



Intellectual Property Rights in Business Organizations

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ABSTRACT

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 recognition for an invention, which satisfies the criteria of global novelty, non-obviousness, and industrial application. IPR is prerequisite for better identification, planning, commercialization, rendering, and thereby protection of invention or creativity. Each industry should evolve its own IPR policies, management style, strategies, and so on depending on its area of specialty. Pharmaceutical industry currently has an evolving IPR strategy requiring a better focus and approach in the coming era. Recently, intellectual property rights (IPRs) has become one of the hottest, most significant issues of trade negotiations. Despite the continued claim that IPRs facilitate research activities and encourage technology transfer, the impact of IPRs on socio-economic development process of developing countries has evidently reflected in many areas, including health, agriculture and education. IPRs will no doubt continue to have a significant impact on developing countries for many years to come. The developing countries have faced the challenge of constraint optimization on how to implement the WTO TRIPS Agreement in such a way to minimize the socio-economic costs and maximize the national benefits. The third world states are now facing increased pressure toward higher standards of IPRs protection (i.e. the so-called TRIPS-plus). The attempts of the developed countries to evolve the TRIPS-plus regime, which appears in the form of free trade agreement (FTA), provide opportunities for those countries to negotiate rules and commitments that go beyond what was not possible on the multilateral level. By entering into an FTA with the developed countries, the developing countries see some advantages in tariff reductions of agricultural, clothing and other products, but at the same time it closes down the opportunity for the latter to put forward the issues of their

concern through the WTO including the harmonization of TRIPS and CBD, access to medicines, and protection of genetic resources, farmers' rights and traditional knowledge.

Keywords-- Intellectual Property, License, Patent, Trademark, Copyright, Trade Secrets

I. INTRODUCTION

Intellectual property (IP) pertains to any original creation of the human intellect such as artistic, literary, technical, or scientific creation. Intellectual property rights (IPR) refers to the legal rights given to the inventor or creator to protect his invention or creation for a certain period of time. These legal rights confer an exclusive right to the inventor/creator or his assignee to fully utilize his invention/creation for a given period of time. It is very well settled that IP play a vital role in the modern economy. It has also been conclusively established that the intellectual labor associated with the innovation should be given due importance so that public good emanates from it. There has been a quantum jump in research and development (R&D) costs with an associated jump in investments required for putting a new technology in the market place. The stakes of the developers of technology have become very high, and hence, the need to protect the knowledge from unlawful use has become expedient, at least for a period, that would ensure recovery of the R&D and other associated costs and adequate profits for continuous investments in R&D. IPR is a strong tool, to protect investments, time, money, effort invested by the inventor/creator of an IP, since it grants the inventor/creator an exclusive right for a certain period of time for use of his invention/creation. Thus IPR, in this way aids the economic development of a country by promoting healthy competition and encouraging industrial

development and economic growth. Present review furnishes a brief overview of IPR with special emphasis on pharmaceuticals.

II. NEED FOR THE STUDY

For an effective development of the trade activities and to protect, manage, operate and control all the things we have to maintain and implement the Intellectual Property Rights. The way how Intellectual Property Rights are helping to protect the rights using and with the help of Trademarks, Copyrights, Patents and Trade Secrets. In this process it can generate sense for which on his own capability to achieve simultaneously both individual and organizational objective.

III. SCOPE OF THE STUDY

The globe today is a globalization changes. It gives us a change to scan the century to century new challenges in various field are being accepted. The improvements of the technologies along with the industrialization in India demands of the traders and business people are more highly motivated, and enhanced and developed in all aspects of how to safeguarding the business activities and their trade rights.

IV. OBJECTIVE OF THE STUDY

- To understand the relationship between Business and Intellectual Property Rights.
- To know the Rights taken or using by the traders to improve the standards and how to protect the Trademark rights law.
- To know how the impact and use of Copyrights in Business and individual purpose.
- To know the relationship between Consumers and Trademarks

V. IMPORTANCE OF THE STUDY

Why is it important to protect intellectual property rights?

