

## INTELLECTUAL PROPERTY RIGHTS AS A MARKETING CATALYST: EXPLORING STRATEGIC APPLICATIONS IN THE CREATIVE INDUSTRY

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### ABSTRACT

The creative industry's use of intellectual property as a marketing tactic. IPRs have transcended moral or ethical notions of creative ownership and therefore, have come to cover a more extensive spectrum. They become increasingly intertwined. People's and company financial interests. While both trade secrets and trademarks have always had marketing consequences, academics who study intellectual property, as well as those who don't even qualify as lawyers, have lately emphasized the draw of other rights such as designs and copyrights to customers. This research study attempts to explore the important role of intellectual property rights in the marketing process. The theoretical aspects of intellectual property are put on study in support of its conclusions and the concretization of that study is aided through case studies of high profile modern businesses. It reveals that intellectual property rights (IPR) are today a fundamental component of the most common, and commonly used marketing strategy in today's business environment. The impact of these is reflected in so many things, pricing, and product design, how people buy, etc. All else mentioned involves market share manipulation, Porter's five forces analysis, other marketing concept, or their potential significance concerning intellectual property rights. The conclusion of the paper says that intellectual property rights can be useful instruments in every step of the marketing process.

**Keywords:** Intellectual property, Market share, Pricing, Ethical, Product design.

### INTRODUCTION

In today's business strategies, Intellectual Property Rights (IPRs) have become the basis of this methodology since creative industries thrive on it. With the current digital era, creators need the ability to bring to market their products and services with the adequate intellectual property (IP) tools and resources. This dialog is also difficult even in companies that are aware of the need to have IP integrated with strategic thinking: traditional intellectual property (IP) has. Intellectual property went beyond the original role of safety, because intangible assets can transform into a flexible business resource adequate to controlling marketing techniques once entered into the market for commercial use. Their significance at present is such that modern economic

conditions based on the technological progress and operations of the world trade compel the IPRs to become a key constituent of the corporate planning and branding activities and of the consumer relations.

Currently, intellectual property is an essential business tool that helps companies build brand names and increase market worth, as well as contributes to enhancing loyalty between consumers. Nowadays, growing competition from other intellectual property rights such as copyrights and industrial designs and patents whose impact on consumer reactions is stronger than the impact of conventional IP rights including trade secrets and established marketing capabilities is becoming more and more important for our success in business. IP has created its own market price, more or less

becoming a commodity in and of itself. This modern view of IP proves that business recognises that creativity can be a source of marketplace superiority above mere ownership. Intellectual property rights in turn influence different aspects of marketing operations as they are used to define prices, to design, advertising campaign and shaping consumers buying choices.

Sir Peter Drucker said,

*"The aim of marketing is to make selling superfluous. The aim is to know and understand the customer so well that the product or service fits him and sells itself. Ideally marketing should result in a customer who is ready to buy."*

Trademarks, patents by IP assets can create consumer trust on the business that would result in market demand rather than aggressive selling of the goods and services. Through its trademark symbols, a business can stand out by being a reputable quality indicator which helps a business to be well known and established for life associations with the customers. The association of design patents with copyrights in enhancing the product beauty and its originality, which are a choice in a market by a consumer.

Even in companies that perceive the need for an integrated approach to managing IP and setting strategy, the dialog between engineers, lawyers, and business executives is often difficult<sup>22</sup>. Leading corporations, mainly, such as Apple, Nike and Disney, mastered IPRs on how to use storytelling for supreme memories, control consumer perception and keep in regime of the market.

Finally in this study also analyse how intellectual property integrates with marketing using market models such as Porter's five forces and market share manipulation to obtain a deeper insight of the matter. Evaluation of the competitive structure using Porter's Five Forces indicates that effective intellectual property

practices help business organizations protect themselves from the intrusion by competitors and new market entrants in the marketplace. It is good for companies that get exclusive rights to technologies and creative content along with their innovative designs because it gives them improved market position and is limiting competition. The expansion of business marketing success occurs through IP rights' establishment due to the fact that they establish a basis for basic partnerships and licensing arrangements as well as co-branding agreements.

