

Philosophical Foundations of IPR & Introduction to Patents

IP – the state of play

- "The patent system added the fuel of interest to the fire of genius."
- - Abraham Lincoln
- V_s
- "If I have seen further than most, it is because I stood on the shoulders of giants."
- Isaac Newton

Roots of IP Justification

- Natural Rights Perspective- John Locke
- If labour is mixed with the elements of nature and it results in a product –then it is the property of the person who put in the labour
- What is common is different from the one which a distinction is made
- It is not needed to get the complete consent of the man kind to such a property
- Can he till as much and make as much of it as his property ?
The answer is no- the right to property is also bounded

Personhood and property- Hegel

- The person becomes real only when engaged with a property relationship that is external
- Property is the first embodiment of freedom and so is in itself the substantive end
- Property that is instrumental vs Property that is bound with the person
- Property bound by person has no compensation

Utilitarian perspective of IPR

- The social value of utilitarian works lies principally if not exclusively in their ability to perform tasks (for example, a better automobile with lesser pollution) or satisfy desires more effectively or at lower costs (a low cost solar lamp).
- It is logical, therefore, that society would seek to protect such works within a governance regime that itself is based upon utilitarian precepts.

Welfare Perspective

- Pigou (1924) elaborated the basic framework of modern welfare economics, developing the concept of public goods as ‘instances in which marginal private net product falls short of marginal social set product because incidental services are performed to third parties from whom it is technically difficult to exact payment’.

Welfare foundation of IP

- The patent laws aim, in effect, at bringing marginal private net product and marginal social net product more closely together.
- By offering the prospect of reward for certain types of invention they do not, indeed, appreciably stimulate inventive activity, which is for the most part, spontaneous, but they do direct it into channels of general usefulness.

Joseph Schumpeter's Influence

- Schumpeter's work emphasized three principles:
- (1) innovations continually upset established relationships in markets and organizational structures through a process of 'creative destruction' ;

Schumpeter Principle

- (2) technological innovation provides the opportunity for temporary monopoly profit, and this linkage explains the rapid economic growth of the Western economies;

Schumpeter Principle

- (3) large monopolistic firms are the prime source of technological innovation because they are best able to bear the high costs of technological innovation.

Incentive Theory –

- To provide economic incentive to those who have invested their time and money on innovation and expression
- To protect the integrity of the market place
- Light houses vs Ice cream cones
- Nonrivalrous vs rivalrous

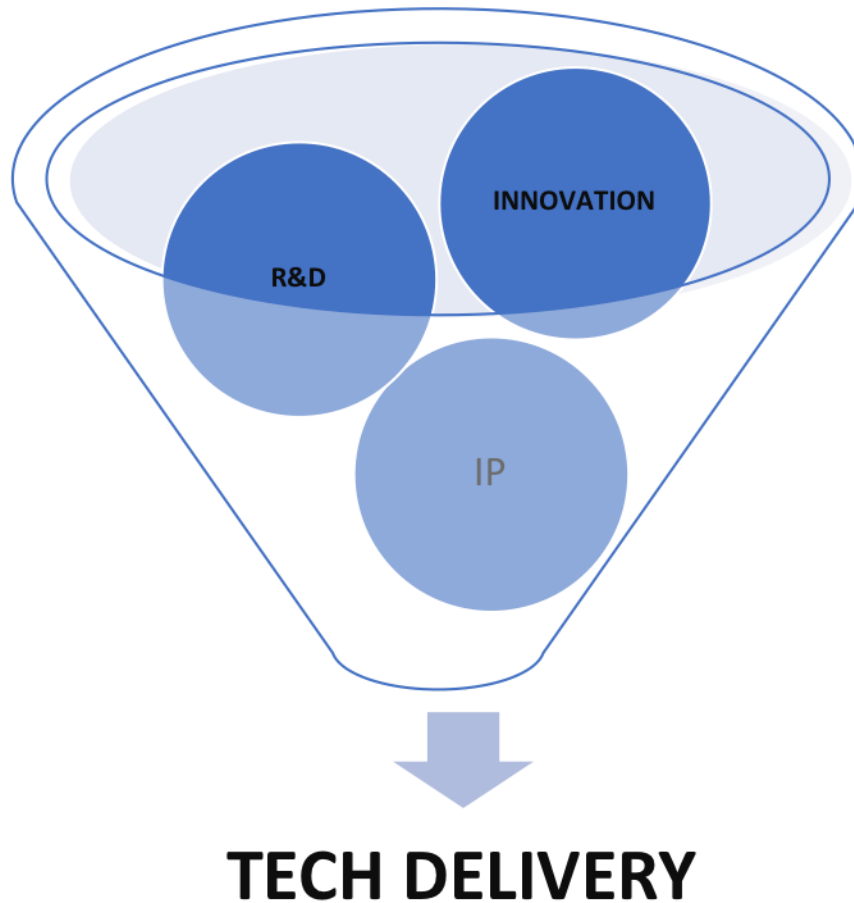
The changing modes of wealth creation

- Hunting gathering
- Agrarian Economy
- Raw Material based production economy
- Knowledge based economy

