

INTELLECTUAL PROPERTY RIGHTS: PRESERVING CREATIVITY AND SECURING THE FUTURE

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Intellectual property rights (IPR) are integral to the legal landscape, exerting significant influence and ensuring the protection of creative and innovative endeavors. While the concept of law may vary among individuals, it generally encompasses rules enforced by sovereign authority to uphold peace and harmony within a nation. Intellectual property (IP) is a crucial aspect of law, distinguishing between tangible and intangible assets and providing exclusive rights to creators and innovators. Let's delve deeper into the nature, significance, and protection of intellectual property rights.

Introduction

Intellectual property is the creation of man's intellect without assistance from physical objects, consisting of a reproducible set of information such as musical, literary, and artistic work and inventions, symbols, names, images, and designs used in commercial and industrial fields.

Intellectual property rights (IPR) play a pivotal role in legal frameworks, particularly concerning the protection of creations and innovations. Law, as a concept, encompasses regulations enforced by authorities to maintain societal order and stability.

IPR distinguishes between tangible¹ and intangible² assets, emphasizing the exclusive rights granted to creators. It encompasses a wide range of creations, including designs, trademarks, and patents, each requiring specific criteria for registration and protection.

Characteristics of Intellectual Property

Incorporeal Nature: Intellectual property is intangible, existing in the realm of ideas and creations rather than physical entities. This incorporeal nature sets it apart from tangible assets.

Indestructibility: Unlike conventional property, intellectual property is indestructible, as its essence lies in ideas and concepts that persist beyond physical forms.

Negative Rights: Intellectual property rights grant owners the authority to prevent unauthorized use, emphasizing protection against infringement by others.

Limited Duration: Intellectual property rights are time-bound, with patents typically granted for 20 years and trademarks requiring periodic renewal. This limited duration ensures innovation and prevents perpetual monopolies.

Subject to Eminent Domain: Intellectual property rights are subject to state intervention for public interest, highlighting the balance between private ownership and societal benefit.

Importance of Protecting Intellectual Property Rights

First and foremost, clearing your intellectual property for use and securing protection can ensure your ability to trade and grow your business without fear or repercussions of infringing anyone else's rights. Your intellectual property is often what sets your business apart from the competition and creates a competitive edge that can propel your business forward. Creating a brand and/or product that customers grow to love and trust will ensure that customers keep coming back for

¹ Tangible - Tangible simply means something that can be touched or felt.

² Intangible – It means something that is Incapable of being perceived by the sense of touch.

more. Being able to control and license your intellectual property opens up different revenue streams and ways of operating. Like any other property, intellectual property can be used as security to raise funds to fuel growth in your business.

Types of Intellectual Property Rights

Various types of intellectual property rights are protected by law:

Trademarks: Identifiers of product origin, such as business names and logos, offering exclusive rights to owners for brand protection.

Geographical Indications: Protecting goods originating from specific regions, preserving their unique qualities and reputation.

Designs: Safeguarding unique visual aspects of products through registration and copyright protection.

Patents: Granting monopoly rights for inventions or processes, encouraging innovation and commercialization.

Copyrights: Protecting original works of authorship, including literary, artistic, and musical creations, with rights covering reproduction, distribution, and public performance.

Significant Case: The Coca-Cola Company vs. Bisleri International Pvt. Ltd.

This case, also known as the MAAZAWAR as termed by the Delhi court, involved Bisleri International Pvt. Ltd. In 1993, Bisleri International Pvt. Ltd. sold all the trademark rights and formulation rights to the Coca-Cola Company through a master agreement. However, in March 2008, Bisleri International Pvt. Ltd. filed for registration of the trademark MAZZA and began selling the product under the MAZZA trademark, believing that the agreement signed was only applicable in India. This action violated and infringed upon the rights of the Coca-Cola Company (the plaintiff).

Upon becoming aware of this infringement, the Coca-Cola Company filed a lawsuit against Bisleri International Pvt. Ltd. The court ruled under section 29 of the Trademark Act 1999, which deals with infringement of trademarks. The decision favored the Coca-Cola Company (Plaintiff)³ because Bisleri International (Defendant)⁴ was using the trademark MAZZA under the misconception that the agreement was limited to India.

As a result, the court granted an interim injunction against Bisleri International, instructing them to cease all manufacturing and usage of the trademark MAZZA immediately. This ruling was based on the fact that, after entering into the agreement with the Coca-Cola Company, Bisleri International no longer had any rights to use the trademark.

Conclusion

³ Plaintiff - Someone who makes a legal complaint against someone else in court

⁴ Defendant – A person in a law case who is accused of having done something illegal

Intellectual property rights are essential for fostering creativity, innovation, and business growth. Their protection ensures a fair and competitive environment while encouraging continuous advancements across various industries. Effective management and enforcement of intellectual property rights are vital for promoting economic development and safeguarding creators' and innovators' contributions.

References –

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