



The Role of Intellectual Property (IP) Strategies and Management in Enhancing Business and Competitive Advantage

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Abstract

Today, the world is known for its technological advancements and positive changes made by them. Intellectual Property is one of the major reasons behind the development, as it encourages not just the companies but also the governments to work ahead of the same. Like any other property, intellectual property has value, and the same can be utilized in expanding the business as well as helping the country at large. Today, every company, industry, and even educational institutions are looking forward to owning more and more Intellectual Property so that they can stand high in a competitive market and promote themselves on a higher note. With IP having this rate of demand, there is a concern of how, what, and why? With everyone owning, using, and registering for different types of IP, the obvious question is how to strategize and manage IP efficiently so that maximum benefits can be taken from it. Intellectual Property Rights is a branch of Law, and the strategy and management deals with the managerial aspect; hence, there is an intersection between the law and management that has to be dealt with for efficient business policy. The paper aims to look into efficient policy within the IPR Laws, Competition Laws, and management aspects. Secondly, the paper will be dealing with the type of IP strategies and management required in the Indian market and different types of industries using case studies. And thirdly, the paper will analyze the best practices around the world to pinpoint the recommendations and suggestions.

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Introduction & Background

Intellectual Property, as the name suggests, is something that can be owned as property and has value at the same time, but the creation of the same is dependent on the intellect of the person who is also the owner of such property. The inception of the Intellectual Property was restricted to the idea that it can be only created by one's own intellect or mind and that very person is the one who can possess the same but as the concept expanded, it is now well settled that like any other tangible, moveable and immovable property, Intellectual Property can also be transferred, donated and utilized for the expansion of business and for the development purpose of the Country as well (Biddle, 2015). Today, we come across Intellectual Property (IP) in our day-to-day lives and in almost all aspects. This is not just restricted to the industries but also educational institutions, and small startups are registering for the IP on a large scale, but this was not the case forever. Though the origin of the IP dates back as early as 1331 but the need for the same came to the limelight in the year 1873 at Vienna, where an International exhibition of inventions was

scheduled, and it was quite a big of event, as a lot of foreign visitors were participating in the same. But unfortunately, the exhibition was called off as the participation was hampered. Most of the foreign exhibitors refused to attend the event because of their concern about the legal protection being unavailable for the exhibited inventions (Jones, 2021). The matter was taken into consideration by the concerned authority, and the next thing that happened became history. The Paris Convention in 1883 was the very first of its kind that took place in Paris to protect industrial property and have deliberations on the same. The term 'Industrial Property' is an umbrella term used to address and explain all the kinds of Intellectual Property that are used in an industry, such as Trademark, Patents, Industrial Designs, Geographical Indication (which is a new type of IP), and Trade Secrets. Copyright is another branch of Intellectual Property that protects the creators of 'literary, dramatic, musical and artistic works' and to the producers of 'cinematography and sound recordings' (Marsh, 2020)

The origin of India in IP-related laws can be traced back to 1847 during the East India regime, when

for the first time, the protection of Intellectual Property was taken into consideration seriously, but for the benefit of the British. The first enacted act was the Copyright Act, which was very similar to the UK Copyright Act. The next in line was the Trademark Act, which saw its light in 1940, which was again taken from the British Trademark Act, 1938, and which was re-enacted as the Trade and Merchandise Act 1958 post-independence. So, it won't be wrong to say that people started acknowledging the role and importance of IPR, and the concerned government also came up with the relevant laws, but the speed of such laws being enforced was slow and not sufficient. And after the 1873 Exhibition, there was a huge cry for a universal set of rules and standards for the protection of Industrial Property.

At the International level, the Paris Convention in 1883 was the very first such conference to deal with the IPR for Industrial property, and it was followed by the Berne Convention in 1886, which took into consideration the protection of Literary and copyright works. Then, in 1891, the Madrid agreement and in 1889 the Madrid Protocol were signed by the member states for the protection of Trademarks. In 1961, the Rome Convention took place to discuss the performance rights, rights of the broadcasting organization, and phonogram producers. Similarly, there were various such issues discussed and answered through some treaties or conventions (Lodhani, 2010). But still the problem remained as there were way too many treaties and conventions for the IPRs, when TRIPS or the Trade Related Aspects of Intellectual Property Rights was introduced as a

go-to document for anything IP in the year 1995. There are various reasons as to why exactly do we need IPR. First and foremost reason is that IPR is a property that should be protected from anyone and everyone from infringing it infringed and the IP in question is a value for the person who created the same from his intellect or gave his ideas a concrete form of expression. Secondly, IPR helps companies expand their business and create brand value for themselves in the competitive market. Thirdly, IPR also acts as a prerequisite for many other companies in identifying the value, importance, and credibility of the particular company in a market at a given point of time (World Intellectual Property Organization Report)

