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Intellectual Property Financing: Collateralizing a Trademark in India

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Abstract:
Intellectual Property is treated as an asset in developed countries, in developing countries however this view is little less accepted, but globally innovation is boosting and pumping economies to grow, as a result of this innovative companies are scaling market indexes. While these companies often start up with minimum funding requirements as they scale in size their need for capital increases.
For example, Singapore is arguably one of the most innovative countries in Asia if not in the world, the government along with the IP office charted out a 10 year growth plan to ensure IP is valued in their economy, and unsurprisingly IP Financing was one of the major focus points. The Indian perspective on IP financing is not as concentrated, owing to the fact that we are still a developing nation. That being said India was the home to discovery and invention in the old world, it would be sad to see India lose its innovative edge and a chance at competing with developed nations.
Indian financial institutions are weary of lending against Intellectual Property like Trademarks, they are more comfortable with tangible assets which are more easily monetized. The process for creating a security and enforcement are not streamlined, the legal regime and the practical utilization do not match. All in all the business of debt finance against Trademark as a collateral is unexplored and uncharted territory. This hiccup has left Indian start up and innovation driven, IP asset rich companies under financed, which leads them to knock on doors of capitalist from neighboring countries, as witnessed in the recent splurge by Chinese Venture Capitalist in the Indian economy.
This research is an attempt to understand the Indian scenario of debt finance against trademark as a collateral security. The application of current legal provisions and laws for setting up and enforcement of a trademark as a collateral security is analyzed and detailed in this paper. Through empirical research researchers showcase the collected views of industry professionals and interpreted in light of the existing theory on the subject.

Keywords: IP Financing, Trademark, Collateralization, Licensing.

IP FINANCING AND ITS RELEVANCE IN INDIAN CONTEXT:

Indian financial institutions are warming up to the idea of financing against intangible assets as collateral. However, creditors prefer to have assets which are more easily monetized like tangible property. The structure for lending against a Trademark or a Patent as a collateral security has still not been standardized across the industry, thereby leaving scope for discrepancies. While traditionally tangible properties have either been mortgaged, hypothecated or pledged to the creditor, in intangible assets like a trademark the most

TEST Engineering & Management

November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

effective method to create a charge is still being tested. The Supreme Court has categorically commented in the matter of *Canara Bank v N G Subbarayya*[1] in 2018 that an assignment of trademark would be subject to Sec 6 and 8 of the Banking Regulation Act which imposes a statutory bar on indulging in any business other than banking business.

IP financing is the process of leveraging an Intellectual Property asset in exchange for finance. It is utilizing the underlying economic value vested in a patent, trademark, copyright, design, geographical indication or any other IP in an asset for the purpose of gaining credit, thereby raising a fund for the company. The use of an Intellectual Property Asset as a medium to get financial institutions to lend credit facilities is increasingly gaining ground. Most common means of IP financing are Auction. Collateral Security, Licensing and Direct Sale.

In the pharma industry, in the late 1970's 'Azythromycin' an antibiotic developed by Croatian company PLIVA was made available to the market. However as they lacked essential funding and capital to take the product worldwide the company decided to make a strategic move to reap benefits from worldwide sales. They approached the authorities in the US and got relevant protection in 1981, pharma giant Pfizer gained details from the USPTO database and struck a deal with PLIVA, thereby realizing the enormous potential of the drug. Pfizer was allowed to sale the product worldwide, PLIVA withheld rights to sell in Central and Eastern Europe. With the success of the deal PLIVA became the second largest pharma company in Croatia and earned heavy royalties from Pfizer.

Debt Finance:

Debt Finance is in the form of borrowing from a financial institution with a condition of repayment and most of the times accompanied by collateral security. The basic distinction between debt and equity is that in debt finance the capital is borrowed like a loan, letter of credit or a working capital, the company is not the owner of the capital. The financial institutions like Public and Private sector banks and Non-Banking Financing Corporations assess the valuation of the IP as a collateral security, the money is further credited to the debtor company and in case of any evasion the rights vested in the collateral IP asset belongs to the creditor.

TRADEMARK AS AN ASSET

What is a Trademark*:*

The Trademark Act 1999, Section 2(1)(zb) defines trademark as:

> *"a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours; and used in relation to goods or services for the purpose of indicating or so to indicate a connection in the course of trade between the goods or services"*

Therefore, a trademark maybe in the form of a word mark, device mark or label. Sometimes unconventional forms of trademarks such as smell marks and sound marks have also been successfully registered. The classification system for Trademarks have been adopted from the Nice Agreement. [2]The valuation of the trademark is deeply affected by the market position of the company, a trademark may be a good source of revenue through licensing, but the rise and fall of the company's reputation has a large impact on the worth and value of the IP asset.