Your IP rights are important because they can:

- set your business apart from competitors
- be sold or licensed, providing an important revenue stream
- offer customers something new and different
- form an essential part of your marketing or branding
- be used as security for loans

You may be surprised at how many aspects of your business can be protected - its name and logo, designs, inventions, works of creative or intellectual effort or trademarks that distinguish your business can all be types

of IP. Explore the different types of IP in detail in our guides:

- trade marks
- get patent protection for your business
- copyright for your business
- protecting and handling your design

Some IP rights are automatically safeguarded by IP law, but there are also other types of legal protection you can apply for.

- To exploit your IP fully, it makes strong business sense to do all you can to secure it. You can then:
- protect it against infringement by others and ultimately defend in the courts your sole right to use, make, sell or import it
- stop others using, making, selling or importing it without your permission
- earn royalties by licensing it
- exploit it through strategic alliances
- make money by selling it

VI. REVIEW OF LITERATURE

Brief History

The laws and administrative procedures relating to IPR have their roots in Europe. The trend of granting patents started in the fourteenth century. In comparison to other European countries, in some matters England was technologically advanced and used to attract artisans from elsewhere, on special terms. The first known copyrights appeared in Italy. Venice can be considered the cradle of IP system as most legal thinking in this area was done here; laws and systems were made here for the first time in the world, and other countries followed in due course. Patent act in India is more than 150 years old. The inaugural one is the 1856 Act, which is based on the British patent system and it has provided the patent term of 14 years followed by numerous acts and amendments.

Intellectual Property

A legal concept encompassing copyrights; rights relating to the activities of performing artists, sound recordings, radio and television broadcasts; invention and patent rights; rights to scientific discoveries; rights to industrial models, trademarks, firm names, and commercial designations; and protection from unfair competition; as well as all other rights relating to intellectual activities in industrial, scientific, literary, and artistic fields. The concept came into international use in the 1960's. In 1967 a convention was signed in Stockholm establishing the World Intellectual Property Organization. The convention went into force in 1970. As of Jan. 1, 1972, 25 states had joined the convention, including the USSR, the Ukrainian SSR, the Byelorussian SSR, Bulgaria, Hungary, Rumania, the German Democratic Republic, Czechoslovakia, Great Britain, the Federal Republic of Germany, and the USA.

What is IPR

A right that is had by a person or by a company to have exclusive rights to use its own plans, ideas, or other intangible assets without the worry of competition, at least for a specific period of time. These rights can include copyrights, patents, trademarks, and trade secrets. These rights may be enforced by a court via a lawsuit. The reasoning for intellectual property is to encourage innovation without the fear that a competitor will steal the idea and / or take the credit for it.

Concept, Scope and Nature of Intellectual Property Rights**Intellectual Property in General**

The division of property as movable and immovable, if it is tangible, was known in Roman law and has been adopted by modern Civil Codes. This kind of classification is also provided under art.1226 of the Civil Code. However, "as a result of the industrial revolution and the rapid development made in the fields of science, technology and culture, new kinds of property came into existence". New rights and properties like patents, copyright and industrial designs, which came to be known as intellectual property rights (IPRs) received attention due to their unique characteristics.

Intellectual property is so broad that it has many aspects. It stands for groupings of rights which individually constitute distinct rights. However, its conception differs from time and it to time. It is subject to various influences. The change in information technology, market reality (globalization) and generality have affected the contents of intellectual property. For instance, in olden days-because of religion creation of life, say plants or animals were not protected. Thus, defining IP is difficult as its conception changes. It is diverse, challenging and has application in own day today life.

IP is a section of law which protects creations of the mind, and deals with intellectual creations. Is it a workable definition? It is also commonly said that one cannot patent or copyright ideas.

