

**Intellectual property** is a broad categorical description for the set of intangible assets owned and legally protected by a company or individual from outside use or implementation without consent. An intangible asset is a non-physical asset that a company or person owns.

The concept of intellectual property relates to the fact that certain products of human intellect should be afforded the same protective rights that apply to physical property, which are called tangible assets. Most developed economies have legal measures in place to protect both forms of property.

#### KEY TAKEAWAYS

- Intellectual property is an umbrella term for a set of intangible assets or assets that are not physical in nature.
- Intellectual property is owned and legally protected by a person or company from outside use or implementation without consent.
- Intellectual property can consist of many types of assets, including trademarks, patents, and copyrights.
- Intellectual property infringement occurs when a third party engages in the unauthorized use of the asset.
- Legal protections for most intellectual property expire after some time; however, for some (e.g., trademarks), they last forever.

#### Intellectual Property

Companies are diligent when it comes to identifying and protecting intellectual property because it holds such high value in today's increasingly knowledge-based economy. Also, producing value intellectual property requires heavy investments in brainpower and time of skilled labor. This translates into heavy investments by organizations and individuals that should not be accessed with no rights by others.

Extracting value from intellectual property and preventing others from deriving value from it is an important responsibility for any company. Intellectual property can take many forms. Although it's an intangible asset, intellectual property can be far more valuable than a company's physical assets. Intellectual property can represent a competitive advantage and as a result, is fiercely guarded and protected by the companies that own the property.

#### Types of Intellectual Property

Intellectual property can consist of many types of intangibles, and some of the most common are listed below.

##### Patents

A patent is a property right for an inventor that's typically granted by a government agency, such as the U.S. Patent and Trademark Office. The patent allows the inventor exclusive rights to the invention, which could be a design, process, an improvement, or physical invention such as a machine. Technology and software companies often have patents for their designs. For example, the patent for the personal computer was filed in 1980 by Steve Jobs and three other colleagues at Apple Inc.<sup>2</sup>

##### Copyrights

Copyrights provide authors and creators of original material the exclusive right to use, copy, or duplicate their material. Authors of books have their works copyrighted as do musical artists. A

copyright also states that the original creators can grant anyone authorization through a licensing agreement to use the work.

### Trademarks

A trademark is a symbol, phrase, or insignia that is recognizable and represents a product that legally separates it from other products. A trademark is exclusively assigned to a company, meaning the company owns the trademark so that no others may use or copy it. A trademark is often associated with a company's brand. For example, the logo and brand name of "*Coca-Cola*," is owned by the Coca-Cola Company.

### Franchises

A franchise is a license that a company, individual, or party—called the franchisee—purchases allowing them to use a company's—the franchisor—name, trademark, proprietary knowledge, and processes.

The franchisee is typically a small business owner or entrepreneur who operates the store or franchise. The license allows the franchisee to sell a product or provide a service under the company's name. In return, the franchisor is paid a start-up fee and ongoing licensing fees by the franchisee. Examples of companies that use the franchise business model include United Parcel Service (UPS) and McDonald's Corporation (MCD).

### Trade Secrets

A trade secret is a company's process or practice that is not public information, which provides an economic benefit or advantage to the company or holder of the trade secret. Trade secrets must be actively protected by the company and are typically the result of a company's research and development (which is why some employers require the signing of non-disclosure agreements, or NDAs).

Examples of trade secrets could be a design, pattern, recipe, formula, or proprietary process. Trade secrets are used to create a business model that differentiates the company's offerings to its customers by providing a competitive advantage.

### Digital Assets

Digital assets are also increasingly recognized as IP. These would include proprietary software code or algorithms, and online digital content.

### Type of IP

IP	Protection	Duration (in the U.S)
Patents	Inventions, industrial designs, computer code	20 years
Trademarks	Unique identifiers for a business or its products or services (e.g., logos, brand names)	As long as the trademarked material remains active
Copyrights	Works of authorship, including books, poems, films, music, photographs, online content	70 years after the author dies <sup>5</sup>

## Intellectual Property Infringement

Attached to intellectual property are certain rights, known as Intellectual Property Rights (IPR), that cannot be infringed upon by those without authorization to use them.

IPRs give owners the ability to bar others from recreating, mimicking, and exploiting their work.

Patents infringement occurs when a legally-protected patent is used by another person or Company without permission. Patents filed before June 8, 1995, are valid for 17 years, whereas patents filed after this date are valid for 20 years.<sup>7</sup> After the expiration date, the details of the patent are made public.

Copyright violations occur when an unauthorized party recreates all or a portion of an original work, such as a work of art, music, or a novel. The duplicated content need not be an exact replica of the original to qualify as an infringement.

Similarly, trademark infringement occurs when an unauthorized party uses a licensed trademark or a mark resembling the licensed trademark. For example, a competitor might use a mark similar to its rival's to disrupt business and attract their customer base. Also, businesses in unrelated industries may use identical or similar marks in an effort to capitalize on other companies' strong brand images.

Trade secrets are often protected by non-disclosure agreements (NDA). When a party to the agreement discloses all or parts of a trade secret to uninterested parties, they have violated the agreement and infringed upon the trade secret. It is possible to be guilty of trade secret infringement when an NDA is not present.