

Original Article: The Role of Intellectual Property Rights in Business Promotion

Ahmad Keshavarzi*

Department of Law, Abadeh Branch, Islamic Azad University, Abadeh, Iran



Citation A. Keshavarzi*, **The Role of Intellectual Property Rights in Business Promotion.** *Eurasian J. Sci. Tech.*, 2021, 1(4), 229-233.

 <https://doi.org/10.22034/IJSTR.2021.288185.1035>



Article info:

Received: 23 April 2021

Accepted: 13 June 2021

Available Online: 13 June 2021

ID: JSTR-2105-1035

Checked for Plagiarism: Yes

Language Editor:

Dr. Behrouz Jamalvandi

Editor-in-Chief:

Professor Dr. Ali Nokhodchi

Keywords:

Intellectual Property Rights, Assets, Communications, Knowledge-Based, Knowledge-Based.

ABSTRACT

The issue of intellectual property is one of the main issues in the field of innovations and technologies. Different governments of the world, according to their national and international conditions, have tried to define and compile their comprehensive and up-to-date rights and laws in this field, and from this context, the context for the development of creativity and innovation and subsequent company development and small businesses based on knowledge and innovation. In this article, which has been collected with the aim of promoting the category of intellectual property among researchers and knowledge-based companies and industries in the country, after defining intellectual property rights and stating its history, the importance of intellectual property rights was described and explained.

The importance of intellectual property goes beyond human and international human rights protections when it comes to its impact on the prosperity of trade, especially international trade, and technology research and development, especially new technologies.

Introduction

Although it is not easy to provide an accurate definition of intellectual property rights, many people are somewhat familiar with the term and its meaning. When buying a book or buying an electronic device, it is accepted that the author of the book or the inventor of the device is the original owner of the idea. Ownership that is not about an object but about an idea that has led to an innovation in the industry or the

Hence, the meaning and concept the term seems a bit complicated because the use of the

writing of a book or the prosperity of a brand. This ownership makes it difficult to copy a book or market products under a counterfeit brand [1-3].

Intellectual property rights deal mainly with issues that are the product of human thought and are related to his mental creations. In other words, the subject of this property is inherently intangible and is an aspect of the knowledge and information that is manifested in physical products or their reduction process.

words ownership and intellectual is slightly different from the common usage in everyday

*Corresponding Author: Ahmad Keshavarzi (ahmadkeshavarzi1366@gmail.com)

conversation. For this reason, to simplify the meaning of this phrase, we must examine each of these two words in their own meaning [4-6].

Ownership: Ownership literally means to be an owner. But in the term, it is the right of use and possession in any case by the owner in his property except in cases that the legislator has excluded. Ownership is the most important objective right and its subject is foreign objects, material and immaterial property. For this reason, its territory is determined by the legislator.

The point to be made here is that there is a difference between ownership and property rights. This means that the right of ownership of a legal authority arises from the existence of a credit relationship between the owner and his owner, according to which the owner can make any seizure of his property within the limits of the law and use all its benefits.

Intellectual: Thinking literally means thinking, thinking and contemplating. But here we mean the valuable phenomena that are the cornerstone of many creative innovations. Therefore, an intellectual work is what is created as a result of the efforts of human thought and appears in the form of a literary, scientific or artistic form.

Therefore, it can be said that intellectual property rights are property and domination, a law according to which the owner of the work can use the benefits and a specific form of his activity or thought expressed exclusively. For example, the invention of a product is the product of the thought and genius of its inventor, and a piece of music is the product of the composer's mind that played it for the first time. In addition, there are other issues today, such as the protection of plant species, trade secrets and confidential information, genetic resources, and popular culture and literature, that are subject to intellectual property rights [7].

Intellectual Property History

Despite the deep-rooted issue of intellectual property, intellectual property rights are a new issue. In 1690, John Locke, in his two treatises,

attributed the ownership of a work of art to its author. However, the first laws in this field were enacted with the development of the printing industry and the protection of authors against the issue of unauthorized printing. The world's first copyright law was passed by the British Parliament in 1710. This law introduced the author as the holder of the copyright. In France, Louis XVI issued a decree in 1777, and in the United States, with the enactment of local law in 1783, intellectual property rights were established, and then in 1789, it became a constitutional principle. In particular, the term intellectual property was first used in October 1845 in a Massachusetts court in connection with the patent case of Davoll Brown and his associates. Prior to 1967, the term intellectual property rights were used informally, but since 1967, when the World Intellectual Property Organization was established, the organization has made great efforts to develop the term [8].

