

*Outline of IP
-Patent, Utility-models, Trademark
and Design law-*

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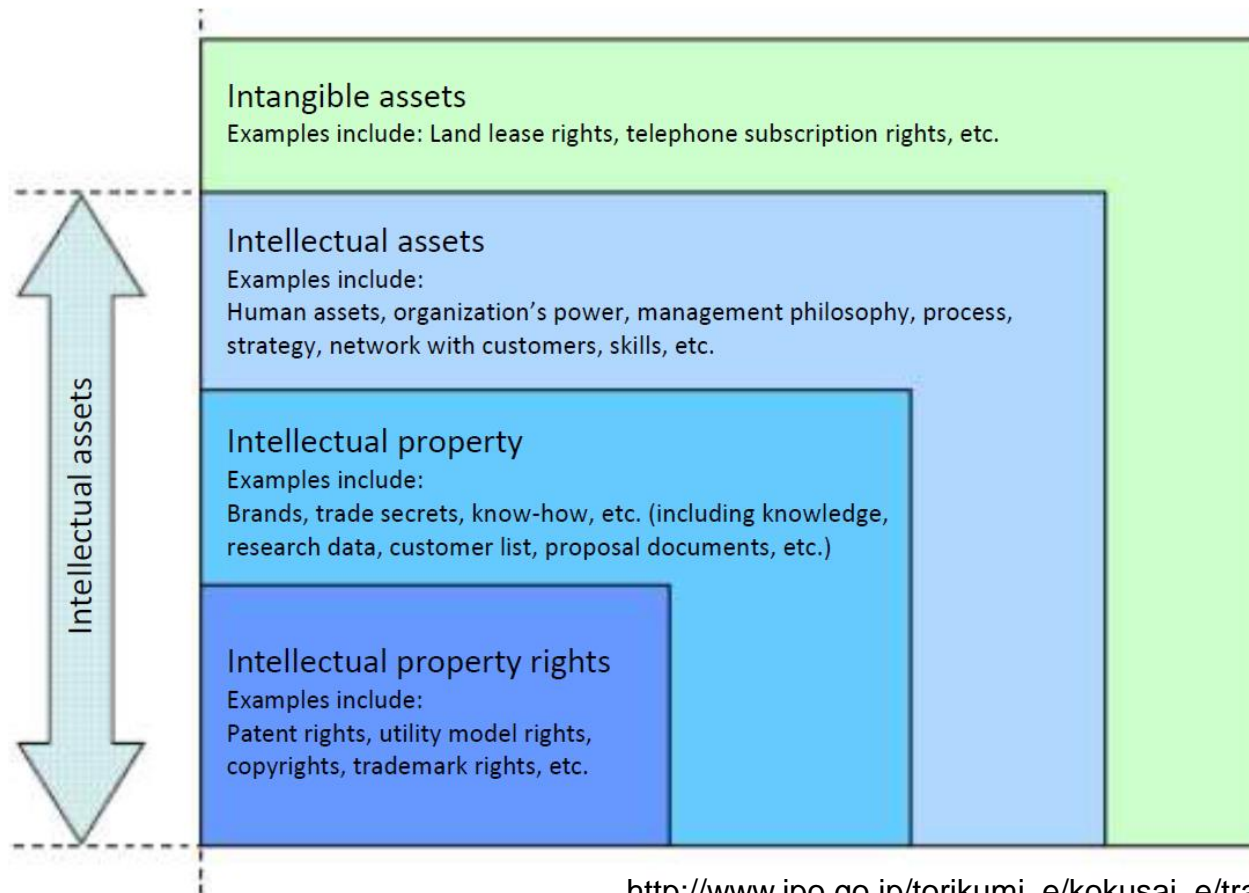
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Outline of IP -What are Intellectual Properties & IP Rights?-

Conceptual Diagram of Intellectual Assets Underlying Management for Enhanced Business Value



- ***Intellectual property***

- The legal rights which result **from intellectual activity** in the industrial, scientific, literary and artistic fields.
- Countries have laws to protect intellectual property for two main reasons.
 - **One** is to give statutory expression to the moral and economic rights of creators in their creations and the rights of the public in access to those creations.
 - **The second** is to promote, as a deliberate act of Government policy, creativity and the dissemination and application of its results and to encourage fair trading which would contribute to economic and social development.

