



# INTELLECTUAL PROPERTY RIGHTS AND ITS SIGNIFICANCE FOR BUSINESS

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## **Abstract:-**

Intellectual property (IP) is a term referring to a brand, invention, design or other kind of creation, which a person or business has legal rights over. Almost all businesses own some form of IP, which could be a business asset. IP rights can be enforced by bringing actions to the civil courts or through criminal prosecution. India's IP laws set out procedures for both civil and criminal proceedings, as does the Competition Act. Criminal proceedings do not apply to patent and design infringements. These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic productions. Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.

This paper also deals with the history of IPR, objectives & types of IPRs. Intellectual property rights (IPR) have been defined as ideas, inventions, and creative expressions based on which there is a public willingness to bestow the status of property. IPR provide certain exclusive rights to the inventors or creators of that property, in order to enable them to reap commercial benefits from their creative efforts or reputation. There are several types of intellectual property protection like patent, copyright, trademark, etc. Patent is type of intellectual property that gives its owner the legal right to exclude others from making using, or selling an invention for a limited period of time in exchange for publishing an enabling disclosure of the invention

**Keywords:** Intellectual Property Rights; Patents; Copyright; Geographical Indications; Trade Secrets,

## **INTRODUCTION**

Any rights over creations of the mind or products of the intellect are known as intellectual property rights. For instance, if someone composes a piece of music, then he or she can be thought to have used their intellect and innate talent to create the artwork and hence, they are entitled to have rights over their creation. Similarly, when someone codes an app or software which is similarly a work of their intellect, then the law provides for provisions wherein the individuals who have created the software or the app can have rights over its distribution, licensing, and sale.

Intellectual property (IP) is a category of property that includes intangible creations of the human intellect. There are many types of intellectual property, and some countries recognize more than others. The most well-known types are copyrights, patents, trademarks, and trade secrets.

The main purpose of intellectual property law is to encourage the creation of a wide variety of intellectual goods. To achieve this, the law gives people and businesses property rights to the information and intellectual goods they create, usually for a limited period of time

#### **OBJECTIVES OF THE STUDY:**

- To Know the Importance of Intellectual Property Rights.
- To Overview & History of the Intellectual Property Rights
- To Study the various type of Intellectual Property Rights.

#### **ORIGIN OF IPR**

The existence of IPRs is very old. The basic aim of conferring an IPR upon the person owning the same is to give a social recognition to its holder. This social recognition can further bring economic benefits to its holders. It is just and reasonable to award a person an IPR in the form of “limited monopolistic rights” for his/her labor and efforts. At the same time, exceptions in the form of various licenses are also made so that public interest cannot be compromised. The public interest and personal interests are thus reconciled in the form of limited period duration of these rights and their abuses can be tackled stringently, especially when public interest demands so. Thus, the TRIPS Agreement was formulated to bring basic level harmonization in IPR laws all over the world. The provisions of the TRIPS Agreement are the most extensive and rigorous in nature. They protect all forms of IPRs collectively. IPR is not a new concept. It is believed that IPR initially started in North Italy during the Renaissance era. In 1474, Venice issued a law regulating patents protection that granted an exclusive right for the owner. The copyright dates back to 1440 A.D. when Johannes Gutenberg invented the printing press with replaceable/moveable wooden or metal letters. Late in the 19th century, a number of countries felt the necessity of laying down laws regulating IPR

#### **IMPORTANCE OF IPR**

Intellectual property rights refer to ideas and innovations that are created by individuals. These are very important and have to be protected at all costs as without their protection, there would be no scope for further research and expense on development as people will start using other’s ideas and kill the basic feeling or the first step of any basic product or service in the market, i.e., Innovation.

These rights not only help individuals keep their intellectual property safe but also provide them with various ways in which they can use their intellectual property to expand their business without having to worry about the concept being copied or stolen. These rights also provide one with ways to start a chain of their business with having complete control and authority from a single place of their choice, thus leading to the best use of these intellectual property rights.

The asset class of Intellectual Property generates revenue for business entities through licensing, franchising, sale of protected products or services. In case of a merger or acquisition protected IP assets increase the value of business significantly. The importance of Intellectual Property is evident in export markets as well. Protected Intellectual Property assets can be exported abroad or franchising agreements can be sought with foreign companies. It is pivotal to note that the top organization in the world which have been ranked in billions namely, Apple, Microsoft, Blackberry have developed a powerful revenue stream because of their

extensive IP assets. Maximum benefits can be reaped through a strong IP portfolio which can be used to increase revenue through licensing stream.

## TYPES OF INTELLECTUAL PROPERTY RIGHTS

There are different types of Intellectual property rights in place to best help the individual keep their valuable and unique ideas and use them to their wishes and their choice of places.

### PATENT



The first type of intellectual property right is Patent. Patents are the most common intellectual property rights which grant the owner to prevent its use without their permission and also grant them the right to commercialize their patent or grant a license to any third party. Patents are of three types, **utility, plant, and design**, thus covering almost all aspects of intellectual property, providing the innovators with a foolproof safety net for their intellectual property.

