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## An Overview on Intellectual Property Rights Protection and Benefits

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### Abstract

*Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works and symbols, names, images and designs used in commerce (WIPO). The purpose of this paper is to give an overview of IP with Albania in focus. The path towards European Integration has many challenges, one of them is implementing the EU directives in the field of Intellectual Property. In general, Albania’s legal framework for IPR protection is sufficient (IIPA report, 2012). This is a theoretical paper which seeks to provide an introduction to the main instruments used in the protection of intellectual property. It gives answers to questions like; Which are the institutions responsible in protecting and enforcing IP in Albania? What is the link between IPRs and competitiveness. How do businesses benefit from IP protection? The last section of the paper deals with some conclusions and recommendations regarding the vision and strategy of Albanian government in protecting IP rights.*

Keywords: *intellectual property rights, competitiveness, economic development*

### 1. Introduction

During different stages of business development an entrepreneur may need to collaborate with different representatives of public sector, private sector or financial institutions and must not be obliged to share his ideas with others. Nowadays, with the development of new technologies, with lower costs of transactions of moving goods and services, the exchange and realization of business ideas has a motive – the commercialization in the market. So intellectual property has become more important than ever in the development of the world economy.

#### 1.1 What are intellectual property rights?

##### 1.1.2 Intellectual property can be seen from two aspects

**Legal aspect** of IP is the set of rights protecting a certain form of intellectual property under some legal restrictions.

**Economic Aspect** expands the concept of IP to those forms of IP not regulated by law which can be used as the means to protect an investment.( e.g business secrets)

### 1.1.2 Definition of IPRs

There are some definitions related to intellectual property:

Intellectual Property Rights (IPR) can be regarded as a bundle of rights that protect applications of ideas and information that have commercial value. IP rights give creators certain exclusive rights over the knowledge and information they create to prevent others using it without permission. (Gowers, 2006:11)

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

Intellectual property is the intangible but legally recognized right to property in the products of one's intellect. Intellectual property rights allow the originator of certain ideas, inventions, and expressions to exclude others from using those ideas, inventions, and expressions without permission. (Schwabach, 2007:1)

Intellectual property maybe defined as a form of property consisting of immaterial goods that are a product of creative human effort. It refers to creativity of mind: inventions, literary and art works and symbols, names and images used in trade.

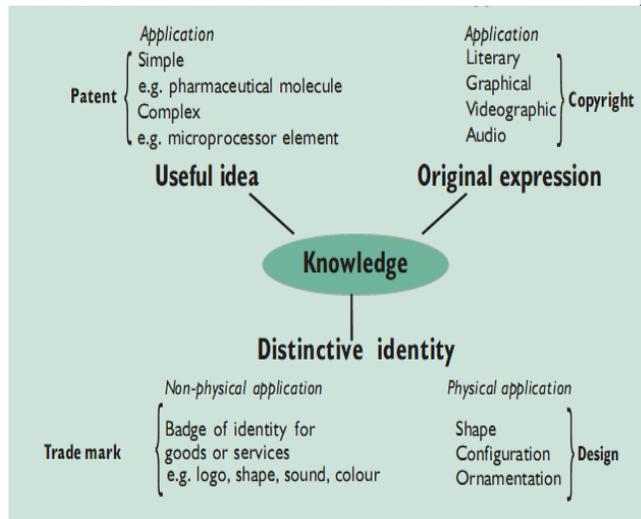
### 1.2 What are the forms of intellectual property?

To protect different applications of knowledge, several different forms of IP rights have evolved. The most common are presented at the chart below, they are patents, copyrights, designs and trademarks and the applications to which different rights apply.

1. **A patent** is a set of exclusive rights granted by the state to a person for a fixed period of time in exchange for the regulated, public disclosure of certain details of an invention. The patentee does not have the right to make, use or sell the invention, the patentee must still comply with other laws and regulations.(Gowers, 2006:13)  
The term of protection is usually limited to 20 years, after which the invention moves into public domain. The patent system is one of the oldest and traditional forms of IPRs protection, especially manufacturing firms use it to avoid being copied by competing firms.

*Products eligible for patent protection must:*

- Be novel - the invention must never been made public in any way, anywhere in the world before the application date.
- Involve an inventive step- so when compared with what is already known, it would not be obvious to someone skilled in the relevant art
- Be capable of industrial application - an invention must be capable of being made or used in an industry

**Chart 1: The instruments of IP and common applications**

Source: (Gowers, 2006:13)

Some countries have *utility models or petty patents* - as an adjunct to the patent system. The novelty criteria for utility models are less stringent and are granted for small, incremental innovations. Their term of protection is shorter than invention patents (four to seven years).

