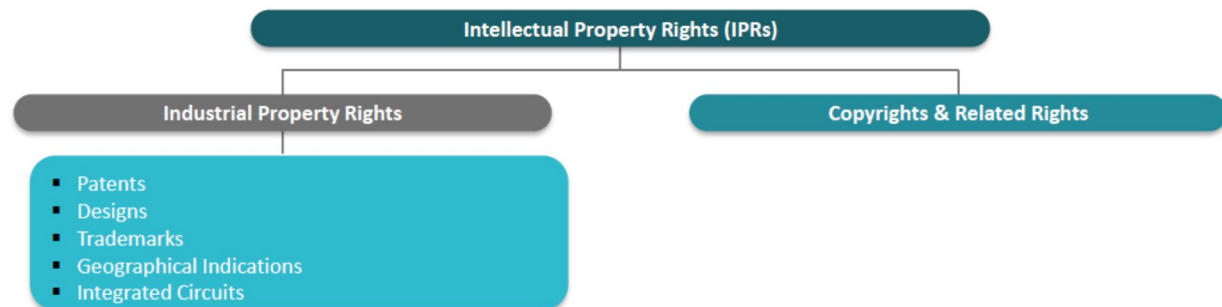


## **Intellectual Property Right**

**Intellectual property (IP)** is the product of mind, and as such, it is distinct from usual notions of property. An intellectual creation, until it is presented in a tangible form, cannot be sensed by someone other than the creator, and it has value only to the creator. Under intellectual property law, owners are granted certain exclusive rights to a variety of assets. These assets could be - Inventions, Design, Literary & Artistic works, and Symbols,



Under intellectual property law, owners are granted certain exclusive rights (IPRs) to a variety of assets. These assets could be - Inventions, Design, Literary & Artistic works, and Symbols, Names & Images used in Commerce. These exclusive rights (IPRs) provide legal Ownership to the right holders for further commercial exploitation of their Intellectual Property (IP). Copyright Protection facilitates protection of Creative and artistic work and the distribution of the same in the public domain. This prevents illegal exploitation and promotes Right Use and Right access of Copyrighted works. It prevents unauthorized users from selling copies in the market.

### **IPR Patent**

It 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. A patent is granted by national and regional patent offices such as Indian Patent office, United States Patent and Trademark office, European Patent Office etc. The specification must conclude with a claim or claims particularly pointing out and distinctly claiming the subject matter of the invention. This is an important part of the patent as it define the scope of the legal protection afforded by the patent and around which questions of infringement are judged by the courts

### **Important Steps before a patent is granted**

- Filing of the patent specifications at the relevant patent office
- Publication of the Patent application
- Examination of the Patent application
- Grant of the patent application.

## IPR – Copyright

Literary works, Musical works, Dramatic works, Pictorial, graphical and sculptural works, Motion pictures, Architectural works, Sound recordings etc.

Work must be fixed in a Tangible form of expression. It must be an original work of authorship. Copyright protection extends only to expressions, and not to ideas, procedures, and methods of operation or mathematical concepts. Duration (validity) - (Lifetime + 60 yrs.)

## IPR – Trademark

Trademark is a distinctive sign that identifies certain goods or services produced or provided by an individual or a company. It may contain:

- A distinctive combination of words, letters and numerals.
- Symbols, three-dimensional signs which are distinctive
- Non-Visible Signs: Sound, Smell or Taste

Trade Trademark protection ensures that the owners of marks have the exclusive right to use them to identify goods or services, or to authorize others to use them. Duration of Trademark is 10 yrs which needs to be renewed.

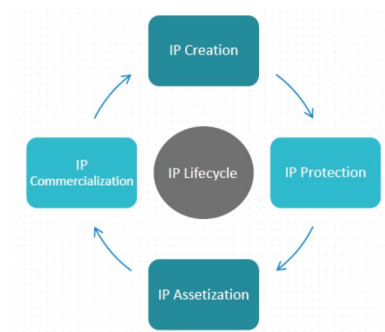
## What is trade secret?

Trade secret means information including a formula, pattern, compilation, program device, method, technique, or process, that derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use, and is the subject of efforts that are reasonable under the circumstances to maintain its secrecy.

