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A SORT OF INTELLECTUAL PROPERTY RIGHTS

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ABSTRACT

IPR is defined as ideas, discoveries, or inventions on the basis of which there is a general preference for granting property status. The IPR allows inventors to derive commercial benefits from their creative inventions or reputations. In addition to patents and copyrights, trademarks and trade secrets are also examples of intellectual property rights. Patents recognize inventions that meet the criteria of global innovation, transparency, and commercial potential. It is essential to protect intellectual property in order to identify, plan, commercialize, deliver and, thus, ensure innovation or creativity. The first aim of IPR is to encourage a wide variety of creations. Usually, the law gives the creator or inventor the right to protect their creation or invention for a limited period of time. This earns substantial income for a creator for their creation by licensing of their invention through IPR.

Keywords: Intellectual Property Rights (IPR), Patent, Trademark, Copyrights, Trade secret

INTRODUCTION

IPR refers to the privileges people have over the works of their imagination. IPR typically grants the creator an exclusive right to utilise his/her work for a specific period of time **[1]**.

Intellectual property refers to any creations of the mind, including inventions, literary works, designs, symbols, names, and photographs used in commerce (IP). Copyright, patents, and trademarks are examples of intellectual property rights, which are fundamentally the same as other types of property rights. Generally speaking, they control how IP is used, allowing its inventors and owners to profit from their effort in creating a product **[2]**.

IP is being protected through international law through a variety of modern initiatives like

- The Paris Convention which was passed in the year 1883 and protects the Industrial Property
- The Berne Convention which was passed in the year 1886 and protects the Literary and Artistic Works

INTELLECTUAL PROPERTY

A work of art, invention, computer program, trademark, or other commercial indicator that is created by human minds is known as Intellectual Property (IP). IP is frequently separated into two primary groups:

- Patents for inventions, trademarks, geographical indicators, and industrial designs are all examples of industrial property.
- Literary, creative, and scientific creations, including performances and broadcasts, are protected by a copyright and associated rights **[1], [[3]**.

Types of Intellectual Property

Common types of IP include:

- Patents
- Copyright
- Trade secrets
- Trademarks **[1], [3]**

PATENTS

In order to prevent others from using the invention described in the patent for a set period of time, a country or countries will grant an inventor (a patent owner) exclusive right for a set amount of time (the right to exclude others) after submitting and carefully considering a patentable invention of economic significance **[2]**.

Patents are exclusive rights granted for inventions, which are new ways to do something or new technical fixes to problems. In order to obtain a patent, it is necessary to make the invention's technical details public. As long as the patent is protected, patent holders are permitted to manufacture, market, sell, distribute, import, and use their inventions **[3]**.

By obtaining exclusive rights to an innovation through a patent, the patent holder is able to prevent unauthorised use, production, or sale of the invention. The patent has a finite lifespan of typically 20 years. For the patentee to receive a patent, the invention must be fully described in the patent filing. After the protection time expires, the innovation is no longer protected by a patent and can be produced, sold, or used by anyone **[3]**.

Patent Application

For businesses to have a competitive advantage, patent protection is crucial. There are various tactics that can be

used. It could be either defensive or attacking. An inventor may choose to submit a provisional application first in order to secure an early filing date for a period of one year before submitting a normal patent application. When submitting a provisional application, the official filing fee, the invention description, and the names and addresses of each inventor are required. More information may be added during this time as long as it supplements the provisional application's information rather than expanding it. An inventor has the option to apply for a standard patent right away **[5]**.

One or more claims are also included in the application, albeit they are not always required to be submitted with the initial application. Patent claims outline what, depending on the circumstance, the owner of a patent will be able to restrict others from creating, utilising, or selling. In other words, a patent's claims outline the scope of its protection **[4]**.

Functions

A patent serves two crucial purposes:

• Protection: In the nation or region in which the patent was issued and for a predetermined period of time, usually not longer than 20 years from the date of filing, the patent empowers the owner to restrict others from economically exploiting the innovation covered by the patent and as detailed in the claims.

• Disclosure: To promote innovation and support economic progress, patents and, in many countries, patent applications, are made public. This gives the public access to information about innovative technology **[4]**.