- *Intellectual property law (IP law)*

- IP law aims at safeguarding creators and other producers of intellectual goods and services by granting them certain time-limited rights to control the use made of those productions.
- Those rights do not apply to the physical object in which the creation may be embodied but instead to the intellectual creation as such.
- Intellectual property is traditionally divided into two branches, “*industrial property*” and “*copyright.*”

Sources of IP law

- **International Treaties**
 - TRIPs 1994
 - Paris Convention for Industrial Property 1883
 - Patent Cooperation Treaty 1970
 - Trademark Law Treaty 1994
 - Berne Convention for the Protection of Literary and Artistic Works (Paris Act) 1971
 - WIPO Copyright Treaty 1996
- **Legislation**
 - Patent Act
 - Utility Model Act
 - Design Act
 - Trademark Act
 - Unfair Competition Prevention Act
 - Copyright Act
- **Guidelines : Japan Patent Office (JPO)**
- **Judicial Precedents : Supreme Court / IP High Court**

- ***Definition of Intellectual Property (Paris Convention)***
 - In the Paris Convention for the Protection of Industrial Property
 - Intellectual property is defined as follows:
 - “The protection of industrial property has as its object patents, utility models, industrial designs, trademarks, service marks, trade names, indications of source or appellations of origin, and the repression of unfair competition.”
(Article 1bis)

- ***Definition of Intellectual Property (WIPO)***
 - In the convention establishing the World Intellectual Property Organization (WIPO)
 - Intellectual Properties are defined as follows:
 - “Intellectual property shall include the rights relating to: literary, artistic and scientific works, inventions in all fields of human endeavor, scientific discoveries, industrial designs, trademarks, service marks, and commercial names and designations, protection against unfair competition, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields” (Article 2).

- ***Definition of Intellectual Property(TRIPS Agreement)***
 - TRIPS Agreement concluded by the World Trade Organization (WTO)
 - Intellectual property is defined as follows:
 - “The term ‘intellectual property’ refers to all categories of intellectual property that are subject of Section 1-7 of Part II.”(Article 1(2))
 - **copyright and related rights (Section 1), trademarks (Section 2), geographical indications (Section 3), industrial designs (Section 4), patents (Section 5), layout-designs of integrated circuits (Section 6) and protection of undisclosed information (Section 7) are stipulated in the TRIPS Agreement.**

- *Two branches of IP, “**industrial property**” and “**copyright.**”*
 - The areas mentioned as literary, artistic and scientific works belong to the **copyright** branch of intellectual property.
 - The areas mentioned as performances of performing artists, phonograms and broadcasts are usually called “related rights,” that is, rights related to **copyright**.
 - The areas mentioned as inventions, industrial designs, trademarks, service marks and commercial names and designations constitute the **industrial property** branch of intellectual property.

