Chapter 9
Conclusion
Conclusion

As we continue the shift into a knowledge-based economy, with the point of view of both the marketplace and with investors the success of businesses shall be based upon intangibles assets for example; brands, know-how, invention, innovation, human resource etc. which can be comprised into intellectual property rights together. Since the tremendous power of intangible assets are to influence the valuation of the company or enterprise, it is analytical for the executives to learn to employ these assets to improve profitability and increase shareholder value and for the company.

Eventually; for letting intellectual property rights be effective, it should be created, evaluated and analyzed well beyond your own office park. It is recommended by studying the IP map of the FMCG industry, which illustrates how different areas of the marketplace reacts to IPRs and its intersection with the business in India. The law and framework are to protect diverse types of IP rights. It acts like a fence that blocks off one or more avenues attacking any possession from the owner. By looking at the overall lay of the land, it is more convenient to see which market or product segments are freely available in an IP sense. Also, where a strategic path through other intellectual-property rights will avail to let the organization reach their goals. By doing so, companies can get a sense of where they can deploy IP to push rivals out of a market and when they’ll have to settle fora narrower but still important advantage.

Depending on the industry, finding a clear path maybe impossible. Various aspects of a cell phone, for instance, may be covered by literally thousands of patents. In that case, it’s time to cut deals with the companies holding IP that stands in your way another good reason to have a formidable IP portfolio you can deploy in negotiations. Competitors will be more open to licensing or cross-licensing discussions when they know they’re vulnerable on other fronts, and that your portfolio could help shore up their defenses. The
immediate impulse of most companies is to directly protect their intellectual property. But sometimes the indirect approach can strengthen an IP portfolio.

There are some areas that can provide additional protection, as mentioned below:

**Associated Processes:** If there is a patent on a given invention, it can be made to be able to protect a process which is key for manufacturing a gadget or could be made enable for an essential supply chain. For example, Boston’s Chef Mr. Jasper White, was not able to keep other restaurants from serving or offering lobster in their menu, but what he did was that at his Summer Shack, a method of cooking lobsters was patented for New England clambakes.

**Enhancements:** No invention can be kept alive for long as there will be immediate advancements happening rapidly on the invention which come in publication or public domain. Thus, companies develop additional inventive step around the IP of the goods or services, so that they can protect intermediary or next level versions or enhancements, much as Apple refines devices such as the iPhone and gets additional patent protection.

**Extensions:** It is mostly like enhancements for protection, extensions move intellectual property into diversification into new area of goods or service from the existing one. It is with an idea A new use might provide a new area of protection. For example, to add a new line of product to a trademark registration or to alter/modify the story line and script of a movie and turn it into a script for a Broadway play.

**Strategy Blockade:** Several companies utilize IPR protection as a strategic aspect the business of competitors and their activities. This often makes sense of where the competitors are going. Thus, such movements help in evaluating and calculating the path companies need to take and tie up some of their stages so that they can’t move freely.
The above-mentioned aspects of associated processes, enhancements, extensions and strategy blockades can be used by organizations to keep the IPR alive for as long as the company wish to earn revenue or profitability from them.

**Intellectual property rights important to Investors**

An investor allocates capital with the expectation of a future financial return. It can be any person or entity any person who puts in his money/capital with the expectation of best returns on investments i.e. financial returns. They usually utilize separate unused investments to multiply their money for generation of or providing parallel income. A wide range of investment vehicles are available in today’s time which includes stocks, bonds, commodities, mutual funds, exchange-traded funds, options, futures, foreign exchange, gold, silver, retirement plans, real estate etc. Added to that there is now availability of adding future capacity of intangible assets. Investors ideally perform research on the technical and/or fundamental analysis to evaluate the most beneficial or favorable opportunities to invest. It generally prefers to bare no or minimize the risk while maximizing returns.

Since generation or creation of intellectual property rights involves huge or substantial investment, also considering the future returns are contingent on several conditions. There is huge amount of corporate value which is attached to intellectual property rights as the returns on investment is higher than the usual tangible form of investments.

Such companies need to maintain IP portfolios for simple survival. There are companies who practice discussions with their investors to protect and take suggestions on its applications and deliverables basis the discussion with the investors. As it is their money which is directly involved into the creation and management of the IPRs of the company.

