Chapter 8: Issues Related to Product Development and Entrepreneurship: Intellectual Property Rights and Legal Issues

Repeated Questions:

1. IPR – Trademark, Copyright and Patent:

- **Q.** Explain briefly 1) Trademark 2) Copyright and 3) Patent. **(SUMMER 2023, 3 Marks OR - 3 Marks for definitions; SUMMER 2025, 7 Marks)**

Answer:

- **Trademark:** A recognizable sign, design, or expression which identifies products or services of a particular source from those of others (e.g., the Nike "Swoosh" logo). It is protected indefinitely as long as it is used.
- **Copyright:** A legal right that grants the creator of an original work (literary, artistic, musical) exclusive rights to its use and distribution (e.g., the lyrics of a song or source code of software). It typically lasts for the lifetime of the author plus 60 years.
- **Patent:** An exclusive right granted by a government for an invention—a product or process that provides a new way of doing something or offers a new technical solution to a problem (e.g., a new pharmaceutical drug formula). It is protected for 20 years.

- **Q.** Describe in details the terminology related with intellectual property rights (i) trademarks (ii) trade secrets (iii) copyrights. **(WINTER 2024, 7 Marks OR; SUMMER 2026, 4 Marks OR)**

Answer:

Trademarks:

- **Definition:** A word, phrase, symbol, design, or a combination that identifies and distinguishes the source of goods or services of one party from those of others.
- **Function:** Protects brand identity, prevents consumer confusion, and represents the goodwill of the business.
- **Duration:** Can be renewed indefinitely every 10 years as long as it remains in commercial use.
- **Example:** The brand name "Apple" and its bitten apple logo.

Trade Secrets:

- **Definition:** A formula, practice, process, design, instrument, pattern, or compilation of information which is not generally known or reasonably ascertainable, by which a business can obtain an economic advantage over competitors.
- **Requirement:** Must be actively protected by the owner (e.g., through NDAs and strict access control); it is not registered with the government.
- **Duration:** No fixed expiry; protection lasts as long as the information remains secret.
- **Example:** The Coca-Cola formula or KFC's 11 herbs and spices blend.

Copyrights:

- **Definition:** A legal term used to describe the rights that creators have over their literary and artistic works.
- **Coverage:** Covers books, music, paintings, sculpture, films, computer programs, databases, advertisements, maps, and technical drawings.
- **Duration:** Generally lasts for the life of the author plus 60 years (in India), after which it enters the public domain.
- **Example:** The exclusive right of an author to publish and sell their novel.

- **Q.** What is patent? Explain in detail about utility patents. **(WINTER 2022, 7 Marks; SUMMER 2024, 4 Marks)**

Answer:

Definition:

A patent is an exclusive right granted by the government for an invention, which is a product or a process that provides a new way of doing something, or offers a new technical solution to a problem.

Utility Patents (Detailed):

A utility patent is the most common type of patent, granted for the invention of a new and useful process, machine, article of manufacture, or composition of matter, or any new and useful improvement thereof.

- **Process:** A series of steps or acts performed to produce a useful result (e.g., a new method of manufacturing).
- **Machine:** A concrete thing consisting of parts or devices (e.g., a new type of engine).
- **Article of Manufacture:** A manufactured item without moving parts (e.g., a new type of tool or container).
- **Composition of Matter:** Chemical compositions, mixtures, or new compounds (e.g., a new chemical compound or drug).
- **Improvements:** It can also cover new and useful improvements to existing technologies.
- **Term:** Protects the invention for up to 20 years from the filing date, subject to maintenance fee payments.
- **Example:** A patent for a new algorithm that improves the functioning of a computer or a new design for a battery.

Other Important Questions:

1. IPR – Meaning, Objectives and Importance:

- **Q.** What are the objectives of Intellectual property rights? **(SUMMER 2025, 3 Marks)**

Answer:

- **Encourage Innovation:** To incentivize inventors and creators by giving them exclusive rights to profit from their creations.
- **Economic Growth:** To stimulate industrial and economic development by promoting scientific and technological progress.
- **Knowledge Sharing:** To ensure that technological information is disclosed to the public through patent filings, so society can build upon it.
- **Protect Consumer Interests:** To protect consumers from counterfeit products and ensure they receive authentic, quality goods.
- **Moral and Economic Rights:** To recognize the moral and economic rights of creators over their literary and artistic works.

