

IISL COLLOQUIUM ON THE LAW OF OUTER SPACE (E7)

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A COMPARATIVE ANALYSIS OF INTELLECTUAL PROPERTY RIGHTS PROTECTION IN THE SPACE LAW OF INDIA AND USA

Abstract

The twenty first century has heralded a new era in the direction of commercial uses of the outer space. We are now moving beyond the earth orbits towards the possible commercial use of the Moon and other celestial bodies. This will be made possible by the creation of new knowledge and technology. It is being spearheaded by private corporations along with the traditional state controlled space agencies. Private corporations are run on shareholder contributions and for them it is important to create wealth. The space sector is inherently capital intensive requiring enormous amounts of investment and long periods to return the investments. Given this scenario the creation of private property rights becomes a sine qua non requirement for the development of the space sector through private investment. It is to be noted that the rules of international space law were laid down primarily in the two decades of the 1960s and the 1970s. The world has since gone ahead immensely in terms of technology and understanding of space and celestial bodies. We are now moving from international law to national space law to lay the foundations of private space ventures and commercial uses of the outer space. The US Commercial Space Law Competitiveness Act of 2015 is one of the first attempts by a traditional and superior space faring nation to deal with the issues of commercial space activities by its own corporations. India has also come out with its Space Activities Bill in 2017 to deal with private participation in space activities. The object of this paper is to look into the issues pertaining to the grant of intellectual property rights in outer space activities to private corporations and individuals. There is a well developed jurisprudence relating to the grant of intellectual property on the Earth. but it is to be noted that space is the province of all mankind where sovereignty cannot be exercised by a state in the way it can be done on the earth. Therefore it is important to develop a new jurisprudence so that intellectual property can be made to work in the unique legal environment of the outer space and celestial bodies. In this paper an effort has been made to deduce that jurisprudence by looking at the approach of the United States in its space law of 2015 and that of the proposed space activities bill of India.