In early stage of inception of the companies, to obtain proper protection and create strategical steps for advantageous registration of IPRs might be
expensive, therefore the steps for it to choose such actions is done very carefully. Companies need to prioritize its key to the core area of business and identify and develop those assets for the business that they’ve been developing which really needs protection.

The companies may prefer putting off registering their IP such as trademarks or copyrights and patents during the product development stage. These key technologies and facets are then revisited when the company is closer to the launch of the final product. Although it may not always be the case. Companies now are diligent enough to pay attention to their IP and begin the procedures to protect them before the launch; for example; A media company will usually emphasize copyrights and trademarks over patents and complete the legal formalities to ensure the rights are in place. It is relevant to note that in this emerging economy, turnarounds are very short than in typical long-term companies which are invested into.

Therefore; investor’s attention is essential into this venture capital world of economies. They are usually interested in periodical evaluations of performance and shall determine the return on investment aspect to get a company up and running and hopefully take it public or sell it quickly; but earning profitable returns is an essential aspect.

Such venture capital associates look for unique and proprietary technologies those which are critical and futuristic, such as software, semiconductor, wireless communication, semi-biotechnology, machinery, medical, pharmaceutical industries etc. It can create new markets which are protected from previous kinds of price competition and value erosion. These kinds of investment aspect would want to see that a prospective investment core technology is being protected in every possible manner that is commercially relatable. So, to get the attention of investors, a start-up or SME should frame and build to maintain an active and capable proprietary system having a secured intellectual property portfolio to itself. It is also significant to maximize and magnify individual kinds of IP protection of their core technology or
business, which makes them capable of being invested in, so that in a way it is easier for the investing capitals to invest in these businesses to determine and evaluate whether it is a worthwhile investment. The companies’ executives and boards of directors are encouraged to develop a persistent IPR portfolio and strategy associated with the business plan of the company.

Thus, in my view every company should aim to build their IP portfolios for their respective businesses by filing proper registration applications early and often to construct a fortress around the company’s core business and technology which makes them unique, different and better from other competitors in the market place. Along with the inventors, IP attorney should be well communicated with the management of the company and the investors as well which includes the marketing department and business plan visionaries. This is to ensure that forward-looking or futuristic approach of IPR protection and development is well planned and in place before there is a publication of research findings and product launch. There should be a framed check list for executing these aspects and doing so will summarizes both offensive and defensive strategy for the company which is in the best of the interest of the company.

Selection of IP counsels (in-house and external) should be of key decision in any company’s developing or developed IP strategy. Considering the limitations and specialization of the IP attorney and counsels based on their background of understandability and their contributory aspect to the business for building a successful IP strategy, it is of utmost relevance as in today’s competitive market this shall provide a considerable edge to the company for long-term sustainability. Also, every IP attorney has its own specialization or understandability of a certain kind of technology or field therefore, the importance of them being able to convey and execute the company’s IP strategy in a manner which is easy for potential investors to understand the framework. The same is also important, with the perspective of legal and litigation experiences and not only for helping in framing strengthened IP portfolios. It is navigating a start-up through the analytical initial phases need
skills to avoid litigations and other unwanted hurdles. For the startup resilience on factors such as costs and manpower, the alternative arrangements ability to offer them and a thorough understanding of the world market place is required. The key attributes are to be considered while framing or selecting IP Counsel. They need to be passionate and workable about the company’s profile equivalent to the company’s owners itself. Therefore, they really should understand the technology and markets and the effective and efficient IP portfolio constructed for the company.

Once the IP portfolio is in place for the company, other aspects of intellectual property rights such as auditing, valuation and accounting of them are essential. These are required to grow the acceptance in the developing area of the market place as well as the effect on industrial positioning. It is possible to make considerable recommendations as to policy or as to any method of valuation for evaluating the company’s IP rights. However, professionals, start-up and SMEs mainly require awareness to have a robust system for IP strategizing to evaluate, measure and track all aspects of the performance of intangible assets or intellectual capital. Since the value of IP at the operative time tends to be more susceptible and vulnerable than tangible property to extraneous contingent factors for example such as litigation, goodwill, confidential information etc. These factors are connected to socio-economic and environmental issues which in turn are directly affecting the growth of the company.

