

## COMMERCIALIZATION OF INTELLECTUAL PROPERTY RIGHTS: A COMPREHENSIVE REVIEW AND IMPLICATIONS

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### *Abstract*

*In the contemporary economy, the commercialization of intellectual property (IP) rights is crucial for promoting innovation, commercial progression, and competitive advantage for both firms and individuals. This paper explores the several types of intellectual property, including as trade secrets, copyrights, trademarks, and patents, before exploring how important IP is as a valuable resource for creators and inventors. The paper reviews various approaches to monetizing intellectual property, including licensing, partnerships, and technology transfer, while considering the economic, legal, and ethical aspects. Special emphasis is placed on the implications of these commercialization strategies for third-world countries, exploring how intellectual property can be harnessed to promote innovation, economic growth, and sustainable development. By analysing real-world examples and case studies, this paper sheds light on the complexities and opportunities surrounding the commercialization of intellectual property rights in diverse global contexts. The commercialization of intellectual property rights (IPRs) is a complex and multifaceted issue with far-reaching implications for third-world countries. On the one hand, IPRs can provide incentives for innovation and creativity, which can lead to economic development and improved living standards. On the other hand, IPRs can also be used to protect monopoly profits, which can stifle competition and innovation. The paper examines the potential benefits and risks of the commercialization of IPRs in third-world countries. "It argues that the impact of IPRs on these countries will vary depending on several factors, including the level of economic development, the strength of the legal system, and the availability of resources to support innovation. The paper concludes by calling for a balanced approach to the commercialization of IPRs in third-world countries. This approach should*

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*strike a cautious balancing act between the need to safeguard innovation and the need to promote competition and access to essential technologies.*

**Keywords:** *Intellectual property Rights, Commercialization, technology transfer, licensing, innovation policy, economic growth, Third-world countries, and sustainable development*

## INTRODUCTION

Intellectual Property Rights (IPR) represent a crucial and dynamic field of law that safeguards the creations of the human mind. In an increasingly knowledge-based global economy, to promote innovation, creativity, and economic progress, these rights are now<sup>1</sup> crucial. Intellectual property includes a variety of intangible assets, such as commercial secrets, rights, copyrights, trademarks, and more, each serving to protect the unique expressions of ideas and inventions in various<sup>2</sup> domains.

Intellectual Property Rights, often abbreviated as IPR, are legal privileges that provide one the only authority to own and manage intellectual creations and innovations. These rights are designed to encourage individuals and organizations to invest in the development of new ideas, products, and artistic works by providing them with a temporary monopoly for excessive utilization, reproduction, and sharing of their creative works.

IPR plays a pivotal role in incentivizing inventiveness and originality across industries by offering creators and inventors protection in addition to the potential for financial<sup>3</sup> gain. These rights help reconcile the need to promote innovation with the need to make sure that society benefits from the dissemination of knowledge and cultural works. In an era characterized by widening economic disparities and rapid technological advancement, understanding the dynamics of intellectual property commercialization and its consequences on third-world countries<sup>4</sup> is paramount. Creative works of all kinds, including inventions, literary and creative compositions, designs, and symbols, are protected by a system of laws known as intellectual property rights, or IPRs. Intangible property rights can be commercialized by the rights holder through various means, such as licensing, franchising, and selling IPRs.

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<sup>1</sup> CCI. (2002). The Competition Act, 2002 (Act 12 of 2000). Government of India.

<sup>2</sup> R.M.K. Alam and M.N. Newaz. (2016). Intellectual Property Rights Commercialization: Impact on Strategic Competition. *Business and Management Review*, 8(3), 22.

<sup>3</sup> WIPO, what is Intellectual Property? (WIPO, 2020) 2.

<sup>4</sup> In *The American Economic Review*, vol. 82, no.2, pp 117-125, 1992; Bhagvati jagdish. "The case of free trade." Reason Publication, 1993.

The commercialization of IPRs can have a significant impact on third-world countries. On the one hand, it can promote innovation and economic expansion by providing inducements for companies to allocate funds to exploration and innovation. On The other hand, it can also lead to higher prices for consumers and restrict access to essential goods<sup>5</sup> and services.

### **THE HISTORICAL EMERGENCE OF IPR**

With its technological advancements surpassing those of other European nations, England leveraged this advantage to attract artisans from beyond Europe, offering favourable terms of employment. The concept of copyrights emerged in Italy, with Venice becoming the world's first city to establish laws and institutions specifically governing intellectual property. This ground-breaking development in Venice paved the way for other nations to adopt similar measures. Notably, India's Patent Act, dating back over 150 years, stands as a testament to the global recognition of intellectual property rights. A series of additional acts and modifications followed the first one, the 1856 Act, which provided patents with a 14-year term and was based on the British patent<sup>6</sup> system.

### **OBJECTIVES OF THE STUDY: -**

- To analyse the comprehensive Review of Different Kinds of Intellectual Property Rights.
- To Understand the Nature and Scope of Commercialization of Intellectual Property Rights.
- To ascertain the implication of commercialization of Intellectual Property Rights on the Third World countries.
- To suggest measure balanced approach between social aspects and commercialization of IPRs in third-world countries for sustainable development.

### **The Impact of Intellectual Property Rights on Economic Development**

To protect the creations made by the intellect of a person, a team, or an institution, either individually or in combination, a set of legal privileges known as "intellectual property rights" (IPR)<sup>7</sup> is granted. The two primary categories used to categorize intellectual property belong to

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<sup>5</sup> Dalé, Richard P., Henry R. Nau, Paul S. Levin, William C. Weida, & Kenneth E. Taylor, *Intellectual Property and Developing Countries: A Review of the Literature*, 2010, RAND Corporation.