The dawn of new business models surrounding trademarks has resulted in perspective change, where companies looked at a trademark as a source of marketing due to its inherent

distinguishing abilities, trademarks today are being utilized for far more business intensive purposes, which have a significant impact on the growth of the business. Take for example Nestle, which was primarily identified as the producer of coffee under the name "Nescafe" with it trademark driven business model, the company has expanded into espresso making machines and developed a niche business around it. [3]

Goodwill:

Sec 2 (1) (m) of the Trademark Act, 1999 defines 'mark'

> *"as a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colours or any combination thereof….."*.

Companies spend an enormous amount of money on advertising and marketing their products, they do so with the intention of creating a customer base. Using a Trademark to capture the mind of the customer, which in turn generates goodwill associated with the Trademark. Hence the goodwill is referred to as the value attached to a trademark. [4] The practice of lending against goodwill would theoretically imply that the collateral will be a pledge on the future sales of the product based on the goodwill, thereby making the byproduct of trademark i.e. the goodwill a collateral security that does not require a change in ownership or a charge registration.

MONETIZATION OF TRADEMARK AS PER THE TRADEMARK ACT 1999

For the purpose of economic utilization of a Trademark, the owner of the registered mark may choose to license or assign the Trademark, thereby authorizing a third party to use the mark and in return royalties are generated. It is essential to note that the transfer or right to use a trademark does not dilute the proprietary rights of the actual registered owner. The Trademark Act of 1999 does not specifically spell out the words licensing or assignment, however the interpretation of section 48 and 49 with regard to Registered Users provide adequate mechanism to enable transfer of stipulated rights. [5]

It is advantageous to have the terms of use to be recorded in the form of a Licensing Agreement or and Deed of Assignment, to ensure the usage of the registered user does not exceed the scope of license granted by the Licensor. The Trademark Act in section 49 requires the owner of the trademark and intended registered either individually or jointly to make an application in the prescribed format under FORM- U of the Trademark Rules 2017 as amended. The Registrar will accordingly require authenticated copies of the transfer agreement and any other documents executed between the parties which record the permitted use of the registered mark by the registered user, upon satisfaction of the Registrar the transfer is recorded in the journal. The registrar may issue notices to other permitted registered users, however upon request of the owner of the trademark, the Registrar may take steps to ensure that the information is not disclosed to rivals.

Upon successful transfer of the stipulated rights with regard to usage of the trademark, the Registered User can initiate infringement proceedings against a third party and request the Licensor to participate. The rights of the Registered User are limited to the terms of the Licensing Agreement and in no event can the Trademark be further assigned or sub-licensed by the Registered User.

IP COLLATERALIZATION: INDIAN VIEW

IP based collateralization has spread out in recent times, owing to the dimension shift in industry, where knowledge has become the primary tool for creating a business. Many

November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

attribute the growth of IP collateralization and securitization to the relaxation in the regulations for financial entities and a strategic move my financers to diversify their debt portfolio with a mix of tangible and intangible securities. [6]

A range of financing options are available to IP asset rich companies like debt and equity finance which have garnered a lot of support in India. For young and innovative firms like technology based SME's etc., the tangible asset pool is limited, hence the company prefers to look at options like equity financing, which allows inflow of external funding for a stake in the company. In this case the financers look into the overall profitability of the company and not restricted to the IP valuation alone, however the presence of a strong IP policy and strategy is an essential point of consideration. IP backed lending is a major source for credit, where the IP can directly be pledged to the financial institution which can be realized in the event of default.

The process for creating a security interest on an Intellectual Property is similar to tangible assets. The Sarfaesi Act of 2002, in Sec 2 (1) (t) defines 'property' as follows:

> "*(i) immovable property;*
> *(ii) movable property;*
> *(iii) any debt or any right to receive payment of money, whether secured or unsecured;*
> *(iv) receivables, whether existing or future;*
> *(v) intangible assets, being know-how, patent, copyright, trade mark, licence, franchise or any other business or commercial right of similar nature."* [7]

The above definition puts into perspective that there is no distinction between tangible and intangible assets for the purpose of Securitization, Reconstruction of Financial Assets and Enforcement of Security Interests under the Act of 2002. The Securitization and Reconstruction of Financial Assets and Enforcement of Security Interests Act 2002, provided lending institutions like Banks, ARCs and NBFCs the legal mechanism and recourse to deal with Non-Performing Assets by way of recovery proceedings. The Act provides a legal framework for securitization activities; and enforcement of security interest even within the domain of intangible property, including intellectual property.

