

# EMERGING BRAND VALUES AND ITS IMPORTANCE IN IPR

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## ABSTRACT

*“A brand value of a company is like a reputation for a person. You can earn reputation by trying to do hard things well.”*

**- Jeff Bezos**

As said by Jeff Bezos a brand is a company’s reputation, if we have a good brand reputation then it will create success stories for that particular company. For creating success, companies have tried many things just to attract their customer’s interest. Here in this paper, I have mentioned brand values and their importance in IPR laws. So first of all let us know what is brand. A brand is something where a company has done investment, marketing, and development over some time. Companies have applied different techniques just to establish their brand image. Due to the increase in market competition, brand owners have developed ways how to make their products upgraded so that they would look different, innovative, and attractive in front of the customers. Companies have used all creative works in one place just to show where their company stands and how well they will deliver their services to the customer. As consequence, it will help the company to foster its business all over the world. This is where intellectual property rights come into play. Intellectual property rights are the rights that help protect the creative ideas of companies, hence building a successful brand. Intellectual Property has played a major role in protecting E-commerce companies from unfair practices. Intellectual property rights strengthen the brand reputation of the company and protect the company's brand value from third-party infringement. So companies need to know the advantage of getting their brands protected by IPR to make their standing in the market more protected.

**Keywords-** Brand, Reputation, Brand Values, Intellectual Property Rights, Foster, Infringement, Unfair Practice, etc.

## INTRODUCTION

In India, in today's era, millions of companies have been established across all the states and most of the companies are branded companies that are delivering services to customers for many years. It has also been seen that many customers are willing to buy branded clothes, shoes, watches, perfumes, etc because they have a distinct value and durability which remains forever. It also provides a kind of loyalty to their customer as to how much they will invest in a particular brand in return they will get the best value. This emerging interest of the customers in purchasing only branded items has increased the market value of such companies in India. Nowadays for establishing a business, industry, company, or organization a brand name plays an important factor in establishing its market value. When a company creates its brand name it is easy for the customer to select among the other competitors so the brand name plays a pivotal name. The brand name can be a logo, Phrase, design, or idea which makes it easily identifiable from the other competitor company. Examples- KFC, Mcdonald's, GUCCI, DIOR, CHANEL, etc. Building a unique brand is very important in business because it attracts many customers across the world. Businesses rely on their brand value and reputation for the expansion and growth of the company. Brand value and brand equity have a similar parallel kind of meaning in branding. Whereas brand value means it is the amount that the brand is worthy of it brand equity is the perception of what the customer thinks about the brand. It is also important to protect the brand value from the fraudsters who usually put the name of the original brand in their company. So, for the protection of the brand value intellectual property rights play a major role. Intellectual Property assets can be used by the company for protecting its brand value. It can protect the inventions, creations, and ideas of the company. Many companies used to register their company logo or name for safeguarding their proprietary rights in a brand name these are called registered Trademarks. A company owner, creator, and inventor has the right to protect their brand value from being exploited. They will protect their ideas, or creations and prevent others from using them without permission. To legally get these rights it is advisable to register the brand. If we will get our intellectual property registered with the concerned authority it can prevent other people from using their ideas, and creations illegally. It will help the person to legally prosecute any other who is daring to use similar ideas. First, let us know a brief definition of intellectual property. Intellectual Property Rights refer to the legal rights given to the inventor or creator to protect his invention or creation from being used by others. These rights confer exclusive rights to the inventor or his assignee to fully utilize his invention

for a given period. In this modern economy, IP plays an important role there is the quantum of research and development cost where they required investment for putting new technology in the marketplace. IPR is a strong tool to protect the investment, time, money, and effort invested by the inventor/creator of an IP since it grants the creator exclusive rights for a certain period. IPR also helps to develop the economy of our country it encourages new industries and businesses to get established. IPR also enhances the technology advancement in the following ways-

- a) It protects from any infringement, piracy, and unauthorized use
- b) It provides a pool of information to the general public since all forms of IP are published except in the case of trade secrets.