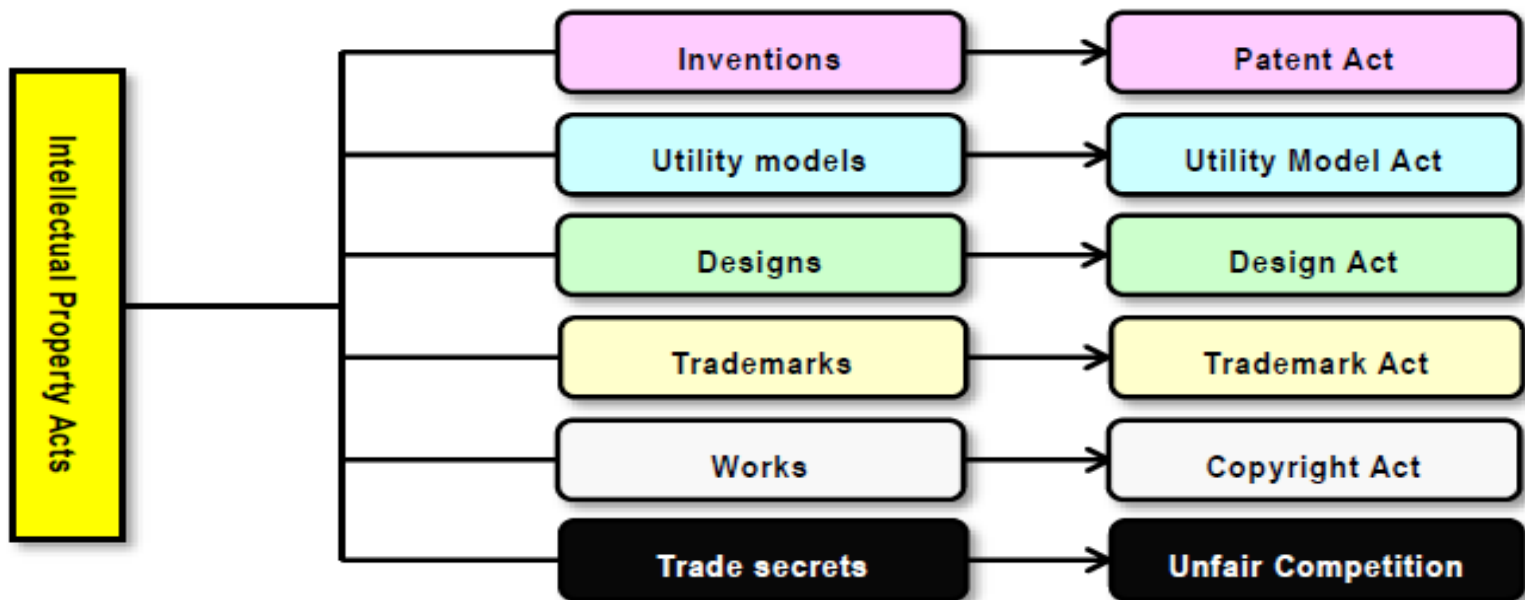
- *Two branches of IP, “**industrial property**” and “**copyright.**”*
 - The area mentioned as protection against unfair competition may also be considered as belonging to that branch, the more so as Article 1(2) of the Paris Convention includes “the repression of unfair competition” among the areas of “the protection of **industrial property**”;
 - the said Convention states that “any act of competition contrary to honest practices in industrial and commercial matters constitutes an act of unfair competition” (Article 10bis(2)).

- ***Industrial Property***

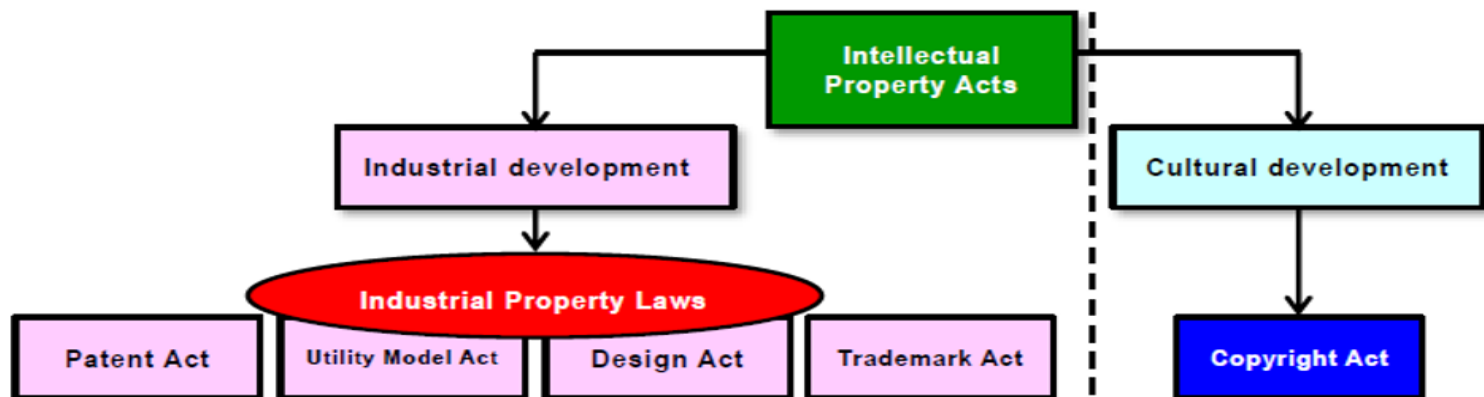
- The expression “***industrial property***” covers inventions and industrial designs.
- Simply stated, **inventions** are new solutions to technical problems and **industrial designs** are aesthetic creations determining the appearance of industrial products.
- “***industrial property***” includes **trademarks, service marks, commercial names and designations, including indications of source and appellations of origin, and protection against unfair competition.**

