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Abstract:

Intellectual property rights are at the absolute centre of the 21st century society, as it is full of geniuses excelling in discoveries and inventions along with wonderfully artistic beings performing vibrantly in music, composing, painting, writing, directing and film making. This paper provides statements and citations from many reports and books and is a result of a comprehensive study on the subject of intellectual property rights. With the widespread use of digital technologies and intellectual property mechanisms individuals, groups, communities and countries involve themselves in a race to prove their superiority over others forgetting the existence of groups and communities which are left untouched from the magical touch of intellectual property rights, usually infringing their rights to express their traditional cultural expressions. This research paper scrutinises the use of intellectual property mechanisms and how their use in the past has resulted in cold wars between countries, groups, organisations, industries and even individuals, ranging from tribal groups, scientists, artists, filmmakers, to writers. The paper also provides a comprehensive overview of the historical context surrounding the exploitation and appropriation of indigenous traditional knowledge, stressing the immediate need for effective measures to protect the rights of indigenous people. This paper also consists of a wide overview of the challenges and opportunities that globalisation and digitalisation have resulted in today’s society, which is faced by indigenous communities. Finally, the paper provides a brief suggestion to lawmakers and pressure groups to advance towards a more secure generation of IP rights.

List of Abbreviations

IP Intellectual Property

IPR Intellectual Property

BCE Before Common Era

TCE Traditional Cultural Expressions

WIPO World Intellectual Property Rights

GI Geographical Indication

ABS Access and Benefit Sharing

MAT Mutually Agreed Terms

CBD Convention on Biological Diversity

TRIPS Trade-Related Aspects of Intellectual Property Rights

WTO World Trade Organisation

TM Trademark/s

TLT Trademark Laws Treaty

NGO Non-Governmental Organisation

USA United States of America

USPTO United States Patent and Trademark Office

CSIR Council for Science and Industrial Research

TKDL Traditional Knowledge Digital Library

List of Cases

* RiceTec Inc v/s India
* San Tribe v/s CSIR South Africa & Pfizer
* W.R. Grace & Department of Agriculture USA v/s India
* Orissa v/s West Bengal

Introduction:

Intellectual property is an intangible property, a product of the mind and intelligence of an individual, and the rights we have over these properties are referred to as intellectual property rights. In the Indian context, these rights are regulated by legislation like the Trade Marks Act, 1999, The Patents Act, 1970 (amended in 2005), The Copyright Act, 1957, The Designs Act, 2000, The Geographical Indication of Goods (Registration and Protection) Act, 1999, The Protection of Plant Varieties and Farmers Rights Act, 2001, and The Information Technology Act, 2000. The term intellectual property encompasses a wide range, including patents, trademarks, copyrights, industrial designs, and geographical indications. Intellectual property rights (IPRs) now are at the center of many controversies and debates worldwide, as we witness a complex web of IP reaching every corner of life—movies, albums, songs, paintings, designs, clothing, shoes, digital devices, poetry, prose, scripts, cuisines, and traditional identities. Even though the world is highly IP-intensive today, controversy over intellectual property rights is an age-old issue that dates back to approximately 500 BCE when cooks in a Greek colony of Sybaris received a monopoly to cook a specific food for a period of one year. Additionally, Bruce W. Bugbee's "The Genesis of American Patent and Copyright Law" quotes three famous cases from Roman history when intellectual property was debated, though without explicit legal protection within Roman law. Within this paper, the attention will be centred on comprehending the various IPR mechanisms, conventions, and rules that have developed across the world to safeguard intellectual creations. Through analysing different case summaries and digging up miscellaneous facts pertaining to IPR, an effort will be made to analyse how these mechanisms have helped create a favourable environment among member states to protect intellectual property rights. Yet, the study will also explore how firms, nations, and sectors have frequently exploited loopholes and gaps in current legislation, employing them to acquire rights over precious intellectual property. Particular focus will be placed on how global conventions and mechanisms like customary laws and practices, geographical indications, traditional cultural expressions (TCES), sui generis systems, access and benefit-sharing mechanisms, international agreements and declarations have been instrumental in protecting the interests of traditional knowledge holders and indigenous and cultural expressions. These mechanisms, as well as other milestone advancements, will be discussed in more detail throughout the paper to determine both the success and the ongoing issues in intellectual property rights.