IPR consists of

Trademarks, Copyright, Patent, Trade secret, Geographical indications, Industrial Design, etc

***The benefits of intellectual Property rights are-***

- To protect the unique ideas and creation
- It helps in the growth of business
- It enhances the market value of the business
- IP creates and supports high-paying jobs
- It eases the marketing process
- It also enhances export business opportunities
- It protects the consumer
- It raises the finance for your business

## **BRANDING IN IP**

Branding in IPR is an essential tool as it helps the companies from being exploited by their enemy. IPR just protects these kinds of brand values from infringers. Owners make their brand values registered so nobody can further use it as their brand. They used to provide a unique name to their products so that people could easily differentiate it from other products it will not create any type of confusion among the people and it is easily available like Hassel free. It also provides a kind of loyalty to the person so that they are eager to buy such kind of products they

are in a belief that they are investing their money in a good way. So basically it is fruitful for them to have some faith in these companies. But before we proceed to understand branding in IPR it is important to understand Trademark in branding.

### ***Trademark in IPR***

Section 2(1)(zb) trademark as a mark capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include the shape of goods, their packaging, and combination of colors.<sup>1</sup>

India is a common-law nation; it identifies Trademark use, so it is mandatory to register a brand name or Trademark, but it is always recommendable to do so as Trademark Registration or Brand Registration provides extensive protection. For example, an individual can start using their Trademark with its products or services without getting it registered. With constant use of their Trademark, they can claim right over it. However, this right is only limited to the geographical limit within which its products or services are offered. But, if they register their Trademark, they can claim right over it. They can not only claim its right limited to the geographical limit, but they can now safeguard their Trademark globally.<sup>2</sup>

### ***Why there is a need for a Trademark***

- Trademarks are a valuable asset- If your brand is registered then you grow your business then the more you will get the brand value. It also helps in the expansion of business from one sector to another like from clothing to footwear to eyewear etc.
- Customers can easily find you- If your brand value is registered it makes it easy for the customer to find you because it becomes difficult to differentiate between the other brands because of high competition.
- Trademarks are an effective communication tool- When we are using a single brand or logo we used it as an effective tool to communicate to our customers about the messages which we want to deliver to them.
- It allows businesses to effectively utilize the internet and social media- Social media plays a major role in the growth of business because the person used to enter through the search engine when looking for services and products.

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<sup>1</sup> The Trademarks Act, 1999, Section 2(zb), Acts of Parliament, 2003(India)

<sup>2</sup> Karan Singh, Role of IP in Branding, August 23, 2021

- Due to trademarks, it is easier to hire people- trademarks make it easier for people to get into their favorite companies. Brands inspire people's minds as a result employment opportunities also increase by looking at the demand.
- Trademarks never expire- Your registered trademark will not expire easily as many companies have not expired like Pepsi, coca-cola, but you should keep in mind the brands you are using must be a new concept that is different from other products so it will be easier to protect it.

### ***Role of branding in IPR***

After discussing the trademark now let us look into the spheres and what is the role of IP in branding. Brand Value is important for establishing a company and IP helps that brand value to flourish in the market. Every business or company needs a brand name or logo to create an attraction among the customers who are willing to find the products which they wanted to use. A robust brand name creates goodwill or a reputation for a business or company in a competitive environment. When a company has a strong brand name it creates a powerful impact on the minds of the customers so it becomes easier for everyone to choose the best company they wanted to choose. Branding helps in acquiring a new customer with fewer efforts. If the companies establish a proper brand image, then companies need to invest less in promotional and advertisement activities. Now, this has cut down all the selling expenses of the companies. Companies should develop an attractive brand that will leave a long-term impact on the minds of the people. If questions arise to safeguard a brand name, then a company or business owner takes the protection of the IPR. There are different types of IPs that company uses to safeguard their name, invention, creation, ideas, etc. The different IPs are as follows-

- **Trademark-** A trademark is a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging, or combination of colors or any combination thereof, which helps differentiate between the goods and services of one from that of another. The use of a trademark helps secure the exclusive right to use the brand name or device and prevents infringers.
- **Trade dress-** trade dress plays a major role in differentiating one own brand from others. Trade dress is the packaging of the products it relates to labeling and designs like the coca-cola bottle.

