India needs stronger patent ecosystem

Why in news?

The report 'Why India Needs to Urgently Invest in its Patent Ecosystem?' highlights the significance of granting protection to incremental innovation through such utility patents.

What is the Indian Patents Act?

- The Indian Patents Act, 1970 was established on 20th April, 1972.
- This act has replaced the Indian Patents and Designs Act, 1911.
- The **Ayyangar Committee** Report headed by Justice N. Rajagopala Ayyangar recommended the establishment of the said act.
- There were many major changes that were recommended.
- One of the major changes was the introduction of process patents with regard to medicines, drugs etc.
- In earlier times, patents were not granted to drugs and medicines.
- However, with the advent of Trade related aspects of Intellectual Property (TRIPS) Agreement, certain major amendments took place in the Patent Act, 1970.
- **Section 3** of the Patents Act 1970 says about the inventions which are not patentable.
- **Section 9(1)** of the Patents Act provides that those applications accompanied by provisional specifications be supported by complete specifications within one year.
- **Section 21(1)** requires patent applicants to re-file documents if the patent examiner finds them not meeting the requirements.

What is the report about?

- The report is released by the Economic Advisory Council to the Prime Minister (EAC-PM).
- It highlights the rising share of residents in the total number of patent applications filed in India.
- The report emphasizes the importance of utility patents.
- It will help push innovation done in Atal Tinkering Labs and Atal Incubation Centres under the Atal Innovation Mission.
- It will also contribute to incremental innovations done by start-ups and small-scale enterprises.
- Various countries in the world use this model and three million utility patents were filed across the world in 2020, it adds.
- What separates utility patents from normal patents is that they will be cheaper and will not require the strict novelty and invention conditions as required by patent law.
- For the first time, the number of patent applications by residents has surpassed that of foreign applications.
- There is no fixed timeline for filing an opposition against any patent application,

leading to delays.

- **Concerns -** The long pendency of processing patent applications in India.
- The manpower in the patent office needs to be increased from about 860 currently to 2,800 in the next two years.
- **Recommendation -** Increasing the efficiency of processing patent applications will certainly improve the patent ecosystem in the country.
- Connecting the dots will help in adopting innovative measures to improve the patent ecosystem, in line with the National Innovation Ecosystem.

"National Innovation Ecosystem is a holistic approach to designing an effective National Innovation Ecosystem."

What is the status of abandoned applications?

- The total number of patent applications to the Indian patent office has increased by 48% between 2010-11 and 2020-21, largely driven by applications by residents.
- Interestingly, the number of abandoned patent applications also increased at an astonishing rate during this period.
- The Office of the Controller General of Patents, Designs, Trademarks and Geographical Indications (CGPDTM) highlights that the share of applications rejected for not meeting the provisions of Sections 9(1) and 21(1) of the Patents Act were on the rise.
- The share of such abandoned patents in the total number of patent applications soared from 13.6% in 2010-11 to 48% in 2019-20.
- Since the adoption of the National Intellectual Property Rights Policy 2016, a lot of emphasis has been attached to the filing of patent applications.

"The National IPR Policy is a vision document that encompasses and brings to a single platform all IPRs."

- The **higher education sector** of India is rising in prominence in the research and development spending and patenting landscape of India.
- The share of this sector in the gross domestic expenditure on R&D (GERD) has increased from 5% in 2013 to 7% in 2018.
- The number of patent applications filed by the top 10 academic institutes and universities in India rose by more than two times in four years.
- The higher education sector is increasingly focusing on the development component of R&D.
- In such a scenario it is expected that the collaboration between industry and academia will increase in the area of R&D.
- However, the reverse is true in the case of India.

Why India does not perform well in the Global Innovation Index (GII)?

- The Global Innovation Index (GII) ranks world economies according to their innovation

capabilities.

- It is prepared based on the score that each country gets under 80 indicators, industry-academia collaboration is one of them.
- India's score for this indicator has in fact declined over the last few years, from 47.8 in 2015 to 42.7 in 2021.
- Consequently, India's ranking in this indicator in the GII declined from 48 to 65 during this period.
- However, India's overall ranking in the GII improving from 81 in 2015 to 46 in 2021.
- The draft of the National Auto Policy 2018 (Draft) points out that collaboration between the industry and academia in India has been limited to niche research areas that have low commercial significance.
- It also admits that innovations from India, originating from collaborative research projects, and implemented and commercialised in the automotive space have been scarce.
- This is not confined to the automotive sector but is a phenomenon prevalent across most sectors in India.

What is the way forward?

- As the patent system is a critical aspect of the national innovation ecosystem, investing in the patent ecosystem will help in strengthening the innovation capability of India.
- The right interventions should be made for the promotion of the quality of patent applications and collaboration between academia and industry.
- India should consider introducing less stringent patent rights for "jugaad" innovations done by amateur inventors.
- The new law should make it very clear that 'utility patent' is a separate patent category from the regular patents, and does not dilute the rigour of the existing patenting system.
- India should establish Quality Management teams in the Patent Office to recruit and manage future recruitments and compliance.
- India has to increase awareness related to Patent Filing among the enthusiastic population.

Reference

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