- **Q.** What do you mean by intellectual property rights? **(SUMMER 2024, 3 Marks)**

Answer:

Definition:

Intellectual Property Rights (IPR) are the legal rights granted to inventors, creators, and businesses to protect their creations of the mind—such as inventions, literary and artistic works, designs, and symbols—for a certain period of time.

- **Intangible Assets:** They protect non-physical assets (ideas, knowledge, designs) rather than physical property.

- **Exclusivity:** They grant the owner the exclusive right to use, manufacture, sell, or license the protected work.

Categories: Divided into two main branches:

- **Industrial Property:** Includes patents, trademarks, industrial designs, and trade secrets.
- **Copyright:** Includes literary works, artistic works, music, and software.
- **Legal Remedy:** IPR laws provide mechanisms (like injunctions and damages) to stop unauthorized use and infringement.

- **Q.** Write a short note on intellectual property rights. **(SUMMER 2023, 7 Marks OR)**

Answer:

Intellectual Property Rights (IPR) are legal protections granted to creators and inventors for their original works, inventions, and brand identities, designed to encourage innovation and protect economic interests.

- **Definition and Scope:** IPR protects intangible creations of the human mind. It gives the creator an exclusive right to control the use of their creation for a specific period.

Types of IPR:

- **Patents:** For new inventions (20 years).
- **Trademarks:** For brand names and logos (indefinite).
- **Copyrights:** For literary and artistic works (Life + 60 years).
- **Trade Secrets:** For confidential business information.
- **Industrial Designs:** For the visual appearance of products (10-15 years).
- **Economic Importance:** IPR provides an incentive for R&D investments by ensuring innovators can recover costs and earn profits without fear of immediate imitation.
- **Consumer Protection:** Trademarks and geographical indications help consumers identify authentic products and avoid counterfeit goods.
- **Technology Transfer:** IPR facilitates the licensing and transfer of technology between firms and countries.
- **Global Protection:** International treaties like TRIPS (Trade-Related Aspects of Intellectual Property Rights) under the WTO ensure minimum standards of protection across member countries.
- **Role in Startups:** Helps startups build a defensible moat, attract venture capital, and establish market value.

- **Q.** Elaborate the importance of IPR in overall growth of country using suitable example. **(SUMMER 2026, 7 Marks OR)**

Answer:

- **Attracting Foreign Direct Investment (FDI):** Strong IPR regimes provide confidence to foreign companies that their technology and brands will be protected, encouraging investment.
- **Encouraging Domestic R&D:** When inventors know their creations are protected, they invest more time and money into research and development.
- **Promoting Technology Transfer:** Multinational companies are more willing to license technologies or set up joint ventures in countries with robust IP laws.
- **Supporting SMEs and Startups:** IPR allows small businesses to secure their niche, license their products, and grow into larger enterprises.
- **Cultural and Creative Economy:** Copyright protects the film, music, and publishing industries, generating significant employment and export revenue.
- **Public Health and Agriculture:** Patents in pharma and agricultural seeds (with flexibilities) drive innovation in life-saving drugs and high-yield crops.

- **Suitable Example (India's Pharma Industry):** The implementation of the TRIPS agreement in India (product patents for pharma from 2005) transformed the country from a mere reverse-engineering hub to a global leader in generic drug manufacturing and vaccine innovation (e.g., Bharat Biotech's Covaxin), showing how a balanced IPR regime can trigger massive economic and social growth.

- **Q.** Explain the following: ... b) IPR ... **(WINTER 2023, 4 Marks)**

Answer:

Definition:

Intellectual Property Rights (IPR) are the legal rights granted to inventors, creators, and businesses to protect their creations of the mind—such as inventions, literary and artistic works, designs, and symbols—for a certain period of time.

- **Intangible Assets:** They protect non-physical assets (ideas, knowledge, designs) rather than physical property.
- **Exclusivity:** They grant the owner the exclusive right to use, manufacture, sell, or license the protected work.