Digital transformations in our society have established complicated connections between intellectual property and marketing activities. Modern market conditions that include e-commerce and social media and digital content platforms force businesses to change their IP strategies for handling new challenges and exploiting emerging opportunities. Online counterfeits together with unauthorized distributions and digital piracy attacks intellectual property authentication so manufacturers must adopt both strong protecting systems and new advertising strategies. The digital landscape makes available ground breaking opportunities for companies to accomplish consumer interaction while developing brand networks and utilizing user-submitted material to boost marketing effectiveness.

Intellectual property rights have expanded beyond their standard legal objectives because they function as fundamental elements in current marketing tactics. Intellectual property serves as a vital mechanism for business success because it helps organizations develop their brand uniqueness and market strategies and set pricing structures and interact with their customer base. Modern business organizations need to develop innovative methods for utilizing their intellectual property assets in an ethical and legal manner as the worldwide market evolves.

<sup>22</sup> Fisher, W.W. III and Oberholzer-Gee, F. (2013) 'Strategic management of intellectual property: An integrated approach', *California Management Review*, 55(4), p. 158. Available at: [CMR.Berkeley.edu](http://CMR.Berkeley.edu) (Accessed: 20.02.2025)

## THE DEVELOPMENT OF INTELLECTUAL PROPERTY IN MARKETING

The earliest record of IP is dated back in 500 BC, where the Sybaris, a Greek state made a year-long exclusivity for bakers to make their culinary invention. The first one to obtain a statute by the Republic of Florence which conceded the authors' and creators' rights to their intellectual work was Filippo Brunelleschi, a famous architect. A milestone was the Statute of Monopolies (1623) which limited royal monopolies in the future, at the same token introducing 'letter patents' for inventors of new manufactures, thereby creating the mould of the early patent system. The preceding is followed shortly after by the Statute of Anne (1710), which was the first modern copyright law to give authors exclusive rights to their work for 14 years, with the possibility of renewal. These were the legislative milestones that set up IP to become a structured legal framework rather than royal privileges.

The Paris **Convention for the Protection of Industrial Property, 1883** and Berne Convention, 1886 marked a significant milestone in IP history, to protect the creators and inventions and the works of artists and authors across borders. Trade-Related Aspects of Intellectual Property Rights (TRIPS) is the global agreement on the protection of Intellectual Property and thus performs a global platform. The World Intellectual Property Organization (WIPO), 1967 is an agency of the United Nations, the purpose is to aid in the development of an effective international IP system that fosters innovation.

## INTELLECTUAL PROPERTY RIGHTS, MARKET AND PERCEPTION SHARE

Marketing aims to increase the success of one company relative to its competitors. Every market has a limited number of buyers at any given moment, the dominance of a particular seller can be measured and quantified by the number of sales made by a particular business within that industry that take place during a specific period – the number of sales that are made by an individual company divided by the

total sales within the industry over a specific period represents that company's 'market share'. Marketing is thus conducted to improve or at least maintain the market share of a company.<sup>23</sup>

Market share is, above all, a factor of brand perception, which ozone decides much in the light of their marketing strategy and intellectual property rights (IPR). In order to distinguish their products and services from competitors, companies are dependent upon patents, trademarks, copyrights and trade secrets. Not only does it secure exclusivity, but it also boosts consumer's trust and brand's reputation. Licensing and co-branding agreements are strategic marketing efforts that allow businesses to achieve reach and also increase the market presence. Licensing intellectual property by firms helps increase the influence of a firm in many sectors while allowing for the monetization of their creative innovations.

On one hand, intellectual property protection gives competitive benefits; however, there are also more difficulties. Lawyers engaged in world of business have to do the tight balancing act between understanding every complex and legal law regarding trademark disputes, patent litigation and copyright infringement. Aggressive enforcing of IP rights by companies may come in for adverse reactions, as companies limit market competition and consumer choice. Furthermore, digital piracy of brand and counterfeit goods scare brand integrity and revenue streams. To tackle these risks, firms are resorting to advanced security measures including artificial intelligence (AI) based monitoring to prevent and track unauthorized use of their intellectual assets and making use of block-chain based authentication systems to secure their intellectual assets block-chain.

