Chapter 2

# Intellectual Property Rights and Protection

Introduction: Intellectual Property Rights (IPR) and Protection

Intellectual Property Rights (IPR) is legal rights granted to individuals or entities over the creations of their minds. These rights give the creators an exclusive right to use. Produce, and profit from their intellectual creations for specific period, thereby encouraging innovation, creativity, and the dissemination of knowledge.

## What is Intellectual Property?

Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.

IP is protected by law, for example, patents, copyright and trademarks, which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance between the interests of innovators and the wider public interest, the IP system aims to foster an environment in which creativity and innovation can flourish.

## Types of Intellectual Property Rights

### 1. Copyright

Protects literary, artistic, and musical works, such as books, films, software, paintings, and songs.

Does not cover ideas but rather the expression of those Ideas.

Duration: Generally the creator's lifetime plus 50-70 years. depending on the jurisdiction.

### 2. Patents

Protects inventions or discoveries that are new, non-obvious, and useful.

Grants the inventor exclusive rights to use, make, sell, or license the invention.

Duration: Usually 20 years from the filing date.

### 3. Trademarks

Protects symbols, names, logos, or other distinctive signs that identify and distinguish goods or services.

Examples: Coca-Cola logo, Nike's "swoosh."

Duration: Indefinite, provided the trademark is actively used and renewed.

### 4. Trade Secrets

Protects confidential business information, such as formulas, methods, or processes (e.g., Coca-Cola's recipe).

Duration: As long as the information remains secret.

### 5. Industrial Designs

Protects the aesthetic design or appearance of a product. such as the shape of a car or furniture.

Duration: Typically 10-25 years, depending on jurisdiction.

### 6. Geographical Indications (GIS)

Protects products with specific geographical origins that possess qualities or reputations tied to that location (e.g. Champagne, Darjeeling Tea).

## Importance of IPR Protection

1. Encourages Innovation: Secures incentives for creators by ensuring they benefit from their inventions or creations.

2. Economic Growth: Stimulates investment, research, and development, contributing to a nation's economy.

3. Consumer Protection: Prevents counterfeit products. ensuring consumers receive authentic and safe goods.

4. Fair Competition: Promotes a level playing field in business by discouraging unfair practices.

## IPR Protection Mechanisms

1. Legal Frameworks: Countries have laws for registering and enforcing IP rights, such as the Copyright Act or Patent Act.
2. International Treaties: Agreements like the Berne Convention, TRIPS Agreement, and Madrid Protocol facilitate global IP protection.
3. Registration: Creators or companies must register their intellectual property to gain protection in most cases (e.g.. patents, trademarks).
4. Enforcement: Legal action can be taken against infringement, such as fines, lawsuits, or criminal penalties.

## Challenges in IPR Protection

1. Counterfeiting and Piracy: Unlawful duplication or distribution of copyrighted materials.

2. Cost of Enforcement: High costs for registering and protecting IP, especially for small businesses.

3. Digital Challenges: With the rise of the internet, protecting IP has become more complex.

4. Global Variations: Differences in IPR laws across countries make international protection difficult.

IPR protection is essential for fostering innovation and maintaining economic and cultural development. Creators and businesses must be proactive in safeguarding their intellectual property, leveraging both local laws and international agreements to ensure their rights are upheld.

The protection of intellectual property rights in Pakistan:

In Pakistan, intellectual property rights (IPRs) are safeguarded through a legal system which aims to protect and advance innovation, investment and creativity. Patents, trademarks, copyrights and industrial designs are some of the domains covered by the Pakistani IPRs regime.

