

Professional Practices

**“Intellectual Property
Rights”**

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Intellectual Property

- Intellectual property is a category of property that includes intangible creations of the human intellect, and primarily encompasses copyrights, patents, and trademarks.
- IP rights can be seen as a package.
- Just as the components of a software combine to form a package, different rights protect different sub products of a whole product.

What does intellectual property include?

- In the modern context the term intellectual property, covers the following aspects in the relevant categories namely:
 - **Copyright:** literary, artistic and scientific works covering books, journals, magazines, written articles etc.
 - **Trademarks:** trademarks, merchandise marks, service marks, commercial names and designations like logos.

What does intellectual property include?

- **Patents:** inventions like a new form of airplane engine, a floor cleaner, etc.
- **Designs:** it includes the shape of a bottle, machine, model of luxury car or any other product, etc.

What are intellectual property rights?

- Intellectual property rights are such rights which are given to persons who are the authors or creators of the new and original literary and artistic works such as books, articles , other writings ,paintings , musical compositions, sculpture , films and computer programs by application of their creativity process and intellect.

What are intellectual property rights?

- IP rights are given to such individuals to compensate for their suffering during such creative process and their investments.
- These rights are given for a certain period of time and after which general public have the right to freely benefit from them in their benefit and use.

NECESSITY OF INTELLECTUAL PROPERTY RIGHTS PROTECTION

- Intellectual property rights protection is necessary due to following reasons:
 - Encouragement to creativity by ensuring its reward
 - Innovations in technology
 - Transfer of technology to less developed nations and countries of the world

WORLD INTELLECTUAL PROPERTY ORGANIZATION

- World Intellectual Property Organization (WIPO) was established on July 14, 1967 at Stockholm.

INTELLECTUAL PROPERTY ESTABLISHMENTS IN PAKISTAN

- All the Intellectual Property Rights laws in Pakistan are being administered and managed by three different ministries of the Federal Government, which are as under:
 - Ministry of Education: the Copyright Ordinance, 1962.

INTELLECTUAL PROPERTY ESTABLISHMENTS IN PAKISTAN

- Ministry of Industries and production:
 - The Registered Designs Ordinance, 2000.
 - The Registered Layout-Designs of Integrated Circuits Ordinance, 2000.
 - The patents ordinance, 2000.
- Ministry of Commerce:
 - the Trade Marks Ordinance, 2001.
 - the Merchandise Marks Act, 1889.

Copyright

- Copyright is a legal right , existing in many countries, that grants the creator of an original work exclusive rights to determine whether, and under what conditions, this original work may be used by others.
- In simpler terms, copyright is the right to copy. This means that the original creator of a product and anyone he gives authorization to are the only ones with the exclusive right to reproduce the work.

Copyright

- It protects more items generated by businesses or individuals than any other aspect of IP rights.
- It protects the form in which words, numbers and drawings are laid out.
- It can therefore protect business letters, manuals, diagrams, computer programs and different lists for examples of customers and suppliers.

Copyright

- Copyright law gives six exclusive rights to the owner of the copyright
 - Copy the work
 - Issue copies to the public
 - Lend the work to the public
 - Perform, play or show the work in the public
 - Broadcast the work in the public
 - Make an adaptation of the work

Copyright Works

- Copyright works are the things protected by copyright law.
- There are nine defined type of works, divided into three categories.
 - Original literary, dramatic, musical and artistic work
 - Sound recordings, films, broadcasts and cable programs
 - The typographical arrangement of published editions.
- Databases and computer programs are also protected by copyright laws.

Who owns copyrights

- Computer generated and computer aided work
 - If a literary, dramatic, musical or artistic work is computer generated, the author is the person by whom the arrangements necessary for the creation of the work are undertaken.
 - If a work is computer aided, author of the work is the person who designs it with the help of a computer.

Who owns copyrights

- What happens when author is an employee?
- When a literary, dramatic, musical or artistic work is made by an employee in the course of employment, the employer is the first owner of any copyright in the work.

Infringement of Copyrights

- Infringement is the action of breaking the terms of a law or agreement.
- There are two categories of infringement of copyrights
 - Primary infringement
 - Secondary infringement

Primary Infringement

- Anyone who performs any of the six acts that are exclusive for the copyright owner, without his consent is liable for primary infringement of copyrights.
- It can be committed entirely innocently so it is not regulated by criminal law, it infringes only the civil rights of the owner.