<sup>23</sup> Ishan Puranik, (2023) 'Intellectual property as a marketing tool in the creative industry', *IPR Journal of Maharashtra National Law University, Nagpur*, 1(2), pp. 117-118 (Accessed: 20.02.2025)

## IP AS MARKETING TOOL

Today in the fiercely competitive market environment of the world, intellectual property (IP) is a powerful marketing tool, longer possessing the status of legal safeguard, but turning into a strategic asset of businesses. The protection of creative ideas, designs and innovations through IP not only offers a company a competitive edge, but IP also plays an important role to promote brand identity and influences consumer behaviour.

This strategy inherently rests on the understanding that IP is an intangible asset not limited to creating a set of rights for creators and inventors; rather, it forms an integral part of the marketing mix. IP takes different forms and includes trademarks, copyrights, patents, and designs which the companies leverage in creating a particular brand image that the customers can feel with. This link between a brand and its IP protected assets permits in establishing customer loyalty and discrete the product in an overcrowded market place.

Furthermore, invention and quality often signal through IP. However, consumers are reassured that a particular product which has patented technology or trademarked logos is legitimate and has value to warrant the cost to them. Not only does the reassurance help improve the perceived quality of the product, but it also warrants a premium pricing. Thus, companies can highlight the uniqueness and a higher value of their goods over those of competitors, leading to more loyal customers and greater market share in the process, all using their IP portfolio.

Besides, IP contributions in creating brand identity and consumer trust; IP is also important in influencing competitive behaviour in the market. IP laws grant exclusive rights and allow a company to secure market positions that are difficult to be replicated by competitors. By placing this legal barrier on businesses, they can have more assurance to invest in research and development as well as marketing. In addition, companies that use IP assets to

market themselves are telling the world not only that they have technology, but that they are industry leaders. It can bring in partnership, investors and new customers which thereby strengthens market presence.

The marketing utility of IP is closely related to the relationship between IP and pricing strategy. Through the use of their IP assets, companies take advantage of these positions by able to charge higher price for their products based on the sense that their products are innovative and premium. With respect to this, the use of design patents and copyrights in product aesthetics has a great role, since a good design product with good graphics can give an advantage hard to compete to the product. Such differentiation permits the companies to keep up higher gross gain edge and support the picture of their brand as the best and trustworthy.

Last, using IP strategically in marketing goes beyond brand protection and loyalty to consumers. The IP assets are now at the heart of a social media and online marketing strategy in today's digital era. Once again, IP protected content, including logos, slogans or product design prompts for viral marketing campaigns, which sway the public and increased online engagement. The full penetrability of digital marketing in this way translates to increase in market penetration and ultimately, business growth.

Thus, intellectual property is no longer a legal protection. Over time, it has become an important marketing tool to help facilitate the brand, warrant higher prices and boost competitiveness. The strategic use of IP will continue to be a cornerstone of effective marketing for companies in an era of a dynamic marketplace as this form of engagement and business success will continue to guide the key research.

## INTELLECTUAL PROPERTY AND MARKETING THEORY

A reference to Porter's 5 force analysis helps us understand how having intellectual property rights can provide certain advantages to companies contemplating entering new industries. Porter's five-force analysis is traditionally used to assess the competitiveness of a broad industry and how an individual company is positioned within it<sup>24</sup>.

For this purpose, we have used Michael Porter's Five Forces framework as a strategic tool to understand the role IPRs may play in the formation of competitive business environments.

### *Threat of New Entrants*

Industries where new firms can enter more easily almost always have lower profit margins, and the firms involved each have less market share<sup>25</sup>. Exclusive rights granted through patents for new products and technologies discourages entry of new firms due to high research and development of R&D costs. Brands with established trademarks have more brand recognition, and thus it's hard for the new players to gain market share. In media and software industries, copyrights also hinder competition by limiting replications of content. The rise of the entry barriers and the protection of the market position of incumbent firms is done together.

### *Bargaining Power of Buyers*

Having intellectual property has a significant impact on the consumer behaviours in terms of fostering brand loyalty, and less price sensitivity. Companies with good and strong trademarks, like Apple and Nike, form emotional connections with their customers – users are not likely to switch to competitors. Patents and copyrights also reinforce the idea of more 'quality' and

'exclusive', and therefore terminate the businesses to price its product at premium. Therefore, consumers consider these goods as indispensable, and so firms have more power when it comes to purchasing capacity and pricing policies.