This article will highlight the methods of protection in terms of IPRs in Pakistan and will discuss the procedures relating to disputes related to the infringement of such rights,

## The protection of IPRs

Under Pakistani laws, certain types of intellectual property are required to be registered with the Intellectual Property Organization (IPO) of Pakistan to be protected in Pakistan. The legal framework in Pakistan protects IPRs in accordance with international standards set by the World Intellectual Property Organization (WIPO) and the World Trade Organization (WTO). The Patents Ordinance 2000 (PO), the Trade Mark Ordinance 2001 (TO) and the Copyright Ordinance 1962 (CO) largely make up Pakistan's IPRs legal framework. The registration and protection of various IPRs are provided for under these laws.

In addition, Pakistan, being a member of the WIPO and WTO, is a party to the Paris Convention for the Protection of Industrial Property, the Berne Convention and the Agreement on Trade-Related Intellectual Property Rights (TRIPS).

The registration of a trademark in Pakistan grants several rights, including, inter alia, the exclusive right of use, prevent others from using identical or similar trademarks and to assign the same to other parties. The PO provides for the registration of trademarks and a trademark is registered for period of ten years, subject to the payment of annual renewal fees.

The owners of original literary, artistic and musical work are given the legal protection known as copyright. In Pakistan copyright registration and protection are governed by the CO When a work is created, copyright protection is automatically provided; but, in order to enforce such rights, registration is needed.

Under the provisions of the CO, copyright protection is only available for 'works' that fall into one of the categories of works or subject matters specified in the CO. Section 10 of the CO provides that copyright subsists, inter alia, in original literary, dramatic, musical and artistic works. In relation computer programs, the definition of literary work' was amended by the Copyright (Amendment) Act 1992 to include computer programs. Copyright is protected up to a period of at least 50 years after the death of the copyright holder.

The PO and the rules made there-under provide for the registration and protection of patents in Pakistan. Upon registration, a patent is valid for 20 years subject to the payment of annual renewal fees.

The Pakistan Penal Code (PPC) also provides for the protection of IPRs, particularly in relation to trademarks, penalizing the use of false and counterfeit marks with imprisonment for a term which may extend to one year, or with fine, or both.

## Procedures for disputes

Disputes related to IPRs arise when there is an alleged infringement of an intellectual property right and they are largely resolved through litigation. Prosecution of related offences can occur under the TO, CO, PO and PPC.

In accordance with the Intellectual Property Organization of Pakistan Act 2012, the federal government established IP tribunals in Punjab, Sindh and the Islamabad Capital Territory (within specified territorial limits) to hear IP-related disputes. The tribunals' presiding officers are high court, district and session court judges or attorneys who meet the requirements for appointment by virtue of their specialist knowledge of IP law. The Act also stipulates that tribunals may receive assistance from experts in IP rights in cases of a technical nature. The establishment of IP tribunals has played a vital role in the protection of IPRs in the country, as well as enhancing and expediting such tills.

There are two remedies for the breach of IPRs in Pakistan: civil proceedings and criminal proceedings. Accordingly, a person whose IPRs have been infringed is able to sue for damages, claim an injunction, an account of the profits gained by the defendants as a result of the infringement and delivery of the infringing articles, etc. Every suit or civil proceeding should be instituted and tried in the court of the district judge. The plaintiff must prove that they are the owner of the intellectual property right in question and that the defendant has infringed their rights. If the court finds in favor of the plaintiff, it may grant injunctive relief, damages or the profits generated.

The Pakistani government has taken numerous actions to safeguard IPRs and has strengthened this goal with numerous successful strategies for combating IPR infringement. Through customs officials and local law enforcement agencies, counterfeit goods can be stopped from entering domestic and international markets from Pakistan.

## Conclusion

The legal framework governing IPRs in Pakistan sets down protection for several types of creative and innovative works. Pakistan's legal system and dispute resolution procedures are essential for guaranteeing the protection of these rights and fostering innovation and creativity, especially in light of the growing significance of IPRs in terms of the global economy. The current framework needs to be further developed and strengthened with the expansion of tribunals in other cities to enhance the resolution of disputes and boost the IPR regime establish itself, as an efficient and effective institution.