



INTELLECTUAL PROPERTY RIGHTS AND CORPORATE LAW

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INTRODUCTION

‘IP’ refers to the creations of the mind, such as inventions, literary and artistic minds, designs, symbols, names, and images in commerce. It's an intangible asset. Meaning it's not a physical object but rather the ownership of an idea, creation or expression. The purpose is to safeguard the use of innovations, artistic works and inventions, ensuring that creators, organisations and individuals benefit from their work. Intellectual Property Right (IPR) is a right given over a creation of the mind and to exclusively exploit it for a certain period. Intellectual property, often known as IP, allows people to own their creativity and innovation in the same way that they can own physical property. The owner of IP can control and be rewarded for its use. This encourages further innovation and creativity to the benefit of everyone.

Intellectual property rights safeguard mental works such as innovations, literary or artistic creations, images, symbols, and so forth. Intellectual property laws ensure that you profit from what you have created, regardless of whether you develop a product, write a book, or discover an innovative medication. Intellectual property protection may take several forms, including trademark rights, copyright, and patent. Intellectual property is required for better identification, planning, marketing, and safeguarding of inventions or creative works. Every industry should have its own IPR rules, manner of leadership, plans, and so on, according to its field of specialisation. These rights are outlined in Article 27 of the Universal Declaration of Human Rights, which declares that everyone has the right to profit from the preservation of their moral and financial interests as an outcome of the development of scientific, literary, or artistic work. The phrase "intellectual property" first appeared in the nineteenth century, but it was not broadly acknowledged in the majority of the world's legal systems until the late

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twentieth century. It is a certification and standard authority for product accreditation and identification in a large market.

The role of IPR is to encourage innovation, foster creativity and protect the rights of creators. IPR plays a vital role in economic growth, Technology development and cultural expression. 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, to enable them to reap commercial benefits from their creative efforts or reputation. A patent is recognition for an invention which satisfies the criteria of global novelty, non-obviousness, and industrial application. IPR plays an important role in the corporate sector.

IPRs are generally understood to have two principal areas of impact in pharmaceuticals. First, there is the issue of pricing and access, where discussion focuses on the links between IPRs (particularly patent rights), exclusion of competitors and the availability and pricing of new medicines. Second, there is the issue of R&D incentives – that is to say, the role of IPRs in providing incentives to discover, develop and market new drugs – and the effect of IPRs on R&D expenditure and its allocation across diseases, countries and organisations.

There are six types of IPR:

Patent: Patents are granted to inventions that provide a new way of doing something or offer a new technical solution to a problem. It protects inventions and innovations. Its duration is 20 years. It grants the inventor exclusive rights to use, make, sell or license the invention for a limited period. For example, the telephone Graham Bell's invention of the telephone is an example of a patented invention. Many features of smartphones are protected by patents, such as touch screen technology, camera systems, and even specific software algorithms.

Copyright: It protects original works of authorship such as books, music, film, software and derivative works. The creator has exclusive rights to reproduce, distribute, display, perform and create derivative works. It protects original work of authorship, such as books, music, films, and software. Its duration is the life of the author and 50 -70 years. For example, the Harry Potter series by J.K. Rowling is protected under copyright. Movies like 'Titanic' or 'The Lion King' are protected under the copyright law. Songs like 'Shape of You' by Ed Sheeran are copyrighted.

Trademarks: Trademarks are symbols, words or other identifiers used in commerce to distinguish goods or services from others. Its duration is for 10 years(renewable). It protects the brands, logos and distinctive signs used in commerce. The owner of the trademark has exclusive rights to use it in commerce and prevent others from using similar marks. For example, the Iconic Nike ‘Swoosh’- The Iconic Nike ‘Swoosh’ is a trademark that distinguishes its products. Coca-Cola: The Coca-Cola and the bottle shape are trademarked. The Apple logo and brand name are registered trademarks.