### *Bargaining Power of Suppliers*

Strong IPRs enable the firms to obtain disproportionately important leverage over their suppliers, thus lowering the supplier's power. All the companies have proprietary technologies covered by patents, and it obligates suppliers to follow strict specs, making suppliers dependent to the said companies. Other businesses might decide to use vertical integration strategies that include backward vertical stretches to control supply chain and reduce costs by acquiring suppliers. Furthermore, suppliers that rely on distributing trademarked goods are not able to negotiate, since switching to an alternate brand of goods is difficult. All these factors allow firms to control terms in the supplier agreements.

### *Threat of Substitutes*

Existing intellectual property allows companies to come up with unique offerings as the substitutes for these offerings are so unavailable. The patents that relate to a given product in the pharmaceutical industry prohibit the entry of the generic drug and hence provide a prolonged exclusivity. The same applies to strong trademarks as well, which dissuade consumers from considering choosing some other brand, even if they have identical products. In the field of entertainment, we can observe that the access to alternative platforms is limited by the copyrights of content licensing, for example exclusive shows, when available in the streaming services. These make it less likely that consumers will switch to other products and strengthen the already solid market dominance.

### *Industry Rivalry*

IPRs help maintain competitive differentiation, reduce direct competition and offer exclusivity to a brand. Companies can maintain their

<sup>24</sup> Ishan Puranik, (2023) 'Intellectual property as a marketing tool in the creative industry', *IPR Journal of Maharashtra National Law University, Nagpur*, 1(2), pp. 119-120 (Accessed: 20.02.2025)

<sup>25</sup> Porter, M.E. (1979) 'How Competitive Forces Shape Strategy', *Harvard Business Review*, 57(2), pp. 137-145, Available at: <https://hbr.org/1979/03/how-competitive-forces-shape-strategy> (Accessed: 20.02.2025)

market position with patents and trademarks, as they prevent the competitors from imitating products. A trademark such as Rolex and Louis Vuitton creates an image of the exclusivity and high status. The fierce patent battle and cross licensing for sharing technologies often goes on among firms operating in the high-tech industries for establishing technological supremacy. These are the strategies that help companies minimize tough competition and make sustainable success.

### CONSUMER BEHAVIOUR AND BRAND LOYALTY

Customer based brand equity is basically the idea that a brand's power lies with consumers in their mind from the continuous experience and knowledge over period of time. Customer-based brand equity can be defined as the differential effect that brand knowledge has on consumer response to the marketing of that brand. Brand image is defined as consumer perceptions of a brand as reflected by the brand associations held in consumers' memory<sup>26</sup>.

Branded products often give rise to associations of quality, authenticity and exclusivity. Consumers move towards purchasing again and again and advocate for the firms and brands. Brands like Apple and Louis Vuitton have for instance built a strong consumer loyalty by enforcing constantly their IPRs against these counterfeit goods which enhances the idea of premium quality. Moreover, brand heritage and innovation marketing strategies, supported by intellectual property help to form brand loyalty, as do strategies of using IPRs to protect this relationship and building brand growth.

### DIGITAL MARKETING AND IP PROTECTION

Initially, the role of Intellectual Property Rights (IPRs) was protective for the creative ownership but this has moved away from being a sole purpose of IPRs. In the creative industry, Trademarks, Copyrights, Designs, Business

secrets are used not only as legal protection but also as branding, differentiating mechanism. This strengthens the argument how IPRs can control consumer perception, influence pricing and can reshape the product design, and hence its importance in marketing. Case studies of high profile cases show how companies use patents strategically to do so, trademarks to create brand identity and copyrights to provide value to their contents. Moreover, IPRs are incorporated with marketing concepts, i.e. Porter's five forces analysis and market share manipulation to highlight how they contribute to formation of competitive advantage. Therefore, intellectual property has become one of the major factors in decision making both by the consumers and the business in determining brand loyalty in an environment that is growing more competitive.