Categories: Divided into two main branches:

- **Industrial Property:** Includes patents, trademarks, industrial designs, and trade secrets.
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- **Legal Remedy:** IPR laws provide mechanisms (like injunctions and damages) to stop unauthorized use and infringement.

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2. Trademarks, Trade Secrets and Franchising:

- **Q.** Define and explain trademark and copyright. **(SUMMER 2022, 7 Marks OR)**

Answer:

Trademark:

- **Definition:** A distinctive sign, symbol, word, or phrase that legally identifies and distinguishes the products or services of one business from those of others.
- **Functions:** It guarantees the quality and origin of a product, serves as a marketing tool, and protects the goodwill of the business.
- **Registration:** Registered with the trademark registry (e.g., under Class 9 for electronics). It can be renewed indefinitely.
- **Example:** The "McDonald's" golden arches or "Tata" logo.

Copyright:

- **Definition:** A legal right that grants the creator of an original work exclusive rights to its use, reproduction, and distribution.
- **Scope:** It protects the expression of an idea, not the idea itself. It covers books, music, paintings, software code, and architectural designs.
- **Rights:** Includes the right to reproduce, distribute, perform, and create derivative works.
- **Example:** The exclusive right of a software developer to sell their application code or a musician's right to control the distribution of their song.

- **Q.** Describe in details the terminology related with intellectual property rights (i) trademarks (ii) trade secrets (iii) franchising. **(WINTER 2022, 7 Marks OR)**

Answer:

Trademarks:

- Protects symbols, words, or logos that distinguish a business's goods/services.
- Offers exclusive rights to use the mark and prevents competitors from using a confusingly similar mark.
- **Example:** The Nike Swoosh or the word "Pepsi".

Trade Secrets:

- Protects any confidential business information which provides an enterprise a competitive edge.
- Includes formulas, practices, processes, designs, or compilations of data.
- Protection lasts as long as the secret is kept confidential (no government registration).
- **Example:** Google's search algorithm or the recipe for Coca-Cola.

Franchising:

- It is a marketing and distribution method where the franchisor licenses its trademark, business model, and trade secrets to the franchisee.
- The franchisee pays an initial fee and ongoing royalties to operate under the franchisor's brand.
- It heavily relies on IPR to maintain brand consistency and quality control across multiple outlets.
- **Example:** Subway or Domino's Pizza franchises.

- **Q.** Give a case study or example with reference to trade secrets. **(SUMMER 2024, 7 Marks)**

Answer:

- **Case Study:** The Coca-Cola Trade Secret
- **Background:** The Coca-Cola Company has successfully protected the exact formula for its beverage for over 130 years, making it one of the most famous trade secrets in the world.
- **The Secret:** The formula is technically known as "Merchandise 7X" and is a highly guarded secret.
- **Protection Mechanism (Physical):** The written formula is kept in a secure vault (The World of Coca-Cola museum in Atlanta). Only a few top executives have access.
- **Protection Mechanism (Legal):** The company relies on strict Non-Disclosure Agreements (NDAs) with employees, suppliers, and bottling partners. Employees who know the secret are not allowed to fly on the same plane to prevent a single accident from losing the knowledge.
- **Reverse Engineering vs. IPR:** Unlike patents (which require full public disclosure of the invention), the trade secret route protects the formula without disclosing it.
- **Competitive Advantage:** While competitors can legally reverse-engineer the drink (by chemical analysis), the secret creates a powerful brand mystique and prevents exact duplication, securing indefinite market dominance.
- **Conclusion:** The Coca-Cola case highlights how keeping information confidential (without patenting it) can be a viable and highly profitable strategy to protect intellectual property.

