

Birds Eye view and FAQs of Intellectual Property Rights

Definition

Intellectual property is the product of the human intellect including creativity concepts, inventions, industrial models, trademarks, songs, literature, symbols, names, brands, etc. Intellectual Property Rights do not differ from other property rights. They allow their owner to completely benefit from his/her product which was initially an idea that developed and crystallized. They also entitle him/her to prevent others from using, dealing, or tampering with his/her product without prior permission from him/her. He/she can in fact legally sue them and force them to stop and compensate for any damages.

History of IPR

IPR is not a new concept. It is believed that IPR initially started in North Italy during the Renaissance era. In 1474, Venice issued a law regulating patents protection that granted an exclusive right for the owner. The copyright dates to 1440 A.D. when Johannes Gutenberg invented the printing press with replaceable/moveable wooden or metal letters. Late in the 19th century, several countries felt the necessity of laying down laws regulating IPR. Globally, two conventions constituting the basis for IPR system worldwide had been signed: Paris Convention for the Protection of Industrial Property (1883) Berne Convention for the Protection of Literary and Artistic Works (1886).

Protection of Intellectual Property Rights

Protection of IPR allows the innovator, brand owner, patent holder and copyright holder to benefit from his/her work, labor and investment, which does not mean monopoly of the intellect. Such rights are set out in the International Declaration of Human Rights, which provides for the right to benefit from the protection of the moral and physical interests

Intellectual property is divided into two categories:

- Industrial Property, which includes inventions (patents), trademarks, industrial designs and models and geographic indications of source.
- Copyright, which includes literary and artistic works, namely novels, poems, plays, films, musicals, cartoons, paintings, photographs, statues, and architectural designs.

Related Rights is a term in copyright law, used to include the rights of performers in their performances, the rights of producers of phonograms in their recordings and the rights of broadcasting organizations in the radio and television programs they air.

Frequently asked Questions.

1. What is a Trademark?

A trademark is a sign that individualizes the goods or services of a given enterprise and distinguishes them from those of competitors. To fall under law protection, a trademark must be distinctive, and not deceptive, illegal, or immoral.

2. What is a Traditional Knowledge?

The knowledge developed by the indigenous or local communities for the use of a natural resource with respect to agriculture, food, medicine etc. over a period and has been passed from one generation to another traditionally.

3. What is a Geographical Indication?

A geographical indication is basically a notice stating that a given product originates in a given geographical area.

4. What is an Industrial Design or Model?

It is the aesthetics and ergonomics of a product. It consists of three-dimensional elements, such as the creation of the product's shape, or two-dimensional ones, such as graphics, patterns, and colours.

5. What is a Patent?

Patent is an exclusive right granted by law to an inventor or assignee to prevent others from commercially benefiting from his/her patented invention without permission, for a limited period in exchange for detailed public disclosure of patented invention.

6. What is a Trade Name?

A trade name or business name is a name that uniquely distinguishes a business from others.

7. What is a Trade Secret?

A trade secret is any information of commercial value concerning production or sales operations which is not generally known. The owner of a trade secret must take reasonable measures to maintain its confidentiality.

8. What is an Integrated Circuit?

A product, in its final form or intermediate form, in which the elements, or at least one of which is an active element, and whereby the interconnections are integrally formed in and/or on a piece of material, which is intended to perform an electronic function.

9. What is a Copyright?

Copyright is a form of IPR concerned with protecting works of human intellect. The domain of copyright is literary and artistic works, might that be writings, musicals and works of fine arts, such as paintings and sculptures, as well as technology-based works such as computer programs and electronic databases.

10. What is a Related Right?

Related Rights or Neighbouring Rights are rights that in certain respects resemble copyright. The purpose of related rights is to protect the legal interests of certain individuals, namely performers, producers, and broadcasters, and to help them deliver their message to the public.

11. What is Unfair Competition?

Unfair competition is any act of competition contrary to honest practices in industrial or commercial matters.

12. Why Countries Care for IPR and Seek to Promote and Protect it?

- New innovations in all IPR domains lead to Human progress and advancement.
- Legal protection of new innovations encourages safe spending on other innovations.
- Caring for and protecting IPR contribute to achieving economic and social development.

13. What are the Patentability Criteria?

A new product or process which involves an inventive step and capable of being made or used in an industry and should meet following criteria.

- a) Novelty means the matter disclosed in the specification is neither published in India nor anywhere else where before the date of filing of patent application in India.
- b) Inventive step means the invention is not obvious to a person skilled in the art in the light of the prior publication /Document.
- c) Industrially applicable means the invention should possess utility, so that it can be made or used in an industry.

14. Which Inventions are not patentable?

- Discoveries and scientific theories
- Aesthetic creations
- Schemes rules and method for performing mental acts
- Mere discoveries of substances as they naturally occur in the world
- Inventions that may affect public order good morals or public health.
- Diagnostic, therapeutic, and surgical methods of treatment for humans or animals
- Plants and animals other than microorganisms and essentially biological processes for the production of plants or animals
- Other than non-biological and microbiological process and
- Computer programs

15. I want to patent my invention. How do I know that such a patent is not filed by anyone else in the past?

To find out the prior art related to your invention you have to conduct a patent search using various methodologies, for example by creating a key string using Indian patent search, WIPO patent search, US patent search, EPO patent search, Google patents search. You can find the database links in IP databases

16. What should I do if I have an idea or invention worth protecting?

Have a look at the Intellectual Property Rights Cell website about where to start and for IP Filing kindly fill the Invention Disclosure Form and send it to iprcell@bdu.ac.in for further process.

17. Who will support financially for the filing process?

Intellectual Property Rights Cell. The financial support for the patent filing is from college in accordance with College IP regulation

18. What are all the process involved in patenting the invention?

1. Patent Search
2. Patent draft and illustrations
3. Patent filing
4. Request for examination
5. Issue of First Examination Report
6. Reply to Examination report
7. Grant of Patent

19. How much does it cost to get a patent in India?

The overall cost of obtaining a patent includes the fee that must be paid to the patent office (statutory fee) and the fee paid to the patent service provider (professional fee). The professional fee varies based on the service provider.

The statutory fee depends the applicants such as Natural person, Start-up(s), Small Entity or Large Entity Note: The Patent office fees might change based on regulations

20. Is there any way to cover the patent globally?

No. Patent is territorial in nature. To get global coverage, file the patent application in World Intellectual Property Organisation (WIPO) through Patent Cooperation Treaty (PCT) and file separate application.