### CONCLUSION

Traditionally, Intellectual Property Rights (IPRs) are known as legal instruments which protect the inventors and creators; but, they have transformed into strategic business asset that has a pivotal role in modern marketing and brand positioning. With today's competitive business environment, companies rely more and more on patents, trademarks, copyrights, and trade secrets not only for protection of their invention and brand but to make their market presence stronger, affect consumer perception and improve business. Intellectual property and marketing strategies make a bold crossover that's changed the game when it comes to building consumer trust, safeguarding brand exclusivity and keeping it that way, as well as commending control of your market.

Accordingly, intellectual property grew as a marketing tool beginning with the earliest legal frameworks, for example, the Statute of Monopolies (1623) and the Statute of Anne (1710), which were the source for the modern intellectual property laws (Hillé, M. 2008: 3). The Paris Convention was signed in 1883, the Berne Convention in 1886, while the TRIPS Agreement has further strengthened the IP protection

<sup>26</sup> Pekka Tuominen, (1999) 'Managing brand equity', *LTA*, 1(99), pp.75-76(Accessed on:21.02.2025)

across the borders over the course of time thus making it an indisputable aspect of the ever increasing international trade and business. Nowadays, intellectual property laws serve not just as much for legal protection, but also for the growth of innovation and investment, for consumer protection of the brands and the products.

In terms of achieving or sustaining its market position, intellectual property as a marketing tool comes into play as a means of achieving competitive differentiation. Trademarks help companies create a strong brand identity that sticks in people's minds; meanwhile, patents and copyrights help companies enjoy the exclusivity and inhibit competition about their new creations and brands. In the same vein, IP assets are further leveraged in terms of licensing agreements and co-branding initiatives and strategic alliances to expand business influence and its market penetration. But so too does the aggressive enforcement of IP rights, by way of potentially angering consumers, litigating over them and stifling competition. An attempt has been made to strike the balance between protecting intellectual property and encouraging market innovation in a sustainable way.

The Michael Porter's Five Forces framework is useful in order to understand how intellectual property contributes to the competitive advantage. IPRs enable the creation of high barriers to entry, force firms to increase brand loyalty for surviving, and the ability to set market pricing is among other ways which IPRs shape the competitive landscape in favour of the businesses that smartly employ their intellectual assets. Additionally, the place of IP in the digital marketing is increasing due to the fact that firms today apply the patents, trademarks and copyrights to take the lead over competitors and influence customer perception; to bring out the product value and its high quality and to provide the online interaction. In the age of digital platforms, e-commerce, and social media IP protection has become an ever increasing problem too, with

the emergence of online counterfeiting, digital piracy and unauthorized use of brand assets amongst other problems. With this, the businesses are switching to the latest technological solutions in the form of AI-driven monitoring, block-chain-based authentication, and digital rights management systems etc. to protect their IP assets.

In addition, consumer behaviour and intellectual property cannot be ruled out. A strong IP protection is deeply linked to brand loyalty, consumer perception of quality, exclusivity and authenticity. Both Apple, Nike, and Disney are leading global brands that have perfected using IP as means of controlling consumer perception, building long lasting brand equity and for securing long term customer relationships. They clearly show how managing intellectual property can take a company from the status of a competitor to that of the one and only market leader with an unmatched brand identity.

With that, the emergence of intellectual property in marketing will continue to develop positively, as businesses face the task of globalizing, digitalizing, and satisfying consumers' preferences. Those companies that leverage IP as part of their branding, their ad campaigns, and even in setting their product development strategy will be more able to maintain the competitive advantage over the long term, they'll be more able to form lasting and profitable customer relationships. Legal shield to intellectual property is no more, it has turned to be a dynamic and valuable tool in the business providing creativity, market innovation and a determinant of the future of the marketing world in this modern economy.

However, with more convergence of markets and the pace of advancement of technology, businesses must find new ways of leveraging their intellectual assets for their benefit without being unethical or illegal. Strategically utilizing the ability to leverage intellectual property will not only help a company protect its innovativeness but this will also help the



company set itself apart from competition to become a leading entity in its particular industry. The adaptation of intellectual property in marketing is the key to the future, as the strategic enforcement and vision of the business of tomorrow's intellectual property should align with the growth of the business and more importantly with the growing desire from consumers to be completely engaged with the brand.