Methodology:

This paper will have a qualitative analysis and compilation of information and facts, and it will identify key concepts of geographical indication, biopiracy, and international conventions. It reviews existing documents and agreements to provide a foundation for the current study. Various cases from biological and traditional field such as Basmati case, Hoodia Case, Neem Case, and Rasgulla v/s Rasgola will be critically analysed to give a thorough idea of bio piracy and faults in the patent registering conventions and their primary objectives along with key provisions and the challenges faced by them in the modern environment. It also considers conventions such as the Paris, Lisbon, Madrid, CBD and Nagoya Protocols to highlight the administration and monitoring of patents and trademarks. Data collected and analysed from various case laws in this field to critically scrutinise the existing mechanisms and to provide suggestions and improvements in the current system.

Mechanisms Protecting Cultural Expressions:

 Customary law and practices could be defined as intrinsic to the life and culture of indigenous people and local communities, which have been followed since time immemorial, and are reasonable and obligatory to the people and not against the statutory law of the land, are precisely defined by the World Intellectual Property Organisation (WIPO). For example, in Aboriginal law, the traditional owners of the clan allow permission to use indigenous totem designs and deities referred to as dreaming to reproduce new artwork. “The extent to which an artwork bearing a whether a pre-existing design can be reproduced will depend upon the subject matter of the work”[[3]](#footnote-3). It is done to avoid offending the artist or traditional, cultural owners.

Geographical indications are given to products with specific geographical origin possessing qualities that are due to the origination in a specific geographic region along with a community census of that are in cases of products that involve traditional techniques and methods for example Leather toys of Indore, Chanderi sarees, Bagh Prints, Bell Metal Ware of Datia and Tikamgarh and Ratlami Sev. It is described as “in relation to goods, means an indication which identifies such goods as agricultural goods, natural goods or manufactured goods as originating, or manufactured in the territory of a country, or a region or locality in that territory, where a given quality, reputation or other characteristic of such goods is essentially attributable to its geographical origin and in case where such goods are manufactured goods one of the activities of either the production or of processing or preparation of the goods concerned takes place in such territory, region or locality, as the case may be”[[4]](#footnote-4). The geographical identification tags are allotted by the Controller General of Patents appointed under the Trade Marks Act 1999, and all the GI tag records are maintained in the Geographical Identification Register of India. The Geographical Indications of Goods (Registration and Protection) Act, 1999 recommends a stepwise process to register a commodity as a GI product that starts with filling out a form along with three certified copies of a map of that region signed by an applicant which is substantiated with the help of an evidence document followed by a preliminary scrutiny and examination, if the registrar has any objection he implies his dissatisfaction with a show cause notice to which the applicant must respond within 2 months from the date of notice. Every application shall be published in the Geographical Indications Journal within three months of acceptance.[[5]](#footnote-5) Any person dissatisfied with the content published in the GI general should write to the registrar general of patents within three months of publication of the content in the journal. The date of the acceptance of the application would be regarded as the registration date of the GI patent; later on, a certificate of geographical identification registry marked with a seal would be issued to the applicant. The GI tag could be renewed after 10 years with a renewal fee payment. The registration within the GI register provides the product with additional security against piracy and imitation. India currently has [432][[6]](#footnote-6) registered GI tags in total, with Karnataka, Tamil Nadu, Uttar Pradesh, and Kerala as the top 5 states with the highest number of registered GI tags.

