



## BUSINESS STRATEGY NEEDS PROTECTION UNDER IPR – NEED FOR CODIFIED ENACTMENT OF TRADE SECRET ACT

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### ABSTRACT :

Intellectual Property is the matter of paramount consideration for companies and business which involve in innovative practices of business when these practices are introduced in the competitive market if business it should not be copied by other competitors of market this is the point where the need for trade secret Act has emerged that is a legislative step which monopolizes and protects innovative practices of business for a certain period of time till that the particular business may yield revenues out of that practice so that the firm derives benefits out of such innovative practices the concept of trade secret, is based on reverse engineering that a particular information which has economic and commercial value for the firm which has its origin as it was observed in the landmark case of the US supreme court



*Bennett boat VS Thunder boat*

**Survey:** The survey is conducted by means of sampling of various companies of national and international sphere

### Literature review : The literature has been taken from following books

1. Good Strategy bad strategy by Richard P.Humelt
2. Competitive advantage of nation by Michael Porter
3. Intellectual property rights by Dr.G.B Reddy
4. Intellectual property rights by Phillip Cullet

An Introduction to Business strategy and intellectual property Rights.

**Business Strategy :**  
**Thums up**



**Taste the Thunder**

**Rexona**  
**Twacha main jyothi jagaye**



The business entities and even common men frequently used the term strategy for getting the solutions to the existing problem with a rationalistic approach in perspectives of decision making process with this statement we can arrive at the conclusion that strategy is the means to get out of the problem, business strategy the youngest discipline emerged the 19<sup>th</sup> century the term strategy derived from Greek word stratage which generally means command of an Army whenever and where ever the Army found the probability of occurrence of an invasion used strategy therefore the term strategy has been used for the first time in Military, The term strategy is defined as an “Action plans” the strategic management defined by Robbinson from his book strategic management as “the statement of plans to achieve goals the Anatomy of the term strategy expresses composition of the elements formulation and implementation” therefore strategy is an Action plans it differs from planning because the perspectives of planning is deciding in advance for future course of an action it expresses only aspect of formulation but not implementation where as the aspect of strategy attributes to both formulation and implementation the statement of plan is policy the statement of plans to achieve goals is strategy has

been the well acknowledged fact the company management consists of three levels corporate level it consists of Board of Directors, stake holders managing directors etc, company vision is the responsibility of corporate level when Coca Cola



was launched for the first time in 1892 in Atlanta Georgia in united states it had vision value and makes the drink different from other competitor and crafted strategy for it successful launch, Coca Cola targets Florida with triangular with Geographical conditions of Florida state, with lowering of its price with creation of demand among the people

### **Thunda Matlab Coca Cola**

The second level of company management is off course Business level of company consists of CEO and heads of the departments this level is also called as executory level the company mission is the responsibility of business level this level also responsible for formulation of strategy now the third level of company management is called functional level it consists of managers this level is responsible for strategy implementation the fundamental parameters for the purpose of strategy formulations and implementations are Philosophy Goal and Objective based on these as philosophy makes coherent choices for selecting the best Richard the Doctorate scholar of Harvard business school, an eminent Engineers by professions worked on Design showed his personal expressions Designing felt problems and the way to get out from the problem is the means to adopt strategy Richard wrote a book titled good strategy bad strategy published 9<sup>th</sup> of June of 2011. According to him Although everyone uses the term strategy which is not the strategy in its real sense. Richard in his address on mass gathering emphasizes upon MICROSOFT generic strategy as created competitive advantage while enabling the business to maintain broad market scope on the other hand market penetration is used as main intensive growth strategy to support Microsoft growth, in highly competitive market therefore it becomes necessary to say that formulating and implementing strategy involves Novelty utility and non obviousness which makes the strategy unique not even had been used by any competitor in the competitive market the time period for completion of the strategy is five years but if it is the case of short term objectives there must be some short term strategies to achieve in expected goals within stipulated time period. As the concept of competitive advantage speaks of to attain superior business position in the competitive market by creating the uniqueness in the value delivery system by means of cost effectiveness and cost Leadership.



