

# INTELLECTUAL PROPERTY RIGHTS: MOTIVATION AND JUSTIFICATION

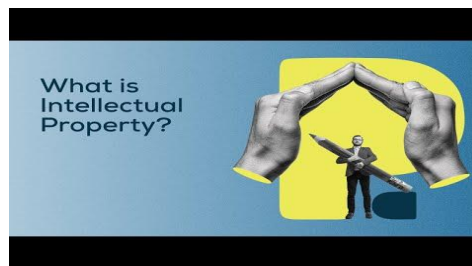
**Dr. Vijayata Vitankar**

Associate Professor(social work)

Dr. Ambedkar College of social Work,  
Wardha

Email Id - [vijayta12345@gmail.com](mailto:vijayta12345@gmail.com)

Mob.no-9373530383



Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time. Intellectual property rights are customarily divided into two main areas:

The rights of authors of literary and artistic works (such as books and other writings, musical compositions, paintings, sculpture, computer programs and films) are protected by copyright, for a minimum period of 50 years after the death of the author.

Also protected through copyright and related (sometimes referred to as “Neighboring”) rights are the rights of performers (e.g. actors, singers and musicians), producers of phonograms (sound recordings) and broadcasting organizations. The main social purpose of protection of copyright and related rights is to encourage and reward creative work.

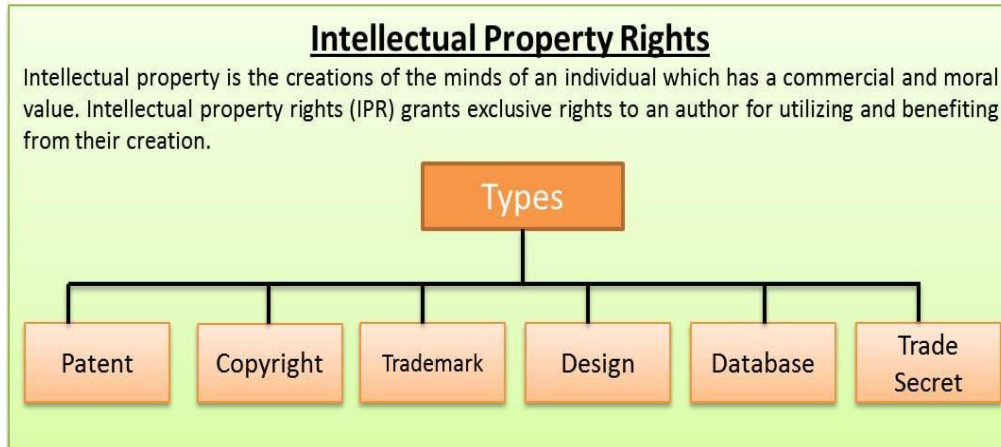
## **Defination :**

- 1) Intellectual property rights (IPR) are legal rights that protect the creations of the mind, such as inventions, designs, and artistic works. IPRs are granted to the creator or owner of the intellectual property.
- 2) Any intellectual creation, such as literary works, artistic works, inventions, designs, symbols, names, images, computer code etc. Intellectual property law exists in order to protect the creators and covers areas of copyright, trademark law, and patents.

**The seven main types of intellectual property rights (IPRs) are:**



- **Patents:** Give the inventor exclusive rights to their invention .
- **Trademarks:** Protect symbols, colors, shapes, and words that identify a product or service .
- **Copyrights:** Protect original works of authorship, such as books and music
- **Industrial designs:** Protect the appearance of a product or article
- **Geographical indications:** Protect geographical locations that are associated with a product or service
- **Plant variety rights:** Give breeders exclusive rights to propagate new plant varieties
- **Semiconductor integrated circuit layout designs:** Protect the lay out of integrated circuits .



### **Brief History :**

The laws and administrative procedures relating to IPR have their roots in Europe. The trend of granting patents started in the fourteenth century. In comparison to other European countries, in some matters England was technologically advanced and used to attract artisans from elsewhere, on special terms. The first known copyrights appeared in Italy. Venice can be considered the cradle of IP system as most legal thinking in this area was done here; laws and systems were made here for the first time in the world, and other countries followed in due course. Patent act in India is more than 150 years old. The inaugural one is the 1856 Act, which is based on the British patent system and it has provided the patent term of 14 years followed by numerous acts and amendments.