IP Asset Management

When the world started opening up to the idea of business and international trade, one became acquainted with the competition and its role in expanding business as well. For any business to stand out in a competitive market, it has to strategize and create a brand for itself. Initially, it was all about the tangible properties, which included the concrete infrastructure, buildings, electronic equipment, and all the other physical assets that a company owner expanded (Nambiar, 2022). Things have changed drastically after Intellectual Property was promoted and encouraged at the international level. India, being a signatory to TRIPS, has taken into consideration all the relevant steps to ensure IP protection and utilize it, creating a healthy environment for the business owners.



Fig. 1.1: IP used by Companies

A company's assets can be divided into tangible and intangible assets. Intellectual Property is the most important form of intangible assets a company owns and invests in for the benefit of its business. Types of IP that a company can have are

Patents, Trademarks, Industrial Design, Trade Secret, and sometimes Geographical Indication as well. Patents are one of the most important and highly utilized IP in any business and startups. The procedure laid down for obtaining is known

to be the most complicated in all the IPs available. It takes quite a long time, comparatively, and also involves high costs. Patents are provided either provisionally or finally based on the application and the intent of the applicant. Second on the list is Trademark. A trademark is that branch of IP that protects the logo, symbols, signs attached to a business of a company or a startup and help them protect such symbols, name, and create a brand for themselves. Trademark also helps them to build customer relations and work accordingly. Trademarks can be both registered and unregistered marks. Third is Industrial Designs, which protects the designs as an IP and what has been created using a specific industrial means and process. Then comes Copyright, and as the name suggests, it is right over the subject matter and against anyone trying to copy the same. Copyright deals with the expression of an idea in a concrete form, and it includes artistic, literary, musical, and cinematographic works. And last but not least comes Trade-secrets, which is very similar to

trademark in terms of something that belongs to a particular company and which cannot be used by anyone until and unless the same is permitted by the owner. This IP protects the owner of a trade secret from exploitation. Examples can be special recipes of KFC or a strategy followed by a startup. Both can be equally a trade secret and eligible to be protected under IPR.

The Intellectual Property owned by these companies for their businesses becomes their most important asset in the present era as it helps them to get an identity, protect their names, logos, and innovations among many other benefits. But in the market where everyone owns some or other IP, it becomes important to understand that just owning a huge number of IP won't help in the long run if that is not utilized properly. That's where a well-planned Strategy comes into place, and the same helps a company not just expand its business but also have a great impact and generate value.