### **An introduction to intellectual property Rights.**

The Anatomy of the statement intellectual property Rights attributes to Intellectual means it related to human intellect the state which is above to geniusness where the term property refers anything which have some value property ceaded by law now the term rights means an advantageous position therefore are intellectual property rights has been emerged. In 17<sup>th</sup> and 18<sup>th</sup> century to protect right of an Artist, the philosophy of Intellectual property rights based on Quid Pro Quo which means something in return.

### **Taxonomy of Intellectual property Rights**

#### **IPR**

Industrial property

Non Industrial property

Patent

Company rights

Trade mark

Neighboring rights.

(performance of an artist, broadcasting organization, cinematography)

Geographical indication

Plant variety protection

Designs

#### **Patent :**

The literal meaning of the term patent is to open which is antonym to hidden. It is basically a grant given by Government to protect the rights of inventor not to copy the criteria's of patentability are novelty, utility, non obviousness must have an industrial application.

#### **The patent Act.**

In India enacted in the year 1970 the term of protection is 20 years but in case of pharmaceutical patent 27 the additional 7 years as marketing exclusivity.

#### **National Treatment :**

The Individual as person who have an investors can apply to the Attorney of patent in any country from anywhere of the World that person is treated like Citizen of that particular country.

#### **Compulsory license:**

Where an individual or a person is not utilizing the Invention will fall in public domain under compulsory License after all every Invention is for the public and for the society.

### **Geographical Indication:**

The geographical Indication is basically a sign belong to particular place Hyderabadi Biryani Tirupathi Laddu Mysore silk sarees etc, the Geographical Indication Act, enacted in the year 30<sup>th</sup> December 1999.

### **Plant Variety Protection and farmer's rights:**

When the farmers produces, variety of plant the new bread and variety can be protected under plant variety protection Act 2000 to encourage farmer to produce new variety.

### **Copy Rights:**

The copy rights is for the purpose of literary dramatic and artistic performance the term of protection life time is an Author plus sixty years the neighboring rights include performance of the Artist broad Casting organization and cinematography, business strategy needs protection under IPR.

Before presenting an analysis about business strategy protection under IPR it becomes necessary to present an Introductory analysis about trade secret what is trade secret trade secret is generally formulates practices process designs and instruments and information which have Economic value which is generally not known and even not ascertainable by others the trade secret protection is an alternative patent and trade mark law which allows the intellectual property to remain undisclosed the subject matter of trade secret may include any information it may be virtually valuable because it is not generally known therefore the trade secret have enormous Economic value, a study presented on March 2014 indicated that the Trade Secret misappropriation caused World's top 40 economies lowering 2 to 3% of GDP in every year, trade secret is often valuable because it is unknown and not readily as certainable in fact trade secret attracts losses attention comparing with other.

IP fort folio Mr. Nicola the registered IP attorney of USA who said Trade secret is valuable information that helps businesses the business might grow in future in order to protect really valuable portion of any company IP is a trade secret the long list of trade secret formula pattern physical device Idea process technical information that is used the manufacturing procedures or compellation of information all these above prescribed aspects which are considered to be valuable for the company should not be exposed to the public and even should not known for the relevant business communities and market the maintenance of trade secret must be beneficial for the company which have the valuable information therefore trade secret must be continuous as long as the information is maintained as Trade secret the concept of trade secret may extends to sales method distribution method consumer profile advertising strategies manufacturing process list of suppliers and clients now the question may arises how to identify whether the particular aspect is trade secret or not? The aspect of trade secret can be Identified by means of Reverse engineering and industrial sponec, the concept of reverse engineering attributes to the process of extracting information acknowledge or design from man made and reproducing it till now the practice of trade secret is maintained by the companies if the information is known of some persons the company has to enter into the Non disclosure agreement with those persons not to disclose the information Benito Bout Vs thunder boat.

The business strategy can seek protection under IPR the other competitor of the competitive market should not copy the strategy till next six months, in the period of time, the company gains maximum revenues and the right of the company cannot be infringed apart from the exclusive business rights has to be created according to that the strategy as the practice of the business of the business, can not be copied by other competitors.

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