**Introduction**

Intellectual property (IP) is a legal concept, which refers to the authentic creations of the mind of the individual, for which exclusive rights are recognized. Intellectual property law states that the owner of the intellectual property has exclusive rights over it, as it is the owner’s creation. These can be intangible as well. The rights over the ownership of intellectual property (intellectual property rights) include but are not limited to the following: Copyrights, Trademarks, Patents, Industrial Design Rights.

The need for intellectual law arises from the fact that these creations have a characteristic to be reproduced in a multiple number of copies, hence leading to the need to protect the exclusive rights of the owners of these assets. The essential function of intellectual property laws is that the creative owners of content are able to earn recognition or financial benefit or compensation from what they invent or create and hence have ownership of. Hence, there is a need to strike a balance between the interests of content creators - who are innovators - and the wider public. The Intellectual Property Rights system aims to foster an environment in which creativity and innovation can flourish. Intellectual Property Rights are usually given to owners for a certain period of time.

**Definition of Key Terms**

**Intellectual Property**

Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.

**Intellectual Property Theft**

An illegal and criminal offense. It is essentially the act of stealing one’s intellectual property without permission or the owner of content being compensated for the usage.
Patents

Provide legal protection for a new invention, an application of a new idea, discovery or concept that is useful in exchange for public exposure. They usually have a time limit attached to them.

Copyrights

Provide legal protection from copying of any creative work, music, lyrics, publications, computer software and compilations of information. This gives the owner the right to allow or forbid his/her work being copied.

Trademark

Provides rights to use symbols, particular words, logos or other markings that indicate the source of a source of a product or service.

Background Information

The World Trade Organisation (WTO) brought the issue of Intellectual Property Rights to an international platform of negotiation through its agreement of Trade Related Aspects of Intellectual Property Rights (TRIPS).

This agreement narrowed down the differences existing between the extent of protection and enforcement of IPRs around the world by bringing them under the jurisdiction of internationally agreed trade standards.

Globalisation of intellectual property laws

Until the end of the nineteenth century, intellectual property protection covering patents, copyrights, and other emergent forms such as trademarks and industrial designs were not international. National intellectual property laws were largely influenced by the legislative innovations enacted in English law but the protection that these laws provided was domestic, hence allowing foreign intellectual property crimes to take place without punishment. This brought the recognition of international protection of intellectual properties to the forefront of debate. In Britain, the person who filed for patent rights was protected, whereas in France and the US, the first inventor was protected.

One of the biggest conflicts in the history of intellectual property rights came during the period 1850-75. There was a controversy between those seeking to defend the protection of innovation and invention through the patent system, and protesting this protection by emphasizing the needs and demands of an international system of free trade.
By the beginning of the nineteenth century, France and America had developed their own domestic form of patent and copyright laws. From here on, patent protection spread to other countries with fast growing intellectual properties.

On one side of the debate were free trade liberals who focused on the monopoly aspect of intellectual property; and on the other side were those who wanted to protect the rights of individual inventors through continued patent legislation. Eventually, individual intellectual property was protected and viewed as a direct reward for intellectual labour as part of the inalienable right of individuals to be associated with their innovations, or perhaps, most clearly for reasons of economic necessity, to ensure the efficient use of resource. In the late 19th century, a technological boom, especially in Europe, elucidated the need for the centralization of intellectual property laws. In the 1870s, The Austro-Hungarian Empire sought to host international exhibitions of inventions in Vienna. This highlighted the necessity of intellectual property law unification and globalization as prospective exhibitors feared that their ideas might be stolen at this international conference. As a result, in 1873, the Empire adopted a temporary law providing exhibitors’ protection that would last through the duration of the exhibition. In order to form this temporary law, representatives from participating countries met, bringing ideas that had originated from their own domestic laws. The temporary law included steps as simple as devising a system in which states would recognize and protect the rights of foreigners within domestic boarders.

This was followed by congresses in 1878 and 1880—which adopted a draft convention that became the basis for the 1883 Paris Convention.

**The history of intellectual property**

Finding a balanced definition for intellectual property laws constitutes finding a compromise between the rights of individuals to benefit from their intellectual endeavours and the awareness that these endeavours have extensive public worth, and the clear social benefit that may come given their free dissemination.

The development of intellectual property law has been a contested political process producing successive phases of settlement or institutionalization. The history of intellectual property laws reflects this tension. As has been seen throughout history the ability to own and control technological innovations has been an instrument of power; and through history, the definition of intellectual property laws has been used to benefit certain groups that control this property. As a result, the shifting property of intellectual property rights and laws can be studied with the growth of technology.

The history of intellectual property reveals that the process of developing laws and defining rights related to intellectual property are, if anything, unstable as they vacillate between dissemination and exclusion. The laws result from “the complex interplay of ideational, institutional and material forces, not only from the state of legislative authority, nor from the singular fulfilment of social functionality.” It can be
argued that changes in technology and emphasis on private ownership and public circulation of knowledge lead to the development of such laws.

**The TRIPS agreement**

The TRIPS Agreement is of great importance and pertinence to this issue. The TRIPS agreement aimed to establishing minimum standards of intellectual property rights, this agreement aims to balance the innovation and dissemination of technology to the mutual advantage of producers and users in order to promote social and economic welfare. It has three components:

- The first sets out the content and overall direction of the goals and objectives.
- The second defines the broad civil and administrative procedures for enforcement of intellectual property rights, with details on state obligations, provisional measures, and remedial measures under the dispute settlement mechanism.
- The third component focuses on the needs of technology consumers.

