



A THEORETICAL FRAMEWORK ON INTELLECTUAL PROPERTY RIGHTS AND THEIR SIGNIFICANCE TOWARDS THE BUSINESS

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ABSTRACT

Intellectual property refers to any original and exclusive creations of a human that can include artistic work, literary, symbols and graphics, and even scientific creations. Consequently intellectual property rights refer to the rights that protect an inventor's or creator's creation under legal binding, allowing them to benefit from these creations in the long run. Intellectual property rights can protect an intellectual property for a certain duration or a lifetime, considering the creator never decides to sell these rights to anyone else. The article 27 of the Universal Declaration of Human Rights has comprehensively outlined these intellectual rights, which provides an individual the right to benefit by leveraging complete ownership over scientific, literary, artistic, and material interests. In simple words, the intellectual property rights cover everything that human mind could create, starting from designs to graphical designs.

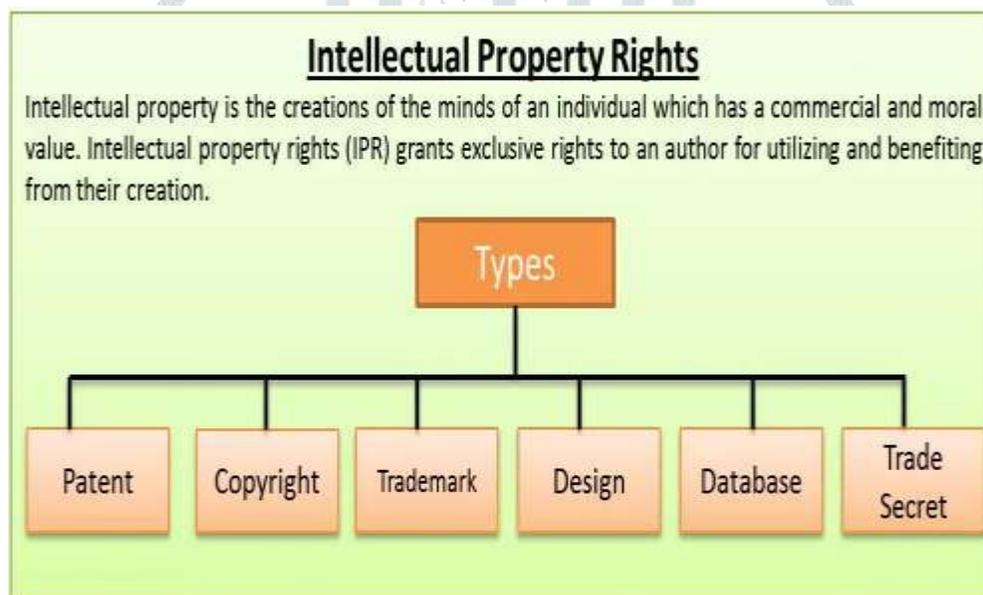
Along with the basics of IP, this research paper focuses on the historical aspects of Intellectual Property Right, its types, and how IPR might influence modern-day business domains. Intellectual Property Rights, at the core, emphasize the idea of protecting creative expression by allowing individuals to bestow the status of an intellectual property. With IPR, creators are given an exclusive ownership of their creation through copyright and trademark, restricting others from copying their invention for economical gain. As of today, the legal industry has different types of intellectual property protection including patent, copyright, and trademark. Through this paper, we'll dive deeper into all these intellectual property right types and understand their significance in the real world.

Keywords: Intellectual Property Rights; Patents; Trademark; Copyright; Trademarks

CONNOTATION ABOUT INTELLECTUAL PROPERTY RIGHTS

Intellectual Property can be defined as an individual's exclusive right or ownership to their own creation. This creation can be anything, be it an artistic design or a scientific creation. The IP law particularly provides right to intellectual property to various intangible assets like creative inventions, literary, designs, phrases, symbols, etc. One can obtain this protection by leveraging our legal system and choosing the right type of intellectual property right, be it trademark, patent, copyright, etc. With IPR, owners and creators have the liberty to gain financial advantage, considering their invention generates revenue.

At its core, Intellectual Property primarily focus on the intangible creation of the human human intellect. Today, countries, across the globe, use different terminologies the project the intellectual property. Consequently, there are different ways to protect IP such as copyrights, patents, trademarks, and trade secrets. It's worth understanding that all different variations of these protection mechanisms are available in different countries.