The Sui Generis system is based on a different concept of community ownership, unlike the ownership of private property as in the Western system. “In intellectual property rights discourse (IPRS), the term refers to a special form of protection regime outside the known framework. It can also be viewed as a regime especially tailored to meet a certain need”[[7]](#footnote-7). Even though this system is used in IPR to protect traditional knowledge and cultural expressions, it has not yet been implemented in India. Even though the need for this system has been discussed and debated repeatedly, India still relies on the existing methods of patents, trademarks, copyrights and geographical identification, which are more general and do not fully address the unique challenges faced in protecting traditional knowledge. The Sui Generis mechanism has inspired the Protection of Plant Varieties and Farmers' Rights Act, 2001, as this addresses the protection of plant varieties and rights of farmers, but the problem is that this legislation only deals with plant varieties and not with a broader spectrum of traditional knowledge. The Protection of Plant Varieties and Farmers' Rights Act, 2001, directs the maintenance of a national register of plant varieties where the names of respective varieties and the names and addresses of their breeders are mentioned. The varieties which could be regarded as registrable varieties should “conform to the criteria of novelty, distinctiveness, uniformity and stability”[[8]](#footnote-8) Along with other criteria that are not identifiable by an existing variety.

An access and benefit sharing mechanism (ABS) is a method by which genetic resources are accessed and shared to provide maximum benefit to the producers and the users. In this mechanism of IPR’s the user of a genetic resource or a company seeking to access to basic scientific research on the genetic product must first get permission from the provider so as not to infringe their IPR, further on a mutually agreed terms (MAT) should be shared by the provider country or company to share resulting benefits equitably. This system realises the value of genetic knowledge owned by traditional communities and stresses the fair share of benefits with the sole proprietors. As notified in The Biological Diversity Act, 2002 in case of transfer of any biological resource or knowledge under section 20 should be granted permission by the National Forest Conservation Authority Provided that “where biological resource or knowledge was a result of access from specific individual or group of individuals or organisations, the National Biodiversity Authority may direct that the amount shall be paid directly to such individual or group of individuals or organisations in accordance with the terms of any agreement and in such manner as it deems fit”[[9]](#footnote-9). The convention considers the national filing of patents according to domestic laws under any state of the union as a conventionally registered patent for all other states.

Light on International Conventions:

Paris Convention – The awareness in the field of protection of IP rights is over centuries old as signified by the formulation and ratification of the Paris Agreement for The Protection of Industrial Property on March 20, 1983, which is one of the most widely accepted document all over the world even today, even though it has been revised and amended multiple times. The primary objective of the convention was to promote international cooperation among the states. This convention broadly focuses on industrial property regarded as IP. It is a scholarly brilliance how this document contains subjects of patents, trademarks, unfair competition, special industrial property, trade names, inventions, utility models and industrial designs, which are just a few of many subjects covered in this convention. At first, this document considers the countries ratifying this protocol as unions, further broadening the scope of industrial property by not limiting it to industry-made goods but also to all manufactured or natural products, such as wine, grain, tobacco, leaf, fruit, cattle, minerals. It provides member states with the ability to formulate and regulate laws under their territorial jurisdiction to further prevent infringement of each other’s rights, also known as the “National Treatment Principle”, which provides a more straightforward method for the member states to register patents according to their own domestic laws, thus eliminating discrimination against foreign competitors. The protection of patents, trademarks is guaranteed throughout the member states, through Article 4 (A) which states “Any person who has duly filed an application for a patent, or for the registration of a utility model, or of an industrial design, or of a trademark, in one of the countries of the Union, or his successor in title, shall enjoy, for the purpose of filing in the other countries, a right of priority during the periods hereinafter fixed”[[10]](#footnote-10). The convention also provides independence to registration of patents, which simply means that if a patent is rejected in country A, this process wouldn’t influence its registration in country B, because each country has its own private protocol to register a patent or industrial property as intellectual property. The convention provides for the establishment of a common office for the registration of patents, which is not a mandatory requirement. This convention prevents unauthorised use of well-known trade marks to prevent unfair competition. Its principles have been used in the formulation of other agreements such as Trade-Related Aspects of Intellectual Property Rights (TRIPS) under the World Trade Organisation (WTO).

