

Intellectual Property

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Key Takeaways

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

Types of IP:

Patents: Protects inventions or processes for a certain period, typically 20 years. After this, others can freely make, use, or sell the invention.

Trademarks: Protects symbols, names, and slogans used to identify goods or services. Think of logos and brand names.

Copyrights: Protects original artistic and literary works. This includes music, literature, movies, and software.

Trade Secrets: Protects formulas, practices, processes, designs, instruments, or any information that provides a business advantage over competitors who do not know or use it.

Importance of IP:

Competitive Advantage: IP can provide a business with a unique advantage over competitors.

Revenue Streams: Through licensing or franchising.

Valuation and Investment: IP can significantly increase the value of a business, especially in sectors like tech and pharma.

IP Strategy and Management:

Protection: Understand what kind of IP protection is most suitable for your innovation.

Maintenance: For example, trademarks might need to be renewed, and patents have maintenance fees.

Monetization: This could be through licensing, franchising, or direct commercialization.

Global Perspective: IP protection is territorial. A U.S. patent, for instance, only provides protection within the U.S. For global operations or sales, understanding international IP laws and treaties is essential.

Infringement: This is the unauthorized use of intellectual property. Being aware of infringement risks, both as a potential victim and inadvertent perpetrator, is crucial.

IP in Mergers and Acquisitions: Due diligence in M&A often involves a thorough review of IP assets, as these can influence the valuation and attractiveness of a deal.

Open Source and Public Domain: Not all intellectual creations are proprietary. Some are freely available for use, but it's essential to understand the terms under which they're available.

Changing Landscape: With the rise of digital technologies, artificial intelligence, and the internet, the landscape of IP is continuously evolving. For instance, questions about IP ownership in AI-generated content or the challenges in digital copyright enforcement are emerging areas.

Ethical Considerations: It's essential to strike a balance between protecting IP rights and promoting innovation and sharing of knowledge.

The Wright Brothers' Patents and the Curtiss Company

Patents have often played a complex role in the balance between fostering innovation and potentially hindering progress. A well-known example is the case of the Wright brothers and their patents on airplane technology in the early 20th century.

After the Wright brothers achieved the first powered flight in 1903, they secured a series of patents for their flying machine, particularly focusing on the method of flight control, which was a breakthrough in aviation. However, rather than promoting further development, these patents led to a protracted legal battle with other aviation pioneers, most notably Glenn Curtiss and his company.

Wright brothers aggressively pursued legal action against anyone who built airplanes that they felt infringed on their patents, especially the use of ailerons by Curtiss for lateral control. This created a stifling environment for other aviation innovators, as they either had to pay costly licensing fees, face legal battles, or find alternative, often less effective, methods of flight control.

These patent wars significantly hampered the development of the aviation industry in the United States during a critical period of technological advancement. Many historians and aviation experts argue that this slowed the pace of innovation in American aviation, while European countries, not bogged down by such legal issues, made significant strides in airplane development during this time.

The situation reached a point where the U.S. government had to intervene during World War I. Faced with the need for rapid advancement in aviation technology for the war effort, the U.S. government urged the creation of a cross-licensing organization—the Manufacturers Aircraft Association—which allowed all parties to use each other's patents, thus ending the legal stalemate and reigniting innovation.

Further Reading

European Patent Office. (2023). New study reveals how IP helps startups raise finance.

<https://www.epo.org/en/news-events/news/new-study-reveals-how-ip-helps-startups-raise-finance>

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World Intellectual Property Organization. (2023). What is Intellectual Property?

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