While the Ancient Rome did provide basic intellectual property guidelines, the first legal and proper mention of the modern-day intellectual property can be dated back to 17th and 18th century. However, as far as its world recognition is concerned, the majority of countries included intellectual property rights in their legal system only in the 20th century. In addition to protecting creative inventions, another objective of the intellectual property laws is to encourage the development of different intellectual goods within the country.

OBJECTIVES OF THE STUDY:

1. To study about Overview & History of the Intellectual property Rights.
2. To Know the Significance of intellectual property Rights towards business.
3. To have insights about the various kinds of intellectual property Rights.

HISTORICAL BACKGROUND OF IPRs:

If we go back into the history, the first valid mention of Intellectual Property can be dated back to 500 BC. It first came into existence when Sybaris allows its citizens to generate a dedicated patent for new refinements they suggest to existing luxuries. Throughout a course of centuries, the intellectual property rights have witnessed several additions and refinements, resulting in the germination of the modern-day IPRs. For instance, more complicated terminologies such as trademarks and copyrights have come into the picture, but the basic idea of these intellectual property laws have remained the same, i.e., encouraging people's creative thinking and allowing inventors to relish the benefits of original inventions.

There are multiple mentions of IPR in our history, which makes it a fairly traditional concept. In 1474, Venice became one of the first countries to issue a dedicated law to regulate patent protection, allowing individuals to gain exclusive rights over their inventions.

In the late 19th century, several other countries understood the significance of laying down laws to regulate IPR and followed the footsteps of Venice by starting their own versions of IPR systems. Globally, there are two different conventions signed to regulate the basis of IPR systems, i.e., Paris Convention for the Protection of Industrial Property (1883) Berne Convention for the Protection of Literary and Artistic Works (1886)

UNDERSTANDING THE SIGNIFICANCE OF INTELLECTUAL PROPERTY RIGHTS:

Intellectual Property is a crucial component of any business and is central to its success. To excel, a business must proactively identify and adopt appropriate IP strategies. It's a misconception that only lawyers possess the knowledge to manage and leverage IP assets. In fact, it's imperative for a company to manage and strategize its IP assets effectively to establish itself as a market leader. Developing the necessary skills and expertise to manage these assets is vital for sustainable competitiveness. In this regard, management professionals are better positioned to handle and monetize intellectual property assets to generate revenue.

It's no secret that knowledge has become the basis for modern-day enterprises, separating them from their competitors. In the golden words of Henry Ford, "21st century is the century of knowledge and the most real security mankind has in 21st century is the reservoir knowledge it has." However, it's also safe to say that it's extremely crucial to protect reservoir must be protected with exclusive legal bindings, ensuring complete protection of human inventions. By effectively protecting and managing IP assets, businesses can gain quick competitive advantage.

Intellectual property rights confer exclusive rights to entities over their innovative and original products, creative designs, and brands. Such exclusivity serves as a powerful incentive to invest in improving competitiveness. A company's trademark helps build strong goodwill with consumers, serving as a testament to the quality of its products or services. Copyright protection is especially valuable for creative and software companies, as well as the media and film industry, as it helps them maintain their edge in cut-throat competition. Moreover, Intellectual Property provides a strong bargaining position in business partnerships.

The Intellectual Property asset class generates revenue for businesses through different channels including licensing, franchising, and even selling protected products & services. Thus, when we are talking about mergers and new acquisitions, protected IP assets are responsible for instantly boosting the overall value of the business. The importance of Intellectual Property extends to export markets as well, where protected IP assets can be exported abroad, or franchising agreements can be entered into with foreign companies. Notably, the world's top-ranked organizations, such as Apple, Microsoft, and Blackberry, have developed powerful revenue streams from their extensive IP portfolios. Therefore, maximizing benefits from a strong IP portfolio can lead to increased revenue through licensing streams.

There are several factors that have encouraged business entities to perceive Intellectual Property assets and their significance in the scalability of a business. These factors can include constant development, globalization, technical revolution, increase in commercial activities, increase in knowledge.

Moreover, in today's competitive landscape, it is imperative for businesses to recognize the importance and necessity of intellectual property assets, which serve as not only a source of exclusivity but also the foundation for the company's success. As American businessman Mark Getty aptly put it, "Intellectual property is the oil of the 21st century." The wealthiest individuals a century ago amassed their fortunes by extracting or transporting natural resources, while today's richest individuals have made their fortunes from intellectual property. Therefore, businesses must realize the crucial role of intellectual property in their growth and survival.