- **Design**- Design means only the features of shapes, configuration, pattern, ornament, or composition of lines or colors applied to any article whether in two dimensional or three dimensional or in both forms, by any industrial process or means whether manual, mechanical, or chemical separate or combined which is in finished article appeal.
- **Copyright - Copyright Protection** is a good strategy in furtherance of brand protection where the product involves original works of authorship, such as visual art, music, and literary works. It goes beyond the simple creation of works and can help in brand promotion and protection by safeguarding distinctive and original logos/emblems, labels, product-use manuals, and even advertisements.
- **Trade Secret**- Trade secrets are intellectual property (IP) rights on confidential information which may be sold or licensed. For example – making a recipe for coca-cola is a trade secret, and the making of KFC is also a trade secret that is not shared with anyone.

So here in branding trademark is used for protecting the brand value. Registering our products and others such as your monogram, shape of goods or packaging, or anything that specifies the origin, material, quality, and characteristics of goods and services you offer, as a Trademark.

#### ***What is Brand Protection?***

Brand Protection is how individual brands are protected against all infringers. Brand protection is not only needed to protect from any loss but also to ensure the reputation of the company.

#### **Brand Abuse**

Brand abuse means when another company wants to copy your brand and used it in your own company it takes advantage of the company. Brand Abuse can be-

- Counterfeiting - Counterfeit product is a fake products they are just replicas of the original products.
- Rogue website- It is the website which used to provide full malicious content. This is done either against an authentic website or by infringing its IP. There are different types of rogue websites.
  - a) **Imitation sites** are websites that exactly replicate the original website of a genuine brand.

b) **Typo squatters** are usually the ones who are waiting for internet users to make typographical errors while entering a website address in the browser.

- Patent Theft- In patents, we used to create new inventions there is a possibility that a person can steal the details of the invention and create inventions without giving any credit to the real owner.
- Trademark Infringement- People who indulge in infringement or squatting of trademark, are doing it completely in bad faith. It comes in multiple forms, for instance, registration of trademarks of brands that are yet not registered, particularly foreign brands.
- Copyright Piracy- Copyright is protection provided to copyrighted works of the real owner. Pirates can create fake content on the internet just for money purposes without giving credits to the real owner or they can use the original movies and then put them on youtube channels for gaining money.
- Impersonation of social media- Lately, there has been a lot of misrepresentation and infringement of trademark and other intellectual property data on social media. External parties create fake social media accounts on various social media channels and conduct various branding propaganda representing the original company.

#### ***Merits of branding-***

- **Creates Awareness**

Branding helps companies and businesses to create awareness among the people about their products. It also circulates the company's message worldwide. It informs the customer about the unique qualities and features of their products.

- **Enhance the business value-**

If we brand our companies it used to attract many investors to invest because every investor wants to invest in the reputed company. Reputed businesses have a good image in the market.

- **It improves customer loyalty to your brand-**

Branding a product is used to provide loyalty to its customer. Customers have to believe that what they want to purchase and it is available on that brand.

- **Advertisement effectiveness-**

Branding of the companies can be shared through social media platforms as we know social media plays a major role in e-commerce business. Many people will get to know about the products. The higher your advertising effectiveness is, the more likely your customer is to purchase your product.

- **Increases the profitability in business-**

Branding helps the business to grow. Due to Branding business develop a good position in the market. Many people are attracted to buy products that have high brand value by giving many high prices because of their quality.

- **Celebrity marketing –**

Celebrity marketing also helps in the brand value of the products. Celebrity marketing is a tactic featuring a famous person to offer an endorsement of a product. This famous person might be an actor, musician, athlete, ex-politician, or cartoon character. For example- as we know KPOP industry is so famous worldwide that many K-pop fans used to buy the exact products that their idols used to have worn like BTS a famous band the members are the brand ambassador of Louis Vuitton so many fans used to purchase that particular product and trust me the products go out of stock within 1 hour. So celebrity helps to flourish these kinds of brand value all over the world.

- **Many new talents want to work-**

Good brand values are used to attract many skilled people who want to contribute to their respective companies. Every person wants to work in top reputed companies. Companies' good reputations attract them.

