



# IPR & Cyber Laws

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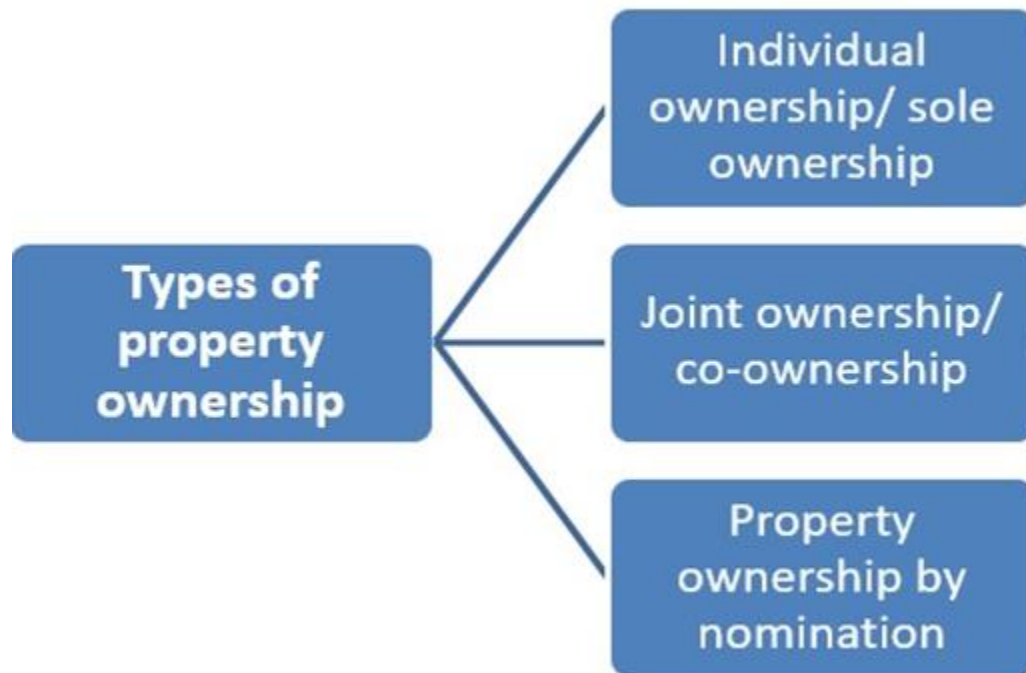
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## Introduction

**Property** refers to tangible assets owned by individuals/ Companies/ Government etc. such land, buildings, jewelry, cars etc.



## Intellectual Property

- **Intellectual property (IP)** is a category of **property** that is the result of intangible creations of the human intellect.
- It refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.
- Intellectual property can be owned and legally protected by a company /individuals from outside use or implementation without consent.

Intellectual property can consist of many types of intangibles, and main four of the most common are listed below:

**Patents** : A patent is an exclusive right granted for an invention, which is a product or a process that provides, in general, a new way of doing something, or

offers a new technical solution to a problem. 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.

To get a patent, technical information about the invention must be disclosed to the public in a patent application.

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.

**Trademarks :** A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks are protected by intellectual property rights.

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 (KO).

**Copyright :** Copyright (or author's right) is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, and films, to computer programs, databases, advertisements, maps, and technical drawings.

**Trade Secret :** Trade secrets are intellectual property (IP) rights on confidential information which may be sold or licensed.

In general, to qualify as a trade secret, the information must be:

commercially valuable because it is secret,

be known only to a limited group of persons, and

be subject to reasonable steps taken by the rightful holder of the information to keep it secret, including the use of confidentiality agreements for business partners and employees.

The unauthorized acquisition, use or disclosure of such secret information in a manner contrary to honest commercial practices by others is regarded as an unfair practice and a violation of the trade secret protection. 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.

### **Need for protection of intellectual property**

- Like tangible property, the creation of intellectual property has a value and thus it needs to be protected.
- Need to prevent competitors or anyone else from using your ideas for their own profit without your consent.
- **Intellectual property** protection is critical to fostering innovation. Without protection of ideas, businesses and individuals would not reap the full benefits of their inventions and would focus less on research and development
- It contributes enormously to countries' national economies.
- Dozens of industries across countries' economies rely on the adequate enforcement of their patents, trademarks, and copyrights, while consumers use IP to ensure they are purchasing safe, guaranteed products.