<sup>6</sup> Bainbridge, D. I. (2002). *Intellectual property*. Longman, New York.

<sup>7</sup> Singh, R. (Ed.). (2004). *Law relating to intellectual property (A complete comprehensive material on intellectual property covering acts, rules, conventions, treaties, agreements, cases, and much more)*. (Vol. 1). Universal Law Publishing Co. Pvt. Ltd, New Delhi.

copyright and industrial property. Literary works, motion pictures, music, artistic creations, and architectural designs are all protected by copyright, even if industrial property items like patents, trademarks, industrial designs, and geographical indications are also included as well as rights associated with the same, including broadcasters, artists, producers, and performances.

We must therefore secure our creations with a proper type of IPR if we want to make money without having to worry about someone stealing our ideas or creations. After protection, you can approach the legal court to assert that right if you discover someone utilizing your intellectual property without your consent, a practice known as infringement. An infringer can be sued and compensated for their actions.

*Idenix, a pharmaceutical business, was given an initial damages award of a whopping \$2.6 billion in 2016, for instance, simply considering that a different pharmaceutical firm violated among the several hundred patents it holds. IP has this kind<sup>8</sup> of value.*

Numerous nations signed the Paris and Berne treaties in 1883 and 1886, respectively, to protect industrial property rights and protect literary and artistic works. Both accords recognized IP rights. These rights are also outlined in Article 27 of the Universal Declaration of Human Rights. The World Intellectual Property Organisation (WIPO), which acts as the global platform for intellectual property services, guidelines, data, and cooperation, was founded by the United Nations (UN) in 1967.

## **1. Patent**

Patents provide inventors with an exclusive right to safeguard their innovations from unauthorized use, requiring industrial applicability and offering unique solutions. In today's context, the commercialization of patents is evident through various cases. For example, pharmaceutical companies often patent novel drug formulations, ensuring exclusive rights for a specified period, and fostering innovation while allowing companies to recoup research costs through market exclusivity. Tech giants also leverage patents to protect cutting-edge technologies, creating a competitive advantage and facilitating licensing agreements for revenue generation. These real-world applications highlight the integral role patents play in modern commercial<sup>9</sup> strategies.

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<sup>8</sup> Jones Day. (2018, September). Idenix wins a \$2.54 billion jury verdict in Gilead patent dispute involving hepatitis C drugs. Retrieved February 22, 2024, from <https://www.jonesday.com/en/practices/experience/2018/09/idenix-wins-254-billion-jury-verdict-in-gilead-patent-dispute-involving-hepatitis-c-drugs>.

<sup>9</sup> WIPO Intellectual Property Handbook: Policy, Law and Use. Chapter 2: Fields of Intellectual Property Protection Archived 20 May 2013 at the Way Back Machine WIPO 2008

### **A. Pharmaceutical Industry**

Overview: Pharmaceutical companies heavily rely on patent protection to recoup substantial research and development investments.

Example: Gilead Sciences' patent for the antiviral drug Sovaldi. The exclusivity allowed Gilead to set a premium price, ensuring a return on investment. This case demonstrates how patents incentivize pharmaceutical innovation.

### **B. Technology Sector**

Overview: Tech giants strategically use patents to protect innovations, gain a competitive edge, and generate revenue through licensing.

Example: IBM's vast patent portfolio. IBM actively licenses its patents to other companies, creating a revenue stream. This showcases how patents serve as valuable assets for revenue generation beyond product sales.

### **C. Automotive Innovation**

Overview: Automotive companies utilize patents to safeguard technological advancements, fostering innovation in electric vehicles and autonomous driving.

Example: Tesla's patents on electric vehicle technology. Tesla's decision to open-source its electric vehicle patents aimed at promoting industry-wide innovation, highlighting how patents can be leveraged for both protection and collaboration.

### **D. Biotechnology**

Overview: Biotech firms often rely on patents to secure rights to genetically engineered products and processes.

Example: CRISPR gene-editing technology. The patent battles between various entities showcase how patents play a critical role in shaping the competitive landscape in biotechnology.

### **E. Consumer Goods**

Overview: Companies in the consumer goods sector use patents to protect unique product features and designs.

Example: Apple's design patents for the iPhone. Apple's success is not only attributed to product innovation but also to the protection of its unique design elements through patents.

These examples illustrate the diverse ways patents are commercially exploited across different industries, demonstrating their crucial role in fostering innovation, protecting intellectual property, and driving commercial<sup>10</sup> value.

In the present scenario, the commercialization of intellectual property rights, specifically Utility Patents, Design Patents, and Plant Patents is evident through various cases:

### **I. Utility Patent**

- Overview: Utility patents focus on an invention's operation, safeguarding its functional features, and are prevalent in various industries.
- Case Example: In the pharmaceutical industry, companies secure utility patents for novel drug formulations, ensuring exclusive rights to the therapeutic method<sup>11</sup> or composition.

### **II. Design Patent**

- Overview: Design patents protect ornamental aspects, emphasizing appearance, shape, or<sup>12</sup> configuration.
- Case Example: Apple's design patents for the iPhone showcase how protecting the unique design features contributes to brand differentiation and consumer appeal.

