

WHAT IS INTELLECTUAL PROPERTY?

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The World will be celebrating the World Intellectual Property Day on April 26. However, many people will be forgiven for asking this question – What is intellectual property? For many people, intellectual property is a rather unknown and mysterious subject matter. The objective of this article is to attempt to demystify the subject of intellectual property.

Intellectual property is the area of the law that deals with creations of the mind such as inventions, literary and artistic works, and symbols, names, and images that are used in commercial activities. Intellectual property is divided into two categories – industrial property and copyright.

The main areas of industrial property are trademarks, industrial designs and patents. A trademark is a sign that is capable of distinguishing the goods or services of a business or professional undertaking from the goods or services of other businesses or professional undertakings. There are many famous local examples of trademarks in Belize. These include BRODIES and BELIKIN BEER. Trademarks are usually identified by the signs TM or ®.

An industrial design refers to the decorative qualities of a product. Industrial designs cover a wide range of products of industry and handicraft. These products range from furniture to technical and medical instruments to watches, jewelry, and other luxury items; from housewares and electronic appliances to vehicles; from textile designs to leisure goods.

A patent is the exclusive right to make, use, or sell an invention for a specified period of time. A patent is the legal title granted to protect an invention. A good example of a patent is the world famous wonder drug known as VIAGRA. The pharmaceutical composition is a patent, while the name VIAGRA[®] is a trademark.

As was indicated earlier, the other main area of intellectual property is copyright. Copyright is the legal protection given to the creator of an original literary or artistic work. Copyright is the exclusive right granted by the law to the creator of such original work, to do, authorize, or prohibit certain acts in relation to such work. Such a creator is also known as the author or the owner of the rights.

Works included under the banner of copyright include novels, poems, plays, reference works, newspapers, and computer programs; databases; films, musical compositions, and choreography; artistic works such as paintings, drawings, photographs, and sculpture; architecture; and advertisement, maps and technical drawings. Copyright works are usually identified by the sign ©.

There are a lot of myths about intellectual property in developing countries. The first myth is that “intellectual property will deprive people of cable television, cheap music CDs, DVDs and video games”. This view was very prevalent at the time of the passage of the Belize Copyright Act in 2000. Time has shown that this view was not correct. Rather than being deprived of cable television, Belizeans have experienced the emergence of better and more improved cable television services. This fact proves beyond all reasonable doubt that the aim of intellectual property is not to deprive people of copyright works (such as cable television programmes). Rather, the aim of intellectual property is simply to facilitate the seeking of permission from intellectual property right holders for the use of their works. The cable operators association of Belize has now initiated this permission seeking process.

The second myth about intellectual property is that it is a “device for the benefit of Westerners”. Some opponents of intellectual property point to the illegal exploitation of Mayan traditional medicines and artifacts in certain Western countries, as proof of this assertion. Despite the legitimacy of this grievance, one can easily rebut this assertion by pointing out that the participation in the intellectual property system by Belize is the best way of combating such illegal exploitation. Developing countries have successfully used the intellectual property system to promote the respect for traditional knowledge, such as Mayan traditional medicines, in developed countries. This has led to the incorporation of traditional knowledge as a recognized category of intellectual property. Traditional knowledge is the term that is used to describe tradition-based innovations and creations resulting from intellectual activity in the areas of industry, science, literature and art.

The third myth about intellectual property is that it is foreign to countries as Belize. According to this argument, Belize was established by pirates and has no historical reasons to protect intellectual property. However, a glance at the rich history of Belize reveals that Belize was founded by intellectual property owners such as the brilliant Mayan architects who designed the majestic Mayan temples; the ingenious Mayan and Garifuna traditional doctors who invented the magical traditional

medicines; and the melodious Garifuna composers and musicians who created the pulsating Punta music.

A look beyond the myths surrounding intellectual property reveals that intellectual property is very beneficial to businessmen, designers, and inventors in developing countries. By registering their businesses as companies, businessmen separate their personal assets from the assets of their companies or businesses. However, such protection does not extend to the intellectual property assets of such businesses. In order for such intellectual property assets to be protected, such assets must be registered as trademarks, industrial designs or patents.

A trademark, industrial design or patent registration grants the owner the exclusive right to use the trademark, industrial design or patent, or to authorize another person to use it in return for payment. Such registrations are enforced in the Supreme Court of Belize. Trademark, industrial design or patent registration promotes enterprise hindering the efforts of unfair competitors, such as counterfeiters, who use similar signs or designs to market inferior or different products or services.

Furthermore, trademark, industrial design or patent registration promotes customer loyalty for a particular product or service. This increases the commercial value of such product or service and facilitates the marketing and commercializing of such product or service. In short, a trademark, industrial design or patent registration ensures a fair return on a business investment.

On a national level, intellectual property protection enhances the development prospects of developing countries by encouraging foreign direct investment. Since the implementation of patent and trademark reforms in India in the early 1990's, India has seen a steady increase in the level of foreign direct investment in the country. It is estimated that Microsoft Corporation has invested US\$50 million in India, resulting in the creation of a lot of jobs in India's software industry. While the passage of a modern industrial property legislation in Brazil, in 1996, has resulted in a dramatic increase in foreign direct investment from US\$4.4 billion in 1995 and US\$32.8 billion in 2000. Also, the home video market in Mexico employs 88,000 people and generates US\$123 million worth of tax revenues for the Mexican government.

In conclusion, it must be stated that Belize has now embarked on the intellectual property journey through the passage of new intellectual property legislation, and the establishment of a modern intellectual property

registry - the Belize Intellectual Property Office (BELIPO). These steps were undertaken in order to harvest the fruits of the intellectual property tree. In the words of Kamil Idris (Director General of the World Intellectual Property Organization) “intellectual property is a ‘power tool’ for economic development and wealth creation that is not yet being used to optimal effect in all countries, particularly in the developing world”.

For more information on intellectual property call the Belize Intellectual Property Office (BELIPO) on 501-822-1381/2073 or visit www.belipo.bz.