

**ELITE PARS**

LAW FIRM

At a Glance *Series*

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# IP PROTECTIONS FOR INNOVATION

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Technological progress and innovation have been recognized as one of the fundamental drivers of economic growth and development. In this sense, interest in structured forms of technology transfer is on the rise due to the constant technology flux from one part of the world to another. On the other hand, the importance of transfer of technology particularly in life science, biotechnology, and IT has been increasing. This edition of our *At a Glance Series* delivers an introduction to the vital legal aspects of technology transfer.

## *Innovation and Intellectual Property*

Innovation means doing something new that improves a product, process or service. Many innovations can be protected through intellectual property rights (IPRs). There are four types of IP protection that can be used to protect Innovation; Patent, Trade Secrets, Trade-Marks and Copyrights.

- **Innovations and Patents**

Inventions are the bedrock of innovation. An invention is a new solution to a technical problem and can be protected through patents. Patents protect the interests of inventors whose technologies are truly groundbreaking and commercially successful, by ensuring that an inventor can control the commercial use of their invention.

An individual or company that holds a patent has the right to prevent others from making, selling, retailing, or importing that technology. This creates opportunities for inventors to sell, trade or license their patented technologies with others who may want to use them.

- ***How patents can support inventors and improve lives?***

Patents are the core part of IPRs framework designed to protect inventions. This can happen in many ways:

1. Patents recognize and reward inventors for their commercially-successful inventions. As such, they serve as an incentive for inventors to invent. Recently, SMEs and startups are more willing to file patent in contrast with big companies which are more inclined to keep inventions a trade secret. With a patent, an inventor or small business knows there is a good chance that they will get a return on the time, effort and money they invested in developing a technology. In sum, it means they can earn a living from their work.
2. When a new technology comes onto the market, society as a whole, stands to benefit – both directly, because it may enable us to do something that was previously not possible, and indirectly in terms of the economic opportunities (business development and employment) that can flow from it.

3. The revenues generated from commercially successful patent-protected technologies make it possible to finance further technological research and development (R&D), thereby improving the chances of even better technology becoming available in the future.
4. A patent effectively turns an inventor's know-how into a commercially tradeable asset, opening up opportunities for business growth and job creation through licensing and joint ventures, for example.
5. Holding a patent also makes a small business more attractive to investors who play a key role in enabling the commercialization of a technology.
6. The technical information and business intelligence generated by the patenting process can spark new ideas and promote new inventions from which we can all benefit and which may, in turn, qualify for patent protection.
7. Patent information can be mapped, offering policy makers useful insights about where technology R&D is taking place and by whom. This information can be useful in shaping policy and regulatory environment that allows innovation to thrive.
8. Patent can help stop unscrupulous third parties from free riding on the efforts of the inventor.

- **Innovation and Trade Secrets**

A "trade secret" is any valuable information that is not publicly known and of which the owner has taken "reasonable" steps to maintain secrecy. These include information, such as a business plans, customer lists, ideas related to your research and development cycle, etc.

Trade secrets are not registered with a governmental body. All you need to do to establish your information as such is to treat it as a trade secret. Only those with a need to know should have access to your trade secret information. Disclosures should be done only under a nondisclosure agreement. Generally, when someone misappropriates your trade secret, you have to prove in a court of law that the information qualifies as your trade secret. You have to show that the information that was misappropriated was valuable because of its secrecy and you must show the steps you took to keep it secret. Put simply, the owner of the trade secret information must prove that the confidential information fits the definition of a trade secret given above.

Trade secret protection lasts until the information is no longer valuable, the information is not secret, or the owner no longer takes reasonable steps to maintain its secrecy.

- **Innovation and Trademark**

Your brand needs to be protected because you do not want to invest time and money only to find out later on that you have to switch to a different trademark because someone else already using your trademark. In this instance, you would be infringing on that person's trademark and will have to switch to a different trademark.

Trademarks protect brands. The name of the product associated with the product or a service is called the trademark. A trademark is anything by which customers can identify a product or the source of a product, such as a name associated with the product. Typically, that would be the words that you use to refer to your product or service. When the brand or trademark is made up of words, we refer to this as a wordmark.

- **Innovation and Copyright**

Most products have a copyright. The images and words on the product packaging, the label, the product itself and the webpage can all be protected with a copyright. The advantages of a copyright registration are that it is inexpensive to secure, and the law allows you to demand attorney fees from infringers. Often times, your attorney fees are more costly than your damages due to someone copying your images and words without your authorization. Hence, being able to demand your attorney fees from the infringer is a significant leverage that can be used to force infringers to settle early on in the legal process. Without a copyright registration, you would have to pay your own attorney fees.

Copyrights protect original works of authorship that are fixed in a "tangible medium of expression." This means that the authored or creative work has been written down on a piece of paper, saved on an electronic storage device (e.g. hard drive or flash drive), or preserved in some other tangible format. Examples of copyrightable works include movies, videos, photos, books, diaries, articles, and software. Copyright does not protect ideas or useful items, which is the function of patents. Although software is a functional item, it can be protected by copyrights due to the creativity used in the selection, ordering, and arrangement of the various pieces of code in the software.

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Elite Pars has a simple, yet profound purpose: to be the place where trust, creativity, enthusiasm, and hard work unite. We strive to bring truly elite legal services through care, passion, and dedication. We listen carefully to our clients and draw on our board practice capabilities to transform their challenging difficulties to success stories. We are committed to improve the well-being of the people around us and nurture the lives we touch. For the past several years, our team has had a leading role in navigating various industry participants into Iranian market,

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