### **The Rationale for IP Protection**

Intellectual property creates a legal means to appropriate knowledge.

A characteristic of knowledge is that one person's use does not diminish another's.

From the point of view of society, the more people who use knowledge the better because each user gains something from it at low or no cost, and society is in some sense better off.

If a product takes considerable effort, ingenuity and research, but can be copied easily, there is unlikely to be a sufficient financial incentive from society's point of view to devote resources to invention.

Patents are one way of addressing this market failure. By conferring temporary market exclusivities,

patents allow producers to recoup the costs of investment in R&D and reap a profit, in return for

making publicly available the knowledge on which the invention is based.

In developed countries, there is good evidence that intellectual property is, and has been, important for the promotion of invention in some industrial sectors. For example, evidence from the 1980s indicates that the pharmaceutical, chemical and petroleum industries were predominant in recognizing that the patent system was essential to innovation.

Today, one would need to add biotechnology and some components of information technology. Copyright has also proven essential for the music, film and publishing industries.

For developing countries, like the developed countries before them, the development of indigenous technological capacity has proved to be a key determinant of economic growth and poverty reduction.

The rationale for copyright protection is not dissimilar to that of patents.. Copyright protects the form in which ideas are expressed, not the ideas themselves. Copyright was and remains the basis for making the publishing of literary and artistic works an economic proposition by preventing copying.

### **What are Intellectual Property Rights?**

Intellectual property rights (IPR) are the rights awarded by society to individuals or organisations principally over creative works: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce. They give the creator the right to prevent others from making unauthorised use of their property for a limited period.

IP is categorised as Industrial Property (functional commercial innovations), and Artistic and Literary Property (cultural creations). Current technological developments are blurring, to some extent, this distinction, and some hybrid sui generis systems are emerging.

- Intellectual Property Rights (IPR) gives protection, as well as helping them exploit and control their IP.



- “The exclusive right granted by State/Agencies, to individuals or organisations to prevent others from using, manufacturing, distributing - inventions, processes, applications, new and original designs, trademarks, new plant varieties, data bases and artistic and literary works”.
- Such a person is known as ‘rights owner’ or ‘rights holder’.
- IPR give the creator/rights owner, the right to prevent others from making unauthorised use of their property for a limited period.

### **IPR & Development**

- An IP strategy cannot be conceived and developed narrowly within the IP community alone.
- It needs to recognize the needs of the stakeholders who will be affected by it.
- Given the international dimensions of IP ,Ministry for Foreign affairs will be interested in the strategy as it may affect many of their negotiations.
- In addition there may be issues involving health, regional questions, or information which requires the appropriate government bodies involved.
- The point of the strategy is to ensure that the creative, innovative and business communities can compete and thrive to create wealth and jobs, and that citizens understand the role of IP in creating social benefits.
- Before compiling a strategy, a clear picture of the current position is needed along with a realistic assessment of what can be achieved.
- Implementing the strategy requires a structured methodology based on recognized project management techniques.
- The strategy has to be set in the context of the particular country. Before beginning the assessment, the real nature of the economy, in terms of GDP, growth, and trends across manufacturing, services, creative industries, agriculture, and tourism has to be understood as this will influence decisions on priorities for development or change.

- The IP strategy has to be incorporated into any overall development strategy and related to existing policies for economic, scientific and cultural development.
- If there is a national policy on technology transfer then the IP strategy has to support it.
- The current methods of handling IPRs disputes and the extent to which they meet the needs of rights holders and third parties are as important as the access to such rights in the first place.
- Counterfeiting and piracy are major concerns within countries in transition, as also in other countries, and will have to be addressed within the strategy.
- The strategy should be developed and implemented as a structured Program under Program Management Techniques.
- Government bodies cannot by themselves create and implement the strategy, which has to meet the needs of the people and the business and commerce sectors, as well as scientists and technologists and those working in the creative industries. The core team has probably to be constituted by government officials to maintain momentum, but there is a strong case for creating a Program Board to oversee the work of the core program team and to decide on priorities and the allocation of resources.