

BULLETIN

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International Protection of Intellectual Property Rights

In today's globalized world, intellectual property rights (IP) rights play a pivotal role in fostering innovation, creativity, and economic growth. As a leading law firm, we understand the significance of IP rights in protecting your creations and innovations on an international scale. In this article, we will explore the fundamentals of IPR, the two main categories, and how international agreements, such as the TRIPS Agreement, harmonize IPR with international trade rules.

What is IPR?

IPR, or Intellectual Property Rights, are legal rights granted by governments to creators and inventors to safeguard their intellectual creations. These rights prevent others from making, copying, selling, or using these creations without permission for a specified duration. IPR encompasses a range of protections, including patents, copyrights, trademarks, trade secrets, and geographical indications (GIs). The primary goal of IPR is to incentivize innovation and creativity by granting exclusive rights to creators and allowing them to benefit from their work, either financially through royalties or by recouping expenses incurred during the creative process.

Categories of Intellectual Property

Intellectual property is typically categorized into two main groups:

- 1. Copyright:** Copyright protection applies to literary, artistic, and creative works. It grants creators exclusive rights over their works, such as books, music, and software. Copyrights are essential for protecting original artistic expressions.
- 2. Industrial Property:** Industrial property encompasses a broader range of IPRs, including patents, trademarks, and trade secrets. Patents protect new inventions, trademarks safeguard brand identities, and trade secrets protect confidential business information.

The Role of the World Trade Organization (WTO)

The World Trade Organization (WTO) is an international body that focuses on global trade matters, including the harmonization of IPR with international trade rules. This is achieved through the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, adopted by WTO member states in 1994.

The TRIPS Agreement is guided by the principles of reducing distortions and impediments to international trade while promoting effective and adequate protection of intellectual property rights. It seeks to ensure that measures and procedures for enforcing IPR do not create barriers to legitimate trade. In a globalized economy where well-known trademarks and products are widely available, excluding a product from a market due to IP rules can significantly impact a company's profits.

Geographical Indications and Special Protection Systems

Geographical indications (GIs) are an integral part of the TRIPS Agreement. GIs protect products linked with specific geographic locations, such as Champagne from France or Parmigiano-Reggiano from Italy. The TRIPS Agreement recognizes the importance of GIs and aims to protect them on an international scale. This is especially evident in the special protection system of the European Union (EU), where GIs hold a prominent place.

Protection Against Infringements

The TRIPS Agreement addresses the harmonization of IP rules and protects against infringements. Infringements, such as counterfeiting or other forms of IP violations, are common issues dealt with by inventors. The agreement outlines remedies that can be awarded by national courts, such as preventing the entry of infringing goods into their jurisdiction or awarding damages to the IP rights holders.

The Global Significance of IPR

Intellectual property rights have both national and international dimensions. While national laws govern specific aspects of IPR, international conventions, and treaties provide a framework for minimum rights and enforcement measures among contracted states. Strong IPR protection worldwide is essential for global economic growth, as it promotes innovation and the development of new technologies.

National vs. International Protection of Intellectual Property

National Protection:

To protect intellectual property at a national level, individuals and businesses can take several crucial steps:

- 1. Register Intellectual Property:** Depending on the category of IP, it may be necessary to register it with the appropriate national office. For example, patents and trademarks often require formal registration.
- 2. Use Contracts:** Employ contracts, such as non-disclosure agreements (NDAs) and licensing agreements to specify the terms under which others can use or access your IP.
- 3. Enforce Rights:** Vigilantly monitor and enforce your IP rights within your country's legal system. This may involve legal action against infringers.
- 4. Maintain Records:** Keep meticulous records of creation, development, and use of your IP. Documentation can be crucial in proving ownership.

International Protection:

Expanding IP protection to the international level presents unique challenges and requires additional considerations:

- 1. Utilize International Agreements:** Take advantage of international treaties and agreements, such as the Paris Convention for the Protection of Industrial Property and the Berne Convention for the Protection of Literary and Artistic Works, to gain protection in multiple countries with a single application.
- 2. File for International Patents:** Consider filing for international patents through the Patent Cooperation Treaty (PCT), which streamlines the patent application process in multiple countries.
- 3. Register Trademarks Globally:** If you plan to market your product or brand internationally, consider registering your trademark through the Madrid Protocol, which offers protection in numerous countries.

- 4. Enforce Across Borders:** Enforcing IP rights internationally can be challenging but necessary. Work with experienced legal professionals who understand the complexities of international IP enforcement.
- 5. Stay Informed:** Keep abreast of changes in international IP laws and regulations, as these can impact your rights and protections.

In a world where innovation and creativity drive economic progress, understanding the international protection of intellectual property rights is crucial. The TRIPS Agreement and other international agreements play a vital role in harmonizing IPR with global trade rules while safeguarding the rights of creators and inventors. Whether you're seeking protection at the national or international level, our law firm is dedicated to helping you navigate the complex landscape of IPR and ensuring that your intellectual creations receive the protection they deserve. If you have any questions or require legal assistance, do not hesitate to contact us.¹

1. Bolos, M.D. 'Emerging Markets Queries in Finance and Business IP Protection and International Trade' CRS (15, 2023) Intellectual Property Rights (IPR) and International Trade