Intellectual property, as a concept, "was originally designed to cover ownership of literary and artistic works, inventions (patents) and trademarks". What is protected in intellectual property is the form of the work, the invention, the relationship between a symbol and a business. However, the concept of intellectual property now covers patents, trademarks, literary and artistic works, designs and models, trade names, neighboring rights, plant production rights, topographies of semi conductor products, databases, when protected by a sui generis right, unfair competition, geographical indications, trade secrets, etc.

Those types of intellectual property have been characterized as "pieces of information which can be incorporated in tangible objects at the same time in an unlimited number of copies at different time and at different locations anywhere in the world". In other words, intellectual property rights are intangible in nature,

different from the objects they are embodied in. The property right is not in those copies but in the information which creates in them.

In today's world, the international dimension of intellectual property is of ever increasing importance for three compelling reasons. First, the composition of world trade is changing. Currently, commerce in intellectual property has become an even greater component of trade between nations. The value of information products has been enhanced greatly by the new technologies of the semi-conductor chip, computer software and biotechnology. Second, the world commerce has become even more interdependent, establishing a need for international cooperation. No longer can a single country impose its economic will on the rest of the world. Accordingly, countries have recognized this interdependence and have called for a broadening of international agreements/arrangements involving intellectual property. Third, new reprographic and information storage technologies permit unauthorized copying to take place faster and more efficiently than ever, undermining the creator's work. There is a general feeling in the developed countries that much of this sort of copying takes place in the third world due to the relaxation of legal standards. All these factors have prompted the international community as a whole to accord due recognition to intellectual property and intellectual property regime.

Thus, the above reasons widen the scope of intellectual property rights. Among the bundles of intellectual property rights, copyright that deals with the protection of literary, artistic and scientific works is one.

The expression industrial property covers inventions and industrial designs. Simply stated, inventions are new solutions to technical problems, and industrial designs are aesthetic creations determining the appearance of industrial products. In addition, industrial property includes trademarks, service marks, commercial names and designations, including indications of source and appellations of origin, and protection against unfair competition. Hence the aspect of intellectual creations - although existent - is less prominent, but what counts here is that the object of industrial property typically consists of signs transmitting information to consumers, in particular, as regards products and services offered on the market, and that the protection is directed against unauthorized use of such signs which is likely to mislead consumers and misleading practices in general.

Scientific discoveries are not the same as inventions. The general treaty on the international recording of scientific discoveries /1978/ defines a scientific discovery as "the recognition of phenomena, properties or laws of the material universe not hitherto recognized and capable of verification. "(Art. 1(1)(i)). Inventions are new solutions to specific technical problems. Such solutions must, naturally rely on the

properties or laws of the materials universe /otherwise they could not be materially or ‘technically’ applied/, but those properties or laws need not be properties or laws’ not hitherto recognized’. An invention puts to new use, to new technical use, the said properties or laws, whether they are recognized (“discovered”) simultaneously with making the invention or whether they were already recognized (“discovered”) before and independently from the invention.

Industrial and cultural development may be favored by stimulating creative activity and facilitating the transfer of technology and the dissemination of literary and artistic works. In the Ethiopian legal system too the protection of intellectual property rights is afforded at constitutional level. The FDRE Constitution recognizes that every Ethiopian citizen has the right to ownership of private property with certain restrictions. Article 40(2) defines private property as any tangible or intangible product which has value and is produced by the labor, creativity, enterprise or capital of an individual citizen, associations which enjoy juridical personality under the law. Thus, the constitution declares protection for every property whether it is tangible or intangible. That means protection is afforded equally for intellectual property rights as any other property since they are intangible products.

It is difficult to determine what types of ownership we should allow for non corporeal, intellectual objects, such as writings, inventions and secret business information. There are intellectual properties which are not products of the mind. For instance, all trademarks are not products of the mind. Trademarks creation does not necessarily require intellectual activity. The same holds true for geographic indication. They don’t require the work of the mind like patent and copyright.