With regard to taking security over an IP, there are several factors which influence the decision of a Lender, like the Nature of IP rights sought to be leveraged versus the nature of business of the creator of security interest; a due diligence which covers the position of the IP right with regard to registration, validity, enforceability, ownership, pre-existing charges if any; and lastly any legal or regulatory restrictions which will hinder the enforcement of security. The Banking Regulation Act 1949 permits a company to manage, sell and realise a property that it has come into possession of for the purpose of satisfaction of claims. [8] Further in Sec 8 of the Banking Regulation Act 1949, prohibits the banking company from directly or indirectly, buying or selling goods except in connection with realization of security. [9] The aforementioned prohibitions and restrictions make it essential for the Lender to ensure that the mode of creating a security interest is appropriate.

Additionally, Section 2(1)(zf) of Trademark Act, 1999 defines a 'security interest' as

> "*right, title and interest of any kind whatsoever upon property, created in favour of any secured creditor and includes any mortgage, charge, hypothecation, assignment other than those specified in section 31*". [10]

However, a specific change was made via the 2016 Amendment to the said section, the revised

TEST Engineering & Management

November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

section 2(1)(zf) has been revised with a sub clause (ii) which reads as follows;

> "*intangible asset or assignment or licence of such intangible asset which secures the obligation to pay any unpaid portion of the purchase price of the intangible asset or the obligation incurred or any credit provided to enable the borrower to acquire the intangible asset or licence of intangible asset*" [11]

addresses the right, title and interest in an intangible asset.

Reading the pre-amended version of Section 2(1)(zf), indicates that an collateral maybe setup using mortgage, pledges and lien, however the nature of property transferred by such means is usually possession based, that is to say, it can be evidenced by title documents. Though some argue that registration documents and certificates are proof of title, they do not hold true as they are not negotiable in nature, hence cannot hold satisfy the documentation criteria for a mortgage. [12]

Modes of creating a security interest in the Trademark

Deed of Hypothecation and Registering charge

The process of a borrower creating a security interest in favor of the creditor for financial assistance, the subject matter of which is a movable property, and does not require delivery of possession to the creditor is termed as a hypothecation. Hypothecation differs from a pledge on the grounds of providing physical delivery, which is a big advantage for assets like Trademarks.

Section 77 (1) of the Companies Act 2013, it is mandatory to record the creation of third party interest, as described in the section as follows:

> *"It shall be the duty of every company creating a charge within or outside India, on its property or assets or any of its undertakings, whether tangible or otherwise, and situated in or outside India, to register the particulars of the charge signed by the company and the charge-holder together with the instruments, if any, creating such charge in such form, on payment of such fees and in such manner as may be prescribed, with the Registrar within thirty days of its creation"* [13]

The above section in its language "whether tangible or otherwise" makes it abundantly clear that trademarks as an IP asset are well within the purview of Sec.77. The process of registration streamlines the collateralization of a trademark process, as the international organizations such as WIPO etc. are rather shy on regularizing the process, the role of national laws are therefore relied upon. [14] In IP developed economies, offices like the USPTO provide for mandatory registration of Security Interest Agreement against a third party interest created in favour of the lender in a Trademark or Patent. And that the registration of Security Interest Agreement is a method of perfecting the security. [15]

Deed of Assignment

In India assignment is the transfer of all or individual part of the trademark with or without goodwill, as prescribed under chapter 5 of The Trademark Act of 1999. Assignment and transmission of ownership is further described in Sec 38 of the Act, specific to registered marks as follows;

> *"Notwithstanding anything in any other law to the contrary, a registered trademark shall, subject to the provisions of this Chapter, be assignable and transmissible, whether with or without the goodwill of the business concerned and in respect either of all the goods or services in respect of which the trademark is registered or of some only of those goods or services."* [16]

November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

For the purpose of collateral security, the Banks will be required to make provisions to execute a Deed of Assignment only while enforcement of security, so as to appropriately transfer ownership in order to satisfy its claims. Holding a Trademark for a purpose other than satisfaction of claims arising out of debt is strictly prohibited.