### **Types of Intellectual Properties and their Description :**

Originally, only patent, trademarks, and industrial designs were protected as ‘Industrial Property’, but now the term ‘Intellectual Property’ has a much wider meaning. IPR enhances technology advancement in the following ways:

- it provides a mechanism of handling infringement, piracy, and unauthorized use
- it provides a pool of information to the general public since all forms of IP are published except in case of trade secrets.

### **Industrial property :**

Industrial property can usefully be divided into two main areas:

- One area can be characterized as the protection of distinctive signs, in particular trademarks (which distinguish the goods or services of one undertaking from those of other undertakings) and geographical indications (which identify a good as originating in a place where a given characteristic of the good is essentially attributable to its geographical origin).
- The protection of such distinctive signs aims to stimulate and ensure fair competition and to protect consumers, by enabling them to make informed choices between various goods and services. The protection may last indefinitely, provided the sign in question continues to be distinctive.
- Other types of industrial property are protected primarily to stimulate innovation, design and the creation of technology. In this category fall inventions (protected by patents), industrial designs and trade secrets.
- The social purpose is to provide protection for the results of investment in the development of new technology, thus giving the incentive and means to finance research and development activities. A functioning intellectual property regime should also facilitate the transfer of technology in the form of foreign direct investment, joint ventures and licensing.
- The protection is usually given for a finite term (typically 20 years in the case of patents). While the basic social objectives of intellectual property protection are as outlined above, it should also be noted that the exclusive rights given are generally subject to a number of limitations and exceptions, aimed at fine-tuning the balance that has to be found between the legitimate interests of right holders and of users.

Intellectual property rights (IPR) have been defined as ideas, inventions, and creative expressions based on which there is a public willingness to bestow the status of property. IPR provide certain exclusive rights to the inventors or creators of that property, in order to enable them to reap commercial benefits from their creative efforts or reputation. There are several types of intellectual property protection like patent, copyright, trademark, etc. Patent is a recognition for an invention, which satisfies the criteria of global novelty, non-obviousness, and industrial application. IPR is prerequisite for better identification, planning, commercialization, rendering, and thereby protection of invention or creativity. Each industry should evolve its own IPR policies, management style, strategies, and so on depending on its



area of specialty. Pharmaceutical industry currently has an evolving IPR strategy requiring a better focus and approach in the coming era.

### **Motivations and Justifications for Intellectual property rights :-**

#### **Incentivizing Innovation and Creativity :**

IPRs, such as patents, copyrights, and trademarks, are designed to protect the intellectual creations of individuals and organizations. By granting exclusive rights, IPRs encourage creators to invest time and resources in developing new ideas, inventions, and artistic works, knowing they will be able to reap the rewards of their efforts.

#### **Economic Growth :**

A strong IPR system can contribute to economic growth by fostering innovation, attracting investment, and promoting international trade. By protecting intellectual property, businesses can develop and commercialize new products and services, creating jobs and boosting economic activity.

#### **Protecting Creators' Rights :**

IPRs ensure that creators are able to control the use of their intellectual property and prevent unauthorized copying or exploitation. This protection is crucial for maintaining the integrity of creative works and ensuring that creators receive fair compensation for their efforts.

#### **Promoting Public Good :**

While IPRs grant exclusive rights, they also serve a broader public good by fostering innovation and creativity, which ultimately benefits society as a whole. By incentivizing innovation, IPRs can lead to advancements in science, technology, medicine, and the arts, improving quality of life and addressing societal challenges.

#### **Balancing Individual Rights and Public Access :**

A well-designed IPR system strives to balance the rights of creators with the need for public access to knowledge and innovation. This involves setting appropriate durations for protection, allowing for exceptions to exclusivity, and promoting open access to certain types of information.

