The World Intellectual Property Organization (WIPO) Copyright Treaty (1996)

The World Intellectual Property Organization (WIPO), headquartered in Geneva, Switzerland, is an agency of the United Nations established in 1967. WIPO is dedicated to "the use of intellectual property as a means to stimulate innovation and creativity." It has 185 member nations and administers 25 international treaties. Since the 1990s, WIPO has strongly advocated for the interests of intellectual property owners. Its goal is to ensure that intellectual property laws are uniformly administered.

The WIPO Copyright Treaty, adopted in 1996, provides additional copyright protections to address electronic media. The treaty ensures that computer programs are protected as literary works and that the arrangement and selection of material in databases is protected. It provides authors with control over the rental and distribution of their work, and prohibits circumvention of any technical measures put in place to protect the works.

Patent:

A patent is a grant of a property right issued by the United States Patent and Trademark Office (USPTO) to an inventor. A patent permits its owner to exclude the public from making, using, or selling a protected invention, and it allows for legal action against violators. Unlike a copyright, a patent prevents independent creation as well as copying. Even if someone else invents the same item independently and with no prior knowledge of the patent holder's invention, the second inventor is excluded from using the patented device without permission of the original patent holder. The rights of the patent are valid only in the United

States and its territories and possessions. To obtain a U.S. patent, an application must be filed with the USPTO according to strict requirements.

The main body of law that governs patents is contained in Title 35 of the U.S. Code. Section 101 of the code states that "whoever invents or discovers any new or useful process, machine, manufacture or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor." Section 102 defines novelty as a necessary condition to grant a patent and describes various kinds of prior art which can be used as evidence that the invention is not novel. Section 103 describes "nonobviousness" as another mandatory requirement for a patent. To be patentable, an invention must not be obvious to a person having ordinary skill in the field on which the invention is based. The U.S. Supreme Court has ruled that three classes of items cannot be patented: abstract ideas, laws of nature, and natural phenomena. Standing on its own, mathematical subject matter is also not entitled to patent protection. Thus, Pythagoras could not have patented his formula for the length of the hypotenuse of a right triangle ($c^2 = a^2 + b^2$). The act does not identify computer software, gene sequences, or genetically modified bacteria as patentable subject matter. However, these items have subsequently been determined to be patentable.

Patent infringement, or the violation of the rights secured by the owner of a patent, occurs when someone makes unauthorized use of another's patent. Unlike copyright infringement, there is no specified limit to the monetary penalty if patent infringement is found. In fact, if a court determines that the infringement is intentional, it can award up to three times the amount of the damages claimed by the patent holder. The most common defense against patent infringement is a counterattack on the claim of infringement and the validity of the patent itself.

Even if the patent is valid, the plaintiff must still prove that every element of a claim was infringed and that the infringement caused some sort of damage.

Trade secret

A trade secret was defined as business information that represents something of economic value, has required effort or cost to develop, has some degree of uniqueness or novelty, is generally unknown to the public, and is kept confidential.

Trade secret law protects only against the misappropriation of trade secrets. If competitors come up with the same idea on their own, it is not misappropriation; in other words, the law does not prevent someone from using the same idea if it was developed independently.

Trade secret laws protect more technology worldwide than patent laws do, in large part because of the following key advantages:

• There are no time limitations on the protection of trade secrets, as there are with patents and copyrights.

• There is no need to file an application, make disclosures to any person or agency, or disclose a trade secret to outsiders to gain protection. Hence, no filing or application fees are required to protect a trade secret.

• Although patents can be ruled invalid by the courts, meaning that the affected inventions no longer have patent protection, this risk does not exist for trade secrets.

Trade Secret Laws

Trade secret protection laws vary greatly from country to country. For example, the Philippines provide no legal protection for trade secrets. In some European

countries, pharmaceuticals, methods of medical diagnosis and treatment, and information technology cannot be patented. Many Asian countries require foreign corporations operating there to transfer rights to their technology to locally controlled enterprises. (Coca-Cola reopened its operations in India in 1993 after halting sales for 16 years to protect the "secret formula" for its soft drink, even though India's vast population represented a huge potential market.)

Bangladesh and Intellectual Property Rights

To respect intellectual property rights (IPR), Bangladesh has enacted intellectual property laws. It has incorporated the relevant provisions from international standards in this regard.

Bangladesh has enacted the following laws on IPR:

1. Copyright Act, 2000 (amended in 2005)
2. Patent and Design Act, 1911
3. Trademarks Act, 2009
4. Geographical Indication (Registration and Protection) Act, 2013

Copyright: The Copyrights Act, 2000 (amended in 2005) provides protection to authors, artists or dramatists. Copyright law protects only the form of expression of ideas. In order to get a copyright, the owner has to show that the work is original.

The Patents and Designs Act, 1911: Under this act, the Department of Patents, Design and Trademark (DPDT) provides patent protection (registration) to the patent holders for 16 years on payment of prescribed fees. Duration of protection may be renewed for a further period. A patent confers on the patentee the exclusive

privilege of making, selling and using the invention throughout Bangladesh and of authorizing others to do so.

Trade Marks: Under the Trade Marks Act, 2009, protection is granted for seven (7) years and it can be renewed after every expiry for further ten (10) years on payment of renewal fees.

Industrial Design/ Design: Under the Patents and Designs Act, 1911, any person claiming to be the owner of any new or original design not previously published in Bangladesh may register the design. The registered proprietor of the design shall have Patents right in the design for five (5) years from the date of registration.

Geographical Indication: Bangladesh has enacted 'The Geographical Indication of Goods (Registration and Protection) Act, 2013*'*. In order to implement the Act, the Geographical Indication of Goods (Registration and Protection) Rules, 2015 has been enacted Registration of GI goods shall remain valid for indefinite period unless it is cancelled or otherwise declared void. The duration of registration of authorized users of GI goods will be five (5) years and is renewable for a further period of 3 (three) years.

Source: (http://www.bangladeshcustoms.gov.bd/trade_info/intellectual_property_rights)