

## INTELLECTUAL PROPERTY RIGHTS

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**Abstract :** The advent of knowledge society replacing agricultural and industrial societies has resulted in the emergence of new forms of property, which is the result of human intellect and endeavor. Intellectual Property is the intangible wealth of human intellect. This new form of intellectual property has come to play a vital role in the lives of human beings. Intellectual property covers all products produced from the human brain. This paper highlights the concepts of Intellectual Property and Intellectual Property Rights (IPR).

**Keyword:** Intellectual Property, Intellectual Property Rights

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### Concept of Intellectual Property:

Intellectual properties are emerging as the new wealth and power of nation. Intellectual Property is a category of property that includes “intangible creation” of human intelligence. It is an asset and as such, it can be bought, sold, mortgaged, licenced, exchanged or gratuitously given away like any other form of the property. Further, by acquiring a legal right over the property, the creator of the intellectual property seeks to ensure that he has exclusive right over it and that the property can be put to use by others only with his consent. Ownership of Intellectual property right is a source of national wealth and mark of an economic leadership in the context of the global market scenario.

### Need for protection of Intellectual Property:

Any property has to be protected in order to save it from an unauthorised use. Similarly Intellectual Property rights also need to be protected from infringement.

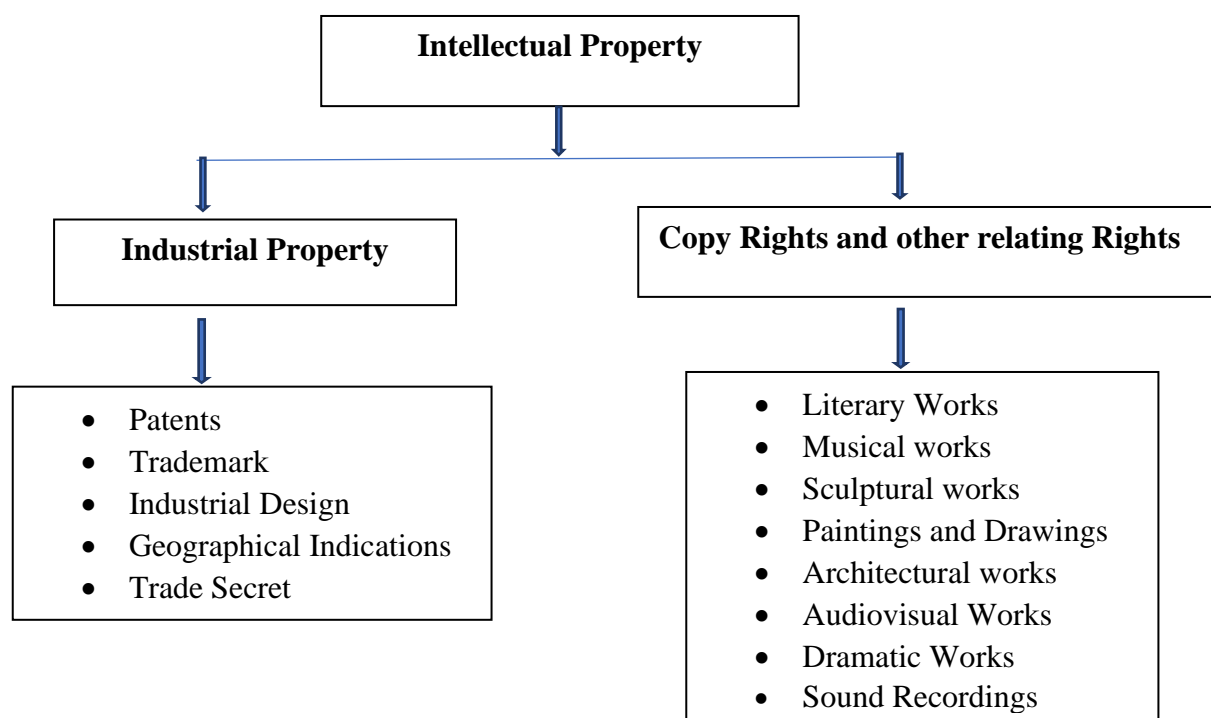
There are several convincing reasons for promoting and protecting intellectual property

1. Progress and well being of humanity: Progress and the good of humanity remain in the ability to create and invent new works in the field of technology and culture.
2. Legal protection of new creations: IP protection encourages publication, distribution, and disclosure of the creation to the public, rather than keeping it a secret.
3. Economic growth: Promotion and protection of intellectual Property promote economic development, generates new jobs and industries, and improves the quality of life.

Intellectual Property helps in balancing between the innovator's interests and public interest, provide an environment where innovation, creativity and invention can flourish and benefit all.

### Types of Intellectual Property:

Intellectual Property is the intangible wealth of human Intellect. There are many different forms of rights that together make up intellectual property. Intellectual Property is basically divided into two categories, that is Industrial Property and Intellectual Property.