Pledge:

Another commonly used means for creating a collateral security is under Sec 172 of the Indian Contract Act 1872, which reads as follows;

> *"The bailment of goods as security for payment of a debt or performance of a promise is called 'pledge'. The bailor is in this case called the 'pawnor'. The bailee is called 'pawnee'. —The bailment of goods as security for payment of a debt or performance of a promise is called 'pledge'. The bailor is in this case called the 'pawnor'. The bailee is called 'pawnee'.* [17]

Under a pledge agreement the security provider deposits the „goods" in the custody of the creditor as a security against the debt and the promise of repayment. The essential requirements of pledge are delivery of goods and in connection with the contract. The Supreme Court in *Lallan Prasad v. Rahmat Ali* [18] interpreted that, any kind of personal property which is moveable and saleable to be the subject matter of a pledge.

The Contract Act does not define the terms 'moveable' and 'goods', thus reliance is to be placed on the General Clauses Act 1897 and the Sale of Goods Act 1930 respectively. Moveable Property includes property of every description other than immoveable property. [19] While the Sale of Goods provides a more descriptive definition, under Sec 2 (7) of the Act, every kind of movable property other than actionable claims and money; and includes stock and shares, growing crops, grass, and things attached to or forming part of the land which are agreed to be severed before sale or under the contract of sale. For an even broader perspective on the inclusion of Trademark as moveable property and goods, the recent GST enactment also levies a tax on the transaction value of a transfer of Intellectual Property. [20] Thus implying that creating a pledge on trademark is permissible.

Case Study: *Canara Bank v. N.G.Subbaraya*,[21]2018:

The facts of the case read as follows:

- The first respondent N.G. Subbaraya, had availed of credit facilities from the Appellant, Canara Bank, through its Bangalore branch in 2001, against which the son of Respondent no.1 was the guarantor.
- In order to clear the outstanding dues, the Respondents signed a Deed of Assignment in favour of the Bank, this deed transferred the ownership of the Trademark "EENADU" used by the Respondent, in respect to its *agarbathi* [22] (incense sticks/ joss sticks) business, for a period of 10 (ten) years. The Bank was required to pay a monthly amount which would partially go to the loan account towards repayment of loan and partially go to the respondent. In exchange the Bank was granted ownership of the trademark and was allowed to collect royalties from the permitted users during the tenure of the assignment.
- In 2004, the Appellant cancelled the Deed of Assignment vide a letter, citing provisions from the Banking Regulation Act 1949 which prohibited Canara Bank from holding ownership over a trademark and collecting royalties.

November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

- This resulted in the Respondents filing a suit against the Bank for cancellation of assignment deed and interest owed on the payments to be made by the assignee.

As a result of this suit an appeal delayed by 175 days was filed in the Karnataka High Court by Canara Bank, which led to the matter being heard as a Special Leave Petition in the Supreme Court.

The facts of the case briefly revolve around the assignment of a trademark and the prohibitions of the Banking Regulation Act 1949, which strictly regulate the lending transactions and commercial operations of a banking company.

The relevant provisions of the Banking Regulation Act 1949 are as follows:

Sec 6 (1) which stipulates the types of businesses that are permissible, with a special reference in sub clause (f) "*Managing, selling and realising any property which may come into the possession of the company in satisfaction or part satisfaction of any of its claims*", which is applicable to the case at hand.

Sec 8 of the said Act provides prohibitions on the permissions given in aforementioned Sec 6, which read as follows;

- In the year 2002, the respondent no.1 defaulted on the loan and an OA was filed in the DRT located in Bangalore, for repayment of dues.

"Notwithstanding anything contained in section 6 or in any contract, no banking company shall directly or indirectly deal in the buying or selling or bartering of goods, except in connection with the realisation of security given to or held by it, or engage in any trade, or buy, sell or barter goods for others otherwise than in connection with bills of exchange received for collection or negotiation or with such of its business as is referred to in Section 6 clause (1)"

The penalties for not complying with the above mentioned clauses and restrictions are set out in Sec 45 (4), which levies a monetary fine which extends uptoRs. 1 crore or double the transaction amount whichever is higher. [23]

Another dilemma with regard to the enforceability of the Assignment Deed is the registration of the deed of assignment with the Registrar of trademarks as stipulated under Sec 45 of the Trademark Act, 1999. The person who is entitled to use the Trademark consequent to an assignment, shall mandatorily register his title with respect to the trademark in association with the goods and services at the office of the Registrar of Trademarks.