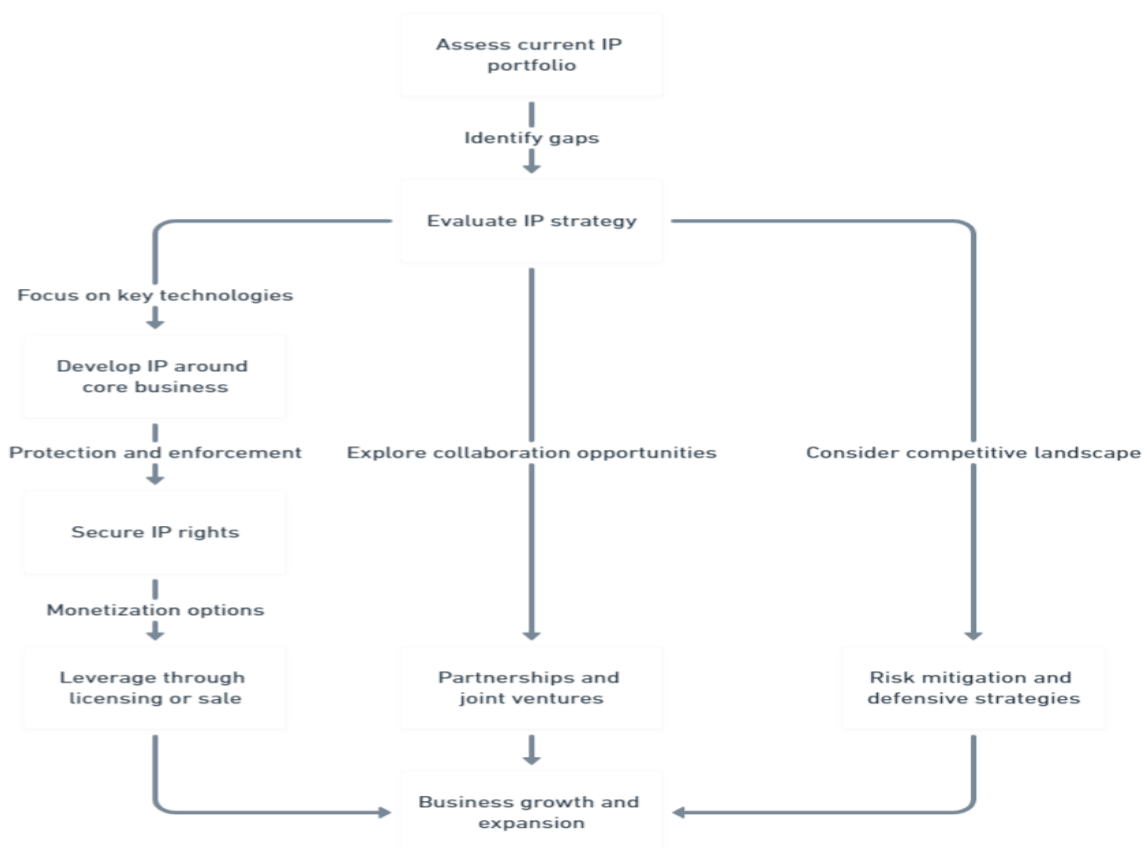


Fig. 1.2: IP Strategy

This is where the IP Asset management plays its role. The flowchart below explains a simple flow of IP strategy and management. It starts with the IP Landscaping or accessing the IP Portfolio, where the company starts with understanding/bifurcating/classifying all the IPs available with them. Post accessing the IPs owned by the company, gaps can be identified. These gaps can be anything, extending from registering a new IP to disregarding an existing one. Gaps can also be addressed, if there is any IP they want to re-register, if there is any IP that has to be revalued, etc. After this, a Strategy can be prepared in order to utilize the company's IP at its best and to its full potential. Then comes, when technological equipment and software as to be accessed and checked if they are sufficient for the company's requirements, and develop IP around the core business so that it can directly impact the business expansion and create a name in the market.

The workspace environment has to be made protected-IP friendly so that no one from the company infringes it, and train everyone on IP Rights and make them aware of the available IP with the firm. Then comes commercialization, which is also one of the major and most important steps involved in the IP Strategy. This is also known as Monetizing IP, and the same can be done in numerous ways discussed below (Bertha, 1996).

Commercialization of IP

Commercialization means monetizing anything. In this respect, commercialization of IP is deciding how the IP owned by a company is monetized, valued, sold, or donated for the business. But a good IP Strategy would suggest commercialization only after the landscaping for monetization.