By 1998, 155 countries were signatories to the Paris Convention. In the late 1960s and 1970s, a group of developing countries, led by the Andean Group, began a reassessment of intellectual property, particularly its implications for development, and the need to revise the Paris Convention to make it more compatible with developing country interests. Such an attempt to weaken intellectual property rights by developing countries in order to increase the production technological innovation worried developed countries, especially the US. Although centuries had passed since the release of the formal legislation of intellectual property laws, even by the 1960s the individual rights of the authors were only incompletely recognized. Intellectual property laws were not able to grow at the same speed as innovative intellectual properties.

**Major Countries and Organizations Involved**

**The United States of America**

The USA was one of the first countries to recognize patents and copyrights, and also one of the first to recognize the right to protection of intellectual property. The USA has a large amount of its population online; and there are new opportunities for innovation and invention every day. The theft of ideas makes any country less forward thinking due to the fact that information is all public and there is a lack of protection of information which is why they would like to prevent such an issue from arising.

**People’s Republic of China**

Since 1979, Intellectual Property Rights have been acknowledged and hence protected in China. The PRC delegation has assumed a comprehensive position in all major international conventions on
IPR protection. The protection of intellectual property rights has also been recognised domestically and has been established through regulatory administrative bodies and government legislation. Hence China has developed an intricate legal framework to protect Intellectual Property. However, Intellectual Property Theft is commonplace in China, mainly by important members of the automotive and electronic industries.

**World Intellectual Property Organisation (WIPO)**

A special agency of the United Nations dedicated to developing a balanced and accessible international intellectual property system. Created in 1967, it stands to encourage creative activity by the protection of intellectual property throughout the world.

**International Intellectual Property Institute (IIPI)**

A non-profit organization dedicated to increasing awareness and understanding of the use of intellectual property as a tool for economic growth, especially in developing countries. It works to establish constituencies of policymakers, business leaders, and judicial stakeholders in the developing world.

**INTERPOL – Intellectual Property Rights Programme**

An organisation charged with the mission to serve as an advisory group for INTERPOL, National Central Bureaus, and national law enforcement authorities in INTERPOL member countries. They encourage the dedication of resources to international property crime enforcement and assist in combating transnational organized intellectual property right violations.

**Virtual Intellectual Property Organization**

An organization with the mission to provide access to information, representation, legal service and support to interested parties.

**Timeline of Events**

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<tr>
<th>Date</th>
<th>Description of event</th>
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<tr>
<td>September 9th, 1886</td>
<td>Berne Convention for the Protection of Literary and Artistic Works</td>
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<td>September 6th, 1952</td>
<td>Universal Copyright Convention Geneva</td>
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<td>July 24th, 1971</td>
<td>Universal Copyright Convention Paris</td>
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April 15th, 1994
Agreement on Trade-Related Aspects of Intellectual Property Rights (Marrakech)

December 20th, 1996
WIPO Copyright Treaty

February, 2012
Anti-Counterfeiting Trade Agreement (ACTA) - a multilateral treaty governing multiple aspects of intellectual property, including copyright. As of February 2012, ACTA has been signed by 31 countries, but only ratified by Japan. If ACTA is ratified by six or more signatories, it will enter into force thirty days later.

Relevant UN Treaties and Events

- Berne Convention for the Protection of Literary and Artistic Works, 9 September 1886
- Universal Copyright Convention (UCC), Geneva, 6 September 1952
- Universal Copyright Convention, (UCC), Paris, 24 July 1971
- Agreement on Trade-Related Aspects of Intellectual Property Rights, Marrakech, 15 April 1994
- WIPO Copyright Treaty, 20 December 1996
- Anti-Counterfeiting Trade Agreement (ACTA), February 2012

Previous Attempts to solve the Issue

Until perhaps a century ago, intellectual property rights were essentially a domestic concern. Globalisation led to the formalization and growing pertinence of intellectual property laws. The Paris Convention was the first such attempt, in the year 1883, due to the international exhibition of inventions in Vienna. The Paris Convention for the Protection of Industrial Property was in essence, the first to address trans-boundary intellectual property treaties. It included patents, trademarks and industrial blueprints and their protection. This convention was revisited and amended in Brussels (1900), Washington (1911), The Hague (1925), London (1934), Lisbon (1958) and finally in Stockholm (1967).

Immediately after was the Berne Convention for the Protection of Literary and Artistic Works. It was signed in 1886 and outlines provision determining the minimum protection to given, additionally containing special provisions available to developing countries to make us of.

The next renowned and hence the most referred to agreement is the Trade Related Aspects of Intellectual Property Rights, which was signed in Marrakech, Morocco in the year 1994. This comprehensive agreement is administered by the World Trade Organisation, and sets down minimum
standards for the regulation of various forms of Intellectual Property. The reason the TRIPS agreement is different from others is that it has the requirement that national laws must be enacted in order to protect copyright.

**Possible Solutions**

Rewards vs Rights: This is a solution discussed by Shayvelle and Ypersele. Under this system, innovators are paid for innovations directly by the government which in turn allows information to pass freely into the public domain. Even though this may seem complex; in the long run it will solve the issue due to the fact that the issue of having unequal access to information will be solved.

Education on possible procedures to prevent intellectual property theft given to the general public - such as including copyright information at the beginning of the article.

Requesting nations to make it easier for people to obtain copyrights and patents for their ideas.

Guidelines that may specify that a violation of intellectual property right online is equivalent to an offline human right violation in terms of severity and punishment.

Outlining strict guidelines as to what defines intellectual property and also define punishments for the theft of such property.

Education about the morality of intellectual property theft.

Educate people about the disclosing of certain sensitive information and non-disclosure agreements.

These are certainly not the only solutions, and one must be innovative in methods to prevent the violation of intellectual property rights and hence prevent the theft of intellectual property.

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