- **Patents:** A patent is an exclusive right granted for an invention. It is a type of intellectual property right which allows the holder of the right to exclusively make use of and sale an invention when one develops an invention. The purpose of this system is to encourage inventions by promoting their protection and utilization so as to contribute to the development of industries, which in turn provides better facilities to the society.
- **Trademark:** A Trademark, or “Mark” is any word, phrase, symbol, design, sound, colour, smell, product configuration, group of letters or numbers, or combination of these, adopted and used by a company to identify its products or services, and distinguish them from products and services made, sold, or provided by others.

### Functions of a Trademark :

A trademark serves the purpose of identifying the source or the origin of goods. Trademark performs the following four functions.

- It identifies the product and its origin.
- It proposes to guarantee its quality.
- It advertises the product.
- It creates an image of the product in the minds of the public, particularly the consumers or the prospective consumers of such goods.

- **Industrial Design:** A design refers to the features of shape, configuration, pattern, ornamentation or composition of lines or colours applied to any article, in two or three dimensional (or both) forms. A design is a kind of Intellectual Property which gives an exclusive right to a person who has created a novel appearance of a product. It is exclusively concerned with appearance not quality. Industrial designs are usually protected against unauthorized copying or imitation. Under the TRIPS Agreement, minimum standards of protection of industrial designs are provided. As a developing country, India has already amended its national legislation to provide for these minimal standards. The existing legislation on industrial designs in India is contained in the New Designs Act, 2000 and this Act will serve its purpose well in the rapid changes in technology and international developments.
- **Geographical Indications:** Geographical indications tell consumers that a product is produced in a certain place, and has certain characteristics that are due to that place of production. It may be used by all producers who make their products in the place designated by a geographical indication and whose products share typical qualities.
- **Trade Secrets:** A trade secret is a formula, practice, process, design, instrument, pattern, or compilation of information used by a business to obtain an advantage over competitor or customers. When an individual organization owning and intellectual property does not disclose the property to anyone and keep it as a closely guarded secret, it is called a trade secret.
- **Copy Rights:** Copyright is a unique kind of Intellectual property and its importance is growing day by day. Literally the term Copyright comprises the two factors viz. copy and right. When a person (creator or the author) creates a literary, musical, scientific or artistic work, he or she is the owner of that work. Copyrights (or author's right) is a legal term used to describe the rights that creators have over their literary and artistic works.

Copyright as defined in the Oxford English dictionary, is an exclusive right given by law for a certain term of years to an author, composer, etc. (or his assignee) to print, publish and sell copies of his original work. Copyright laws provide exclusive and monopoly rights to the creator/owner/author of "original" literary works such as books, directories, novels, computer programs and other writings, and artistic works such as painting, drawing including maps, charts, diagrams, Sculpture, dramatic works such as drama play any piece of narrations are protected by copyright for a period of 60 years after the death of author. Copyright is a type of IPR protection that helps to protect the intellect of human creation. The main social purpose of protection of copyright and related rights is to encourage and reward creative work.

**World Intellectual Property Organization (WIPO):**

Intellectual Property Rights can be defined as the rights given to persons over the creations of their minds. They usually give the creator an exclusive legal right over the use of his/her creation for a certain period of time and thus protect the owner against an authorised copying or imitation.

Modern initiatives to protect Intellectual Property through international law started with the Paris Convention for the protection of Intellectual Property(1883) and the Berne Convention for the protection of literary and artistic works(1886).WIPO is an international organization dedicated to ensure that the rights of creators and owners of intellectual property are protected worldwide and that inventors and authors are, thus, recognized and rewarded for their work.WIPO was created in 1967 "to encourage creative activity, to promote the protection of intellectual property throughout the world". for social, economic cultural development of all nations.WIPO currently has 193 member states, administers more than 25 international treaties on intellectual property, and is headquartered in Geneva, Switzerland.

According to WIPO, Intellectual Property includes rights relating to-

- literary, artistic and scientific works,
- performances of performing artists, phonograms, and broadcasts,
- inventions in all fields of human endeavor,
- scientific discoveries,
- industrial designs,
- trademarks, service marks, and commercial names and designations,
- protection against unfair competition, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

In India, the IPR is protected under following acts:

1. The Copyright Act, 1957
2. The Patent Act, 1970
3. The Trade Marks Act, 1999
4. The Geographical Indications of Goods(Registration & Protection) Act 1999
5. The Design Act, 2000

### **Conclusions:**

Intellectual property rights provide an encouragement to the creator to develop his creation and to serve it with other people for the development of society. The Intellectual property rights are now not only being used as a tool to protect the creativity and generates revenue but also to build strategic alliances for the socio-economic and technological growth.

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