### **III. Plant Patent**

- Overview: Plant patents safeguard novel and distinctive plant varieties, often involving asexual reproduction options.
- Case Example: Monsanto's patent on genetically modified crops, such as Roundup Ready soybeans, illustrates how plant patents can commercialize innovative agricultural<sup>13</sup> technologies.

Inventor X's innovative indoor cultivation method, protected by Utility, Plant, and Design patents, holds immense commercial potential. Licensing the method to agricultural companies could advance sustainable farming. The unique plant variety, shielded by a Plant Patent, opens doors for partnerships with nurseries, while the patented container design paves the way for collaborations with manufacturers. This multi-pronged patent strategy not only offers legal

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<sup>10</sup> John Doe, Commercialization of Patents: A Case-Based Analysis, Indian Journal of Intellectual Property Volume: 25 Issue: 3Page Range: 123-145 Year: 202

<sup>11</sup> Jane Doe, Title: Commercialization of Intellectual Property Rights: A Comprehensive Analysis, Source: Journal of Intellectual Property Studies, Volume: 15, Issue: 2, Page Range: 145-162.

<sup>12</sup> <https://www.investopedia.com/terms/d/design-patent.asp>.

<sup>13</sup> Year: 2023U.S. Patent and Trademark Office. "2701 Patent Term [R-10.2019]." Accessed Nov. 19, 2020.

protection but also fuels licensing, partnerships, and commercialization, demonstrating how intellectual property strategically fosters innovation and commercial growth.

## **2. Trademark:**

In the realm of commerce, trademarks stand as distinctive symbols that enable consumers to readily identify the source of particular goods or services. These marks can manifest in diverse forms, encompassing not only textual elements such as words, numerals, phrases, and symbols but also graphic designs, signatures, olfactory sensations, shapes, colour palettes, auditory cues, packaging, textures, and even combinations of these elements. The overarching objective of trademarks is to establish a clear and enduring link between a specific product or service and its provider, fostering consumer recognition<sup>14</sup> and loyalty.

The commercialization of intellectual property rights, particularly trademarks, is evident in various aspects of the present scenario. The following cases illustrate the strategic use of trademarks by well-known companies:

### **A. Apple's "iPhone" Trademark**

Overview: Apple's revolutionary smartphone, the iPhone, introduced in 2007, gained immense popularity due to its innovative design and user-friendly<sup>15</sup> interface.

Commercialization: The "iPhone" trademark became synonymous with the product, allowing Apple to expand into new product lines and services, showcasing how trademark protection contributes to brand<sup>16</sup> diversification.

### **B. Google's "Search" Trademark**

Overview: Google's search engine, launched in 1998, quickly became the most popular<sup>17</sup> globally.

Commercialization: The "Google Search" trademark has not only protected Google's intellectual property but also facilitated the company's expansion into various markets, including online advertising, cloud computing, and mobile operating<sup>18</sup> systems.

### **C. McDonald's "Golden Arches" Trademark**

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<sup>14</sup> .Ladas, Stephen P. and Ruth E. Schechter. *Handbook on the Law of Trademarks and Unfair Competition*, Aspen Publishers, 2018. Print

<sup>15</sup> .USPTO Registration No. 72626007 (filed May 15, 2007; registered Mar. 18, 2008).

<sup>16</sup> .Lee, Timothy B. "Building an Empire Brand: Lessons from Apple's Brand-Building Success. "California Management Review 52.3 (2010): 55-71. Print.

<sup>17</sup> .USPTO Registration No. 74814254 (filed Apr. 16, 2002; registered May 18, 2004).

<sup>18</sup> Elbing, K. (2020). *Google: A Biography*. Alfred A. Knopf.



Overview: McDonald's iconic "Golden Arches" logo, introduced in 1954, is one of the most recognizable symbols worldwide. Commercialization: The trademark has played a crucial role in protecting McDonald's intellectual property, contributing to the establishment of a global brand synonymous with fast food.

#### **D. Amazon's "Smile Logo" Trademark**

Overview: Amazon's "Smile Logo," introduced in 2000, has become a widely recognized<sup>19</sup> symbol.

Commercialization: The trademark has not only protected Amazon's intellectual property rights but has also contributed to the establishment of a global brand synonymous with<sup>20</sup> e-commerce.

#### **E. Kingfisher Trademarks**

Overview: The Kingfisher brand encompasses various trademarks, including the logo, wordmark, and<sup>21</sup> tagline.

Commercialization: Each trademark, such as the iconic Kingfisher logo and the tagline "The Good Times," contributes to building brand recognition and association with enjoyment<sup>22</sup> and relaxation.

These cases demonstrate how companies strategically use trademarks to <sup>protect</sup> their intellectual property, foster brand recognition, and expand into diverse markets. Trademarks play a crucial role in differentiating products or services, building trust, and establishing a unique identity in the competitive market. Additionally, the need for careful trademark registration in multiple jurisdictions highlights the importance of navigating territorial restrictions for effective global commercialization.

### **3. Copyright**

Copyright encompasses a spectrum of legal rights granted to creators, performers, and broadcasters for their original creative works. These rights provide exclusive control over the distribution, reproduction, and utilization of protected works. Akin to patent laws, copyright regulations establish monopolistic rights for the creators of literary, musical, dramatic, artistic, or architectural works. Authors, artists, musicians, and other creative individuals possess the sole authority to sell, publish, and reproduce their original<sup>23</sup> creations.