Outline of IP - What are Intellectual Properties & IP Rights?-

Overview of Intellectual Property Act in Japan

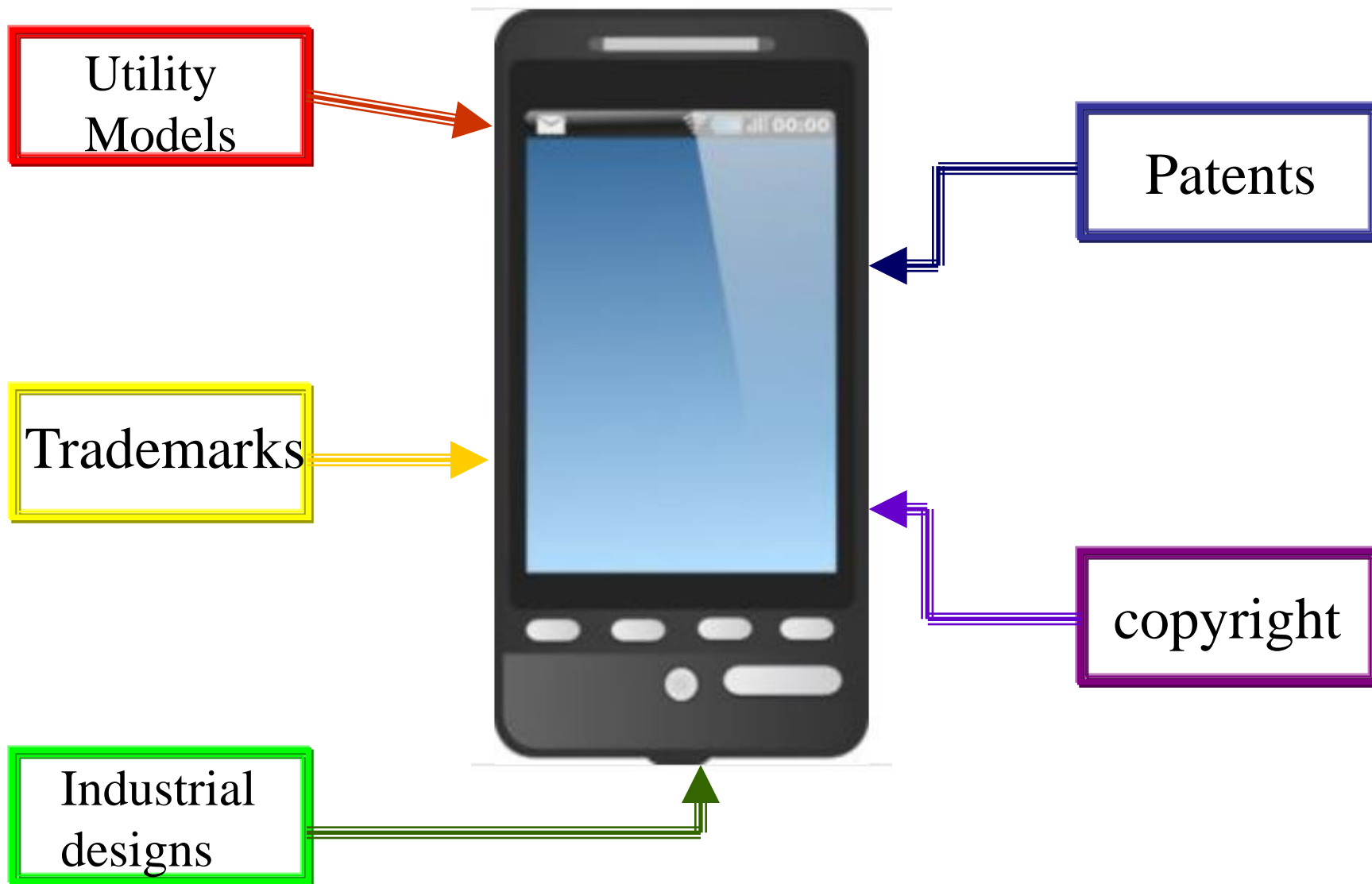


(Figure 1) Types of intellectual property and Intellectual Property Acts



(Figure 2) Classification of Intellectual Property Acts according to the purpose of law