The sector is rife with challenges, making it vital for companies to adopt intellectual property strategies that support their growth objectives. Intellectual property assets not only confer exclusivity but also serve as the bedrock for a company's success. As Mark Getty famously observed, intellectual property is the driving force of the 21st century, replacing natural resources as the primary source of wealth. The most successful individuals and companies today have leveraged their intellectual property assets to generate significant revenue. Hence, businesses must prioritize the importance of intellectual property to thrive in today's fiercely competitive landscape.

TYPES OF INTELLECTUAL PROPERTY RIGHTS

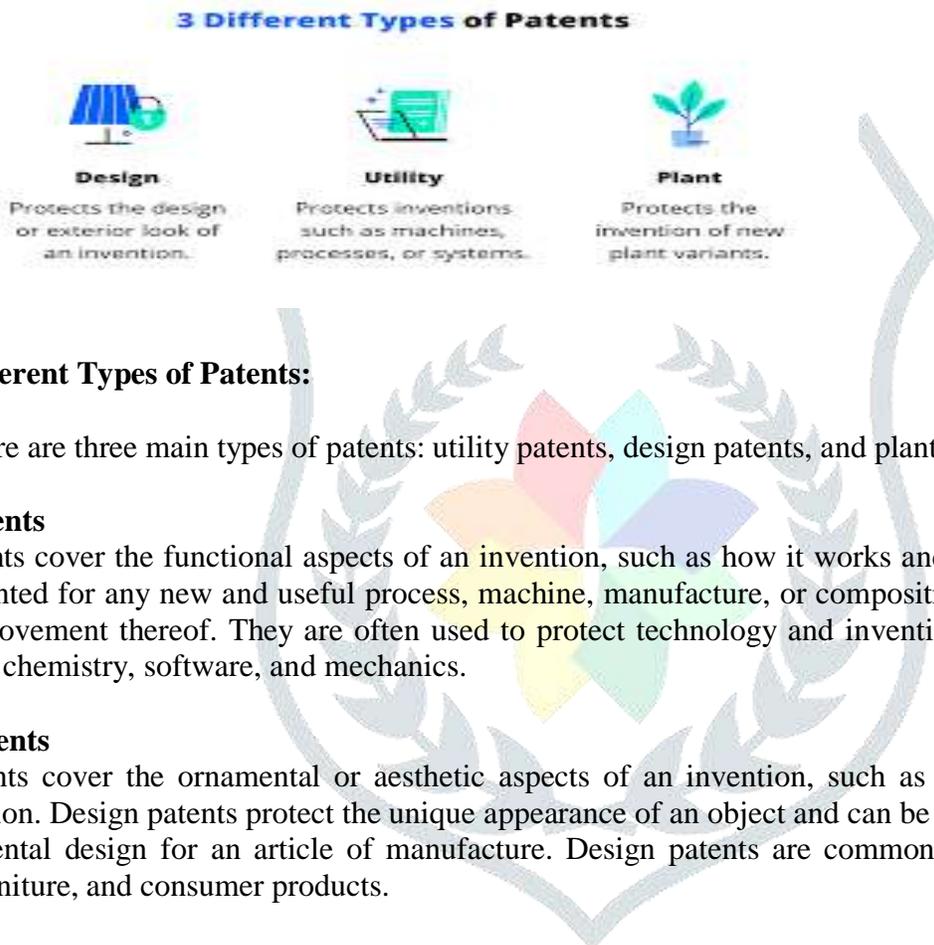
- 1. PATENTS**
- 2. TRADEMARKS**
- 3. COPYRIGHTS**
- 4. TRADE SECRET**
- 5. INDUSTRIAL DESIGNS**
- 6. GEOGRAPHICAL INDICATORS**

Let's have a brief overview about the same:

1) PATENT:

A patent is a government license that confers the sole right to exclude others from making, using, or selling an invention for a limited period. Individuals or organizations seeking to protect their innovative products or processes approach the patent office, provide details about their creation, and pay a fee to secure patent protection. Patents act as an incentive for investing years of effort and resources into developing new products and processes, forming an integral part of a culture of innovation and growth.

There are several types of patents, each offering protection for specific aspects of an invention.