The principles of the Paris Agreement have inspired the formulation of other agreements, such as Trade-Related Aspects of Intellectual Property Rights (TRIPS) under the World Trade Organisation (WTO) and the Nagoya Protocol. The Nagoya Protocol was established on October 29, 2010, under the Convention on Biological Diversity (CBD), which was first formulated during the historical Rio Convention in 1992, talks about the access to genetic resources and fair and equitable sharing of benefits arising from international agreements. It promotes the protection of biological diversity and the use of its components. It provides a system for the appropriate use of traditional knowledge and indigenous cultural expressions and equitable sharing of the rewards received from commercialising or researching these resources. The requesting party in the Turmeric Patent Revocation (European Patent EP 0 692 322) used the rules and regulations mentioned in the Paris Convention and questioned whether the administration of Turmeric as a healing remedy was a novelty or traditional, well-known knowledge in India. The Paris Agreement for Protection of Industrial Property is a wide-scope agreement, but it faces the challenges in addressing current contemporary issues with the evolution of technological equipment in the 21st Century. The increasing complexity in today’s largely capitalistic society fails to raise concerns about the protection of traditional knowledge and cultural expressions.

Madrid Agreement – The Madrid agreement is a result of two distinct agreements combined: The Madrid Agreement concerning the International Registration of Trademarks 1981 and The Madrid Agreement concerning the International Registration of Trademarks 1989. Its main objective is to harmonise the process of registering trademarks with a centralised administration system and simplify the registration of trademarks by filing a single application in the International Bureau of WIPO. A natural person or a legal entity can apply for *an international agreement seeking protection if it’s a contracting party under the agreement,* having a domestic territorial office. The application could be filed in different languages, including English, French and Spanish, along with a registration fee known as the basic fee. Upon receiving the international agreement, the organisation has to classify and comprehend the application check for any scrutiny. After this, the official acceptance of registration should be published in the Official Gazette of WIPO, that is the WIPO Gazette of International Marks, and further notifies each contracting party of the protection of the trademark. It provides for a central administration through the International Bureau of WIPO, which is responsible for receiving and maintaining international trademark registrations, as well as coordinating communication between the member countries. The Central Attack Provision is the cornerstone of the original Madrid Convention; according to this, if a patent or trademark is refused protection in one member state, it is also refused protection in other member states as well to maintain uniformity among all contracting parties. It provides flexibility for all contracting members as it allows them to set their own requirements for TM registration. It stresses the use of cultural heritage laws to protect folklore and indigenous rights. The Trademark Laws Treaty (TLT) draws inspiration from the Madrid agreement, which was formulated in 1994. The TLT aims to simplify regional and national trademarks, making them user-friendly and efficient. Along with this, it also inspired the Nagoya Protocol, which was brought into force in 2010 under the Convention on Biological Diversity. The main challenges faced by the Madrid agreement are the limited membership, as not all countries are members of this convention, with each member country having flexible laws which are not conform to the domestic laws of other member countries, which often leads to tussles among the members. Even though some countries have joined the protocol, they still do not follow the full protocol mentioned in the Convention.