IPR-The Legal Tool

- The Knowledge Economy rests on Intellectual Property Law as a key tool for its survival
- IP management is just not creating a think-tank-But is a a pro-active process of corporate governance.
- Law as a tool of management than one that of litigation makes the future better

IP & TECH DELIVERY SYSTEM- 1



Role of IPR-in TECHNOLOGY DELIVERY SYSTEM - #2

- **IPR- the interface of creations and rights**
- **Rights as an incentive**
- **Rights as a limited monopoly**
- **To foster innovation as a culture**
- **Linking innovation to Delivery system**
- **Linking Investment to technology delivery**
- **Linking technology to economic development**

Role of IPR-in TECHNOLOGY DELIVERY SYSTEM - # 3

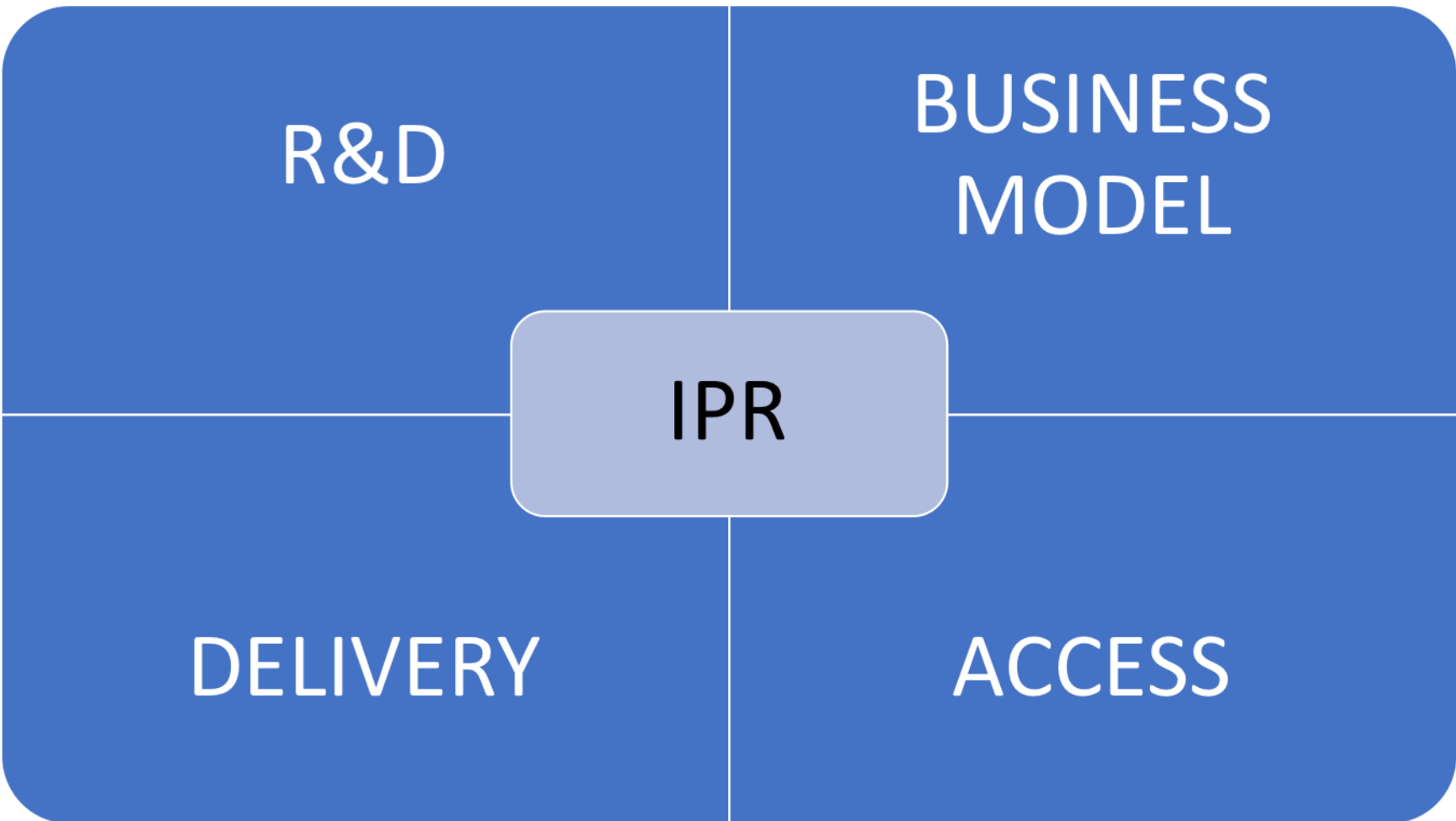
- A legal right to protect the creation
- An incentive to disclose to the public for further further creations
- To prevent others from illegally exploiting the creation
- To avoid re-inventing the wheel