Different Types of Patents:

There are three main types of patents: utility patents, design patents, and plant patents.

a. Utility Patents

These patents cover the functional aspects of an invention, such as how it works and what it does. Utility patents may be granted for any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof. They are often used to protect technology and inventions in various fields, such as electronics, chemistry, software, and mechanics.

b. Design Patents

These patents cover the ornamental or aesthetic aspects of an invention, such as its shape, pattern, or surface ornamentation. Design patents protect the unique appearance of an object and can be granted for any new, original, and ornamental design for an article of manufacture. Design patents are commonly used in industries such as fashion, furniture, and consumer products.

c. Plant Patents

These patents protect new and distinct varieties of plants, including hybrids and genetically modified plants. Plant patents are granted to anyone who invents or discovers and asexually reproduces any distinct and new variety of plant, other than a tuber propagated plant or a plant found in an uncultivated state. Plant patents are commonly used in agriculture, horticulture, and landscaping.

It's important to note that patents provide exclusive rights to the inventor to exclude others from making, using, selling, or importing the patented invention for a limited period of time. The length of time for which a patent is granted depends on the type of patent and the country in which it was filed.

2) TRADEMARK:

A trademark is an identifiable sign that distinguishes the origin of goods or services. It can take various forms such as text, numbers, phrases, symbols, designs, scents, shapes, colors, sounds, packaging, textures, or a combination of these.



The primary purpose of a trademark is to help consumers easily identify the manufacturer or service provider and associate it with certain quality and reputation. For example, the Apple symbol is instantly recognizable as a product of Apple Inc. Similarly, the Tata group of companies uses its family name as a branding trademark. The golden arches of McDonald's is also a well-known symbol.

It's important to note that the same trademark can be registered for different goods or services under different owners. For instance, Nike Inc. owns the "NIKE" trademark for shoes, clothing, and sporting equipment while Nike Corporation has registered the same mark for hydraulic lifting jacks and other heavy machinery.

A trademark must be registered with the Trademark Office of the country where it needs protection and must be associated with the relevant classes of business. A registered trademark provides legal protection to the owner and helps build brand reputation and goodwill.

Types of trademarks that can be registered in India

The following are different types of trademarks which can be registered in India.

- a. **Words and service marks-** Any mark that is used to identify the product and service of a trading company or a service-providing company is known as Word Mark. While the service mark are indicates about the services that a company is dealing in.
- b. **Shape marks-** Marks showing the shapes of the product or packaging of the business.
- c. **Logos and symbols-** Logos and symbols are the Graphic mark or symbol used to provide public identification of a product.
- d. **Collective marks-**When the marks are linked with a group of people or services collectively It is said to be the Collective Mark. The trademark is owned by the organization but it can be used by multiple people.
- e. **Series Marks-**These are the marks which are registered to use before or after a chain of products where there would be a common suffix / prefix or symbol.
- f. **The Certification mark-**This is a mark which provides the assurance that the company has met with the desired standards and quality of the products. For eg. ISO CERTIFICATION.

It is always advisable to register your Trademark to save the same from unauthorized use by someone else.

3) COPYRIGHT:

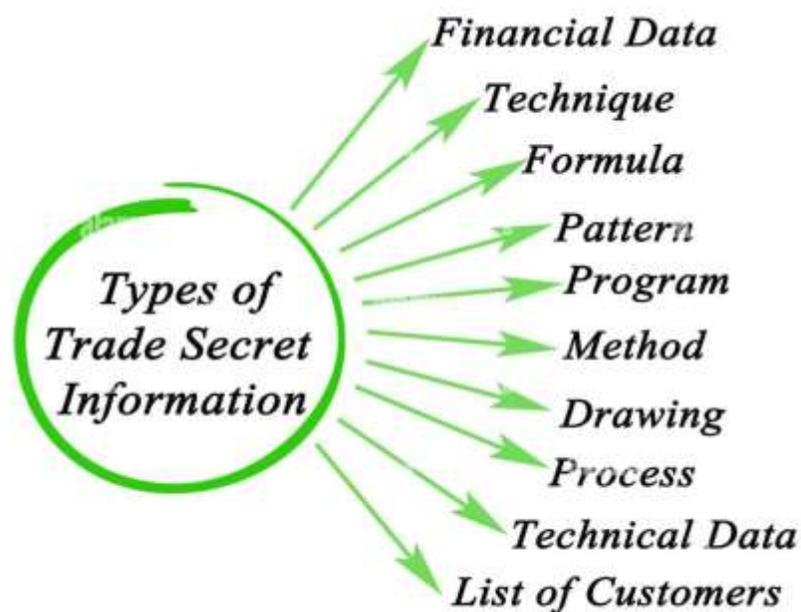
Copyright is a legal right that grants creators, authors, artists, composers, performers, artists, and broadcasters the exclusive rights to their original works. This monopolistic right allows copyright holders to sell, publish, and reproduce their literary, musical, dramatic, artistic, or architectural creations.