Primary Infringement

- Actions that comes under the category of primary infringement are
 - Copying
 - Home taping
 - Adaptation
 - Rental right

Secondary Infringement

- Beside breaching the civil rights of a copyright owner, secondary infringement also accounts to a criminal offence punishable by a fine or imprisonment.
- It is designed to catch those who trade in and make profit from pirated goods.

Secondary Infringement

- It occurs when a person
 - Imports an infringing copy other than for private and domestic use
 - Possess an infringing copy in the course of a business
 - Sells or let for hire an infringing copy
 - Transmits the work by mean of a telecommunication system
 - Involves in indirect infringement.

THE COPYRIGHT ORDINANCE 1962

- Any person violating the said ordinance shall be punishable with imprisonment which may extend to 3 years or with fine which may extend to 100,000 rupees- or with both.

Design

- **What is a design?**
 - The **appearance** of a product, in particular, the shape, texture, color, materials used, contours and ornamentation. To qualify as a new design, the overall impression should be different from any existing design.
- **What is a Design Right?**
 - A design right is an intellectual property right that protects the **visual design** of objects.

Design

- **Who owns the design right?**
 - Typically the creator of the design owns any rights in it, except where the work was commissioned or created during the course of employment, in which case the rights belong to the employer or party that commissioned the work.

Design

Design Rights

Unregistered
Design
Rights

Registered
Design
Rights

Unregistered Design Rights

- Unregistered design rights protect the shape or configuration of a marketable (or potentially marketable) product, and are used to prevent unauthorized copying of an original design. Design rights can also be bought, sold or licensed in a similar manner to copyright.
- Design rights exist independently of copyright, while copyright may protect documents detailing the design as well as any artistic or literary work incorporated within the finished product, the design right focuses more on the shape, configuration and construction of a product.

Registered Design Rights

- A registered design may be applied for to provide additional cover over and above any design right or copyright protection that may exist in the design.
- The benefit of a registered design is that the design may enjoy prolonged protection from copying, although this protection would only be available in countries or territories where the application was made.

REGISTERED DESIGNS ORDINANCE, 2000

- A design, may upon application made by the person claiming to be the proprietor, is registered under this ordinance in respect of any article or set of articles specified in the application.

REGISTERED DESIGNS ORDINANCE, 2000

- Any person violating the said ordinance shall be punishable with imprisonment for a term which may extend to **2 years** or with fine which may extend to **20,000** rupees- or with both.

Patents

- A patent gives the patent-holder the right to stop others from **producing, selling or using his or her invention**.
- Unlike copyrights, patents protect the idea or design of the invention, rather than any tangible form of the invention.
- To patent something you have invented , you have to demonstrate that
 - your invention is a significantly original creation
 - it is unique enough to distinguish it from existing inventions
 - it is innovative enough that it wouldn't be obvious to others.
- Patents provide protection for 20 years. After that, the invention is public property.

THE PATENTS ORDINANCE, 2000

- Any invention is patentable if it is new, involves an inventive step and is capable of industrial application.

Trade Mark

“Any word, name, symbol, or any combination, used, or intended to be used, in commerce to identify and distinguish the goods of one manufacturer or seller from goods manufactured or sold by others, and to indicate the source of the goods. In short, a trademark is a brand name.”

Trade Mark

- The trademark owner can be an individual, business organization, or any legal entity.
- A trademark may be located on a package, a label, a voucher, or on the product itself.
- For the sake of corporate identity, trademarks are often displayed on company buildings.

THE TRADEMARKS ORDINANCE, 2001

- A trade mark may be registered in accordance with the provisions of this ordinance in respect of:
 - goods
 - services or
 - both goods and services,

Comparison

	Copyright	Patents	Trade Mark
What's Protected?	Original works of authorship, such as books, articles, songs, photographs, sculptures, choreography, sound recordings, motion pictures, and other works	Inventions, such as processes, machines, manufactures, compositions of matter as well as improvements to these	Any word, phrase, symbol, and/or design that identifies and distinguishes the source of the goods of one party from those of others
Requirements to be Protected	A work must be original, creative and fixed in a tangible medium	An invention must be new, useful and nonobvious	A mark must be distinctive (i.e., that is, it must be capable of identifying the source of a particular good)
	Author's life plus 70	20 years	For as long as the