With reference to the above listed statutes, the arguments put forth by both parties and the decision of the learned judges of the Supreme Court, the case laid down a precedent, stating that an Assignment Deed which was not part of the collateral security documentation is furtherance to a Loan Agreement, cannot be treated as a property which the Bank possess in satisfaction or part satisfaction of the claims of the Bank. And accordingly the Assignment of the trademark "EENADU" in relation to the sale of *agarbathis* is interdicted by the provisions of Sec 8 of the Banking Regulation Act 1949, which creates imposes a bar on Banking Companies partaking in business other than those mentioned in Sec 6 of the same Act.

EMPIRICAL RESEARCH:

Through the course of this empirical study the researcher has attempted to gauge the practices prevalent in the industry and the rationale behind the set practice. In a nut shell the Indian market presents little opportunity for IP rich companies to utilize their IP for accessing credit facilities. However, a slow perception shift is revealed, with certain segment of Bankers from PSU and MNC Bankers dipping their toes in trademark pool. Additionally the researcher was made a

November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

aware that the major hindrance for financial institutions appreciating a Trademark as a collateral security is the stigma associated with default and the consecutive depreciation of valuation without the Bankers having a chance to enforce the security in a timely manner. The lack of a streamlined process of enforcement also deters financial institutions from exploring trademark as a collateral security.

This Socio- Legal research is drawn from the data available from legal professionals who have expertise in financing against assets that are both tangible and intangible. In this research, the data has accordingly been assimilated through one on one interviews and represented graphically for clearer understanding. The data is accumulated from conversations with various lawyers and legal professionals from financial institutions, law firms and innovation technology firms along with bankers and risk assessment professionals. During the course of the interviews the researcher has personally interviewed 21 professionals from the various banking institutions and law firms who deal specifically with collateralization and enforcement of property taken as a security interest.

Analysis of the Data:

The researcher has divided the analysis into two parts, namely Banker's opinion and Legal Professional's opinion. The objective data is put forth through graphical representation and the subjective data is captured in the form of comments.

The Respondents [(21) in number] for this empirical study are categorized as follows:

Banker Respondents	No.
PSU Bankers	4
Indian Private Bankers	4
MNC Private Bankers	2

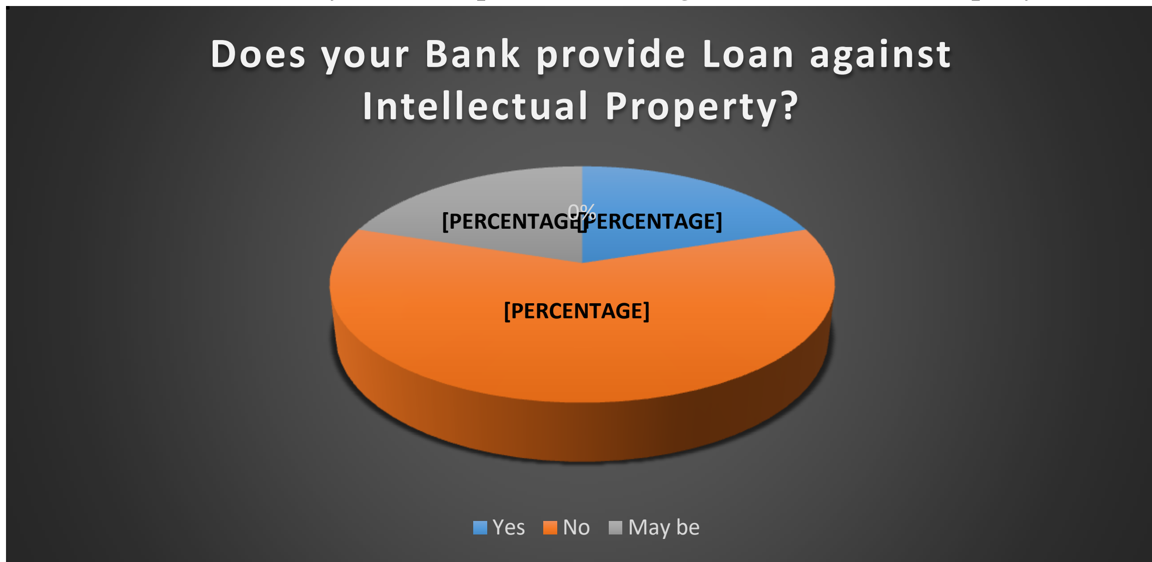
Legal Professionals	No.
In-House counsels (Banks)	6
In-House counsels (Recovery)	3
Law Firms	2

The views of the aforementioned respondents have been assimilated through face to face interviews, telephonic discussions and through a questionnaire.