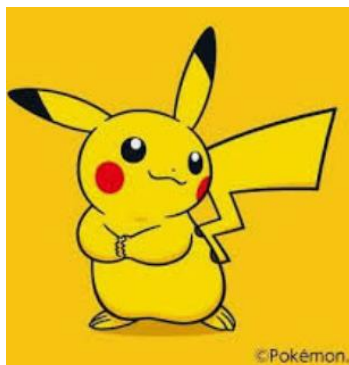
Outline of IP - What are Intellectual Properties & IP Rights?-



Outline of IP - What are Intellectual Properties & IP Rights?-



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- *Purpose of Patent law*

- The purpose of this law shall be to encourage inventions by promoting their **protection** and **utilization** so as to contribute to the development of industry.

- *Patent right*

- Statutory subject matter*

- **Invention**: the highly advanced creation of technical ideas by which a law of nature is utilized.

- *Patent right*

- *Term of patent right*: 20 years from the filing date of the patent application (Section 67 (1)).

- *Effects of patent right*:

- A patentee shall have the **exclusive right** to commercially work the patented
 - invention defined in Subsection 3, Section 2 of the Patent Law. The commercial working of the patent right does not include, for instance, **personal working or family working**. Where an exclusive license is granted for a particular district or period, the exclusive position of the patentee shall be lost (Section 68).

- ***Applications for patent***
 - **Requests/Specifications/Scope of claim/Drawings**
 - **Applications with Priority Claim under the Paris Convention**
 - **Applications in Foreign Languages**
 - **Exceptions to Lack of Novelty in Inventions**
 - **Amendments**
 - **Division of Application**
 - **Conversion of Application**

- ***Examination***
 - **Principle of Examination**
 - **System for Laying open Applications**
 - **System of Request for Examination**
- ***Patentability of inventions/
Examiner's decision of refusal***
 - **invention for industrial**
 - **novelty of invention**
 - **Inventive step**
 - **Unpatentable inventions**
 - **Description requirement**

- ***Examination***

- **Principle of Examination**
- **System for Laying open Applications**
- **System of Request for Examination**
- **Examiner's Decision**
 - **Decision to Grant a Patent / Decision of Refusal**

- ***Patentability***

- **invention for industrial**
- **novelty of invention**
- **Inventive step**
- **Unpatentable inventions /Description requirement**

- ***Trials***
 - **Trial against an Examiner's Decision of Refusal**
 - **Trial for Invalidation of Patent**
 - **Trials for Correction**
- ***Advisory Opinion on the Technical Scope of a Patented Invention (Hantei)***
- ***Suit against Trial Decision***
- ***Supreme Court Appeals***
- ***Retrial***
- ***Litigation***

- *Purpose of Utility model law*
 - The purpose of this law shall be to encourage **devices** by promoting the protection and **utilization of devices relating to the shape or construction of articles or a combination of articles**, so as to contribute to the development of industry.
- *Utility model right*
 - *tatutory subject matter*
 - **Device: the creation of technical ideas by which a law of nature is utilized.**

- *Utility model right*
 - **Term of patent right:10 years from the filing date of the application.**
- *Utility model Registration*
 - **No examination**
- *Request for Technical Opinion as Registrability of Utility model*
- *Trial*

- *The purpose of design law:*
 - to encourage the creation of designs by promoting their protection and utilization so as to contribute to the development of industry
- *Design*
 - a shape, pattern or color or any combination thereof in an article aδincluding part of an article)which produces an aesthetic impression on the sense of sight.