The valuation process of IP assets when compared to that of tangible assets is a complex and specialized procedure. It is contingent and depend on several factors which are not as straight forward as understandable by all practitioners. This exercise requires experts which should be involved and engaged to conduct the design and carry out those crucial stages of the task. This may depend on conducive infrastructure both in terms of economic and social, government initiatives for the training and awareness about intellectual property rights. It is important for those managing intellectual property to at least have a working acquainted knowledge of the concepts and the varied
methodologies and their applicability for evaluating IP practically within the organizations. There can government assistance for direct implementation of best practice concerning intellectual property rights, its valuation and securitization to let companies understand and comfort themselves with the practice of IPRs in their regular businesses. So far it has been identified that legal matters are as one of the major risks which can be insured through the offer of subsidies for defensive litigation insurance to let the start-ups and SMEs stand alone and protect their IPRs against the potential risk of liability.

With the increasing importance for innovative businesses, public research organizations, venture capitalists and other providers of financing for business there is also an increase in the need auditing, accounting and valuation of company’s IPRs. These are more of the basis which are meant for successful management practices. It provides ready access to the innovations and creativity of the companies or firms to external finance on considerably affordable terms and provide well-functioning markets for IPRs.

At the same time, there is a conceptual problem which is the difficulty of distinguishing or differentiating between investments in intangible assets in the current and futuristic research and development (R&D) frame work and the costs attached to them such as the remuneration of R&D employees, equipment, workstation etc. add to the load of investors. The acquired skills and know-how during the research and development process by these employees constitute for essential intangible assets for the company. Likewise, the value of various IP assets is build-upon in a measure based on the IP management, its capabilities and business strategy adapted by the firm over the period of the lifetime of the IPRs. All of it certainly difficult to measure objectively. Therefore, it has been proved as to be difficult to expand the coverage of IP valuation and its recording in accounting standards by the Indian Accounting standards.

The competition in financial markets reassures companies to improve and aware about their reporting and disclosure policies in regard to IPRs. There
are a few evidences stated from OECD economies that the companies with capable corporate governance structures are always better at managing, valuing and reporting their IPR portfolio which adds to its competitive edge. The advances of capital market and competition are for good corporate governance. These are also important when the national policies shall also prove to be profitable to the national economy. Therefore, to incorporate and spur improvements in auditing, valuation and accounting of intellectual property rights, industry and financial sector associations are developing mediums for voluntary codes of conducts and standards for standardize the practices.

In India, policymakers have monitored these developments with a view to circulate and encourage the adoption of good practice as it evolves through release of the National IPR policy, 2016. There is extensive sharing of experiences which are also needed for the identification of rightful practices and setting the working standards. Presently, these regulations adopted are preferably principles-based rather than prescriptive i.e. they set out general principles and goals to be reached and methods to achieve them in detail is what companies would have to do to comply with the policy.

**IPR on Economic Performance**

In the case for intellectual property rights as a key tool in the creative and innovation processes. Through extension it an essential and requisite factor in generating economic growth is solid on the grounds of priorities. The intellectual assets majorly contribute a certain of economic value to the company. Though the policy question be that how exactly it can be evaluated by the IPRs regime and where is the balance of these benefits of ownership against the benefits of revenue becomes relevant. There is also other key factor to the evaluation of IPR contribution the business that shall determine the results or impact of IPRs on the economic performance of the company in the industry. The encouraging innovation/creativity and constraining competition are direct trade-off which are governed directly under the head of the respective IPR laws based on the kind of IP such as laws on patents,
The competition policy which is well designed and framed shall go a long way, also ensuring that the companies applying them to use intellectual property rights for their intended purpose. These can be utilized to build the core of businesses without facing any competition in the market place. Whereas it will all depend on other aspects and among other things based on the level of development and structure framed through the economy of the country. Though there have been consistent efforts made by the national policies, there are only systematic evidences wherein patents and copyright laws have been in place. It is unsatisfactory and underutilization of the IPR legal framework as other forms of IPRs are very much of importance to play an important role in economic performance.