TEST Engineering & Management
November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

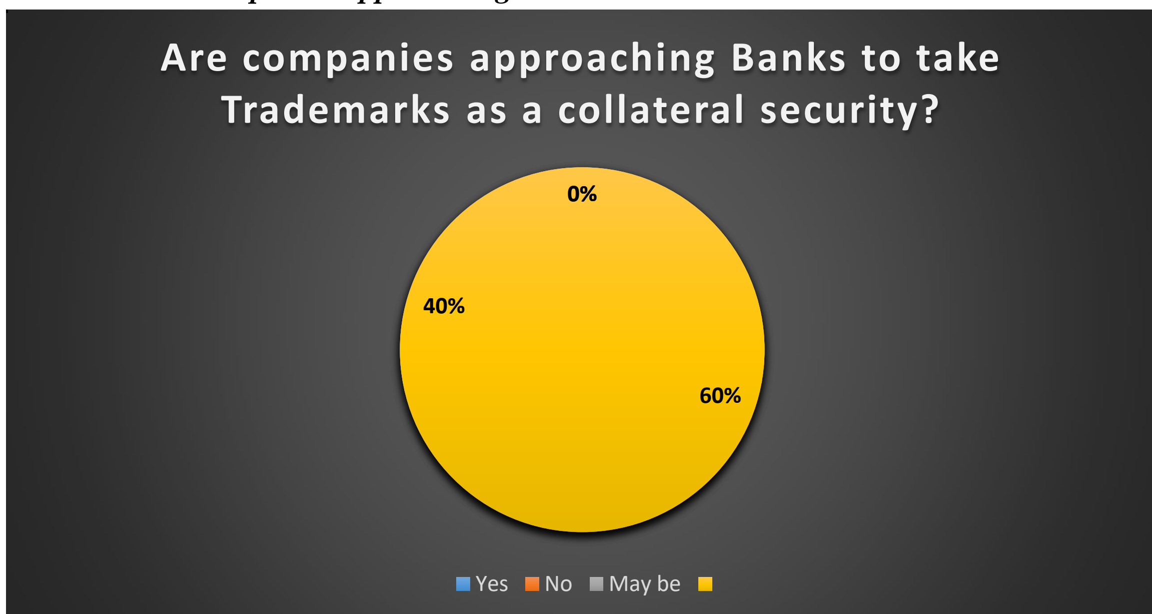
[A] In conversation with Bankers:

GRAPH I: ***Does your Bank provide Loan against Intellectual Property?***



The above pie chart reflects the opinion of Bankers with respect to offering a loan against Intellectual Property, [including trademarks/ patents/ copyrights and design protection]. The majority opinion is negative with 60% of the Respondents opting for NO, this reflects the mindset of Commercial Banks operating in India. The respondents are corporate bankers from PSU Banks as well as Indian owned Scheduled Commercial Banks and Multinational Banks. From the available data 20% responses are in the affirmative, on detailed examination it is concluded that PSU Banks like IDBI have given a positive response, as well Private Banks with Multi- National presence like Yes Bank [24] have responded positively. Which further implies that Private Banks owned and operated solely in India, and having little to no international presence maintain distance from Trademarks as collateral.

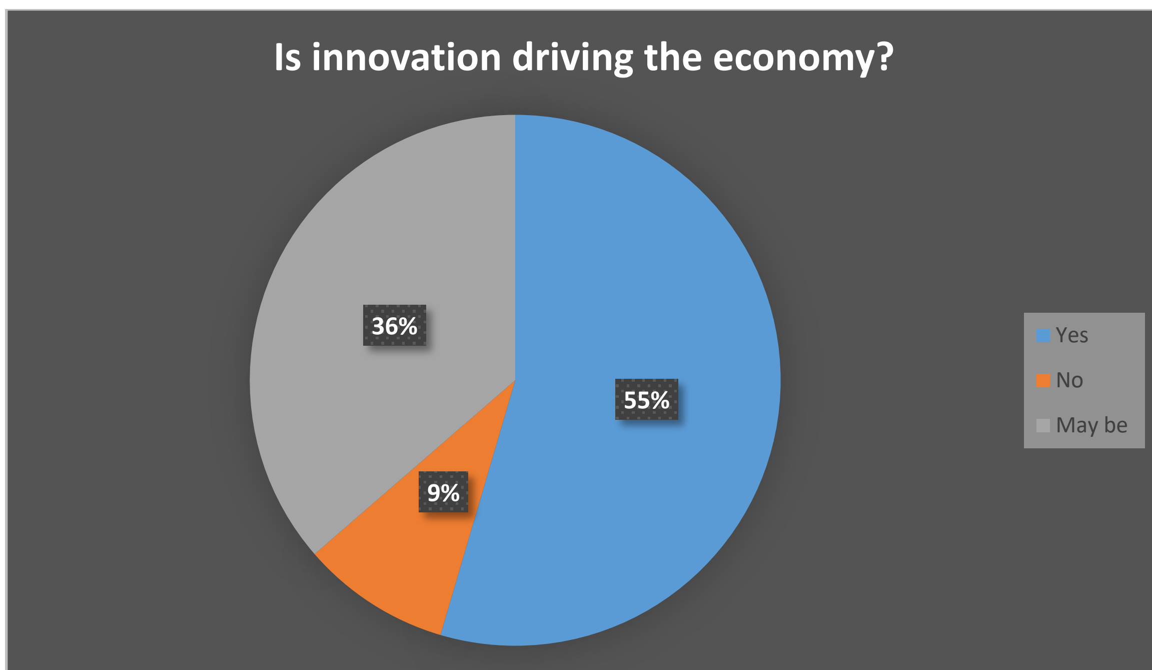
GRAPH II: ***Are companies approaching Banks to take Trademarks as a collateral security?***



