. The court-awarded damages from these infringement actions have increased in size and number, which has emboldened intellectual property holders to enforce their rights assertively.

The pressure on the judiciary is not only because of the lack of judicial precedents, but also because of the urgency that is shown by the parties in seeking relief. Corporations, individuals and other right holders come to the court seeking immediate remedy, while the court does have to look not only into the validity of the claim but also into the aspects like jurisdiction, international registrations of IP, market reports, etc. An intellectual property case in court on account of high stakes and commercial sensitivity may be made to seem like a high-profile matter, but the need for careful adjudication is at its highest form and the court is not to be overtaken by what is being made to appear except the need for expeditious decision.

There is also the need to change the mindset of the general people that the judiciary is for the protection of the justice and it is the protector of the rights of the public, so that the common man will be motivated to sue for the infringement of their rights. In India there is a lack of general awareness among the people regarding the intellectual property rights. There is a need that more and more seminars, conferences be organized in the colleges and universities so that the future generation should came to know the importance of protecting the intellectual property rights. As more and more awareness among the general
public advances more and more people come forward for the enforcement of their rights.

 Courts in India are heavily burdened with litigations and therefore, may not be the best forum for all patent litigation. It is important to note that patent litigation is a complex interface between law and science and, therefore, an arrangement where an exert bodies such as the IPAB be entrusted with the responsibility of being the primary fact-finding body disputes involving patents. Litigation should be the last option for the enforcement of patents rights, as the process is lengthy. Further since a patent right is a limited monopoly of twenty years; the length of litigation may frustrate the purpose of initiating the proceeding, at least partially.

 There is a need on the part of the Indian Judiciary that Anton Pillar rule should be adopted where the same is needed. If timely action has been taken against the infringer than the rights can be enforced effectively and efficiently by the court of Law. There is also the need to motivate the general public regarding the protection of the intellectual property rights by organising the seminars and conferences in different parts of the country. Stress should be laid on need for the protection of the intellectual property rights.

 The mere adoption of the intellectual property laws without effective enforcement will not fool the intellectual property community for long. In many developing countries the judiciary is not familiar with intellectual property law. Indeed, it is to be secure that how it is to be applied and enforced.

 If the owner of the intellectual property becomes aware of any infringements of his intellectual property rights, he should confer with his attorney about whether to communicate his rights to the infringer and, if necessary, he should defend his rights through legal action. There are various remedies available in case of the infringement of the intellectual property rights. Incase of infringement of the intellectual property rights the owner should initiate the infringement proceedings against the infringer because it has a worse effect on the owner as he has greater economic loss.

 There is a need on the part of the enforcement agencies that they should enforce the law more speedily and effectively so that they should be entrusted by the people in general. In case of infringement of the intellectual property rights
the proprietor should register a case for the infringement of the same so that necessary action can be taken by the authorities. There is also a need on the part of the owner of the intellectual property that they should take the infringement of the intellectual property rights as a more serious wrong, because if no action has been taken against the infringer than it will motivate the wrongdoer, and demoralize the intellect who indulge in the research and development.

In the end, I would like to say that there is an equal importance of the tangible as well as intangible property in this cyber age where the infringement of the intellectual property rights knows no boundaries. Hence, there is a need that the laws that governs for the acquisition and enforcement of the intellectual property rights should be of international standards. Indian laws on the Intellectual Property have been amended time and again so as to make them compatible with the international standards. At the time of the making a Bills for the protection of the intellectual property not only the Indian conditions has been taken into account but also the minimum standards as fixed by the TRIPS has been taken into account.

There are adequate penal and civil provisions envisaged in the legislation to safeguard the interest of the creator who plays an important role in the development and advancement of the socio, cultural, economic and political environment in the country. There is a need for a well-trained and equipped specialized police force for the detection and enforcement of crimes relating to the violation of the intellectual property rights and there is also a need for change of the judicial mindset in dealing with the intellectual property rights cases. Stress should also be laid on the speedy justice so that justice should not only be done but should manifestly and undoubtly seems to be done.