### ***How Branding is affecting the marketing policy of the company-***

First of all, let us know what is brand marketing. Brand marketing is a way to promote your product as a whole it talks about how the product has developed as a whole. A company's marketing efforts have a direct impact on its sales and market share, but they are not the only factors that influence overall performance. Creating a positive brand image through marketing



efforts is also vital to a business's success. There are a few things which are affecting the market share these are, Firstly, a brand name attracts the consumer. It creates a complete experience with both the product and the company. Brand image is a powerful tool that a company has achieved and it attracts a targeted audience. Secondly, brand image educates consumers about values and it provides importance to the values through a message which they want to convey to their consumers like what makes their products different from others. For example- Samsung's new tagline is "Better normal for all" It is a slogan that seems to predict innovation. It is a deft way of addressing the new environment of a worldwide pandemic, a shaky world economy, and rolling politics around. Thirdly brand announces it is necessary to obtain a fair portion of market share and it still takes a brand to remain a market leader as technology advances in this industry. Fourthly, a company can grow its market share if it creates a strategy for marketing and branding. So that it could create interest in the mind of the consumer and then create a strategy and they work on that strategy to grow their market share. They attract consumers by offering many things like providing gift items for products.

#### ***Bottom line growth-***

The bottom line has become an essential part of the business. In the bottom line we can convey our ideas and views to the world and also, we can connect with the consumers. If it is an effective bottom line it can reach more and more people. The company can enact strategies to increase the bottom line. An increase in the bottom line can be done through increasing production, lowering sales, Managing the cost and expenses at a minimum, identifying and implementing best practices, trying to reduce internet expenses, Exploring new business opportunities, and Revenue expenses need to be budgeted and planned. Company products can be produced by using different inputs goods.

#### ***Top Line growth-***

Top line growth means it is the company's sales growth. If the business is experiencing gross sales then it is top-line growth. When a top-line grows, it typically means a company's sales have increased, which can result in a rise in profit if the company does not negate it with reductions, costs, and expenses. Companies can increase the top line by-

- Increasing advertising to gain new customers
- Adding new product lines
- Raising prices

- Improving product quality to elevate the brand image and reduce returned sales<sup>3</sup>

## **BRAND LICENSING IN IPR**

Brand Licensing means where the owner of the brand license enters into the contract that permits the licensee to use the brand name for specified commercial purposes in a geographical territory over a defined period. The revenue which the owner earns is in the form of royalty payments. Brand Licensing has become globally known. Recently, many international licensing brands flourishing worldwide. IPR protection in different sectors is likely to have an impact on brand licensing. IPR protection in different sectors is likely to have an impact on brand licensing. IPR mainly focuses on how companies manage their Brands. Brand licensing is of increasing managerial importance. The goals of the owner of the company are to protect and enhance the brand and earn additional revenues. There are many cases where revenue is seen as less important and protection of brands is given more importance. As we have already discussed numerous times the key consideration of the owner of the company is to protect the brand from infringer or misappropriation. If the IPR protection of the brand values is not good then the licensor values are not good then the licensor (owner) has to devote more to protecting the brand. Licensors are also likely to demand higher royalty rates to compensate for the higher risk will be lower. Therefore, if the licensee needs licensor support then they will have to pay higher royalty rates to achieve alignment. For a certain level of IPR protection, the royalty rate will increase with the market potential.<sup>4</sup>

### ***Do we need to trademark or copyright a logo?***

For the protection of the brand values, companies or organizations can use trademarks and copyright from the infringers. But before we proceed let us know about the brand logo of a company. The logo of a company represents an organization through a visual image that can be easily understood by the consumer. A logo involves symbols, designs, etc. The logo of a brand tries to communicate to the customer about the brand essence of a company and what the company wants to convey through its logo. For example- Nike uses a Swoosh symbol which

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<sup>3</sup> Bottom line vs Top line: Whats the Difference for small business Owners?  
<https://www.nationalfunding.com/blog/business-bottom-line/> October 28, 2019