IP is a bundle of legal rights resulting from intellectual creativity in industrial, scientific, artistic and literary fields. This definition is from the point of view of rights. IP is legal protection accorded to works of the mind in distinction from manual work (result of physical labour). It is a legal protection accorded to incorporeal ownership.

Regarding protection of IP rights, there were historical, philosophical and epistemological problems. Historically, reservation exists as to the protection of such rights as they don’t exhibit essential characteristics of property, i.e. material existence. They consider corporeal chattels only as propriety. For them property should be subject to appropriation/occupancy/.

The other problem is related to problems of philosophy. They believed that human beings cannot be regarded as a creator of something. They say human beings cannot create something. Which is also reflected in religions? The problems also relate with epistemology. What we reflect is what we observe from the world (our experience, life experience). The then contemporary

writers wrote that IP lacks essential characters to be considered property.

Through time the laws of various countries started to incorporate protection to intellectual creativity, though they are independent. There are two factors in lumping intellectual property rights together. These are: Conceptual Basis and Historical Basis

Types of Intellectual Properties and their Description

Originally, only patent, trademarks, and industrial designs were protected as ‘Industrial Property’, but now the term ‘Intellectual Property’ has a much wider meaning. IPR enhances technology advancement in the following ways:

- (a) It provides a mechanism of handling infringement, piracy, and unauthorized use
- (b) It provides a pool of information to the general public since all forms of IP are published except in case of trade secrets.

IP protection can be sought for a variety of intellectual efforts including

- (i) Patents
- (ii) Industrial designs relates to features of any shape, configuration, surface pattern, composition of lines and colors applied to an article whether 2-D, e.g., textile, or 3-D, e.g., toothbrush
- (iii) Trademarks relate to any mark, name or logo under which trade is conducted for any product or service and by which the manufacturer or the service provider is identified. Trademarks can be bought, sold, and licensed. Trademark has no existence apart from the goodwill of the product or service it symbolizes
- (iv) Copyright relates to expression of ideas in material form and includes literary, musical, dramatic, artistic, cinematography work, audio tapes, and computer software
- (v) Geographical indications are indications, which identify as good as originating in the territory of a country or a region or locality in that territory where a given quality, reputation, or other characteristic of the goods is essentially attributable to its geographical origin

A patent is awarded for an invention, which satisfies the criteria of global novelty, non-obviousness, and industrial or commercial application. Patents can be granted for products and processes. As per the Indian Patent Act 1970, the term of a patent was 14 years from the date of filing except for processes for preparing drugs and food items for which the term was 7 years from the date of the filing or 5 years from the date of the patent, whichever is earlier. No product patents were granted for drugs and food items. A copyright generated in a member country of the Berne Convention is automatically protected in all the member countries, without any need for registration. India is a signatory to the Berne Convention and has a very good copyright legislation comparable to that of any country. However, the copyright will not be automatically available in countries that are not the members of the Berne Convention. Therefore, copyright

may not be considered a territorial right in the strict sense. Like any other property IPR can be transferred, sold, or gifted.

Role of Undisclosed Information in Intellectual Property

Protection of undisclosed information is least known to players of IPR and also least talked about, although it is perhaps the most important form of protection for industries, R&D institutions and other agencies dealing with IPR. Undisclosed information, generally known as trade secret or confidential information includes formula, pattern, compilation, programme, device, method, technique, or process. Protection of undisclosed information or trade secret is not really new to humanity; at every stage of development people have evolved methods to keep important information secret, commonly by restricting the knowledge to their family members. Laws relating to all forms of IPR are at different stages of implementation in India, but there is no separate and exclusive law for protecting undisclosed information/trade secret or confidential information.