In other words, a person may create a new product, having features different from any other available product or an innovative process, or finds a new creative solution — he may then file an application before the national Patent Office to register a patent in his name. After the Patent Office, on following the procedure, registers the patent in the name of the inventor, he becomes the owner or patent holder. The patent is granted only after the Patent Office is convinced that the invention sought is new, non-obvious and industrially applicable.

Since the rights are granted only to the registrant, they create a monopoly for him over the subject matter of the patent in the country their patent gets granted in. Once the patent is registered, it is valid for a period of 20 years.

### TRADEMARK



The term trademark refers to a recognizable insignia, phrase, word, or symbol that denotes a specific product and legally differentiates it from all other products of its kind. A trademark exclusively identifies a product as belonging to a specific company and recognizes the company's ownership of the brand. Trademarks are generally considered a form of intellectual property and may or may not be registered.

The intent behind a unique trademark is that the consumer can associate the specific mark with the manufacturer of goods or service providers in case of services. It helps in ensuring the customers that the goods are of a certain quality and type. It also creates goodwill or reputation for that manufacturer or service provider. e.g. when a consumer looks at a new product with this symbol below, he can easily understand that the particular product belongs to Apple Inc. This is the power a symbol can create and earn goodwill for the trademark owner.

### COPYRIGHT



Copyright refers to the legal right of the owner of intellectual property. In simpler terms, copyright is the right to copy. This means that the original creators of products and anyone they give authorization to are the only ones with the exclusive right to reproduce the work.

Copyright is the next type of intellectual property right. It does not protect any ideas or innovations. It covers only tangible forms of creation and original work, such as books, literature, art, etc. The copyright owner gets the exclusive right to sell/publish the work and/or reproduce any literature, music, etc. done by the author, owner, etc.

When someone creates a product that is viewed as original and that required significant mental activity to create, this product becomes an intellectual property that must be protected from unauthorized duplication. Examples of unique creations include computer software, art, poetry, graphic designs, musical lyrics and compositions, novels, film, original architectural designs, website content, etc. One safeguard that can be used to legally protect an original creation is copyright. .

### TRADE SECRET.



A trade secret is any practice or process of a company that is generally not known outside of the company. Information considered a trade secret gives the company a competitive advantage over its competitors and is often a product of internal research and development.

A trade secret is either a proprietary system, formula, strategy, or any other information which is confidential. It is the reason for the effectiveness and competitiveness of a business. These are very important as whole survival and competitive edge of company is dependent on secrecy of their trade secret. One small leak and all the years of research and development go down in the drain. Some examples of a trade secret are Coca-Cola, Formula one racing teams, etc.

### INDUSTRIAL DESIGNS:

In a legal sense, an industrial design constitutes the ornamental aspect of an article. An industrial design may consist of three dimensional features, such as the shape of an article, or two dimensional features, such as patterns, lines or color. In principle, the owner of a registered industrial design or of a design patent has the right to prevent third parties from making, selling or importing articles bearing or embodying a design which is a copy, or substantially a copy, of the protected design, when such acts are undertaken for commercial purposes. Industrial designs are applied to a wide variety of products of industry and handicraft items: from



packages and containers to furnishing and household goods, from lighting equipment to jewelry, and from electronic devices to textiles. Industrial designs may also be relevant to graphic symbols, graphical user interfaces (GUI), and logos.

### GEOGRAPHICAL INDICATIONS:



In December 1999, the Parliament had passed the Geographical Indications of Goods (Registration and Protection) Act, 1999. This Act seeks to provide for the registration and better protection of geographical indications relating to goods in India. The Act would be administered by the Controller General of Patents, Designs and Trade Marks- who is the Registrar of Geographical Indications. The Geographical Indications Registry would be located at Chennai. The Act has come into force with effect from 15th September 2003.

A geographical indication right enables those who have the right to use the indication to prevent its use by a third party whose product does not conform to the applicable standards. For example, in the jurisdictions in which the Darjeeling geographical indication is protected, producers of Darjeeling tea can exclude use of the term “Darjeeling” for tea not grown in their tea gardens or not produced according to the standards set out in the code of practice for the geographical indication

### CONCLUSION

Intellectual property is important for a person or company to safeguard. Without proper safeguards in place, one company's ideas can be replicated by another company and used for their profit. Some legal issues can arise from IP, but as long a company is on top of the paperwork and has an attorney they can prevent most of the issues or fight them if necessary. Having precautions in place can also help a company keep their trade secrets safe. With the use of a non-disclosure agreement with a non-compete clause can help a company keep their secret intact for their company to use when it is needed. While contracts are put into place to ensure a business will do what is required, a contract breach is possible. The violation can be resolved with employee input as well as mediation to ensure proper resolution for the breach. Using some of the techniques will prevent a company's IP from getting into the wrong hands.

To conclude our discussions on IPRs, specifically patents, trademarks, copyrights, and trade secrets, we wish to emphasize that these IPRs are financial assets. Not merely registration, but meticulous protection of IPRs will lead to the indispensable road to economic growth.

### References:

- Shukla S. Patents: An Introduction. Indian Pharm. 2004;3:14–7. [Google Scholar]
- <https://www.itu.int/en/ITU-T/ipr>
- <https://www.drishtias.com/to-the-points/paper3/intellectual-property-rights>

