

Transcription

Intellectual Property Rights

Importance & Types of IPRs



As a business owner if you have a unique idea i.e. likely going to be translated into a product or service or an algorithm, it is very important to think about the intellectual property right for this particular thing right from the beginning. Because intellectual property right (IPR) is something that gets less attention and is neglected which leads to big problems in the business in the future so it is going to be very important for us to understand the critical aspects of the intellectual property rights from some of our subject matter experts.



In the process of starting your business, if you're going to be creating anything, whether it's creating anything which is in literary or something in writing or it's an artistic work or it's music or even your brand or even designs, all of these things are intellectual property and capable of protection and more importantly monetization for you going forward.

So, Protection and Monetization are critical aspects. It's also important to get the right legal advice upfront as to why you should protect your intellectual property and also understand whether you are by mistake, Infringing as it's called or using somebody's else intellectual property. So I think understanding what are your

intellectual property obligations so that you don't end up using somebody else's without their permission is important and secondly what can you do to protect your own creations and how can you monetize them.



Okay, before talking about the current logo I will also tell you the previous story. Because it was Freshdesk, we wanted something fresh.



So, we actually picked image of an orange with two leaves. So, that used to be our logo. I don't know if you've seen that logo. We had it for close to a year and a half or two but it so happened that there was another company in Germany, they had a similar logo which was an orange with three leaves and they were not in our domain.

They were not in customer support or helpdesk. They were some other services company offering knowledge management services or stuff like that but somehow they took objection. They had obtained a trademark in Germany but we were using it for longer than they were but they obtained a restraining order in a court in Stuttgart and we were sent a notice asking us to come and fight out the case in Germany. So, as a startup obviously we didn't have the resources or the time to go and fight a legal case for a logo in Germany.



I just heard the CEO of UBER mentioning that his first startup could shoot \$250 billion after which he had to see bankruptcy unfortunately. So as we understand how should we protect our own IP, I think it's also going to be equally important to understand how we do not influence upon somebody else's intellectual property and that is where we hire a consultant or a lawyer to be very thoughtful and examine and sure that we are not infringe on somebody else's IP.



So, now what is intellectual property? I'll just tell you maybe there are 3 or 4 important aspects of intellectual property.

One of course if you're Trademark. Your trademark is really your brand. Most likely the brand you're going to associate your product or services with and if it's not the only brand, it could be another brand you could have sub-brands. So, can you protect this brand by seeking a registration of your trademark? You can. So, you should ask your lawyers that "Look, I need to protect this trademark of mine. What are the things I need to do"?

Try and see if you can get all of them protected by trademark registration. So, that's your critical intellectual property. It is protected. If you get registered, nobody else can use them without your permission and if somebody uses them you can stop them.

The second important intellectual property that you should be aware of is Copyright. And copyright is a slightly more, it's a broader intellectual property and it's a slightly more ambiguous or vague intellectual

property. Not in a negative way but in a positive way. There are 3 or 4 types of copyright. One is, let's say a book. I'll give you an example. A publisher, an author writes a book. When he writes a book, he automatically gets copyrighted that book. Then he goes to a publisher and tells the publisher "please, publish this book for me". The publisher then takes over the copyright of the book and publishes the copyright and the author also retains certain ownership. So there is slightly more complex but that is what is called Literary Work in which you can have copyright.

You can put a copyright symbol, you can put an ownership statement that the world at large knows that this is a protected copyright work and again, they can't use it your without permission. Unlike a trademark, registration of copyright for protection is not compulsory. But this is a question you should again ask your lawyer that should I seek registration or is it okay if I just put this copyright symbol. But ask this question because there are permutation and combinations which you may not be aware of and only your lawyers will be able to guide you.

Similarly, an artwork or what is called artistic work, let's say Drawings, I'll give you an example. In education business for example, a lot of the books will have artworks in them as well. So artworks also can have their own copyrights [excepted] from the written works that I just spoke about.

Similarly, it applies to Music and these are really the 3 major forms of copyright.

So, if your business comprises any new original content that you are creating which is either artistic, musical or in the nature of written words you should check whether you can get copyright protection for it and if you can, you should go and get it done.

The third is a patent. Now this is mostly for where new and novel inventions are created. The most common example that you'll come across is Machines, Pharmaceutical Products. They are entitled to patent protection. Very complex kind of procedure to get a patent protection. The bar is very high. It's not a trademark or a copyright. You have to show that you have created something new, novel and inventive.