The intellectual property rights type of trademark is through which a company create and protect their brand name or title. It is that set of investment wherein the quality and recognition of the company’s products and the reputation is relied upon and eventually becomes the brand name of the company. The capital generated from brand name or trademark is a very significant component from the bunch of intangible assets. The leading companies let their accounts for a most of the part of their stock market valuations utilize trademarks. Followed by industrial design which are yet another mode of recognition the goods or products of the company. They are one of the main intellectual property rights by which companies differentiate their products from those of competitors by mere set of visuals and appearance of the products. This product differentiation helps the consumer recognize the company and infer the product from a variety of choice available for consumers in the market place. Likewise, in the case of copyrights there are enough evidences on the value of copyright generated for the companies and society. Along with that the parallel impact of the copyright work plays a key role. Copyright protection is granted automatically to all creative works, as and
when created and therefore it is not compulsive to file or register for copyrights with the authorities. It is also the only IPRs which universal in nature and not bound by territorial registration limitations. As well as the regime on economic performance is scarce and it contributes to a rising share of gross domestic product in advanced and developing economies.

With the increasing competition and blurred or no difference in the national or international markets the product variety offered to the end consumers have increased. It is then considered as a source of gain from the mode of globalization or may be international trade. The value-add here is eventual economic growth gained by the national authorities.

There are several studies suggesting that trademarks, designs, geographical indications, bio-technology etc. can be associated in direct correlation with the higher productivity and level of growth in the overall goods and services sector. It can also be desirable to manufacture/produce product range which are internationally comparable economy-wide along with factual and experimental evidences on the nexus between the overall IPR regime and economic performance.

In the last few decades, patent laws have been emphasized upon and strengthened worldwide. It has substantially helped to increase the value of patent portfolios of companies by itself. It has in turn let the companies to file for more patents for protective and strategical aspects. Thus, boosting the scope of their licensing activities with beneficial and positive effects on the dispersing and diffusion of technology. Also, the increasing pattern of patenting has also restricted from the freedom to operate in any random format from other companies in India. Various studies recently also have shown that the exchange or trade-off between the format of temporary exclusive right and innovation incentive, which is certainly complex than the academic description. It eventually results in the understanding of the problem. The open and controlled access and the trade-offs between them are additions to intellectual assets. In return, their effects on innovation and
economic performance of the business requires the need to further explore the market arena. It especially happens in an environment or economy which is rapidly changing because of technical developments and advancements, such as the internet and increasing user ability of the same. The development of markets for technology is a related issue. The value of technological assets is increased due to them for both IP holder and society. There are eventual potential obstacles which are necessary towards the creation of technology markets, it can be either regulatory, fiscal or informational, in a view to identifying policy options for overcoming such obstacles and problems.

Ahead of these is yet another multidimensional task and calls for many different actions in the company’s IP strategies to manage intellectual property rights which is needed to be in alignment with national laws and as well as international treaties and practices wherein India is obligatory. IP and its associated rights are genuinely influenced by the market needs, response, cost involved in translating IP into commercial venture and so on and not just by a national perspective. This can be expressed in other words, such as trade and commerce deliberation which are important in the management of IPRs for the company. There are variedly different forms of IPR and they demand different treatment, handling, planning, and strategies for the engagement of individual company or organization with different domain of knowledge such as science, engineering, medicines, law, agriculture, finance, marketing, and economics. In any industry, for it to evolve its own IP policies, the management pattern of them needs to be changed along with the style, strategies, etc. depending on the area of specialty within the territorial practice. For example, in case of pharmaceutical industry is currently evolved its overall IP strategy. There exists an increased possibility and awareness of that a few IPRs are invalid, antitrust law, therefore, they needed to step in to correct the invalid rights which are then being lawfully asserted to establish and maintain illegitimate, albeit limited, monopolies within the industry.

There is utmost recognition of the Intellectual capital as the most important asset for many of the world’s largest and most powerful companies and to
start-ups or SMEs which are technology driven, it acts like the equivalent of the “equalizer.” It is the foundation for market dominance and continuing profitability for the company to earn competitive advantage. The focus on IP is analytical and critically important in today’s venture capital market and industry (national and international). A start-up without a solid, readily definable IP strategy is unlikely to be successful in raising venture capital whereas, in contrast to that, with a credible and well-defined IP strategy, it can even find itself with some leverage when negotiating venture capital terms for better business transactions.