Lisbon Agreement – The Lisbon Agreement primarily focuses on the protection of appellations of origin and geographical indications through a single procedure at WIPO. Maintaining an international register of appellations of origins and geographical indications and notifying the other members or contracting parties about the registrations. Providing protection against unlawful imitation and resistance to using words like “kind, type, like” towards registered identifications. Protection to appellations of origins specific to geographical indications it also covers agricultural, natural and manufactured products. It designates the name of the origin of the country or locality to establish an exclusive connection among the members and their products. It provides rules and regulations to monitor the quality and control of registered products, along with national treatment of the products. Member nations may express reservations regarding the protection of certain appellations of origin. Notifications of rejections and invalidations must be forwarded to the International Bureau. “*These statements can be issued by Contracting States that know, well before the expiry of the one-year refusal period under Article 5(3), that they will not issue a declaration of refusal of protection; or the statement can take the place of the notification of withdrawal of a refusal already given*”[[11]](#footnote-11). The Lisbon agreement inspires the formulation of the Geneva Act of the Lisbon Agreement on Appellations of Origin and Geographical Indications, which extends the geographical indication beyond wines and spirits to other natural and manufactured food products and beverages. It protects the product, keeping in mind the sanctity of its origin and quality, along with a centralised framework for registration. The regulations mentioned in the Lisbon agreement have been of great substantive help to the owners and producers of Darjeeling tea, as they have made efforts to secure the geographic appellation of the Tea by preventing the misuse of the tea produced in other geographical locations. The producers of Roquefort Cheese have secured the protection of this cheese variety by preventing the use of the name “Roquefort” for cheese produced in other locations. The main challenge faced by the Lisbon agreement is the lack of facilities for states with limited resources, as it would be difficult for states with limited resources to establish themselves in the competitive market due to the lack of products. Along with that, the agreement also faces outrage from modern techniques as it lacks evolution to modern technological challenges and modern culture and conventions for protection.

Landmark Cases:

Basmati Case[[12]](#footnote-12)

Intellectual property, such as plant crops, grains, and geographical indications, is crucial for the growth of developing countries like India. Products with geographical tags are gaining increasing popularity, considering the quality and genuineness of the product. In the late 1997s, the US Patent and Trademark Office granted a patent to RiceTec Inc., a multimillion-dollar company based in Texas, for a new grain called “basmati”. It was already selling the crop with different names like “kasmati” and “jasmati”. They also claimed to develop a new strain of this grain by interbreeding it with a rice grain from Texas, naming the new grain as “Texmati” or the “American Basmati”. Later, Indian NGO like the Centre for Food Safety and the Research Foundation for Science resisted the registration of Basmati as a RicTec patent, led by leaders like Dr. Vandana Shiva. The Indian Subcontinent stood together for the protection of its indigenous Basmati grain. Several issues were raised by the Indian NGO to question the eligibility of the patent.

a) Is the term basmati a general term or a specific term for the aromatic variety of grain grown in India?

b) Is the grain by RiceTec a new grain or strain?

c) Whether the patent granted to RiceTec is held invalid?

d) Does this constitute biopiracy?

Rice is the staple food of the majority of South Asians and has been a part of the culture since time immemorial. The Rigveda, one of the oldest sacred texts of ancient India, mentions rice cultivation. The aromatic long-grain Basmati Rice has its roots in the Himalayan region. Basmati is an ever-famous rice variety grown in moderate temperatures in India, Pakistan, and certain other South Asian countries. The earliest mention of basmati rice was made in the epic Heer Ranjha, composed by the Punjabi poet Varis Shah in 1766. Originally, RiceTec got a patent to grow rice crops in the USA and measure their starch content on the Starch Index. They further contended that the term Basmati is for use in the public domain and does not indicate a geographical area, to which India replied, stating that the USA almost imports 75 per cent of its Rice grain from South Asia, as it can’t be grown in their country. India expanded its research over three years, continuing the battle against RiceTec. Meanwhile, the United States Patent and Trademark Office (USPTO) granted patents for 3 out of 20 claimed rice strains, spotting certain differences between them and the original variety. And the name Basmati was removed after a considerable time, after a lot of deliberations forced by India and Pakistan.