These works include an endless list of items such as books, stories, novels, poems, plays, newspapers, magazines, advertisements, movies, computer programs, databases, musical compositions, songs, choreography, videos, paintings, drawings, photographs, sculpture, architecture, maps, and technical drawings.

However, it is important to note that there may be some overlap between copyrights and other types of IPR, and it is crucial to understand the differences and protect intellectual property rights correctly. For instance, computer software can be protected by copyright as soon as the code is written, but it may also qualify for a patent if it creates a new, novel, and original process. Likewise, a slogan or a logo cannot be adequately protected by copyright alone but must be protected under trademark laws.

4) TRADE SECRET:

In the realm of IPR law, trade secrets are a crucial component. These secrets pertain to a business's confidential information that can provide it with an economic edge over competitors. If disclosed, such trade secrets can result in significant losses and a damaged reputation. Trade secrets encompass various elements such as data, formulas, compositions, processes, designs, methods, compilations, or combinations thereof that must remain



within the business's confines.

Unlike patents, trade secrets do not require registration and are protected as confidential information. In contrast to patent applications, which require disclosure of claims and processes to the public, trade secrets must be kept under wraps. Coca-Cola's recipe serves as a noteworthy example of trade secret protection. The recipe has never been patented to avoid any leaks, and only two employees possess half of the recipe's information each, while no individual knows the entire recipe.

5) INDUSTRIAL DESIGNS:

Industrial design is a type of intellectual property right that protects the ornamental or aesthetic aspects of an object's appearance. Industrial designs can refer to the shape, pattern, color, texture, or any other visual feature

that gives a product a unique look and feel. The purpose of industrial design protection is to prevent unauthorized copying or imitation of a design by competitors, which can help the original creator or manufacturer to establish and maintain a market advantage.

Unlike patents or trademarks, industrial design protection does not cover the functional or technical features of a product, but rather its visual appearance. Industrial design rights are often used in industries where the appearance of a product is a critical factor in its commercial success, such as fashion, consumer electronics, furniture, and automotive design.

To obtain industrial design protection, the creator or owner of a design must file an application with the appropriate intellectual property office in their country or region. The application typically includes drawings or photographs of the design, as well as information about the product it relates to. If the application is approved, the owner of the design can prevent others from manufacturing, importing, or selling products that bear a confusingly similar visual appearance. Industrial design protection typically lasts for a fixed period of time, which varies by jurisdiction.

6) GEOGRAPHICAL INDICATIONS:

A geographical indication (GI) is a symbol or indication used on products that originate from a specific geographical location and have qualities or characteristics that are associated with that region. The primary function of a GI is to identify a product as originating from a particular area.

The ownership of a GI allows the authorized users to prevent any unauthorized use of the indication by a third party whose product does not meet the required standards. For instance, in the regions where the GI for Darjeeling tea is protected, only producers of Darjeeling tea who meet the specific standards set out in the code of practice are allowed to use the term “Darjeeling” for their product. The use of this term for tea not produced according to the set standards is prohibited by law.

CONCLUSION

Managing intellectual property (IP) and intellectual property rights (IPRs) is a complex task that involves several strategies and actions aligned with national laws and international treaties. It's no longer limited to a national perspective, but also depends on market needs, response, and cost. Trade and commerce considerations play an essential role in managing IPR. Different types of IPR require unique treatment, planning, and engagement of people from different domains, such as science, engineering, medicine, law, finance, marketing, and economics. Each industry should develop its IP policies and strategies depending on its area of expertise. The pharmaceutical industry is currently undergoing an evolving IP strategy, and antitrust laws must step in to prevent illegitimate monopolies. Protecting IPRs is crucial as they are valuable financial assets that can lead to economic growth. It is imperative to protect IPRs carefully rather than merely registering them. There is still much to resolve in this context, but IPRs remain a critical driver of economic growth.

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