There is a steep increase in the value of intellectual property (intangible) assets to any business. According to a 2017 report from the World Intellectual Property Organization (WIPO), the income share from intangible capital is twice the income share coming from tangible capital. Intellectual property considerations need to be made at every stage of an asset lifecycle to ensure strong protection. This right (e.g., patents, trademarks, copyrights and trade secrets) plays a key role in the successful launch new products/services in market and to remain ahead of competitors

## IP Lifecycle

- IP Creation - enables innovators and inventors to identify potential IP
- IP Protection - enables getting ownership rights and control of the IP
- IP Assetization - facilitates development of IP based products
- IP Commercialization - enables business to commercialize the IP



## IP – Creation

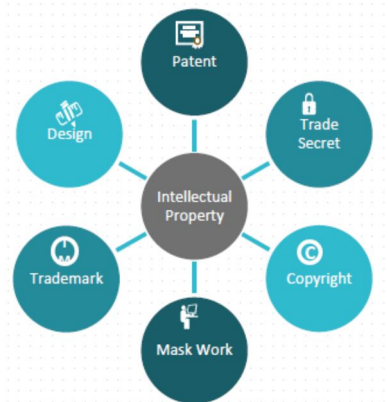
This phase focusses on identification of areas of innovation and creating ideas based on the enterprise business strategy. Some of the tools which can be used for idea (IP) creation are

- Brainstorming – unstructured method for generating ideas
- Nominal group technique – structured method of brainstorming that encourages idea creation from everyone. Each member of the group writes down his or her ideas which are then discussed and prioritized one by one by the group
- Affinity diagram - different but related ideas are grouped (on cards or sheets of paper) into meaningful categories called affinity sets. These categories tie different concepts together with one underlying theme and provide a structure for a systematic search for one or more solutions – Focused ideation/business challenge workshops

## IP – Protection

Shortlisted ideas need to be secured by one or more of below IP protection based on enterprise's business strategy

- Patent - a set of exclusive rights granted by the law of a country to an inventor or assignee for a limited period in exchange for detailed public disclosure of an invention e.g. New and useful processes, device etc.
- Design - a form of legal protection granted to the ornamental design of a functional item e.g., user interfaces, ornamental design of manufactured product
- Trademark - a recognizable sign, design, or expression which identifies products or services of a specific source from those of others e.g. TATA, experience certainty
- Copyright - a legal right that grants the creator of an original work exclusive rights for its use and distribution- code, marketing brochures, architecture document etc.
- Trade secret - a formula, process, design, commercial method, or compilation of information which is not generally known by others, and by which a business can obtain an economic advantage over competitors or customers
- Mask work – a layout designs or topographies of integrated circuits



Protecting IPRs through the filing of the suitable IP applications with relevant Intellectual Property Offices provides considerable benefits. Registered rights assist in enforcing than non-registered rights.

## IP – Assetization

In this phase one looks at how the IP created and protected are utilized to develop product, platform, solution or services based on the business strategy. Focus is given to secure IP rights for the new products or processes to gain competitive advantage. IP strategy must be adopted:

- Defensive: Gain competitive advantage by anticipating the market needs and filing IP with a portfolio approach
- Offensive: Protect competitive advantage by asserting organisation's IP rights through business and legal means
- Value Derivation: Position IP assets to address customers' need in an innovative way and price IP assets during sales that supports the sustenance of innovation life cycle.

In this phase assessment of vulnerability of IP asset is to be done before entering new market.

### **IP- Commercialization**

Exploiting IP assets with a commercial model in alignment with enterprise's business strategy is realized in this phase. As part of IP commercialization, IP valuation is important that aims at determining the monetary value of an IP asset or portfolio of IP assets. Following are the ways to commercialize IP:

- Sell or Assign IP: Once IP has been assigned to someone else, IP owner will have no further rights to use that IP without the exclusive permission of new assignee. Franchising is another a form of license. Franchisee is allowed by the Franchisor in return for a fee to use a business model and is licensed a bundle of IP rights (e.g., trademarks). Business model is replicable at other locations, along with its IP rights and know-how.
- License IP: Licensing enables the owner of the IP to grant permission to another entity to use the IP on agreed terms and conditions over a period of license.
- Joint Ventures: Need to clearly identify and agree at the beginning of the project

### **Questions:**

1. One of the most common example in every day usage is a mobile phone. Can you identify the various forms of Intellectual Property and classify the possible forms of IP protection. Give reasons for your answers. You can use your own mobile phone as a reference.
2. Elaborate the structure of a patent and explain the purpose of each attribute.
3. What are the various stages in lifecycle of IP?
4. What are the different ways IP can be filed for protection and what gets protected?
5. What are the different types of licenses which can be considered as part of IP monetization?
6. Explain the needs to procure IP rights in various jurisdictions based on the business potential?