You can ask your lawyers whether you can get a patent protection for this. The procedure is slightly more complex than trademark and copyright but once you get patent protection from the patent office, you have a monopoly of 20 years to exploit that patent without anybody else copying it, you can license it out.



Good examples today are your Mobile Phones. Mobile phones today contain thousands of patents. Every small chip is somebody's invention and are all licensed to the mobile phone manufacturers and companies who then pay huge license fees to these, you know, thousands of people who have created different components, these are people who created those components called patent protection in them and for 20 years they could monetize that. So that's also very important for you to understand.

Software programs for example in India are not patentable. In America and in the west and in many of the European countries, they are patentable but in India they are not. But in India software program is a written code, so you can get a copyright protection. So there are a lot of these permutations and combinations which you should check and as I mentioned your investors will be very concerned and also very interested in knowing what intellectual property you are developing and more importantly when they invest, they will do a due diligence and they will want to know whether you've sought protection for it and therefore it's very important for you to understand that upfront.

There is another intellectual property which is called a Design. Now this is not a patent, it is more to do with the form of some tangible product. A very good example is the Coca-Cola bottle.

The Coca-Cola bottle has a design protection because it's a unique design.

Somebody created that design. So, it's an artistic protection but available under a different category of intellectual property called designs and again designs give you monopoly to use that design to the exclusion of others for a similar period.

IP - Investor's Perspective



Now that we understand the different aspects of IP I think it's also going to be interesting to understand what are the aspects that an investor would be interested in when it comes to IP. So I think it's going to be critical for us to take a look at the investor's point of view when it comes to intellectual property rights.



Why you need to look at intellectual property rights from an investor's perspective? So on the face of it, this may seem peculiar from a founder's perspective. That you are looking at setting up a company and you are already thinking of an investor but, it's not so much in investor but more on the long term growth of your company.

So the first step would always be because you are anyways going to incorporate a company to start your business it is always good to apply for IP Protection in the Name of the Company.

When you are entering into arrangements even if it's not sponsorship any third party agreement that you have it is important to ensure that there is no deemed assignment of intellectual property and that your brand name is yours and it's not JV or entering into another arrangement there is no deemed permission or consent for either party to use any third parties intellectual rights.

The other important aspect from an investor perspective is: How Well Your IP Is Protected?

Once you've applied then there is also a review process on the levels of protection and also the classes in which you apply so for ex. In the case of trademark there are different entries recognised.

Another aspect to bear in mind is that once you have registered or rather once applied for registration it's not just a question of sitting back and allowing time to lapse for the registration process to come through. It also requires periodic review depending upon the nature of the business so initially if your business comprised of only XYZ services you may have applied for a registration in a particular class let's say for providing certain goods but as your business grows and as you are using that brand across different services it is important to keep applying for those trademarks in those relevant sectors recognised under the law.

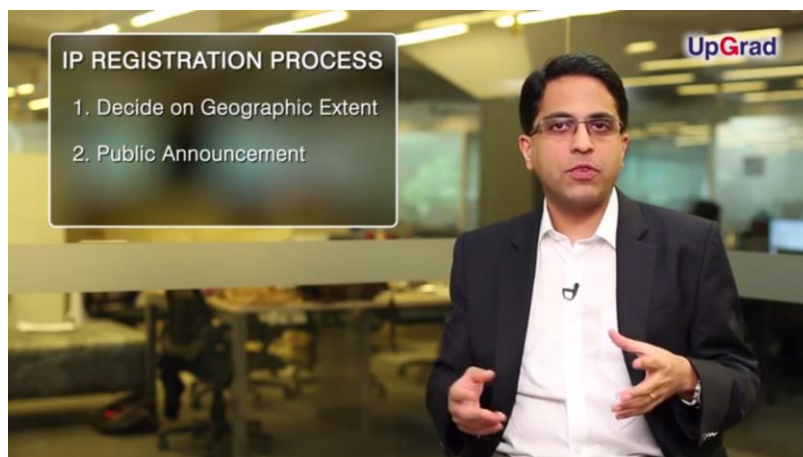
The other aspect is that your brand may go through some changes the logo may go through some changes so it's important to always at the back of the mind factor the legal consequences of changing it not only is a commercial call that you are taking on how people are already identifying with your brand and what are the implications of changing it in later stage but also what are the legal registrations that you've obtained based on the particular name or logo.