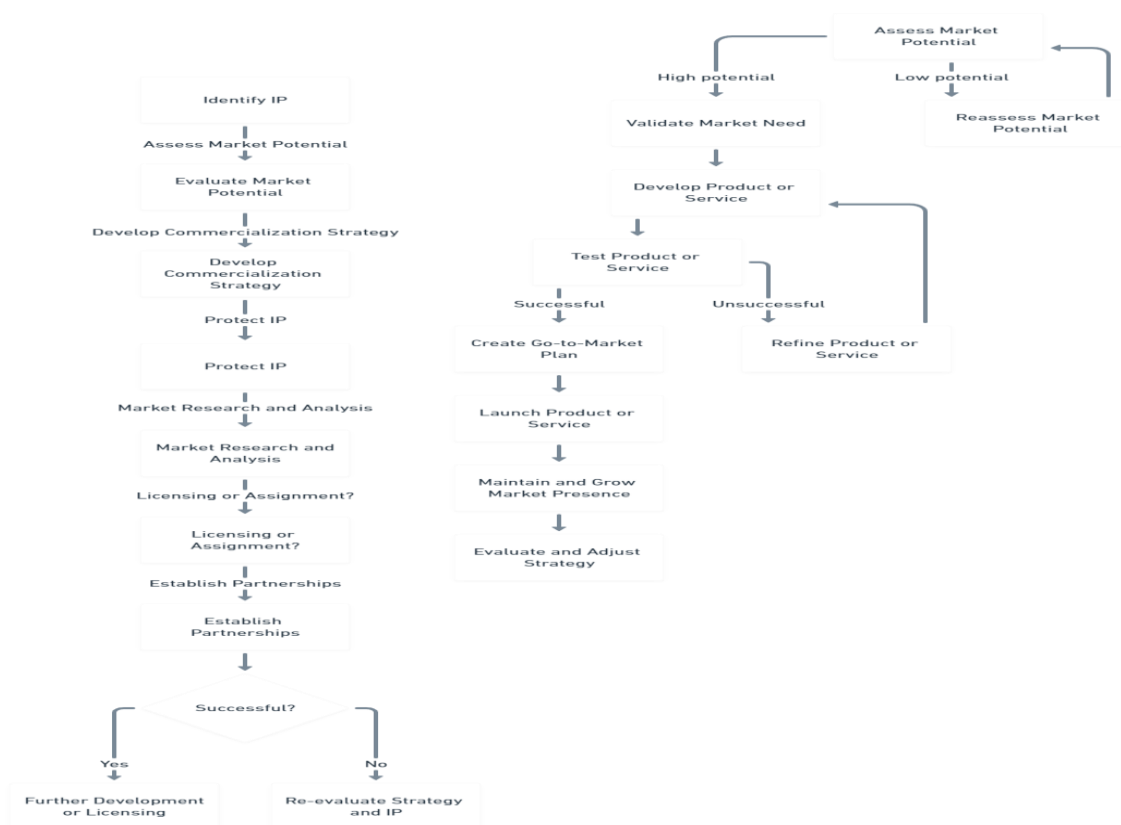


Fig 1.3: IP and Strategy for Commercialization

Commercialization, as explained in the above figure, is the steps taken to monetize business and a process of turning concepts that are innovative, creative ideas, and inventions into successful

goods and services that can add value to the company. As observed, assets like IPR are very important for running a successful business, and it's an essential component of maximizing the

value of intangible assets and transforming them into concrete results that benefit producers and consumers alike. To fully utilize IP, successful commercialization necessitates a strategic approach that includes a number of phases and factors. Out of many steps involved in the commercialization of IP, the foremost important one is pre-identifying IPs available in the market, and the same can ensure proper Market research. Carrying out extensive market research is also one of the most tried and tested approaches. Determining the feasibility of the intellectual property requires an understanding of the target market, the identification of possible clients, and an evaluation of demand. This also helps in understanding how competitive the market is, one is currently operating from and also to assess the relevance of the same. This will result in customizing the customer requirement-demand-preferences graph accordingly (Henkel, 2006).

Once the market research is done, the next step is to form alliances. Alliances are something that helps companies to learn and benefit from each other. But like all the steps that are involved in the chapter subject matter, alliances also have to be strategy-wise, and the same cannot be without pre-identified requirements for such alliances and collaboration. Having an alliance with any XYZ companies may or may not benefit the company,

but if it is well established that a joint venture with such a company will be beneficial in some other way, then there is no second thought about it. Alliances can be formed with businesses, financiers, or it can be any specific area developer or sector-related specialist that can, not just help the company with the capital but also enrich the knowledge regarding their work, know-how, and all the methods that have been adopted by these people, resulting in expansion of business (Kochenkova, Grimaldi, & Munari, 2016).

Another important step/point that should be considered is how well structured a brand can be. Branding or marketing forms the most important aspect of this commercialization process as in the absence of the same, everything done can be taken as wasted. Again, a proper strategy is required for this as well, so that one's branding done with the help of available IPs can make the company or business model stand out in the market against the rival. Hence, developing a strong Branding strategy is essential for the success and to create a strong client database and boost the revenue that will maintain a long span of the company. This process involves utilizing the full potential of the company and its intangible assets in the form of IP and converting them into revenues and collaborations, resulting in expansion all over the place (Kumar & Nanda, 2017).