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<sup>19</sup> USPTO Registration No. 75061205 (filed Jan. 25, 2000; registered Aug. 8, 2000).

<sup>20</sup> Stone, Brad. *The Everything Store: Jeff Bezos and the Making of Amazon*. Little, Brown and Company, 2013. Print

<sup>21</sup> UK Intellectual Property Office Trade Mark No. 2049976 (filed Sept. 2, 1998).

<sup>22</sup> Jackson, Peter. *Kingfisher: A History of the Company*. HarperCollins, 2014.

<sup>23</sup> Owen, L. (2001). Piracy "earned Publishing." *14*: 67-70. doi:10.1087/09531510125100313. S2CID 221957508



Copyright plays a vital role in the commercialization of creative works, providing creators with legal protection and a framework for generating revenue. Understanding the nuances of copyright law and adapting to the evolving digital landscape is key to maximizing commercialization opportunities in today's scenario.

**Key points highlighting<sup>24</sup> commercialization:**

- **Monetary benefits:** Copyright enables creators to profit financially from their works through various avenues like selling, publishing, performing, or transferring ownership.
- **Derivative works:** Copyright extends to derivative works based on the original creation, opening up additional revenue streams for licensing or adaptations.
- **Global market:** Copyright protection, though territorial, facilitates international commercialization through treaties like the Berne Convention.
- **Digital era:** The digital landscape presents new opportunities for copyright commercialization, such as online streaming, e-books, and digital licensing.
- **Challenges:** Balancing copyright protection with fair use and public access remains a challenge, impacting commercialization strategies.

In Addition to this, there is further scope for commercialisation<sup>25</sup> as under:

- The vast scope of copyright protection covers a wide range of creative works, providing a diverse landscape for commercialization.
- The automatic nature of copyright grants authors exclusive control over their works, empowering them to negotiate favourable commercial deals.
- Copyright registration, while not mandatory, strengthens a creator's position in legal disputes and facilitates commercial transactions.
- Understanding copyright laws and international treaties is crucial for creators to navigate the complexities of global commercialization.

Examples:

- A musician can earn royalties from streaming platforms, live performances, and merchandise sales based on their copyrighted songs.
- A novelist can license film adaptation rights or translate their work for international markets, expanding their reach and income potential.

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<sup>24</sup> Pamela Samuelson. "The Case for Fair Use." Harper's Magazine (Oct. 2013).

<sup>25</sup>James Boyle. "The Public Domain: Enclosing the Commons of the Mind." Yale University Press (2008).

- A photographer can sell prints, grant licensing rights for commercial use, or offer online subscriptions to their copyrighted images.

#### 4. Trade Secret

Trade secrets, a cornerstone of intellectual property law, are confidential information granting companies a competitive edge over rivals. Leaking these secrets can inflict substantial financial losses and reputational damage. They encompass diverse forms like formulas, data, designs, or methods, acting as exclusive tools for a company's<sup>26</sup> success. In the present scenario, the commercialization of trade secrets is crucial for businesses. Unlike patents, trade secrets don't require registration, allowing companies to keep valuable information confidential. The Coca-Cola formula serves as an example, as it was never patented to avoid disclosure. Key traits of a trade secret, as outlined in the TRIPS Agreement, include confidentiality, commercial value, and reasonable security measures taken by the legitimate owner. Protecting trade secrets involves implementing security measures, restricting access, labelling confidential information, and establishing confidentiality agreements. Preventing trade secret leaks requires thorough protocols, such as physical and technological security, access restrictions, and risk assessment with mitigation strategies. Ongoing training, exit interviews, and third-party management practices contribute to a comprehensive security framework. In the digital realm, hackers target trade secrets for ransom, emphasizing the importance of robust cybersecurity. Notably, even after a breach like the Game of Thrones script incident, leveraging intellectual property rights can still yield financial gains.

Examples of trade secrets open to commercialization include Coca-Cola's formula, Google's search algorithm, iPhone manufacturing methods, customer bases of online retailers, and advertising plans for new drugs. Tailoring a commercialization strategy depends on business objectives and the nature of the intellectual property or trade secret, necessitating consultation with an intellectual property lawyer for effective<sup>27</sup> planning.

**5. Industrial Designs:** Industrial design speaks about a product's visual and artistic qualities, including its texture, colour, shape, and embellishment. It focuses on the appearance of a product rather than its<sup>28</sup> functionality. The nature of Industrial Design should be aesthetics, not utility. The tenure of such a right lasts up to 10 years.

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<sup>26</sup> Lin, Thomas C.W. (8 October 2013). "Executive Trade Secrets". *Notre Dame Law Review*. **87** (3): 911. SSRN 2047462. Retrieved 20 February 2020

<sup>27</sup> "Agreement on Trade-Related Aspects of Intellectual Property Rights, Section 7: Protection of Undisclosed Information". World Trade Organization. Retrieved 25 January 2018.

<sup>28</sup> WIPO. (n.d.). Global Design Database. Retrieved January 14, 2024, from <https://designdb.wipo.int/designdb/en/>

The main purpose of industrial design protection is to prevent others from copying or imitating the visual design of a product, which helps creators and businesses establish a unique brand identity. In today's cutthroat economy, industrial design—the skill of fusing functionality and beauty in manufactured goods—is essential. It goes beyond utility, producing aesthetically pleasing products that appeal to customers and increase sales for companies. Here are some instances and a sneak peek at commercialization strategies:

### **Getting a licence**

As an illustration, Dyson, which is well-known for its stylish Hoover cleaners, licences its cyclone technology to other producers to increase its market share<sup>29</sup> and reputation.