Trade Secrets: Trade secrets include confidential business information that provides a competitive edge (eg formulas, processes, designs). It protects confidential business information, and there is no time limit as it lasts as long as kept secret. For example, Coca-Cola Formula – The secret recipe for Coca-Cola is one of the most famous trade secrets in the world.

Geographical Indications (GI): It identifies goods that come from a specific region and have qualities or reputation linked to that location. For example, champagne: Only sparkling wine from the Champagne region in France can be labelled as Champagne. Darjeeling Tea - Tea from the Darjeeling region in India is protected under GI laws. Parmigiano Reggiano - Only cheese produced in a certain region of Italy can be called Parmigiano Reggiano.

Designs: It protects the unique visual Appearance of products. Industrial design refers to the aesthetic or ornamental aspect of a product, which can include the shape, pattern and colour. Its duration is 10-25 years. For example, Coca-Cola Bottle Design: The unique shape of the Coca-Cola Bottle is protected as an industrial design. Furniture design: Many furniture companies, such as IKEA, have patented designs for their products

IPR ROLE AS THE WORLD'S GLOBAL

IPR laws are implemented globally to ensure creators' rights are protected as per international treaties.

- **WIPO** (World Intellectual Property Organisation): Facilitates international cooperation
- **TRIPS** (Trade-Related Aspects of Intellectual Property Rights): Sets global standards
- **Regional Systems** – European Patent Office (EPO), ASEAN IP System, African Regional Intellectual Property Organisation (ARIPO). Challenges: Enforcement across borders and privacy.

There are many advantages of IPR LAW, like:

There are no Extra Fees Connected with IP: There are no fees required whenever you wish to change or enhance your business, and hence it can be done free of cost. But it is always suggested to apply for formal patent protection once the inventor has completed developing the product.

Career opportunities –

There are many career opportunities in IPR LAW, like:

- **IPR Attorney Lawyer** who advises clients on IPR matters, drafts and files applications for patents, trademarks and copyrights and represents clients in IPR disputes.
- **IP Analyst** who researches and analyses the IPR landscape, identifies potential patent applications, and evaluates the commercial visibility of inventions.
- **IP MANAGER** who manages an organisation's IPR portfolio, including the creation, protection and enforcement of intellectual property assets.
- **A legal Adviser** who provides advice on IPR related to businesses and individuals.

PERKS OF CREATING A CAREER IN IPR

- **High Demand** - It has high demand with the innovation, Technology and global trade, IPR professionals are in high demand, and it has a lucrative salary.
- **International Exposure** - Opportunity to work with global clients and organisations.

IMPORTANCE OF IPR

Encourages Innovation: By granting exclusive rights, IPR motivates individuals and companies to invest in research and development.

Economic Growth: IPR can be a significant economic asset, contributing to job creation, revenue generation, and international trade.

Consumer Protection: Trademarks and copyrights help consumers identify the source and quality of products and services.

Cultural Development: Protecting artistic works fosters cultural expression and the sharing of ideas.

CHALLENGES IN IPR INFRINGEMENT AND PIRACY

- Unauthorised use of protected content remains a widespread issue, especially in digital formats.
- **Global Enforcement:** Different countries have varying levels of IPR enforcement, complicating protection across borders.
- **Balancing Interests:** Laws must balance protecting creators and ensuring public access to knowledge and innovation.

Piracy And Counterfeiting -

- Rampant in the digital age with unauthorised copying and distribution of software, music, and movies.
- A major issue for the pharmaceutical and luxury goods industries.

Enforcement Issues -

- Inconsistent IPR enforcement across countries.
- Lengthy legal procedures and high litigation costs discourage creators from pursuing legal action.

Digital Transformation -

- The emergence of AI-generated content, NFTs, and digital assets poses new legal challenges.
- Difficulty in defining ownership and originality.

Access v Monopoly: The ethical dilemma is between incentivising innovation and ensuring public access to knowledge, especially in healthcare (e.g., COVID-19 vaccines).