The aim of this question was to ascertain whether the companies themselves bring their IP assets like Trademark to table for negotiating as a collateral security. As most of the clients to these corporate bankers have a long standing relationship and the bankers are fairly well versed with the companies asset portfolio it was possible for the respondents to give definitive answers. Accordingly, a similar trend is seen as in the first question, with a few PSU & MNC Banks agreeing with the statement making up for 40% of the respondents. While the private Indian Banks along with the remaining PSU banks have been restricting intangible asset as security only to pledge of Shares and not considering Trademark as a security.

[B] In conversation with Legal Professionals:

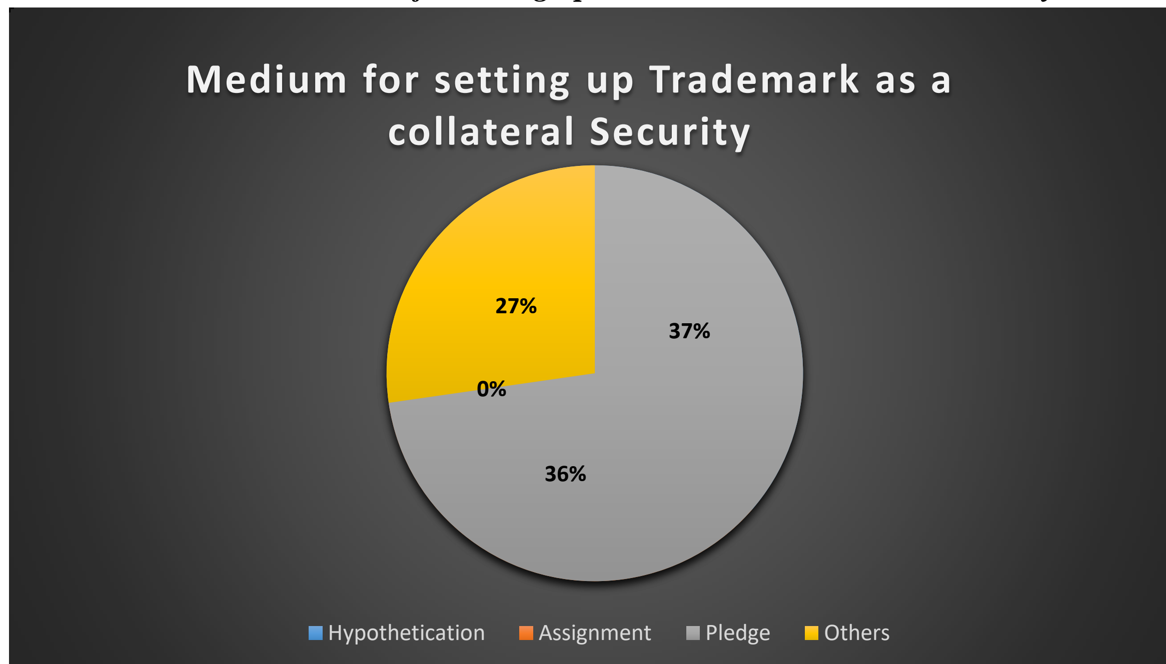
GRAPH III: ***Is innovation driving the economy?***



The question seeks to gauge the sentiment of market professionals with respect to innovation and technology permeating the economy. The Government of India has been pushing for a Digital India but has that translated in the industry? The graph quite clearly resonates a positive feedback, with no opposition to the notion that innovation is playing an essential role in driving the market. With almost half (55.6%) of the respondents agreeing with the statement and the other half on the fence.