2. **Industrial designs** protect the ornamental features of consumer goods . To be eligible for protection, designs must be original or new. They are generally conferred for a period of five to fifteen years.
3. **Trademark** is identifying certain goods or services, these may be produced by an individual or an enterprise. It's origin derives from ancient times when artisans used to reproduce their signatures or "marks " in their art works. Trademarks are words, signs, or symbols that identify a certain product or company. They offer consumers the assurance of purchasing what they intend to purchase. They can endure indefinitely if they remain in use. It is widely used in almost all industries. The use of trademarks has resulted of high importance in certain industries as a mean of differentiation. Once a trademark is registered it gives the right to prevent others from using the same or similar marks on the same or similar products. Trademarks lower the search costs for consumers by giving them information about the quality of the product and develop brand loyalty .Then a trademark is not used anymore or they become generic, (when brands stand for a general class of items) it loses protection. Firms fear for they trademarks and try to avoid them becoming generic.(Gowers, 2006:15)
4. Similar to trademarks are **geographical indications**, which identify a product ( e.g wine, cheese, olive oil etc. ) with a certain city or region and have qualities and good reputation. Consumers understand geographic indications primarily as a special emphasis on the origin and quality of the product.
5. **Copyright** - where a work is protected by copyright it cannot legally be reproduced , distributed, communicated to the public, lent, rented out or publicly performed without

the consent of the owner. Copyright subsists in a wide range of creative or artistic forms or works. Copyright law covers the way in which the work is expressed, rather than the idea behind the work. (Gowers, 2006: 14)

For some applications, such as plant varieties, databases, semi-conductor topographies, specific rights known as *sui generis* ( of their own kind rights) have been developed. So they protect specific types of invention.

### 1.3.1 IP and economic development

Intellectual Property doesn't bring economic development if it isn't used in the economy. Put it differently, none of the intellectual property rights has economic value per se. Using it productively and commercialization gives IP economic value, it doesn't matter if it is legally protected or not. IP brings benefits to the society, especially consumers by assuring them for the quality of their product.

### 1.3.2 The link between IPRs and Competitiveness

How does intellectual property might affect competitive position of a firm?

In most circumstances (besides those of purely price- based competition) the firm competes for market share by asserting distinctiveness of their products or services in terms of their technological originality and /or in terms of their distinctiveness in the eyes of the customer. The firm is therefore at a competitive disadvantage if this distinctiveness is easily appropriated by existing rivals, potential new entrants and substitutes. On the contrary the firm's competitive position might be strengthened if it preserves and exploit this distinctiveness to exclude the existing rivals and potential entrants. It will strengthen even more if this distinctiveness is used to interact with customers, suppliers and potential collaborators. (Iversen, 2003: 32)

*Intellectual property rights can be effective in markets characterized by technological and design based competition*

IPRs can improve a firm's position by helping it to protect the distinctiveness of its products /or services, with the help of patents is protected the technological originality and trademarks or industrial designs protect their products or services distinctiveness in the eyes of the customer. The use of different types of IP protection the firms is not threatened by direct competition imitations. (Iversen, 2003: 33)

There are some important socio-economic characteristics of intellectual property according to Zilinskas et al. (Duoba and Kumpikaite, 2011: 56)

*Publicity* (except trade secrets). Information protected by intellectual property public access is necessary condition to give intellectual property rights. Publicity requirement may be both direct (e.g., patents, trademarks) and indirect (e.g., information protected by copyright must be objectively expressed).

*Uncompetitive*. Intellectual property uncompetitive in terms of economics means that the intellectual products presentation to the additional consumer surcharge costs is close to zero.

*A limited monopoly right* with respect to time and volume (use of the rights and exceptions). Protection of Intellectual Property validity is expressly defined by law (for example, patents are valid in individual countries for 15-20 years). Although monopoly is essentially a negative effect of intellectual property, it is base of the creation shaping intellectual property and innovation promotion.

*Competitiveness and efficiency.* Intellectual property market value and its effect are directly related to social values and social needs; developers, deciding where to invest and what create can compare the costs of potential investments and the social value, which they will create.

#### *1.4 IPR protection in Albania*

The path towards European Integration has many challenges, one of them is implementing the EU directives in the field of Intellectual Property. In general, Albania's legal framework for IPR protection is sufficient (IIPA report, 2012).