For most of the companies or businesses, actual action on this phenomenon will initiate through identifying the set of IPRs already existing with them respective to the kind of intangible assets they are. Later on obtaining/retrieving/hiring experts in the specialized in each kind or type of IP to support their system of management into actionable and accountable for leveraging these assets to the best of opportunities they can be utilized. There can be a set of due-diligence be then developed for the company customized to their working condition which can help them achieve effective results from managing IP in this condition. As it is stated that assets certainly can be managed using similar set of principles of due diligence processes applied for managing tangible assets.

There is brand relevance achieved is a strategic activity which by its very nature will never complete in the elusive markets of our swiftly changing societies. With every day passing by, there are more brands enter the marketplace with its unique aspects. As their numbers increase on daily basis, there are very few brands which really stand for anything significant or withheld in the minds of public, which is ironic but factual. It has been a trend for years that the strategic brand management have been about creating a niche in the marketplace, accomplishing brand differentiation and maintaining the brand in front of its target audiences in a sustainable manner. At the same time, there is a necessity of these fundamental differentiation strategies as they are insufficient to create a famous, valuable and most importantly, a
relevant and connected brand. Simply put in the proliferations, in a world of too many brands for human apprehension to make sense of a successful brand needs to stand for something that matters.

Enduringly for a company to create relevant brands or goodwill through its products or services is the way they directly impact the society, its culture, the environment, the economy and the world such factors which aren’t consumer-driven considerations but more of value driven aspects. The developed world has implemented and consumed the concept and phenomena of IPRs to a point where it has reached the point of saturation and their markets scenarios have started to top-out. The companies award and credit their growth of valuation regards to the goodwill and brand-name which are more relevant to the times and issues of their surrounding society. For example; a cup of coffee at ‘Starbucks’, a chain of cafeteria; sells for more than a single day living wage for the farmer who has grows that coffee, it is due to the solitary brand impressions or the mere iteration of new flavors.

There is available access to the world’s libraries for free of costs which will the establish greater brand relevance for teams like Google, Wikipedia etc. Later, it does get into dominance in the search industry rankings. The growth factor of the progress in the industry of molecular medicine is value much more in terms of brand relevance to the many biotech companies than the research cost or expenses of itself. It is than a direct-to-consumer advertising for traditional medicines than just a molecular formula. Therefore, the relevance of brand and aspects of branding utilized is about authenticity and meaningfulness with regards to the product being sold or launched in the market.

Thus, for obtaining relevance of brand is not just about the consumer recall but more about the differentiated marketing messages and distinctive factor when compared with the competitors in the industry. It is also surrounded over the significant impact created on society including both consumers and non-
consumers alike recognize as real and germane for example FMCG brands related with Swatch Bharat Abhiyan program.

Therefore, herein the relevance of brands not just come easily accessible in a world entangled with names and symbols having secondary meaning to almost everything around but it is also about their traditional marketing activities conducted by the companies. It is not merely a consequence of product placements or television advertising budgets or nor impressions per thousands of percipients of the brand all over. But it is more about creating relevance which will in return be termed as the reward of ongoing meaningful activity both within and outside of the marketplace of the industry at national and international levels.

As we observe the shift in assets, the two essential aspects to be considered are the ability and competencies with which a company can manage this shift as different kind of mindset to handle and hold on the set intangible assets. And secondarily, there are diverse set of strategy basis for the respective kind of IP based on the nature of IP.

It is a combination several aspects which need to be taken care in different facet of intellectual property right. From the stage of creation of IP to its execution and then protection of the same several efforts and determination is needed to maintain the existential aspect of IPRs in the market scenario. Valuation of IP has been a recent phenomenon, nevertheless much essential when business transaction is taking place. And with complete and acknowledge system of management the set intangible assets attain capability and deliverability which are utmost important aspects of the company. It should be more and more consideration of the primary functions of the organization in its regular strategies. The more it is being considered as the base and core focus of the asset shift, it shall increasingly benefit the organization when intangible assets are noted.
It has been observed and recorded that worldwide the fastest growing organization and also the long-lasting organization has IPR as the main focus of the company. For futuristic approach and a developing economy like India, any organizations or company that develops and frames strategic actions, also supported by regular management tactics and work-force, the section both tangible and intangible assets shall notice growth. In these scenarios, which form conducive infrastructure for the IP creation to grow and develop lead to betterment not just for the company/organization but also the national economy.