<sup>4</sup> Satish Jayachandran, Kelly Hewett, and Peter Kaufman(Intellectual property rights and Brand Licensing: The importance of Brand Protection Pages- 37

is a shape of a wing. Now let us know a deep about the copyright and trademark which are used in the logo. Logos are professionally designed it would simultaneously qualify for both logo copyright and trademark. As we all know copyright is a unique kind of intellectual property. The right which a person acquires in a work is a result of his intellectual labor. Copyright Protection can be provided for sixty years (in India) from the year following the year of its author's death. For instance, if our company denotes its brand through its logo and that logo qualifies as an original piece of artwork and is also used to identify your company then the company can apply for copyright protection and trademark at the same time. If you are using some images and shapes in the logo companies can stop people from imitating its design by registering a trademark. As you are using some images and shapes in a logo companies can stop people from imitating its design by registering a trademark. Trademark represents the originality, quality, and goodwill which is attached to a company. There is no limited time for trademark protection. A registration is valid for ten years. It can be renewed indefinitely by payment of additional fees. The only requirement for differentiating brands from other brands is that the company should have a distinct character. The motto of every business or company is to gain recognition and put ample time effort and creativity to design its business identities and logos that can look attractive. Brand identities could well represent businesses owning to their distinctiveness and association with their owners. We know that trademarks are easier to access than copyrights. If we are claiming a trademark, it will provide a wider scope of protection and support. It depends on the company to choose between trademarks and copyright. But both copyright and Trademark can help you from protecting property each offers a different level of protection while copyright protects the original work like literary, dramatic, or musical works, and artistic works trademark stops the infringers from infringing the brand logos.

### ***How does IPR help sustainability and its impact on brand value?***

Intellectual Property has played a major factor in economic development and sustainable growth. IP protects innovation and it implements new technical solutions which are compatible with the protection of the environment. The ecological quality trademarks of qualified entities carrying out the manufacturing process.<sup>5</sup> Market and intellectual property

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<sup>5</sup> Cesare Galli, IP Rights, market ecology and sustainability: strategic directions post COVID-19, July 13, 2020, <https://www.lexology.com/commentary/intellectual-property/international/ip-law-galli/ip-rights-market-ecology-and-sustainability-strategic-directions-post-covid-19>

can serve sustainability purposes and it brings benefits to consumers and businesses. Nowadays, many brands are making which can be used in the future. Brands are mainly focused on eco-friendly objects which are not harmful to the environment. Many companies practice influence on business value so they do sustainable initiatives. Let us know about sustainable branding. Sustainable branding means companies use the brands which are used for a sustainable future. Many businesses used it for positive environmental factors like social or financial influence on their products. Many consumers want to buy products that have a social message within them they are more likely to invest in that particular brand rather than normal brands without any message. At least 80 percent of consumers indicate that they are more loyal to brands that focus on sustainability. Sustainability efforts include companies using more regeneration and renewable energy. For e.g- Car companies seeking to reduce emissions from their vehicles, Samsung Companies have recently, unveiled “Galaxy for the Planet.” The sustainable platforms is for mobile communication business powered by their scale innovation and spirit of open collaboration to take tangible climate actions across the business. Samsung has established an initial set of targets to be reached by 2025 to reduce its environmental footprint and lessen resource depletion from production to disposal of its galaxy products. There are many advantages of sustainable developments. Sustainable companies focused more on social and environmental impact than profit. Some of the advantages are as follows-

- **Improves brand image-**

The best way to improve the brand image is by offering the customers better offers than those competing with you. Make sure to produce your brand in such a manner that the potential buyers will have a keen interest to buy it. A brand can quickly become sustainable when customers and clients are confident enough about it.

- **Attracted the consumers-** As I said earlier many consumers are keen to buy products that are environmentally friendly with a social message. So many brands are reusing, and recycling their environmentally friendly products. This also helps the business to grow.
- **Helpful to the environment-** Earlier many companies use their products and there may be waste products found near the organization which can cause damage to the ecosystem. But nowadays companies are more focused on an eco-friendly

environment. The chances of wasting resources are reduced. Many companies are adopting recycle resources. Fortunately, this is an easy thing to do since all business owners need to identify areas where recycling can work within the system and operations.

- **It attracts employees and investors-** Many employers and investors want to work with businesses that are more interested in sustainable business. Investors want to invest money in those brands because they know it will not only create profit but also protect our environment. Many employees have also said that when businesses use sustainable business practices they are happier.

According to a report, 61 percent of professionals believe that company sustainability is a must and 46 percent will only work for an organization that adopts sustainable business practices.