Role of IPR-in TECHNOLOGY DELIVERY SYSTEM -

4

- Balancing inventor and the consumer
- Checks and balances of abuse
- Powers during emergency
- To safeguard traditional knowledge
- To structure regimes based on needs and priorities of public policy

INNOVATION-DELIVERY MATRIX



IP –INNOVATION- STUDY-EIU

- **The patent as a measure of innovation-** common measure of innovation for a company is how many patents it generates annually.
- The number one corporate innovator in the world is IBM, which has a worldwide portfolio of more than 40,000 patents.
- One way of measuring of innovation for a country is how many patents it generates per million population.
- A research of EIU of Economist on 82 economies shows- the top-ranking national innovator is Japan, with a perfect score in an index of 10 out of 10.
- The data are averaged over 2002-05 and expressed in terms of patents per million population for each country.

5 KEY ISSUES IN STRATEGIC MANAGEMENT OF IP-TECH DELIVERY

■ **1. LAW AS A TOOL OF MANAGEMENT VS LITIGATION**

- PROTECTING INNOVATION
- AVOIDING INFRINGEMENT
- EXPANDING THE JURISDICTION
- CHALLENGING THE VALIDITY

5 KEY ISSUES IN STRATEGIC MANAGEMENT OF IP-TECH DELIVERY

- **2. IP IS A CULTURE –NOT AN IRON CURTAIN**
- THERE IS A STATUE IN EVERY STONE
- TO AVOID REINVENTING THE WHEEL
- THERE IS A NON OBVIOUS VIEW IN EVERY OBVIOUS SITUATION
- GOOD FENCES MAKE GOOD NEIBHOURS

5 KEY ISSUES IN STRATEGIC MANAGEMENT OF IP-TECH DELIVERY

■ 3. IP IS NOT A FIXED FRAMEWORK

- STRATEGIES ARE CONTEXTUAL
- ONE SIZE DOES NOT FIT ALL
- NOT A FAMILY SILVER
- TO KNOW WHEN TO DROP THE CARD

5 KEY ISSUES IN STRATEGIC MANAGEMENT OF IP-TECH DELIVERY

■ 4. IP IS ABOUT RIGHTS

- IT IS NOT JUST ABOUT MONEY
- TO DONATE YOU NEED RIGHTS
- CAN BE A TOOL OF RELATIONSHIP
- CAN BENEFIT SMALL PLAYERS

5 KEY ISSUES IN STRATEGIC MANAGEMENT OF IP-TECH DELIVERY

- **5. IP IS PROPRIETARY –YET**
- ALL SEGMENTS TO BE WORKED IN TANDEM
- COOPERATION AND COLLABORATION IS THE KEY
- PAPER TO CURRENCY- SPEED IS THE ELEMENT
- LAW IS A SERIOUS BUSINESS TO BE LEFT ALONE TO LAWYERS

Current Developments

- Prior to 1995- countries had their own IP laws and interpretation
- WTO-TRIPS which came in 1995 set the minimum standards which all members countries have to follow
- Though the treaty is signed the interpretations are still a matter of debate

Trade Related Intellectual Property Services

- TRIPS was incorporated in Uruguay round and it covers
- copyright and related rights
- trademarks including service marks;
- geographical indications including appellations of origin;
- industrial designs;
- patents including the protection of new varieties of plants;
- the layout-designs of integrated circuits;
- undisclosed information including trade secrets and test data

Elements of IP

- Copyright
- Trademark
- Patents
- Other Ips- Geographical indicators
 - Industrial Designs
 - Integrated Circuits
 - Trade Secrets
 - Plant Varieties

Elements of IP

- **Patents**- covers all forms of inventions and the processes involved in such inventions
- **Copyright** covers all forms of creative expressions like literature, Music, Cinema, Drama and Sound recordings (includes software under literature
- **Trade Marks** covers various signs of enterprises used in Products and Services

Elements of IP – contd 1

- **Designs** cover all forms of design element which appeals to the eye
- **Integrated circuits** covers the design and functionality of various chips
- **Protection of Plant Varieties** covers asexually produced seed varieties
- **Geographical Indications** covers the names of products which are indicative of the origin and well known to the consumers
- **Trade Secrets** covers all forms of confidentiality of products or services owned by individuals or organizations

SUMMING UP

- Knowledge- Innovation-Technology delivery-Appropriate IP policy as the link
- Through strategic management of IP
- R.K. Narayan' s story is important !
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- www.nalsarpro.org
- Sources- NALSARPro materials
- Monetising IP presentation- IP Dome