Case Study I

Company	No. of Patents
Qualcomm	1300
Microsoft	900
Seimens	890
IBM	700
Hitachi	500
Panasonic	430
Toshiba	420
Fujitsu	410
Philips	390
Sony	380

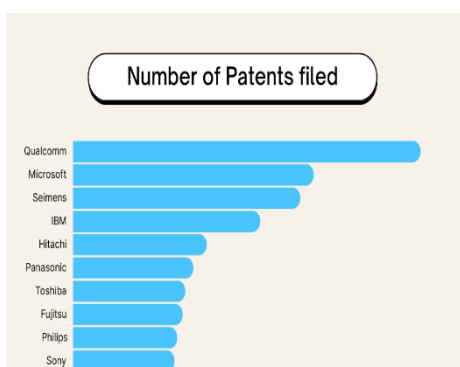


Fig 1.4: Number of Patents Filed by 10 companies

The above figure illustrates the number of patents that have been filed by the 10 most popular companies that have been functioning for a few decades. Also, these data keep changing almost every year or sometimes less than that.

There is constant competition among the companies with respect to the no of patents filed and the number of IP owned by any number of

companies at a given point in time. Innovation not just helps the companies in expanding but is also beneficial to people at large and impacts the GDP as well.

And for companies to protect their innovation, it becomes a must for them to file patents and protect their IP at the earliest, and they can utilize the provisional patent application for the same.



Intellectual Property owned by Startups

Startups	Intellectual Property Owned
Airbnb	Trademark & Patents
Spotify	Copyright & Patents
Peloton	Patents, Copyright and Trademark
Moderna	Patents
Ola	Trademark & Patents (2 nd highest in Indian startups)

The above table highlights how owning, protecting, and utilizing Intellectual Property can help startups gain their momentum in an already established market. The above-mentioned 5 startups are such examples.

Case Study II- Nycomed Pharmaceuticals (Later Acquired by Takeda Pharmaceuticals)ⁱ

Morten Nyegaard was a Norwegian pharmacist who founded a small pharmaceutical company in 1874 called “Nyegaard & Co”. Initially, the company acted as an agent for foreign companies. Nyegaard introduced about 900 products from Norway into the rest of the Scandinavian countries. He also established a pharmaceutical research center to develop new drugs. The privately owned company later changed its name to “Nycomed” and was later acquired by the Japanese pharmaceutical company Takeda. Over the decades, Nycomed developed into a world-class pharmaceutical company with a significant presence in Europe, emerging markets in Russia and the CIS, Asia, and Latin America. The strategy followed the steps below:

Developing Research and Development-

Nycomed's R&D strategy was focused on finding business opportunities throughout the product development and discovery phases. The company's R&D programs were located in three European locations and one in India, and new products were created from both internal resources and external sources.

Partnership and Licensing- Not at all like a considerable lot of its rivals, Nycomed centered less on making new items and more on growing the span of its current items, remembering those that it licenses from different organizations. The organization attempted to extend its medication portfolio through in-licensing arrangements or through joint development with outside partners, and expected the vast majority of its future products to originate from outside Nycomed.

Commercialization/Monetizing- As opposed to attempting to contend in all cases with the enormous drug organizations, it has selected to contend specifically in advertising and with painstakingly chosen items. This system has been demonstrated to be effective.

Licenses- Nycomed has an obviously expressed patent procedure, which is officially endorsed by the office of the CEO. The patent strategy serves as a statement of purpose and guides the organization's direction.

Branding/Marketing- Nycomed has exceptional emphasis on brand name protection of its products. Every one of the names of the organization's items is enrolled in reserve and are safeguarded either universally or in individual nations.

Conclusion

Through this paper, the researchers tried to explain the role and importance of Intellectual Property in the expansion of business and in protecting Intellectual Property. Moreover, it also highlighted the close interpersonal relationship between the IP and Business in the present era. IP strategies and management have been explored in this research, revealing their essential role in boosting business growth and securing competitive advantage.

The fact that effective intellectual property strategies are not merely legal safeguards, but potent drivers of innovation, differentiation and profitability has been demonstrated through a thorough analysis of the various sectors and organizational contexts. In addition, through professional stewardship of research materials, we stimulate ideas, develop collaborative organizations, and provide meaningful responses to publication trends. You must be proactive and ensure continuous learning and change across all functions, from research and development to advertising.



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