- **It ensures the continuation of business-** Businesses use natural resources a lot. Businesses will find it difficult to function and prosper if scarce natural resources are depleted. Sustainable practices can improve the company's continuity by conserving or regenerating available resources and instituting strategies for preventing and preparing for disasters.
- **Tax benefits-** As of now, the government has understood that there is a need for sustainable and renewable energy. To support this approach it offers various tax advantages to businesses that go green. They provide rebates, tax breaks, and other monetary enticements which will grow.

### ***Brand Management in COVID-19***

Due to the outbreak of the covid-19 pandemic, many companies have shut down but many companies also survived like medicines, food, etc. But the pharmaceutical companies have grown trajectory. One of the companies is Patanjali. Patanjali Ayurveda alone achieved revenue of Rs. 3562 crores in two-quarters of FY- 2019 to 2020. Patanjali proved that its brand value can dominate the market. Patanjali launched medicines like “coronil” and “Swasah” it was developed based on research and trials on 280 patients across the country. Many different contentions have been given by the other companies by saying the company must stop advertising the product and selling it. But due to its negligence, Patanjali ended up hampering its brand image. But other e-commerce companies have their brand image. During

the COVID-19 times Flipkart, Amazon, and Bigbasket by seeing the restrictions imposed by the government. E-commerce companies decided to turn business into digital mode. E-commerce companies just went digital. They have provided an opportunity for consumers for purchasing more goods and services online. It has also raised the share of e-commerce from 14 percent in 2019 to about 17 percent in 2020.

### ***Importance of IPR in E-commerce companies***

The company's intellectual property is an asset and it is far more valuable than any tangible assets owned by them. This is because intellectual property protects companies from infringement and unfair competition. The role of IPR in E-commerce is most clearly visible in today's digital era. The presence of practices and statutes that govern the functioning of IP laws has encouraged new creations, while – also protecting the hard work put in by the creator. IPR laws have prevented others from stealing invention or creation and using it for their financial gain, and without paying the creator for the hard work they have put into their invention.

## **CONCLUSION**

In this article, I have in detail analyzed how IPR helps the brand value of the company, what are the different role of branding in IPR, how ipr protect the brand values from infringement, what is the impact of brand values on the market, how does IPR help in sustainability and what is its impact on brand value and what is the importance of IPR in E-commerce companies. I would like to conclude that the brand values of the companies need to be protected as it is the goodwill of the company. Strong brands are widely impactful on the customers and these brands' value gets protection from IPR in the way of trademark registration, copyright, patent, etc. IPR also protects the companies' unique ideas and creates it also raises finance in the companies. The brand owner should be aware that IPR is an important asset for their businesses and depending on the resources brand should use all effective strategies to increase a brand's potential value. Brand owners can enforce all IP rights by pursuing legal action against any party who is trying to misuse the IP for their unfair advantage. As the competition in the market is increasing brands have to be very innovative they should use different strategies for the promotion of their brand. Companies who are building up their brands should keep in mind how their brands are being promoted and presented in the market and merely registering the trademarks, copyrights and patents may

not be sufficient in today's competitive market. So for these reasons brand owners should be on high alert for what they are producing on their brands they should protect these brands from infringement by registering it. For avoiding any kind of counterfeiting or piracy brand-owner should adopt new technology to strengthen the authentication of their products. Brands owners can design their products in such a unique way by putting unique features where nobody could copy them. Brand value in businesses has a significant reputation so brand owners should make more efforts to popularize their brands in the market they can use the social media platform for advertising their brand. As we all know social media plays a major role in marketing. Many brand companies choose famous influencers who have millions of original followers to promote their brand. Nowadays brand owners are more thinking about our environment so most companies should make green marketing strategies for a better future for the company. They should try to make more eco-friendly products that will not only be beneficial for them but also beneficial for the environment the more reuse and recycle options must be used. From recent data, it is also clear that consumers prefer sustainable brands which have a strong message. So the companies should focus more on the brands with a social message otherwise they will end up buying from their competitors and companies should pay better attention to what they have sent out on social media. This involves three aspects environmental, economic and social each of which must be taken into consideration for sustainability strategy. In the changing times, branding is becoming more prevalent and the scope of IPR is also increasing day by day. Branding for any company, service provider, or product has become an extremely crucial part of business now more than ever and this creates a plethora of opportunities for lawyers in the field of IPR.

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