Importance of intellectual property rights

Article 27 of the Universal Declaration of Human Rights recognizes the right to enjoy the spiritual and material benefits of any scientific, literary or artistic activity, in addition to human rights such as the right to life, the right to freedom of expression and thought. This makes us think about the importance and position of intellectual property rights because it is one of the basic human rights [9].

The product of human intelligence, compared to other goods and products has three special features:

- Is a direct result of human intellectual work?
- Does not disappear with consumption.
- Easily presented and reproducible.

Similar to the structure of the legal system that regulates cultural and social life, the rules and laws of property can be the link between the world of human thoughts and ideas. Without these rights, for example, the motivation of authors to create a work would be lost. The basic premise of intellectual property rights is that creative human ideas flourish when the copyright holders benefit financially from their work and control the

copying of their work. Therefore, it is because of this support that with each purchase of a product protected by intellectual property, in fact, a part of its price is paid as the share of the product ideate. Part of the price of a book belongs to its author. Part of the amount of a mobile phone is the share paid to the inventors of new technologies used in the mobile phone. Part of the price of a drink is the money spent on its brand. It is obvious that this issue will gradually and over time cause prosperity in various industries. For this reason, intellectual property rights are a complementary link in the innovation cycle. After creating an idea, by creating intellectual property rights, the possibility of commercializing it is facilitated. Thus, intellectual property is one of the categories that must be protected because of its importance, just as law enforcement enforces security in the city, so must intellectual property be protected.

Branches of Intellectual Property Rights

Intellectual property rights are divided into two main and important branches: a) Industrial property rights; b) Literary and artistic property rights. As for industrial property rights, initially, the protection of categories related to this type of rights was done by granting concessions or filing lawsuits in the courts, which continued until the middle of the 17th century AD, but after that many countries tried to Provide laws to protect this type of right, first introduced by the United States in 1790. But in general, the protection of these rights dates back to 1883 and the Paris Conference. As for Literary and artistic property rights, these rights have a much longer history than industrial property rights. The first law in this field was passed in 1710 in England. The protection of this type of law at the international level began in the mid-19th century on the basis of bilateral treaties.

The need to pay attention to intellectual property in research and business

The importance of intellectual property goes beyond human and international human rights

protections when it comes to its impact on the prosperity of trade, especially international trade, and technology research and development, especially new technologies. The study of the effects of supporting intellectual property and capital on the development of science and technology shows that one of the main results of supporting intellectual property is encouraging scientists and researchers to conduct more and more effective research, because in return for consumer genius, the reward They deserve it. In the field of international trade, creating an advantage and credibility over competitors due to the acquisition of intellectual capital by some market participant's increases bargaining power and increase profits, so that today the capital of large companies not only with tangible assets but also with intangible assets and Their intellectual assets are also calculated.

In the business arena, after patenting their research achievements, companies can either directly turn these technologies into products and market them, or they can sell patent exploitation rights through technology transfer contracts to other companies. Intellectual ownership of companies in the case of inventions, monopolies of production and sales and supply of products for companies for twenty years, and in the case of trademarks, this monopoly can last forever. It is this monopoly that consolidates the superiority of the intellectual property company in the market. Increases bargaining power and credibility among competitors and guarantees the return on investment of the company, because even if the company is not able to exercise its monopoly, it can easily get a return on investment through the transfer of its technology. At the same time, ignoring the intellectual property of a company can lead to the exploitation of third parties without the company's permission and the production of similar products by competitors, jeopardizing the company's reputation and profits, and affecting the company's bargaining power in the market.

Examples of criminal titles in violation of intellectual property rights

Examples of these crimes are forgery of a trademark registered in Iran, imitation by adding or subtracting or changing part of the characteristics of another trademark, placing a forged mark on papers, advertisements or on a product, selling goods under a forged mark, using Counterfeit mark, export or import of a product or counterfeit mark, failure to use a mandatory mark for the sale or sale of goods, import and export of equipment, unauthorized copying, recording or reproduction of audio works, violation of the copyright of the creator, and using another effect without personal permission.

Performance Guarantee for Intellectual Property Rights

These performance guarantees are divided into two categories: Guarantee of legal enforcement and guarantee of criminal executions.

1- Guarantee of legal enforcement: This enforcement guarantee is more about how to prevent damage caused by the violation of the material and intellectual rights of the intellectual creator or to prevent compensation for the rights of the creator of the work, which is done in three ways.