Patent Granting Procedure

1. **Filing:** In order to submit an application, candidates must select one of three categories: national, regional, or international During the priority period of one year, subsequent national, regional, or worldwide filings may be made from the original file, which constitutes a "priority filing."
2. **Formal examination:** Each application has to be submitted with all necessary materials, and all costs must be paid, according to the patent office.
3. **Prior art search:** In many nations, the patent office searches the previous art, which includes any pertinent technological data that was in the public domain when the application was submitted. In a "search report," the claimed invention is compared to the known prior art using large databases and expert examiners.
4. **Publication:** Most nations publish their patent applications after 18 months of the initial filing date.

5. **Substantive examination:** Using a report from the prior art search, the examiner determines whether the invention is novel, inventive, and industrially applicable by comparing it with the prior art listed in the report. If it is, the examiner then determines whether the application satisfies the requirements of patentability.
6. **Grant/refusal:** The examiner has three options: approve the patent application without changes, modify the claims' scope to take into account the available previous art, or deny the request.
7. **Opposition:** Various patent office's give third parties the opportunity to challenge a patent within a certain time frame if they think the patent fails to meet patentability criteria.
8. **Appeal:** Many agencies provide the chance to file an appeal following the substantive review or the opposition process **[4]**.

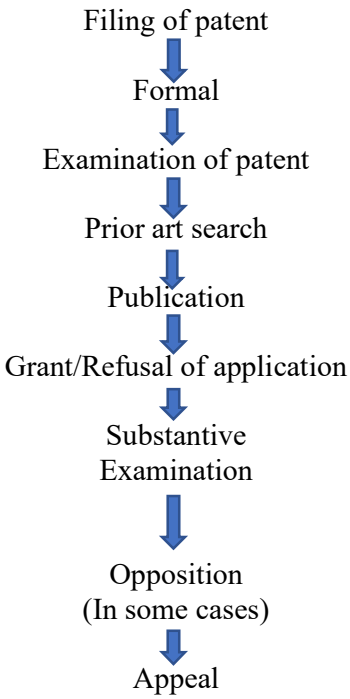

Figure 1: Patent granting procedure

COPYRIGHTS

An exclusive right to copy, distribute, and adapt an original work is known as a "copyright," and it is granted to the author or creator by the government. Owners may grant others a licence or permanently assign their exclusive rights. There is a temporal limit on how long copyright protection is effective. This

period begins with the original work's production and lasts for at least 50 years after the author's passing **[3]**.

Copyright also extends to software programs, databases, advertisements, maps, and schematic design in addition to music, pictures, books, sculptures, and moving images. The interests of people intimately linked to works protected by copyright, such as actors, broadcasters, and sound recording producers, are likewise protected under rights related to authors' copyright.

A combination of national and international rules protect copyright. These acknowledge both the significant economic value of creative work as well as its significance in culture and society. Copyright protects a variety of forms of creative expression, including text, still or moving images, audio works, 3-D structures like sculptures and buildings, collections of data, and more **[6]**.

Obtaining Copyrights

In theory, the copyright for any new work belongs to the original author or inventor. A copyright notice can be added by following a few straightforward steps.

1. Include the term "Copyright" or the symbol, or both.
2. Mention the initial creation date of the material or the time frame during which the work was initiated and developed.
3. Give credit to the author.
4. Mention the rights that the author grants, such as "all rights reserved," which indicates that the author has secured all legal rights. Copyrights may be transferred once initial ownership has been established through authoring. Similar to other properties, copyrights can be purchased and sold. Copyright is a crucial tool for preserving intellectual property and may be quite profitable **[2]**.

National and International Copyright Law

Copyright is governed by various national laws in various countries. However, international law provides a few minimal protection requirements:

- As soon as a work is produced, copyright is established. A creative can obtain protection without registering a work or going through any additional procedures.
- In accordance with international law, works that have copyright protection are frequently safeguarded in most countries, not only the one in which they were produced. Countries must protect copyrighted works for at least five decades after the creator's death **[3]**.

TRADEMARKS

Any symbol that differentiates a company's goods from those of its competitors is a trademark **[3]**.