SPECIFIC APPLICATION OF IPR

Technology and Software: Copyright protects software code, while patents can cover algorithms and innovative processes. Open-source licensing (e.g., GNU, MIT License) introduces collaborative alternatives to proprietary models. Challenges include determining patent eligibility for abstract ideas or algorithms.

Agriculture and Biotechnology: Patents on genetically modified organisms (GMOs) and hybrid seeds. Controversies: Farmers' rights vs. corporate control. Example: Monsanto's seed patent litigation. Geographical Indications (GIs) also play a role in branding local agricultural products.

Creative Industries (Music, Film, Art, Fashion): Copyright is vital in protecting original works from unauthorised reproduction. Digital rights management (DRM) tools are commonly used to limit access. Fashion designs rely more on trademarks and design rights, as copyright coverage is limited.

Education and Publishing: Copyright laws regulate textbooks, academic journals, and e-learning content. The debate is between Access to educational materials vs. fair remuneration for authors/publishers. Rise of open-access journals and Creative Commons licensing.

ROLE OF IPR IN ECONOMIC AND SOCIAL DEVELOPMENT

Encourages R&D: Patents drive investments in research, especially in technology and pharmaceuticals.

Supports SMEs: Trademarks and designs help small businesses build brand identity.

Boosts FDI: Strong IPR systems attract foreign investors looking for secure markets.

Promotes Cultural Heritage: Copyright and GIs help preserve and commercialise cultural products.

CONTEMPORARY ISSUES IN IPR

Artificial Intelligence and IP: Can AI be recognised as an inventor or creator? Should AI-generated content be eligible for copyright?

Access vs. Protection Debate: Developing countries advocate for flexible IP rules to ensure access to medicines and educational resources. For example, the TRIPS waiver debate during the COVID-19 pandemic.

Digital Environment: Proliferation of digital platforms raises challenges in copyright enforcement. Blockchain and NFTs present new avenues and questions for IP ownership.

IPR and Climate Change: Calls for technology transfer to combat climate change face IPR-related barriers.

LANDMARK CASES

Bishwanath Prasad Radhey Shyam vs Hindustan Metal Industries (1979 AIR 673): This is a seminal case relating to patents in India. The Supreme Court held that once a patent is granted and it is challenged, the onus of proof lies on the person challenging the patent to show that the patent lacks novelty. This case still plays a significant role in patent litigation in India.

R.G. Anand vs Deluxe Films (1978 AIR 1613): A landmark copyright case where the Supreme Court laid down the principle that there can be no copyright in an idea, subject matter, themes, plots, or historical or legendary facts, and violation of copyright in such cases is confined to the form, manner, arrangement, and expression of the idea by the author of the copyrighted work.

ENFORCEMENT OF IPR

Enforcement mechanisms vary by country but typically include:

1. Civil litigation (injunctions, damages)
2. Criminal sanctions (in serious IP crimes)
3. Administrative remedies (customs seizure, licensing bodies)

GLOBAL FRAMEWORK AND ORGANIZATIONS

Several international treaties and organisations govern IPR across borders:

World Intellectual Property Organisation (WIPO): A UN agency that promotes global IP cooperation.

Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS): A WTO agreement that sets minimum IPR standards for member countries.

Paris Convention and Berne Convention: Treaties that protect industrial property and literary/artistic works.

CONCLUSION

After a thorough read of the whole article, it must be clear by now how important IP protection is today to secure your own artistic, literary works and other inventions. It is only because of these protections given under the IP Act; a business or company stands unique from other businesses in the market. Hence, it is highly recommended to get the IP protection and avail of

its benefits. Development. As technology evolves and globalisation intensifies, strengthening IPR laws and enforcement mechanisms becomes increasingly important to protect the rights of creators and maintain fair competition in the global market. IPR law is a vital framework in today's knowledge-based economy. While it empowers creators and businesses, it must evolve to address the ethical and legal complexities posed by rapid technological change.