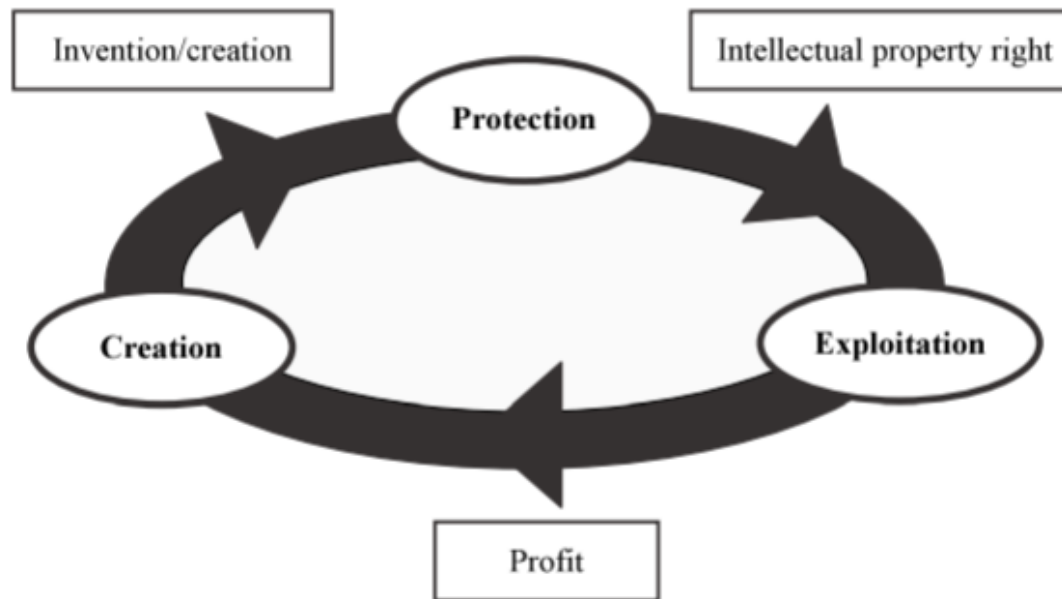
- ***The purpose of Trademark law:***
 - to ensure the maintenance of the business reputation of persons using trademarks by protecting trademarks, and thereby to contribute to the development of industry and to protect the interests of consumers
- ***Trademark***
 - a characters, figures, signs, three-dimensional shapes or any combination thereof, or any combination thereof and colors

- ***Trade Secret-Unfair Competition Act***

The purpose of this Act is to provide for matters such as measures for the prevention of unfair competition and compensation for damages caused by unfair competition, in order to ensure fair competition among business operators and accurate implementation of international agreements related thereto, and thereby contribute to the sound development of the national economy.