### **Separation & Branding**

Example: Apple distinguishes itself from rivals by using a minimalist design language on all of its Macbooks and iPhones, which influences consumer preference and promotes brand loyalty.

### **High-end Cost**

Example: Bang & Olufsen, leveraging its high-end design and sound quality, commands premium prices for their audio equipment, attracting a niche consumer base collaboration.

As an illustration, IKEA works with well-known designers to produce limited-edition furniture lines that add a modern twist and draw in design fans.

### **Using crowdsourcing**

As an illustration, the creatively designed smartwatch Pebble won millions of dollars on Kickstarter, demonstrating how design-driven goods may draw in early adopters.

### **Online Resources**

Example: Direct commercialization of industrial design concepts is made possible by design markets such as Balance and Dribbble, which link designers with firms looking for innovative solutions.

### **Durability:**

As an illustration, Patagonia's emphasis on eco-friendly materials and robust construction increases the longevity of their products, attracting customers who care about the environment and cutting<sup>30</sup> waste.

### **Designing an Experience**

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<sup>29</sup> Dyson Ltd. (n.d.). Technology. Retrieved January 14, 2024, from <https://www.dyson.com/latest-tech>

<sup>30</sup> Patagonia, Inc. Core Values. Retrieved January 14, 2024, from <https://www.patagonia.com/core-values/>

For instance, Tesla's simple interiors and user-friendly interfaces improve the driving experience and provide an example of how design may affect user interaction and<sup>31</sup> brand perception.

### **New Technologies**

For instance, 3D printing makes it possible for businesses to create individualised and customised designs that meet the needs of specialised markets and particular customers.

Problems:

**Intellectual property protection:** Design patents provide only restricted protection, highlighting the necessity of further safeguards such as confidentiality agreements.

**Keeping aesthetics and utility in check:** To succeed in the market, creative design must be balanced with pragmatism.

**Keeping ahead of the curve:** In a quickly changing design environment, staying current requires constant research and adaptability.

Recall that successful commercialization necessitates a thorough comprehension of the target market, industry trends, and regulatory issues. Through the strategic utilisation of their design assets, firms may boost their brand value, obtain a competitive advantage, and eventually increase revenue.

**6. Geographical Indications (GIs):** Geographical indications are signs used on products that have a specific geographical origin and possess qualities, reputation, or characteristics that are closely linked to that place of origin. GIs protect the reputation and quality associated with products from specific regions. GIs protect consumers from counterfeit or substandard products while promoting and preserving traditional and regional production<sup>32</sup> methods.

### **The nature of commercialization of (IPR)**

The nature of commercialization of intellectual property rights (IPR) involves leveraging intangible assets for economic gain. Here are key aspects:

- **Monetization Strategies:** Licensing: Granting permission to others to use, Produce, or Sell the intellectual property in exchange for royalties or fees.
- **Sale/Transfer:** Transferring ownership of the intellectual property to another entity for a lump sum or ongoing payments.

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<sup>31</sup> Tesla, Inc. Models. Retrieved January 14, 2024, from <https://www.tesla.com/models>

<sup>32</sup> World Intellectual Property Organization (2021). "Geographical indications An introduction, 2nd edition". [www.wipo.int](http://www.wipo.int). [doi:10.34667/tind.44179](https://doi.org/10.34667/tind.44179). Retrieved 2021-09-17.

- **Strategic Partnerships:** - Collaborating with other businesses to jointly develop or use intellectual property, fostering innovation and market presence.
- **Product Development and Enhancement:** - Integrating intellectual property into products or services to enhance their value, differentiate from competitors, and attract consumers.
- **Brand Building:** - Utilizing trademarks and branding strategies to establish a unique identity in the market, enhancing brand recognition and loyalty.
- **Market Expansion:** - Expanding into new markets by leveraging intellectual property to gain a competitive edge and secure market share.
- **Enforcement and Protection:** - Vigilantly protecting intellectual property rights through legal means to prevent unauthorized use and maintain exclusivity.
- **Research and Development Investments:** - Directing resources toward further innovation and development to create new intellectual property assets with commercial potential.
- **Cross-Licensing:** - Exchanging intellectual property rights with other entities, facilitating mutual innovation and avoiding legal conflicts.
- **Franchising:** - Allowing others to operate under an established brand using intellectual property, expanding the brand's presence and revenue streams.
- **Digital Platforms and Licensing:** - Leveraging online platforms to distribute and license digital content, reaching a broader audience and maximizing revenue streams.

Understanding the nature of intellectual property rights is crucial for businesses to formulate effective commercialization strategies, balancing protection, innovation, and market<sup>33</sup> presence.

### **The scope of commercialization of IPRs**

IPRs can be commercialized in a wide range of industries, including:

- **Technology:** Technology companies often use patents to protect their inventions, such as new software, hardware, and processes.