The legal experts in India later realised that Basmati's patent was a cultural theft. Dr Shiva states that “The theft so involved in Basmati’s case is threefold: theft of heritage and biodiversity of Indian farmers; Indian traders and exporters, and finally, a deception of its consumers”[[13]](#footnote-13). India formulated the “Geographical Indication of Goods (Registration and Protection) Act, 1999” to protect geographical indications based on India’s cultural heritage. The act protects the interests of local, cultural, traditional and indigenous communities along with manufacturers, buyers and sellers. To avoid biopiracy by developed countries, India has formulated the “Traditional Knowledge Digital Library”, which is a digital database that creates awareness among the patent offices across the world to reject patent applications based on India’s traditional knowledge.

Hoodia Case[[14]](#footnote-14)

African tribesmen have been using Hoodia (Hoodia gordonii (Masson) Sweet ex Decne) as a hunger suppressant and thirst repellent plant when they go on long hunting trips. They are known to munch a big chunk of it. The South African Council for Science and Industrial Research in 1995 copyrighted this plant’s appetite suppressant factor (P57), which was later licensed to the British firm, Phytopharm. In 1998, the American pharmacy giant Pfizer purchased the rights to produce this appetite suppressant agent to serve a billion-dollar market in the USA. The agent promised to oust obesity in the States, which is a big problem for the nation.

The traditional knowledge holders of Africa, “The San People”, came to know about the exploitation of their traditional knowledge and led a legal battle against CSIR and the pharmacy company on the grounds of biopiracy.

a) The legal battle raised the issue of unauthorised exploitation of traditional knowledge held by the “San People”

b) Could this be regarded as bio piracy?

c) Issues were raised about the adequate use of provisions in International conventions like the “CBD”.

The San people argued that the South African CSIR has failed to safeguard the traditional and cultural knowledge of the San People and that it had failed to comply with the measures of the CBD. The CBD directs users to provide information to the traditional stakeholders and receive informed consent from them in this regard. This measure also directs the disqualification of patents that do not comply with the measures of this convention. The South African CSIR argued that they were about to discuss the situation with the traditional stakeholders, but they wanted to wait until the drug proved its success. At the end of the battle in 2002, the “San People”, the African CSIR, and the pharmacy giant Pfizer entered into an agreement to ensure equitable access and benefit sharing among the stakeholders, such as the leaders of the tribe, their heirs and the shareholders.

There is a strict need for supervision of the entities that violate agreements like TRIPS, CBD, Madrid Convention, Geneva Convention, and Nagoya Protocol, as GI indications could be a boon and a bane for a nation’s development. Moreover, equitable access and benefit-sharing mechanisms should be favoured when it comes to the field of sharing traditional knowledge.

Neem Case[[15]](#footnote-15)

W.R. Grace and the Department for Agriculture filed a patent for Neem in the European Patent Office, trying to patent the antifungal compound found in the plant, which would be extracted through its oil to protect grains and foods from fungi. To which the Indian NGO “Research Foundation for Science, Technology and Ecology (RFSTE)”, along with other supporters, filed a legal opposition against the granting of this patent.

a) How does this patenting affect the interaction of farmers and local traditional people who have been using neem since time immemorial

b) Does this constitute Biopiracy?

c) The legal battle of supremacy over intellectual property rights or traditional knowledge?

A tree legendary to India, from its roots to its spreading crown, historically mentioned in the Atharvaveda[[16]](#footnote-16) Which provides ancient medicinal knowledge, consists of a compound called “azadirachtin” in its seeds, which is a well-known insect growth regulator. Neem is also considered to cure diseases like leprosy, diabetes, skin infections and ulcers. It has been used in Indian Ayurveda since time immemorial and is Ancient India’s well-kept secret. The Indian applicants provided living evidence from ancient Vedic texts, which described the use of a compound from the Neem tree, and the patent was revoked by the EU Patent Office due to a lack of novelty.

After the Neem controversy in 2005 with leaders like Dr.Shiva, the need to make laws against biopiracy was felt to be immediate to conserve traditional knowledge, India took the initiative of TKDL to safe guard Indian patents all over the world and also notifies patent office all around the world about the traditional knowledge of India.