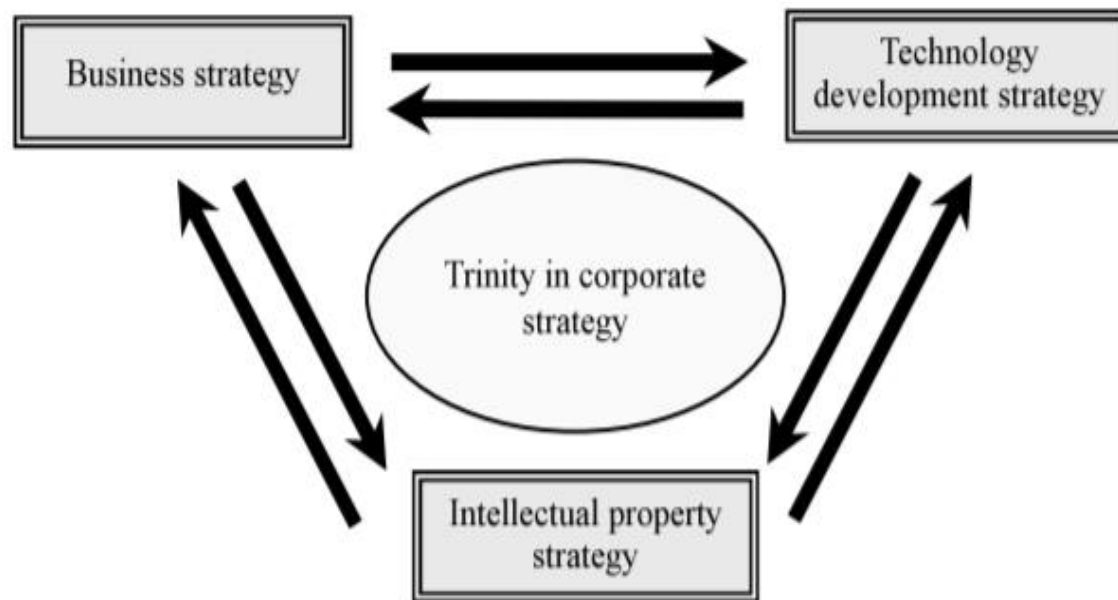
Intellectual creation cycle

The development of intellectual property strategy assumes consideration of the business strategy and technology development strategy, but actual IP strategy is basically built based on the intellectual creation cycle of creation, protection, and exploitation of inventions.



Outline of IP -Importance of IP management-

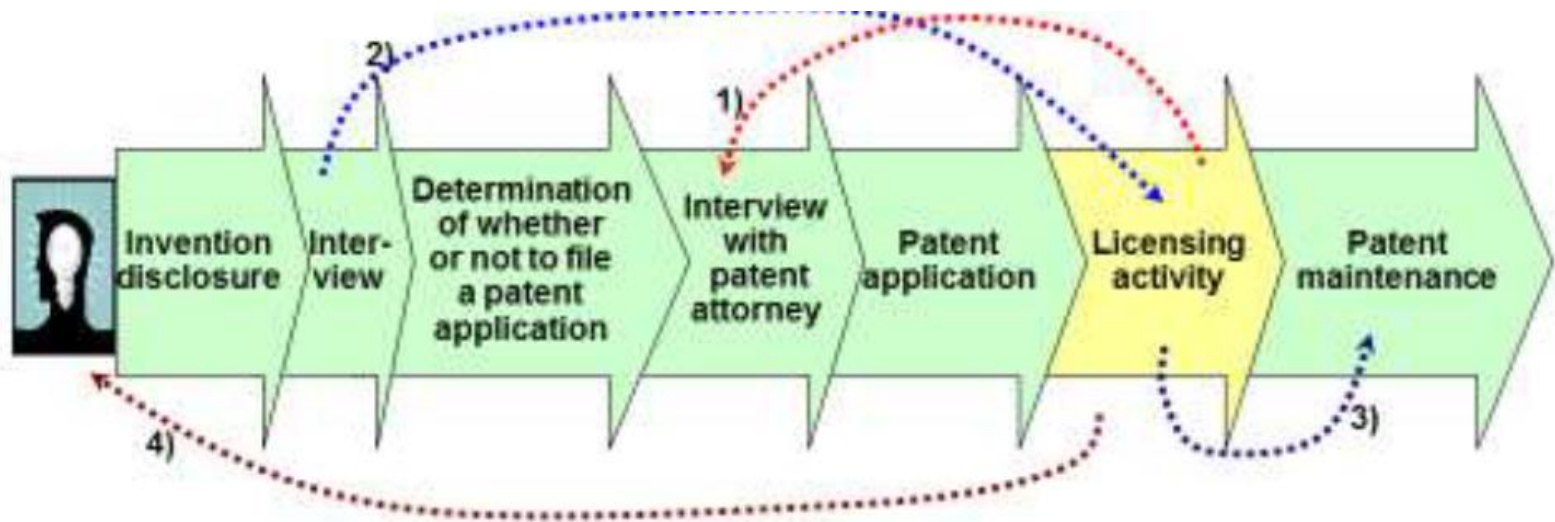
When drawing up and executing an intellectual property strategy, it is important to form an integrated strategy involving the trinity of intellectual property strategy, business strategy, and technology development strategy.



Intellectual property strategy in trinity

Outline of IP -Importance of IP management-

The chart below shows the entire flow of IP management operations in conformity with IP management policy and regulations.



- 1) To enrich a patent application in view of future licensing activities
- 2) Interview results will be reflected on licensing activities.
- 3) Licensing activities will be reflected on patent maintenance
- 4) Results of licensing activities will go back to a researcher. It sometimes stimulate him.

Thank you very much for your attention!
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