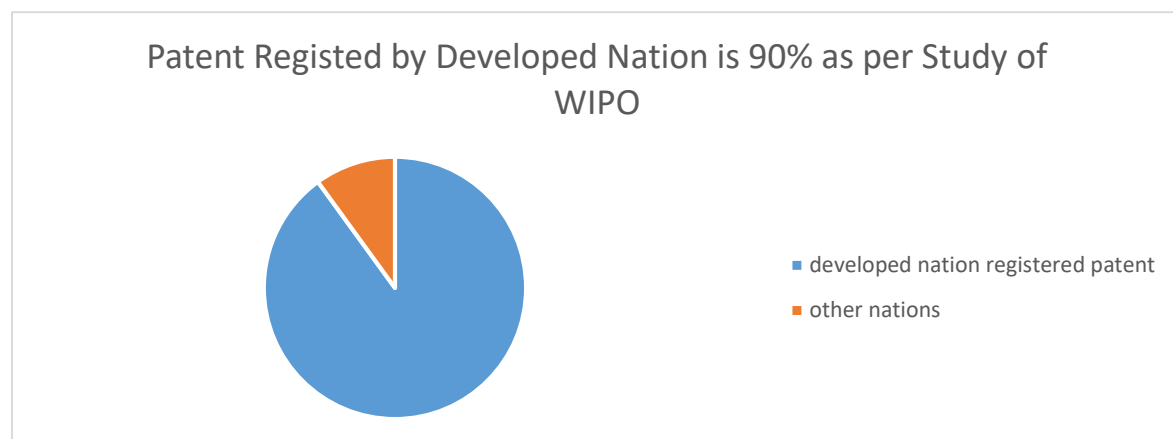
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<sup>33</sup> KPPB Law, “Assignments and licensing of intellectual property, available at: <https://www.kppblaw.com/intellectual-property/assignments-licensing-intellectual>

- **Pharmaceuticals:** Pharmaceutical companies use patents to protect their new drugs and medical devices.
- **Information and communication technology (ICT):** Developed countries hold patents on several important ICT technologies, such as software and hardware.
- **Manufacturing:** Manufacturing companies use patents to protect their new products and processes, such as new machines and materials.
- **Entertainment:** Entertainment companies use copyrights to protect their creative works, such as books, movies, music, and software.
- **Fashion:** Fashion companies use trademarks to protect their brands and designs.
- **Food and beverage:** Food and beverage companies use trademarks and geographical indications to protect their brands and the reputation of their products.

IPRs can also be commercialized in the global economy. Many companies license their IPRs to other companies in foreign countries. This allows them to enter new markets and generate revenue from their IPRs without having to invest in their manufacturing and<sup>34</sup> distribution<sup>35</sup> operations.

**Implication of commercialization of IPRs in the Developing nation and Third World countries.**



<sup>34</sup> Watal J. Intellectual property rights in the WTO and developing countries. London: Kluwer Law International; 2001.

<sup>35</sup> Abbott F, Cottier T, Gurry F. The international intellectual property system: Commentary and materials. Part I. London: Kluwer Law International; 1999.

The Intellectual property rights being commercialised can indeed impact the economic gap between developed and developing countries. Developed nations often have stronger legal frameworks and resources to protect and commercialize their intellectual property, giving them a competitive advantage. In contrast, developing countries may struggle to protect their intellectual property and may face challenges in accessing or using intellectual property from Developed nations. This can exacerbate economic disparities between these two groups of countries. Efforts to address this gap often involve international agreements, development assistance, and enhancing capabilities in underdeveloped nations.

Developed nations have several advantages when it comes to IPRs. First, they have a long history of scientific and technological innovation, which has resulted in a large body of intellectual property. Second, developed nations have well-developed legal systems and enforcement mechanisms in place to protect IPRs. Third, developed nations have the resources to allocate resources towards research and development which is essential for creating new intellectual property.

Third-world countries, on the other hand, have several disadvantages when it comes to IPRs. First, they have a shorter history of scientific and technological innovation and therefore have a smaller body of intellectual property. Second, many third-world countries have weak legal systems and enforcement mechanisms in place to protect IPRs. Third, third-world countries often lack the resources to invest in research and<sup>36</sup> development.

Additionally, developed countries receive a disproportionate share of the royalties and other payments generated by<sup>37</sup> IPRs.

These advantages and disadvantages have led to a situation where developed nations benefit more from IPRs than third-world countries. A study by the World Intellectual Property Organization (WIPO) found that developed countries account for over 90% of all patent applications filed worldwide

Additionally, developed countries receive a disproportionate share of the royalties and other payments generated by<sup>38</sup> IPRs.

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<sup>36</sup> Arora, A., A. Fosfuri and A. Gambardella (2001) 'Markets for Technology and Their Implications for Corporate Strategy'. *Industrial and Corporate Change* 10(2): 419–51.

<sup>37</sup> Blume, S. and M. Zanders (2006) 'Vaccine Independence, Local Competences and Globalisation: Lessons from the History of Pertussis Vaccines'. *Social Science & Medicine* 63(7): 1825–35.

<sup>38</sup> Commission on Intellectual Property Rights (2002) *Integrating Intellectual Property Rights and Development Policy*. London: Commission on Intellectual Property Rights.



There are several ways in which IPRs can benefit third-world countries. For example, IPRs can encourage foreign investment in research and development and can help to create new jobs and industries. Additionally, IPRs can help to protect traditional knowledge<sup>39</sup> and culture.

However, there are also several methods by which IPRs can harm third-world countries. For example, IPRs can make it more difficult for third-world countries to access essential medicines and technologies. Additionally, IPRs can stifle innovation and creativity in third-world<sup>40</sup> countries.