Rasgulla v/s Rasgola

This case is also known as “The bitter battle of sweet”. In 2017, Bengal got the GI tag of Rasgulla, and later on, in 2019, Orissa also got a GI tag for their Rasgola. Later on, both the states got into a debate claiming the originality of the idea of Rasgulla or Rasagola.

\*) Issues – Several satirical issues were raised in this controversy.

a) Which state originally owns the invention of rasgulla?

b) What does the historical evidence support?

c) What is the legality of GI status for both states?

Rasgulla, the all-time evergreen sweet dish, has gained popularity all over the world. But the indigenous debate is never-ending. The Bengalis claim the invention of Rasgulla by N.C.Das invented the vacuum packaging mechanism in the 19th Century, and later his son invented a vacuum packaging mechanism for packing sweets. But the Odissi people present various claims like the Portuguese who came to India in the 17th century began experimenting with Chena and since all the cooks in Bengal during the 18th Century were employed from Orissa, they must have bought the dish with them, another story dates back to the ancient times and states that Lord Jaggannath wanted to pacify his Dear Goddess Lakshmi with a sweet dish which is known as the Rasagola in current times. The Lord Jaggannath Temple is in Puri Orissa. The Bengalis claim that it would have been impossible to invent Rasagola before the 17th century because historically, Indian sweets consisted of Khoya and not Cottage Cheese, which was brought by the Portuguese coming over in the 16th- 17th century.

The protection of cuisines and culinary traditions exhibits a great deal of ideas of how people perceive identities in today’s world, even though Bengal and Orissa have their own Rasgulla day and Rasagola day, they still have a debate over the originality of the dish. People have several identities nowadays, and the identity of belonging to a culture adds great meaning to people’s lives.

Conclusion:

In summary, this paper has discussed the evolution of intellectual property (IP) rights from ancient times to the medieval era up to the current times. During the 21st century, technological, scientific, and artistic advancements have caused tremendous intellectual property progress. With this advancement, however, comes the obligation of protecting human creativity and preserving traditional knowledge and cultural heritage. As the adage goes, "a man rooted to his grassroots is indeed the richest man in the world," which captures the fundamental value of maintaining the roots of traditional knowledge amidst the pace of technological change. The emergence of the digital age has heightened the clashes over the protection of traditional knowledge, especially in relation to indigenous peoples and their cultural expressions. As discussed, such disputes tend to revolve around the exploitation of loopholes in current IP laws, as seen in cases like the Basmati dispute, where RiceTec Inc. took advantage of the uncertainty of whether "Basmati" is a generic or specific term. In the same vein, the Hoodia case demonstrates the intricate relationship between product success and indigenous communities' consent, with the African CSIR's inability to secure consent from the holders of traditional knowledge questioning the integrity of benefit-sharing mechanisms. This paper also considered different legal frameworks that seek to protect traditional knowledge, such as customary laws, geographical indications, traditional cultural expressions (TCE), the Sui Generis system, access and benefit-sharing mechanisms, and international agreements. Although conventions like the Paris Convention, Lisbon Agreement, and Madrid Protocol are of paramount importance in intellectual property protection, they need to be revised to suit the needs of today since they were made in a different time. They are not quite sufficient for the current challenges. The Rasgulla vs. Rasagola controversy also illustrates the cultural aspect of intellectual property, the place of geographical indications, and regional and culinary pride. The conflict is a paradigm for larger questions of identity, cultural pride, and regional ownership in the IP space, focusing on the necessity of respecting and safeguarding cultural expressions through legal channels. In conclusion, this work supports the need for the formulation of stronger and more resilient legal frameworks that accord with the progressive global environment as well as human societies' shift in needs. Through the nurturing of a dynamic dialogue between opposites, the legal system may adapt and meet the challenges resulting from intellectual property conflicts more appropriately. As the saying goes, "change is the only constant," and this is a dynamic that has to be seen in the evolution of IP law to make it serve both innovation and cultural preservation well.

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