

## INTELLECTUAL PROPERTY RIGHTS IN INDIA

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### Abstract

Intellectual Property Rights (IPRs) represent the legal recognition of creations of the human intellect, ensuring that inventors, authors, and innovators derive benefit from their works. In the modern knowledge economy, IPRs form a cornerstone of innovation, creativity, and global trade. For India, intellectual property has assumed increasing importance with the growth of information technology, pharmaceuticals, entertainment, and agricultural research. This paper examines the concept and scope of IPR, traces its historical evolution in India, analyses the legislative and institutional frameworks, identifies challenges in enforcement, and outlines future directions for strengthening the IPR ecosystem.

### Introduction

Intellectual Property Rights (IPRs) are legal rights conferred on the creators of intellectual works such as inventions, literary and artistic works, designs, and symbols. These rights provide exclusive ownership for a limited period, incentivising creativity and innovation while balancing public interest. In India, the IPR regime has evolved within the framework of international conventions such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS, 1995). The Indian Constitution empowers the Union Government to legislate on patents, copyrights, and trademarks under Entry 49 of the Union List.

### Historical Evolution of IPR in India

The foundation of modern IPR in India was laid during the colonial period. The Indian Patents Act of 1856, modeled on British law, was the first attempt to protect inventions. Subsequent legislations gradually developed India's copyright and trademark regimes. After independence, the Patents Act of 1970 became a landmark, abolishing product patents in pharmaceuticals and agro-chemicals to encourage domestic industrial growth. This policy was crucial for India's emergence as a global generic drug manufacturer.

However, with India's accession to the World Trade Organization (WTO) and its obligations under TRIPS, significant amendments were introduced in the 1990s and 2000s. The Patents (Amendment) Acts of 1999, 2002, and 2005 reintroduced product patents in key sectors, aligning Indian law with global standards while retaining safeguards such as compulsory licensing and strict patentability criteria to prevent 'evergreening' of patents.

### Types of Intellectual Property Rights

The spectrum of IPR includes various categories, each serving a specific purpose:

1. Patents – Exclusive rights granted for inventions, encouraging technological

advancement.

2. Copyrights – Protection of literary, artistic, and musical works, including films and computer software.
3. Trademarks – Distinctive symbols, words, or designs that differentiate goods or services in the market.
4. Geographical Indications (GIs) – Recognition of goods linked to a specific location, e.g., Darjeeling Tea or Banarasi Sarees.
5. Industrial Designs – Protection of aesthetic aspects of an article.
6. Trade Secrets – Confidential business information providing competitive advantage.
7. Plant Varieties and Farmers' Rights – Unique to India, recognising traditional agricultural practices and innovations.

### Legislative and Institutional Framework in India

India has gradually built a comprehensive and multi-dimensional legal and institutional framework for the regulation and promotion of intellectual property rights, reflecting both its colonial legacies and its obligations under international agreements such as TRIPS. The Patents Act of 1970, substantially amended in 2005, provides the cornerstone of India's patent system, balancing the encouragement of innovation with public safeguards such as compulsory licensing and strict standards of patentability. The Copyright Act of 1957, amended most recently in 2012, modernised India's protection of literary, artistic, musical, and digital works, ensuring compatibility with the needs of the digital economy while safeguarding authors' moral rights. In the field of branding and commercial identity, the Trade Marks Act of 1999 consolidated earlier laws and provided a more efficient system for the registration and protection of trademarks, service marks, and well-known marks.

Recognising the significance of traditional knowledge and local products, the Geographical Indications of Goods (Registration and Protection) Act, 1999 introduced protection for goods such as Darjeeling Tea, Pochampally Ikat, and Banarasi Sarees, thereby linking intellectual property to cultural heritage and rural livelihoods. Similarly, the Designs Act of 2000 sought to stimulate industrial growth by protecting the visual and aesthetic features of manufactured products. Perhaps uniquely in the Indian context, the Protection of Plant Varieties and Farmers' Rights Act of 2001 recognised the contributions of farmers alongside plant breeders, granting them rights to save, use, and exchange seeds, while also providing for benefit-sharing mechanisms—an approach that blends modern intellectual property protection with social justice considerations.

Institutionally, India has consolidated administrative functions under the Office of the Controller General of Patents, Designs and Trademarks (CGPDTM), while the Copyright Office oversees creative works. Until 2021, the Intellectual Property Appellate Board (IPAB) acted as the specialised tribunal for disputes, but its abolition has restored jurisdiction to the High Courts, intended to streamline adjudication. To provide coherence across these domains, the Government of India introduced the National IPR Policy in 2016, which emphasises awareness-building, infrastructure development, stronger enforcement

mechanisms, and the commercialisation of IP assets. Together, these measures illustrate how India's IPR framework is not merely a set of laws but a dynamic system intended to reconcile innovation incentives with public welfare, cultural preservation, and equitable development.

### Challenges in the IPR Regime

Despite the robust legal framework, India faces several challenges in ensuring effective protection and enforcement of IPR:

1. Awareness Deficit – Many small businesses, artisans, and farmers remain unaware of IPR protection mechanisms.
2. Enforcement Gaps – Weak enforcement and judicial delays often undermine the deterrent effect of IPR laws.
3. Piracy and Counterfeiting – Rampant in films, music, pharmaceuticals, and software industries, leading to huge revenue losses.
4. Balancing Public Interest – Ensuring affordable access to medicines and knowledge while protecting inventors' rights is a continuing dilemma.
5. Capacity Constraints – Patent offices face backlogs and need more trained examiners to handle rising applications.

India's nuanced position in global debates—such as advocating for compulsory licensing of COVID-19 vaccines at the WTO—reflects the delicate balance between protecting innovation and ensuring social justice.

### Future Directions

To strengthen its IPR ecosystem, India must prioritise:

- Expanding IPR awareness campaigns targeting universities, MSMEs, and rural artisans.
- Enhancing judicial and administrative capacity for timely examination and dispute resolution.
- Leveraging digital technology for transparent registration, monitoring, and enforcement.
- Supporting research and development through fiscal incentives and collaborative innovation hubs.
- Strengthening international cooperation while safeguarding developmental concerns, particularly in pharmaceuticals and agriculture.

### Conclusion

Intellectual Property Rights constitute a crucial element of India's transition to a knowledge-driven economy. While legal frameworks are broadly aligned with global norms, enforcement, awareness, and accessibility remain challenges. By ensuring a balance between protection of innovators and the larger public interest, India can harness IPRs as an engine of inclusive economic growth and global competitiveness.

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