A) Filing a lawsuit: This means that before the crime occurs, by filing a lawsuit in the courts, the reproduction and distribution of the intellectual work should be prevented, in which case, while preventing material and moral damage to the creator of the work or other stakeholders. Crime will also be prevented.

B) Immediate trial and interim injunction: This means that in order to prevent the infringement of intellectual property rights or to claim material and moral damages resulting from the infringement, the creator of the work may, if necessary, request an immediate injunction and an interim injunction.

C) Claim: In some cases, the rights of the creator of the work or other stakeholders are violated when it is not possible to prevent it.

Therefore, in this case, the right holder can file a legal claim for compensation for material and moral damages resulting from this violation and also demand damages for the trial. A claim for intellectual property rights may be the issuance of an interim injunction or the claim for damages or the return of an intellectual property or the annulment of a contract or the collection of reproduced works.

2- Guarantee of criminal executions: The realm of guarantee of criminal execution of violation of human rights is completely separate from the realm of guarantee of legal execution. The most important of these performance guarantees are as follows:

A) Violations: Violations in the field of intellectual property rights are divided into two categories.

1- Violation of material rights: It means the acts of violation that cause material damage to the creator of the intellectual work, such as presenting all or part of the intellectual works of others in your own name.

2- Violation of intellectual rights: It means acts that violate the moral damage to the creator of the intellectual work, such as not mentioning the name of the creator of the work on the original version.

B) Punishments: Punishments in the field of intellectual property rights can be divided into two categories of violation and aggression:

1- Punishment of infringement of material rights: This issue is stated in Articles 23 and 24 of the Law on Protection of Authors. In this case, anyone who publishes, distributes or distributes all or part of the work of another person who is protected by the legislator in his own name or intentionally in the name of someone other than the creator of the work is sentenced to imprisonment from 6 months to 3 years. Anyone who publishes and distributes another translation in his own name or in the name of another person without permission will be sentenced to 3 months to 1 year in prison. Therefore, the amount of punishment for violating the rights of translators will be lighter and less than the amount of punishment for infringing the rights of creators. Because

from the legislator's point of view, the effort of an intellectual work is more difficult than the effort of translating an intellectual work.

2- Punishment for infringement of intellectual property rights: The punishment for infringement and infringement of intellectual property rights is an intellectual work stated in Articles 17 to 20 of the Law on the Protection of Copyright, which in this case will be from 3 months to one year

Conclusion

One of the infrastructures that can guarantee the economic and technological success of researchers and knowledge-based companies in the age of knowledge is the attention to intellectual property rights. Given that most of the assets of researchers and knowledge-based companies are intellectual property, so the management and legal protection of intellectual property will be inevitable. On the other hand, to enter the world economy, one must be familiar with the specific literature of the business world, and one of the key topics of which is intellectual property rights. Therefore, not knowing the issues of intellectual property rights will be a serious threat for researchers and knowledge-based companies and knowing it as a great opportunity. However, today, due to the expansion of communication at national, regional and international levels, especially through the World Wide Web and the ability to quickly and easily access all information and the possibility of some people abusing the works and achievements of others, it has been added.

References

- [1] M.Q. Jafarzadeh, An Introduction to the Rights of Intellectual Creation. Course notes. Shahid Beheshti University. **[crossref], [Google Scholar], [Publisher]**
- [2] M.J. Langroudi, Marhash Collection of Civil Law. Knowledge Treasure Publications, **2001. [crossref], [Google Scholar], [Publisher]**
- [3] A. Nowruzi, Intellectual property rights. Copyright and industrial property. Published by Chapar. First Edition, **1381. [crossref], [Google Scholar], [Publisher]**
- [4] S.H. Mir Hosseini, Patents. Publication rate. Tehran, **2008. [crossref], [Google Scholar], [Publisher]**
- [5] A. Emami, Intellectual Property Rights. Publication rate. Tehran, **1396. [crossref], [Google Scholar], [Publisher]**
- [6] S.H. Mir Hosseini, Introduction to Intellectual Property Rights. Publication rate. Tehran, **1396. [crossref], [Google Scholar], [Publisher]**
- [7] H. Shabbiri, Theoretical and jurisprudential principles of intellectual property rights. *first volume*, **2008. [crossref], [Google Scholar], [Publisher]**
- [8] M. Shafiee Shakib, Copyright Protection: National and International Laws and Regulations. *first volume*, Tehran, **2002. [crossref], [Google Scholar], [Publisher]**
- [9] M.J. Jafari Langroudi, Property Law, *first volume*, Tehran, **1997. [crossref], [Google Scholar], [Publisher]**