Pressures of globalization or internationalization were not intense during 1950s to 1980s, and many countries, including India, were able to manage without practicing a strong system of IPR. Globalization driven by chemical, pharmaceutical, electronic, and IT industries has resulted into large investment in R&D. This process is characterized by shortening of product cycle, time and high risk of reverse engineering by competitors. Industries came to realize that trade secrets were not adequate to guard a technology. It was difficult to reap the benefits of innovations unless uniform laws and rules of patents, trademarks, copyright, etc. existed. That is how IPR became an important constituent of the World Trade Organization (WTO).

Importance of IPR in business World

The Important forms of intellectual property are copyright, patents, trademarks, industrial designs. Apart from these there is one more form known as Trade Secret. A trade secret is any information that allows you to make money because it is not generally known. A trade secret could be a formula, process, method other non-public information. One of the famous examples of trade secret is of the giant fast food chain KFC which has a trade secret of not disclosing its ingredients of its delicious chicken.

The forms of Intellectual Property allow you and your products to be distinguished individually from others. They are a seal of authority in the respect to the quality, product, services and expectations put forth by the buyer or the user. IP is a wealth creating machine which gives you legitimate ownership with image of a trustworthy organization. Every business house relies on intellectual property rights, spending millions of dollars to secure their intellectual properties.

With IPR you have the legal right to file a suit against anyone who uses your idea or logo etc without

your permission, you can franchise or give copyright of your work to someone and get royalties over it.

Nowadays every country realizes the importance of IPR and so, almost every country has statutes providing guidelines regarding it. In India some of the important statutes regarding this are like The Patents Act 1970, The Trade Marks Act 1999, and The Copyright Act 1957 etc. The provisions of these acts have to be followed and any person infringing can be punished or fined.

IPRS is an important intangible asset in any company. It gives competitive edge in the market and protects from hackers and pirates. India is fast growing economy and innovation is becoming priority for Indian firms and the government, this innovation needs protection and for this IP is necessary.

Intellectual property (IP) contributes enormously to our national and state economies. Dozens of industries across our economy rely on the adequate enforcement of their patents, trademarks, and copyrights, while consumers use IP to ensure they are purchasing safe, guaranteed products. We believe IP rights are worth protecting, both domestically and abroad. This is why:

Intellectual Property Creates and Supports High-Paying Jobs

IP-intensive industries employ over 55 million Americans, and hundreds of millions of people worldwide.

Jobs in IP-intensive industries are expected to grow faster over the next decade than the national average.

The average worker in an IP-intensive industry earned about 30% more than his counterpart in a non-IP industry

The average salary in IP-intensive industries pays \$50,576 per worker compared to the national average of \$38,768.

Intellectual Property Drives Economic Growth and Competitiveness

America's IP is worth \$5.8 trillion, more than the nominal GDP of any other country in the world.

IP-intensive industries account for over 1/3– or 38%– of total U.S. GDP.

These industries also have 72.5% higher output per worker than the national average, valued at \$136,556 per worker.

IP accounts for 74% of all U.S. exports- which amounts to nearly \$1 trillion.

The direct and indirect economic impacts of innovation are overwhelming, accounting for more than 40% of U.S. economic growth and employment.

Strong and Enforced Intellectual Property Rights Protect Consumers and Families

Strong IP rights help consumers make an educated choice about the safety, reliability, and effectiveness of their purchases.

Enforced IP rights ensure products are authentic, and of the high-quality that consumers recognize and expect.

IP rights foster the confidence and ease of mind that consumers demand and markets rely on.

Intellectual Property Helps Generate Breakthrough Solutions to Global Challenges

Nearly all of the 300 products on the World Health Organization's Essential Drug List, which are critical to saving or improving people's lives around the globe, came from the R&D-intensive pharmaceutical industry that depends on patent protections.

Innovative agricultural companies are creating new products to help farmers produce more and better products for the world's hungry while reducing the environmental impact of agriculture.

IP-driven discoveries in alternative energy and green technologies will help improve energy security and address climate change.