A trademark is a name, sign, or other distinguishing feature that a person, company, or other legal entity uses to differentiate themselves, their goods, or their services from those of others on the market. Understanding the distinctions between a trademark, a trade name, and a company name is crucial. A trademark is a symbol that a company uses to distinguish the source of its products or services in the marketplace. A corporation identifies itself in the market by using a trade name. A company name is the name given to the organisation in accordance with its laws. Occasionally, a company's name, trade name, and trademark are all the same. Coca-Cola is a prevalent illustration **[2]**.

In addition to words, letters, numbers, symbols, colours, photos, these types of three-dimensional signs can include holograms, sounds, tastes, and even odours. A trademark must be unique in order to be registered; thus, it cannot just provide a basic description of a commodity or service **[7]**.

How to Develop a Trademark?

Choosing the appropriate trademark for a product is vital since it can mean the difference between the product's success and failure. Furthermore, unconventional trademarks like sound, colour, and aroma are not protected unless they take on secondary significance. Time and marketing efforts are needed for that process **[7]**.

A trademark is regarded as a type of property under the law. A trademark's proprietary rights may be created either through actual use in commerce (TM or SM) or by registering the mark (®) with the relevant jurisdiction's trademark office. The most valuable assets of a firm may be its trademark rights. They require maintenance and protection just like any other asset. In the absence of active use of a mark for a period of time, normally five years, the rights will expire **[3]**.

Protecting Trademarks

Registering a trademark is the best approach to protect it. Only the owner of a registered trademark can decide who may use it. It may be used to distinguish their products or services or licensed to another party.

Copy of the mark and comprehensive list of products or services it would apply to must be submitted to the trademark office for it to be registered in a particular country. The mark must not only be sufficiently unique and not clash with any already-existing marks, but it must also not be misleading or deceptive or go against morals or public order. If someone violates a trademark after it has been awarded, the owner may file a lawsuit in the appropriate national court.

A third party might also file a lawsuit against a trademark owner, claiming that the mark is too similar to their own. A trademark can effectively be protected permanently even if it is only issued for a short time generally 10 years in most countries and can be renewed as many times as the owner desires with the payment of added costs **[3], [7]**.

TRADE SECRETS

A trade secret is an important knowledge that a business withholds in order to gain a competitive edge. The formula for Coca-Cola® is the most well-known trade secret.

IP-related laws do not provide protection for trade secrets. By keeping the knowledge, a secret and not sharing it, protection is obtained. A formula, sales-related knowledge, company approach, procedure, practice, design, tool, pattern, or data assemblage can all be considered trade secrets. Such information is called as "classified information" or "confidential information".

Information that is both private and has commercial worth is referred to as a trade secret. To get a trade secret, no formal application is necessary. All such definitions have the following three criteria in common:

- The public does not know the secret
- Its holder benefits economically
- A sufficient amount of effort is made **[1], [3].**

Protecting the Trade Secrets

By definition, trade secrets are not made public to the general public. Instead, its owners utilise a range of legal and business strategies, including the use of non-disclosure agreements (NDAs or CDAs) and non-compete provisions, to prevent competitors from accessing their unique expertise. A worker may promise not to disclose the private knowledge of his or her potential employer in exchange for the chance to work for the bearer of secrets. The agreements typically carry the threat of severe financial penalties, which serve as a deterrent against disclosing trade secrets **[3]**.

CONCLUSION

IPR are monopoly rights that give their holders temporal advantages for the sole exploitation of revenue rights from artistic creations and scientific discoveries. As a result, proponents provide us with three generally acknowledged arguments to support today's inter-global intellectual property rights, which must have excellent grounds for granting such benefits to certain members of society. A multidisciplinary approach is evidently required to manage IP and IPR in compliance with local ordinances,

international agreements, and standards. There is no longer just a national perspective behind it. IPRs take different forms, require different approaches, strategies, and management techniques, and require people to interact with a variety of domains of knowledge including science, engineering, medicine, law, business, finance, and marketing. Social, economic, technological, and political are the ramifications of intellectual property rights (IPRs). In the face of fast technological advancement, globalization, and intense competition, intellectual property rights, such as service marks, trademarks, industrial design registrations, patents, copyrights, and trade secrets, are used to protect inventions. But intellectual property rights are still being violated. In an effort to halt them, the government is also taking action. Regarding the prevention of intellectual property rights violation, legislation exists.

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