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3. Patents and Legal Issues:

- **Q.** Write a short note on legal issues related to product development and entrepreneurship. **(WINTER 2025, 7 Marks OR)**

Answer:

- **Product Liability:** Legal responsibility of a manufacturer for any harm or injury caused by a defective product to a consumer. Entrepreneurs must ensure strict quality control to avoid lawsuits.
- **Intellectual Property Infringement:** Risk of unintentionally or intentionally using patented technology, copyrighted material, or a trademarked brand name without permission, leading to costly litigation.
- **Regulatory Compliance:** Products must meet specific safety, health, and environmental standards set by government bodies (e.g., FDA for food/drugs, BIS for electronics in India).
- **Consumer Protection Laws:** Laws that prevent unfair trade practices, false advertising, and ensure the right to information, safety, and redressal for consumers.
- **Contractual Issues:** Legal disputes arising from poorly drafted contracts with suppliers, distributors, employees, and co-founders (e.g., breach of contract).
- **Employment and Labor Laws:** Compliance with laws regarding wages, working conditions, non-compete clauses, and intellectual property assignment by employees.
- **Data Privacy and Security:** With digital products, compliance with data protection laws (like GDPR or India's DPDP Act) is critical to avoid penalties for data breaches.

- **Q.** Enlist the legal issues in patents due to IPR. **(SUMMER 2026, 3 Marks OR)**

Answer:

- **Patent Infringement:** Making, using, selling, or importing a patented invention without the permission of the patent holder.
- **Validity Disputes:** Legal challenges claiming that a granted patent is invalid (e.g., due to lack of novelty or obviousness).
- **Ownership Disputes:** Conflicts over who is the true inventor or owner, especially between employers and employees or co-founders.
- **Jurisdictional Issues:** Navigating different patent laws across countries (since patents are territorial).
- **Revocation and Opposition:** Legal proceedings initiated by third parties to revoke a patent after it has been granted.

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4. Objective-Type and Miscellaneous:

- **Q.** Answer the following questions: 1) Which one is NOT a part of 4Ps (Marketing Mix)? a) Product b) Price c) Promotion d) Packaging. 2) Intellectual property right (IPR) in India covers: a) Patents b) Copyrights c) Trademarks d) All of the above. 3) Assign True (T) or False (F) for the following statement: "Patent is granted for innovation or improvement in invention". **(WINTER 2025, 3 Marks OR)**

Answer:

Which one is NOT a part of 4Ps (Marketing Mix)?

a) Product

b) Price

c) Promotion

d) Packaging

- **Answer:** d) Packaging (It is a sub-element of 'Product' or falls under the extended 7Ps).

Intellectual property right (IPR) in India covers:

a) Patents

b) Copyrights

c) Trademarks

d) All of the above

- **Answer:** d) All of the above.

Assign True (T) or False (F) for the following statement:

"Patent is granted for innovation or improvement in invention."

- **Answer:** True (T).

- **Q.** Explain the following: (a) Overhead cost (b) TRIZ (c) Market Research. **(WINTER 2023, 3 Marks OR)**

Answer:

- **Overhead Cost:** Indirect business expenses that are not directly tied to the production of a specific product or service. Examples include rent, utilities, administrative salaries, and insurance.
- **TRIZ:** (Teoriya Resheniya Izobretatelskikh Zadatch) Translated as the "Theory of Inventive Problem Solving." It is a systematic, algorithmic approach to innovation based on the study of patterns in successful patents.
- **Market Research:** The systematic process of gathering, analyzing, and interpreting information about a market, including target customers, competitors, and the broader industry, to make informed business decisions.

- **Q.** List the causes of failure of new product and justify the statement "Incorrectly placed, priced and advertised new product generally leads to failure in market." **(WINTER 2023, 7 Marks OR)**

Answer:

Causes of Failure of New Products:

- Lack of clear market demand (no real problem being solved).
- Poor product design or lack of unique features.
- Higher than expected development or manufacturing costs.
- Strong competitive response from established players.
- Inadequate distribution channels.
- Poor timing (too early or too late to the market).

Justification of the Statement:

- **Incorrectly Placed (Positioning):** If a product is targeted at the wrong demographic or fails to communicate its true value proposition, it will not resonate with the intended audience. (e.g., A premium luxury car placed in a budget market).
- **Incorrectly Priced:** Pricing too high alienates the target market; pricing too low creates a perception of poor quality and fails to cover costs.
- **Incorrectly Advertised:** If the advertising message is confusing, unappealing, or targets the wrong channels, the target customer will never know the product exists or understand why they need it.
- **Conclusion:** The 4Ps (Product, Price, Place, Promotion) must be perfectly aligned. A failure in placement (distribution/positioning), pricing, or advertising disrupts this alignment, leading to inevitable market failure regardless of how good the product is.

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