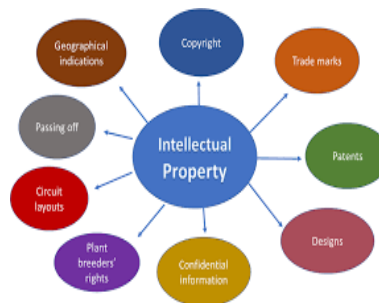
#### **Abstract :**

*The main purpose of intellectual property law is to encourage the creation of a wide variety of intellectual goods for consumers. To achieve this, the law gives people and businesses property rights to the information and intellectual goods they create, usually for a limited period of time. Because they can then profit from them, this gives economic incentive for their creation. The intangible nature of intellectual property presents difficulties when compared with traditional property like land or goods. Unlike traditional property, intellectual property is indivisible—an unlimited number of people can "consume" an intellectual good without it being depleted. Additionally, investments in intellectual goods suffer from problems of appropriation—while a*



*landowner can surround their land with a robust fence and hire armed guards to protect it, a producer of information or an intellectual good can usually do very little to stop their first buyer from replicating it and selling it at a lower price. Balancing rights so that they are strong enough to encourage the creation of information and intellectual goods but not so strong that they prevent their wide use is the primary focus of modern intellectual property law.*

By exchanging limited exclusive rights for disclosure of inventions and creative works, society and the patentee/copyright owner mutually benefit, and an incentive is created for inventors and authors to create and disclose their work. Some commentators have noted that the objective of intellectual property legislators and those who support its implementation appears to be "absolute protection". "If some intellectual property is desirable because it encourages innovation, they reason, more is better. The thinking is that creators will not have sufficient incentive to invent unless they are legally entitled to capture the full social value of their inventions". This absolute protection or full value view treats intellectual property as another type of "real" property, typically adopting its law and rhetoric. Other recent developments in intellectual property law, such as the [America Invents Act](#), stress international harmonization. Recently there has also been much debate over the desirability of using intellectual property rights to protect cultural heritage, including intangible ones, as well as over risks of [commoditization](#) derived from this possibility. The issue still remains open in legal scholarship.



## Conclusions :

It is obvious that management of IP and IPR is a multidimensional task and calls for many different actions and strategies which need to be aligned with national laws and international treaties and practices. It is no longer driven purely by a national perspective. IP and its associated rights are seriously influenced by the market needs, market response, cost involved in translating IP into commercial venture and so on. In other words, trade and commerce considerations are important in the management of IPR. Different forms of IPR demand different treatment, handling, planning, and strategies and engagement of persons with different domain knowledge such as science, engineering, medicines, law, finance, marketing, and economics. Each industry should evolve its own IP policies, management style, strategies, etc. depending on its area of specialty. Pharmaceutical industry currently has an evolving IP strategy. Since there exists the increased possibility that some IPR are invalid, antitrust law, therefore, needs to step in to ensure that invalid rights are not being unlawfully asserted to establish and maintain illegitimate, albeit limited, monopolies within the pharmaceutical industry. Still many things remain to be resolved in this context.

### References :

- Singh R. Vol. 1. New Delhi: Universal Law Publishing Co. Pvt. Ltd; 2004. Law relating to intellectual property (A complete comprehensive material on intellectual property covering acts, rules, conventions, treaties, agreements, case-Law and much more)
- New Delhi: Department of Science and Technology (DST), Government of India; 2002. Anonymous. Research and development statistics.
- New Delhi: Department of Scientific and Industrial Research, Government of India; 2002. Anonymous. Research and development in industry: An overview.
- Bainbridge DI. New York: Longman; 2002. Intellectual property.
- New Delhi: Universal Law Publishing Co. Ltd; 2004. Anonymous. The Design Act. 2000 along with Design Rules 2001.
- New Delhi: Commercial Law Publisher (India) Pvt. Ltd; 2004. Anonymous. The Trademarks Act 1999 along with trade Marks Rules 2002.
- New Delhi: Commercial Law Publisher (India) Pvt. Ltd; 2005. Anonymous. The Copyright Act 1957 as amended up to 1999 along with Copyright Rules 1958 and International Copyright Order 1999.
- New Delhi: Universal Law Publishing Co. Ltd; 2004. Anonymous. The Geographical Indications of Goods (registration and protection) Act, 1999 along with Geographical Indications of Goods (registration and protection) Rules 2002.
- New Delhi: Commercial Law Publisher (India) Private Ltd; 2005. Anonymous. The Patents Act, 1970 as amended by Patents (amendment) Act 2005.