Intellectual Property Rights Encourage Innovation and Reward Entrepreneurs

Risk and occasional failure are the lifeblood of the innovation economy. IP rights incentivize entrepreneurs to keep pushing for new advances in the face of adversity.

IP rights facilitate the free flow of information by sharing the protected know-how critical to the original, patented invention. In turn, this process leads to new innovations and improvements on existing ones.

America's Founding Fathers so recognized the importance of innovation and ensured that strong IP rights for authors and inventors are protected in the U.S. Constitution, thus making America the world's entrepreneurial leader—a fact borne out by the overwhelming number of patents, copyrights and trademarks filed by the U.S. annually.

Tips for Protecting Your Intellectual Property

Every great business starts with a "perfect" idea. In the fast moving, dog-eat-dog world of corporate business, however, ideas are stolen, duplicated and imitated as soon as they are conceived. If you have that million dollar idea, how can you go about protecting it while still attracting the attention of prospective investors? Be aware, however, that companies often have their own teams of lawyers whose sole purpose is to circumvent nondisclosure agreements and patent laws, modifying your design just enough to avoid litigation. In this case, your lawyers can first serve a cease-and-desist letter, followed by a lawsuit, if the company does not cease production. Taking on an alleged copycat in court can be extremely costly and time consuming. In many cases, the court will not rule in your favor unless you can prove monetary damages as a result of the copycat's actions, which can be difficult if your product's sales have been rising. This can also be difficult to prove if your idea is still in the nascent phase, and has still yet to turn a profit.

There are three questions to always remember when sharing an idea: whom, when and how much.

- Remember who you're speaking to about your idea - is it a partner whose business would be aided by its success, or an employee who can steal your idea and make it his or her own?

- Record when you disclosed information. If the meetings are documented clearly, with an attendance record, then they are admissible in court to prove the theft of intellectual property.

- Entrepreneurs often don't know how much information to disclose. It is a good rule of thumb to disclose the minimal amount of information of the production phase when presenting your idea. In some cases it may be beneficial to mislead investors about the production process, as to detract any potential copycats. It is important, however, to get across the specific need your product fills, and its production margins. These are important factors that investors and companies will pay attention to.

In the corporate world, ideas are more valuable than cash. Major legal wars are fought over ideas, and a sub-culture of corporate espionage has even emerged to steal valuable trade secrets from competitors. Keep your valuable ideas clutched close to your chest and tread softly, when negotiating, but carry a big stick - in case those investors turn out to be copycats.

VII. FINDINGS

- Maximum firms/companies/organizations are not at register as registered companies
- The study reveals that majority of respondent felt that the foreign companies are interested to come and work in India
- Half of the respondents responded that analogy processes are patentable and the remaining half of the respondent units responded that they have no idea about the analogy processes.
- The highlight of the study is that the large companies are also not maintaining systematic trademarks, trade activities and trade secrets.
- The majority of respondents felt that the Government has acted deliberately as regards product patent for pharmaceutical products and 10 units responded that they have no idea.

VIII. SUGGESTIONS

- It is suggested that the Government protects the interest of not only the common man but also the pharmaceutical companies in regard to product patents.
- Separate intellectual property right cells should be created in all the pharmaceutical companies to deal with product patent related issues.

- It is suggested that small and medium pharmaceutical companies ensure good quality research, make sizeable investment in research, exports and up- gradation.

IX. CONCLUSION & SUMMARY

Four major intellectual property rights issues have been addressed in this document: (1) ownership of intellectual property; (2) rights to use intellectual property; (3) procedural issues; and (4) special considerations involving copyright. Given the different nature and culture of universities and industry, the scenarios and corresponding contract language represent compromises that university and industry representatives on the Task Force believe will provide negotiators with reasonable options for dealing with these issues and with a framework for the general consideration of intellectual property rights within research agreements. The objective of the Task Force was to facilitate the negotiation of intellectual property rights in research agreements between universities and industry. To the extent this document is helpful in those endeavors; the Task Force will have accomplished its main objective.

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