##### 1.4.1 International commitments of Albania in the area of IPR

Albania is a member of some conventions and agreements related to intellectual property:  
WIPO convention (World Trade Organization) – 30/06/1992  
Paris Convention for the protection of industrial property- 4/10/1995  
Madrid Agreement for International Registration of Trademarks - 4/10/1995  
Protocol relating to the Madrid Agreement for International Registration of Trademarks- 30/07/2003

Albanian Government Vision related to the IPRs Enforcement is:

‘Ensuring and developing a contemporary system of the protection of intellectual property rights in Albania, so a competitive social economic system will be consolidated, with equal rights and opportunities for all citizens, in compliance will all requirements and obligations arising from the integration process of Albania in the European Union’. (Ministria e Integrimet:18)

Also crucial to the system's overall effectiveness are the institutions administering instruments used to protect IP, the mechanisms available for enforcing IPRs.

Intellectual property is under the responsibility of several institutions in the public administration system of Republic of Albania, as follows;

1. General Directory of patents and trademarks
2. Albanian Office of Copyright
3. Directory of state policy
4. Customs office

#### 1.4.2 IPRI 2012 comparison

The most up-to-date study which enables international comparisons in IPR protection is the study published by PRA in 2012 (PRA 2012). An index, which demonstrates countries' IPR protection performances, has been constructed in this study, by making use of a number of indicators, and countries were ranked according to this index.

It is composed of three categories:

1. Legal and Political Environment (LP)
2. Physical Property Rights (PPR)
3. Intellectual Property Rights (IPR)

Albania's score on the IPRI (international property rights index ) has not changed from last year – staying at 4.4.

Albania's LP fell by 0.2 points to 4.3. While *Political Stability* fell by 0.3 points and *Judicial Independence* fell by 0.5 points. Albania's PPR fell by 0.1 points mainly due to a 0.5 fall in *Access to Loans*. Albania's slight improvement in IPR of 0.1 point from last year is largely driven by an improvement in the *Protection of Intellectual Property* score, which rose by 0.3 points. (PRA 2012)

The overall grading scale of the IPRI ranges from 0 to 10, with 10 representing the strongest level of property rights protection and 0 reflecting the non-existence of secure property rights in a country. Similarly, each component and variable is placed on the same 0 to 10 scale. The final overall IPRI score is itself the average of the component scores.

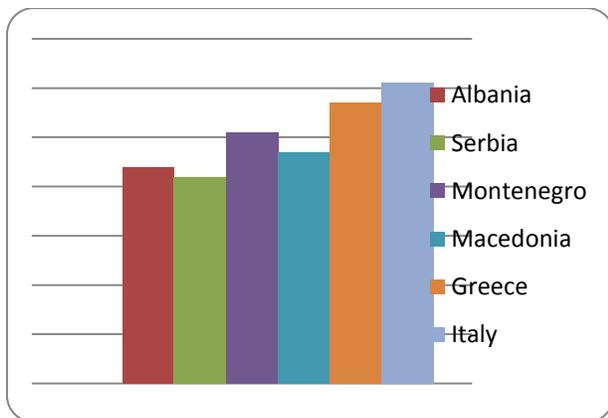
Comparing it with the countries in the region, Albania ranks 119th among the 130 countries included in the study. While Finland is at the top of the list with 8.6 points, Albania's score is 4.4 points. Table 1 summarizes scores of Albania and her neighbor countries.

**Table 1: International Property Rights Index**

Category	Albania	Macedonia	Montenegro	Serbia	Greece	Italy
<b>Overall</b>	4.4	4.7	<b>5.1</b>	4.2	5.7	<b>6.1</b>
<b>Legal and Political</b>	4.3	4.4	<b>5.3</b>	4.1	5.2	<b>5.6</b>
<b>Physical Property Rights</b>	5.4	5.7	<b>6.3</b>	5.2	5.7	<b>5.8</b>
<b>Intellectual Property Rights</b>	3.4	4	3.7	3.3	6.1	7

Source: PRA 2012 <http://internationalpropertyrightsindex.org/profile?location=Albania>

**Chart 2: Albania’s Comparative Position in International Property Rights Index**



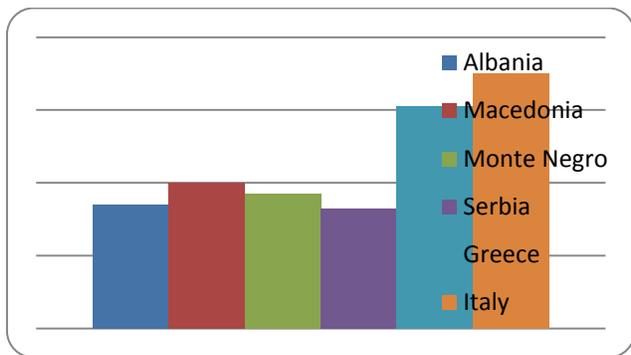
Comparing the third category of this index (intellectual property rights) Albania is positioned as follows:

At The global rank, Albania is 119th position out of 130 countries that participate in the survey with a score of 3.4 points.( The third category of the index, intellectual property rights)

**Table 2: Global and Regional rank of Albania on Intellectual Property Rights category**

Category	Score	Global Rank	Regional Rank (CEER)
Intellectual Property Rights	3.4	119 of 130	18 of 24
Protection of Intellectual Property Rights	4.3	89 of 130	14 of 24
Patent Protection	0		
Copyright Piracy	2.5	76 of 130	16 of 24

**Chart 3: Albania’s Comparative Position in Intellectual Property Rights component of IPRI**



The Global Competitiveness Report 2012-2013 of World Economic Forum according to CGI ranks Albania 103-rd out of 144 nations. One of components of the first pillar of the index ‘Institutions’ is intellectual property protection with a score of 3.0 (Values are on a 1-to-7 scale)

These data show that there is much to be done for Albania in this context.

1.4.3 The Albanian Government Strategy for the protection of intellectual property rights aims:

The *Albanian Government Strategy* for the protection of intellectual property rights aims:

- The reduction of the piracy level, counterfeiting and informality in the field of IP through:
  - o improvement of the mechanisms that protect IP by completing the legislation in the field
  - o inspection reform to improve the law enforcement and reduction of the abuses with IPRs
  - o improvement of the Management Information System for IPR protection
- Protection of IP through enforcement of institutions responsible for protecting IP
- Increasing the awareness and transparence, information and training for the IP system in general.

Other priorities consist in:

- Increase the administrative capacities for the protection of industrial property
- Approve the new legislation in accordance with Acquis Communautaire
- Intensifying the enforcement of law against piracy and counterfeited products
- Increasing awareness of IPR between business community and the institutions that enforce the law Including the judiciary

The IP system is designed to benefit society as a whole. The IP system provides benefits to society in a number of ways by:

- Enriching the pool of public knowledge and culture
- Encouraging the production of a wide range of quality goods and services and maintaining fair competition
- strengthening social, cultural and economic growth and employment
- Sustaining innovation and creation

The strategy defines aims, measures and directions for development of short-term, medium-term, and long-term system of IP in Albania to be compatible with development interests of the country.

### *1.5 Implications for investors*

Intellectual property is a key driving force for growth in many companies and economies today. nowadays the intangible assets of a business are often more important and valuable than its tangible assets. (ICC,WIPO)

IPRs provide a basis for businesses to:

- Prevent others from copying their products or using their innovations
- Gain revenues through franchising, licensing or other IP transactions
- Create a strong brand identity- by product differentiation using one or more types of IPRs
- Obtain valuable competitive intelligence( information)- analyzing competitors
- Obtain financing or venture capital -IP assets may be used as collateral from banks
- Increase their commercial value
- Enter new markets
- Engage in different types of collaborative business partnerships.
- Reducing the risk of IPR infringement; by owning or licensing an IPR the businesses can operate freely and the risk of infringing IPRs using others technologies, trademarks or designs is reduced.

The role Intellectual Property plays in a business can vary depending on different factors.

1. Different business models put different emphasis on IP. In some models the IP may be at the center of the company strategies in some others may play a less central role.
2. For some companies a certain type of IPR may be relevant, e.g trademarks are important in consumer brand sector, while patents, trade secrets to technology companies.
3. The market- different tools for protecting IP assets will be relevant according to market conditions, e.g the risks of IPR infringement by competitors

4. The type of IP used ; most businesses will use more than one type of IPR
5. The managers awareness about the role of IP

## 2. Conclusion

The issue of respecting of intellectual property rights has many dimensions. It is a moral issue of respecting human rights, respecting his/her creative works. It is also an issue related to progress and development, which stands at the center of the social and economic development of a country. It is related with fair competition, the engine of economic development of any nation. It is also an obligation for countries like Albania for the path towards European Union, not only formally fulfilling legal obligations in harmonizing the legislation but also requiring the enforcement of the law. It is also an issue that goes beyond institutions, and law, it involves the civil society, the consumers, it is a matter of public awareness.

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(WIPO) World Intellectual property Organization. [www.wipo.org](http://www.wipo.org)