November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

GRAPH IV: ***Medium for setting up Trademark as a collateral Security:***



The pie chart attempts to depict the modus operandi for setting up Trademark as a collateral. Identifying the appropriate means for setting up a security would aide in ascertaining whether the industry was conforming to a particular approach. With professionals split between assigning or hypothecating the trademark [both options have secured 36.4% of the responses]. Deeper indulgence on the subject revealed that lawyers layer the documentation process to perfect the security and ensure smoother enforcement of security. For example a legal professional from a leading commercial bank, stated that process involves hypothecation of trademark first, followed by registration of charge and taking a Power of Attorney which mandates the Agreement to Assign upon event of default, which is why the bar graph above indicates that both hypothecation and assignment are favored. While the option of other has recorded a little over 27% of the responses as either an alternate option or refusal to take trademark as a collateral.

CONCLUSION:

Through the course of this study, the researcher has navigated the reader through the existing legislation in India with regard to creating a security interest and enforcement of trademark. A number of examples have been put forth by the researcher, that support the theory that Trademarks are definitely a valuable asset for any company, the success story of the Chennai Super Kings franchise and Dawat basmati rice is a fine illustration of the same. However there are always two sides to a coin, similarly the Indian IP financing is plagued by certain drawbacks. The current banking industry practices restraint when it comes to Trademark as a collateral security, in light of the horrors of Vijay Mallya's default that led to the catastrophic failure of Kingfisher Airlines. The IP regime in India needs a boost from the government and as well economic participants like Banks and other financial institutions. While in comparison with peer South East Asia countries like South Korea reveals that these countries have a far more superior IP regime and robust governmental policies. Korean government supports and

TEST Engineering & Management

November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

endorses IP development programs including protection and financing, additionally through the Korean Development Bank has funded millions of dollars to IP rich companies through collateralized loans and through setting up a fund for relieving distressed IP through the Korean Credit Guarantee Fund (KODIT). [25] As a result of the narrow interpretation by the SC bench, the *N.G. Subbaraya* judgment created a negative impression in the minds of financial institutions. [26] While it can be said that the industry has not taken notice of the judgment as large number of stakeholders have not taken cognizance of the case.

The researchers have explored and attempted to understand the various intricacies of IP financing in India. The views mentioned below are a result of careful consideration and a pragmatic approach.

1. There is a pressing need for Intellectual Property Laws in India to address the commercial aspects of IP and not just creating a right and protecting the right. While Trademark legislation in India speaks sparingly about transfer of right of ownership of trademark, other intellectual property laws like Copyright Act 1957 pay much more attention to commercial aspects like licensing, assignment, royalties, economic rights, reproduction & publication rights etc.

2. Banking & Financial Institutions should experiment with different arrangements for collateralization as the existing legal regime under SARFAESI and property laws have opened up newer avenues for creation of security and enforcement of security. The 2016 Amendment to the SARFAESI Act appropriately included IP in the scope of security interest, thereby creating an environment conducive for creation of security.

3. The role of the judiciary in shaping the jurisprudence on IP financing is of primary importance, especially in the light of the fact that IP laws in India are not confronting commercial aspects. In the case study referred to i.e. *Canara Bank v N.G. Subarayya*, has been adjudicated by the Division Bench of Supreme Court, the decision however lacks jurisprudential inputs on taking trademark as collateral. The judgment can cause serious misinterpretations like Trademark not being taken up as a collateral security, as the rationale provided by Justice R F Nariman does not delve into the details of what amounts to creating a security, it merely skims the surface with a blanket statement that reads, " Trademark cannot be said to be property which has come into the possession of the Bank in satisfaction of any of the claims of the Bank"and that "Trademarks were not part of any securities for loans or advances". [27] Which unfortunately does not add any jurisprudence on the subject matter.

4. Governmental actions are necessary for bringing the IP regime in India at par with other developing countries. India's economy does not fixate on any single contributing industry, while we were and may be still identify ourselves as an agrarian economy; India has dipped its toes in many industries that offer employment to the largest population in the world. [28] There is a desperate need for the government to implement innovation friendly economy to overcome its tag of a developing country. The researcher has put forth the attempts of peer South East Asian countries like Singapore and Korea in the course of this research which should serve as impetus to steer the Government of India in taking steps to a pro IP economy.

TEST Engineering & Management

November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

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November-December 2019
ISSN: 0193-4120 Page No. 1292 - 1305

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