Intellectual property is one of the core aspects of the business which they are investing into so it will always give comfort to know that this is something that has been factored in and has been adequately registered. So these are aspects that you will need third party help and always have been monitored the growth of the business and whether all the registrations you've applied for are adequate or not.

IP Registration Process



Finally I think it's going to be very important to talk about how we go about actually registering our intellectual property.

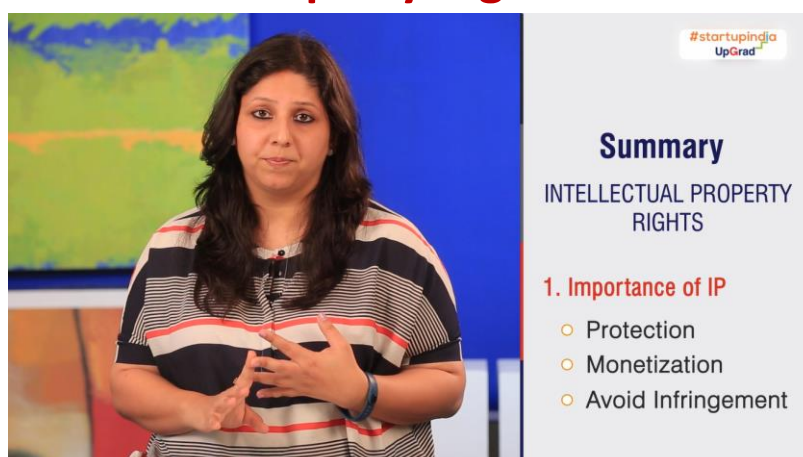


Most of these intellectual property are territorial. So, if you seek a trademark registration, it will be for India or for another country. There are of course, treaties that most countries are now signing including India where you can decide which countries in the world are you want to seek protection in for that particular intellectual property and then when you file the application in India, you can list those countries down and under these international treaties the process of that application going to those countries will take place and then those countries will decide under their own laws, whether you are eligible for these intellectual property protections.

Earlier on this process wasn't there. So you had to individually go to every country, all that have been simplified now. So again if you are looking at global market.

The minute you get an intellectual property protection, you have to make it known to the world that you own that intellectual property and you are protected because you'll be entering into license agreements, you'll be entering into various contracts with either your customers or with your employees. They should all be aware. So advocate notice should be given that this intellectual property belongs to you, therefore they should only use it with your permission. So if you are going to be doing this, you should make sure your contracts are robust and take this into account that you've given notice of this intellectual property ownership to the various people that you'd be doing business with

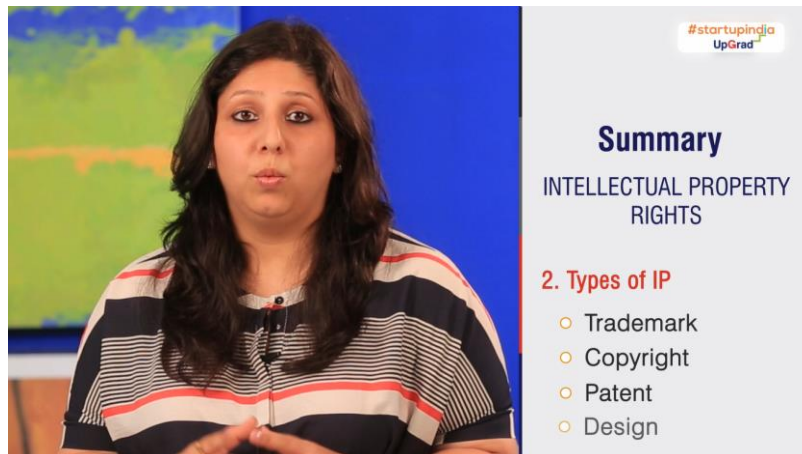
Summary - Intellectual Property Rights



In this session we learnt some really interesting aspects when it comes to IPR.

We first started with understanding the importance of IP and the three corner stones which are:

1. Protection
2. Monetization
3. Avoiding Infringement



Then we also looked at the various aspects of intellectual property rights:

1. Trademark
2. Copyright
3. Patent and
4. Design



We looked at the investor's point of view when it comes to IP, and we also understood the registration process when it comes to IP. It was great seeing you for this session, look forward to see you again.

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