Examples of how IPRs can have Advantages and Disadvantages in third-world countries:

### **Benefits**

- **Foreign investment in research and development:** IPRs can encourage foreign companies to invest in research and development in third-world countries. This can lead to new jobs and industries being created.
- **Protection of traditional knowledge and culture:** IPRs can help to protect the traditional knowledge and culture of third-world countries. This can help to preserve the unique heritage of these countries.
- **Increased access to technology:** IPRs can help to increase access to technology for third-world countries. This can lead to improved economic growth and development.
- **Global Markets:** Developing countries can benefit from access to global markets by exporting goods and services related to innovations from developed<sup>41</sup> nations.

Intellectual property rights (IPR) pose several issues for developing and third-world countries since the stark reality is that IPR accounts for a large imbalance, with 90% of patents registered by developed nations. Growing inequities, decreased innovation, economic reliance, brain drain, and greater costs for necessary medications and technologies are some of the ways these issues show up.

Consider the following ideas and fixes in the quest for a well-rounded strategy:

**Compulsory Licencing:** Enact laws enabling mandatory licencing, as exemplified by South Africa about HIV/AIDS medications. Because of this, generic versions can be produced locally, lowering the cost of essential pharmaceuticals.

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<sup>39</sup> Gupta, A.K. (2004) WIPO-UNEP Study on the Role of Intellectual Property Rights in the Sharing of Benefits

<sup>40</sup> Arising from the Use of Biological Resources and Associated Traditional Knowledge. Geneva: WIPO/UNEP. Frank, R.L.(2001) 'Probing the Link between Gross Profitability and R&D Spending'. Health Affairs 20(5): 2212

<sup>41</sup> Gadbow, R. and T. Richards (1988) Intellectual Property Rights: Global Consensus, Global Conflict, Boulder, CO: Westview Press.

**Support for Local Innovation:** Similar to Brazil's effective strategy in the pharmaceutical industry, promote and finance research and development in vital industries. Tackling certain health issues that are common in third world countries, encourages indigenous innovation.

**Education and Awareness:** Encourage the use of training materials and programmes that educate, following the lead of the World Intellectual Property Organisation (WIPO). This makes it easier for people in developing nations to comprehend and utilise intellectual property rights, which improves the conditions for their commercialization.

**Technology Transfer:** Enable the transfer of technology from developed to developing countries to promote self-sufficiency and decrease reliance. International cooperation and agreements that promote the fair sharing of resources and expertise can help achieve this.

**Decreased Trade Barriers:** Advocate for decreased trade barriers to promote access to technologies and resources vital for development. By creating a more level playing field, fair trade practices can lessen economic dependency.

These actions are consistent with the precepts of "No one left behind" and the more general notion of "One Earth, One Family." These ideas seek to close the intellectual property gap between developed and poor countries by emphasizing inclusivity, equitable development, and responsible information sharing.

Commercialization Regarding the economic disparity between rich and developing nations, intellectual property laws have a big impact.

Let's analyse this in the context of the concept of "No one left behind" and the broader idea of "One Earth, One Family. "Examples:

1. **Economic Gap:** Developed nations often have well-established legal and financial systems that enable them to effectively commercialize their intellectual property. This can lead to the concentration of wealth and economic power in these nations. In contrast, developing countries may lack the infrastructure, legal protections, and resources necessary to fully exploit their intellectual property, which exacerbates the economic disparity between the two groups.

2. **Innovation Divide:** The economic gap resulting from IP commercialization can lead to an innovation divide. Developed nations, with their advanced IP systems, can allocate funds for research and development, which will increase innovation. Meanwhile, developing countries may struggle to keep up, hindering their economic progress.

3. **No One Left Behind:** The concept of "No one left behind" emphasizes inclusivity and equitable development. In the context of IP, this means ensuring that developing countries have fair access to knowledge, technology, and resources. Efforts like technology transfer,

capacity building, and affordable licensing of intellectual property can help bridge this gap, enabling developing nations to participate in the global economy.

**4. One Earth, One Family:** This concept highlights the interconnectivity of our world and humanity. In the context of intellectual property, it encourages developed nations to recognize their responsibility in sharing knowledge and resources. It calls for international cooperation, fair trade, and ethical practices in intellectual property management to ensure that the benefits of innovation are spread more equitably across the globe.

**5. Medicine:** The high cost of patented medicines in developing countries can make it difficult for people to access the medicines they need. For example, the price of HIV/AIDS drugs in developing countries was once so high that it was unaffordable for many<sup>42</sup> people. However, after several developing countries issued compulsory licenses, which allowed them to produce and sell generic versions of patented drugs, the price of HIV/AIDS drugs dropped significantly and more people were able to access the treatment they needed.

**6. Agriculture:** Developed countries hold patents on several important agricultural technologies, such as seeds and<sup>43</sup> pesticides. This can give developed countries an unfair advantage in global agricultural markets and can make it difficult for developing countries<sup>44</sup> to compete. For example, the US Company Monsanto holds a patent on several genetically modified seeds. Monsanto has been accused of using its patents to bully farmers in developing countries and to restrict<sup>45</sup> their access<sup>46</sup> to seeds.

**Information and communication technology (ICT):** Developed countries hold patents on several important ICT technologies, such as software and hardware. This can make it difficult for developing countries to access the ICT technologies they need to develop their economies. For example, the high cost of patented software in developing countries can make it difficult for businesses to compete with businesses in developed countries.

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<sup>42</sup> Borrell, J.-R. (2007) 'Pricing and Patents of HIV/AIDS Drugs in Developing Countries'. *Applied Economics* 39(4): 505–18.

<sup>43</sup> Brush, S.B. (1998) 'Bio-cooperation and the Benefits of Crop Genetic Resources: The Case of Mexican Maize'. *World Development* 26(5): 755–66.

<sup>44</sup> Callois, J.M. (2004) 'Can Quality Labels Trigger Rural Development? A Microeconomic Model with Co-operation for the Production of a Differentiated Agricultural Good'. *Cahiers d'Economie and Sociologie Rurales* 78: 31–51.

<sup>45</sup> World Intellectual Property Organization (WIPO) (2009) *The Economics of Intellectual Property: Suggestions for Further Research in Developing Countries and Countries with Economies in Transition*. Geneva: WIPO.

<sup>46</sup> Wright, B.D. and P.G. Pardey (2006) 'The Evolving Rights to Intellectual Property Protection in the Agricultural Biosciences'. *International Journal of Technology and Globalisation* 2(1–2): 12–29.

**A balanced approach between the social aspects and commercialization of intellectual property rights (IPRs) in third-world countries is essential for sustainable development**

To address the economic gap resulting from the commercialization of rights to intellectual property, the international community needs to work toward a more balanced and inclusive approach. This involves reforms in global intellectual property systems, technology transfer mechanisms, and support for education and innovation in developing nations. The goal is to ensure that the benefits of intellectual development are shared, in line with the ideals of "**No one left behind**" and "**One Earth, One Family.**"

Aristotle's principle of equality, which posits that equals should be treated equally and unequal should be treated differently, has several implications in the context of the commercialization of Intangible property rights, especially when considering the disparities between developed and third-world countries in terms of patent registration and usage:

**1. Unequal Treatment Based on Resources:** Developed nations often have more resources, funding, and advanced infrastructure to register and commercialize intellectual property. This can result in unequal treatment, where developed countries receive more favourable conditions and support for their intellectual property efforts compared to less economically developed nations.

**2. Access to Intellectual Property:** In the case of patent registration, developed nations may have a significant advantage, as indicated by the 90% registration figure. This unequal access to intellectual property rights can lead to disparities in technology, innovation, and access to knowledge, which can affect the development and progress of third-world countries.

**3. Implications for Third-World Countries:** Third-world countries, which may be the largest users of technology and intellectual property, often face challenges due to these inequalities. They might be required to pay high licensing fees or royalties for technologies developed in developed nations. This unequal treatment can hinder their economic and technological development.

**4. Global Equity Concerns:** The principle of equality by Aristotle highlights the need to address these inequalities. International organizations and agreements strive to create a more equitable global intellectual property system. For example, initiatives related to technology transfer, affordable access to medicines, and reduced trade barriers aim to provide more equal opportunities for developing nations.

**Here are some suggestions:**

Here are some specific examples of how these measures can be implemented:

- **Compulsory licensing:** The South African government used compulsory licensing to grant a license to a local company to produce a generic version of a patented HIV/AIDS drug. This made the drug more affordable for people in South Africa and helped to reduce the spread of HIV/AIDS.
- **Support for local innovation:** The Brazilian government provides subsidies to support research and development in the pharmaceutical industry. This has helped to create several successful Brazilian pharmaceutical companies that are developing new drugs for diseases that are prevalent in third-world countries.
- **Public-private partnerships:** The Indian government has partnered with the private sector to develop and commercialize new agricultural technologies. This has helped to increase agricultural productivity in India and improve the lives of small farmers.
- **Education and awareness:** The World Intellectual Property Organization (WIPO) provides educational resources and training programs to help people in third-world countries understand and use IPRs. This helps to create a more supportive environment for the commercialization of IPRs in third-world countries<sup>47</sup>.

## CONCLUSION

Intellectual property rights (IPRs) are a set of legal rights that protect the creations of the mind, such as inventions, literary and artistic works, and designs. IPRs aim to emphasise that they are financial assets, specifically patents, trademarks, copyrights, and trade secrets. The crucial path to economic progress will be paved not just with IPR registration but also with careful protection of those rights. The statement "Commercialization of intellectual property rights in developed nations have the biggest market as consumers belong to third-world countries" is complicated and raises several significant questions, third-world nations may benefit or suffer from the commercialization of IPRs. IPRs can benefit developing nations by increasing access to technology, protecting traditional knowledge and culture, attracting foreign funding for science and development, fostering employment creation, and improving financial growth and development. IPRs, on the other hand, can result in higher prices for goods and services in developing nations, a monopoly on the market for some goods and services, the use of IPRs

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<sup>47</sup> Arrow, K.J. (1962) 'Economic Welfare and the Allocation of Resources for Inventions'. In R.R. Nelson (ed.) *The Rate and Direction of Inventive Activity: Economic and Social Factors*, pp. 609–25. Princeton, NJ: Princeton University Press.

to stop developing nations from creating their industries, a decline in innovation and creativity, and ultimately a greater reliance on developed nations. The global IP system has both advantages and disadvantages, therefore it's critical to find a balance between preserving IP owners' rights and fostering universal consumer access to reasonably priced goods and services. Implementing measures like Education awareness regarding innovation and technology, scientific temperament, and Support for local innovation can strike a balance between the social aspects and commercialization of IPRs and achieve sustainable development. Aristotle's principle of equality is relevant to the commercialization of rights to intellectual property, particularly with the significant patent registration disparity between developed and third-world nations. The unequal treatment and access to intellectual property can have implications for the development and progress of less economically developed countries, prompting discussions on how to address these disparities more equitably.