

	ORIGINAL RESEARCH PAPER EXPLORING THE DUAL FACETS OF INTELLECTUAL PROPERTY RIGHTS IN INDIA: PROBLEMS AND POSSIBILITIES	Law KEY WORDS: IPR, Innovation, Enforcement, Patent, Trademark etc.
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ABSTRACT	In the contemporary global economy, intellectual property rights have become essential for promoting economic growth, innovation, and creativity. The purpose of the paper is to critically analyse the potential and problems related to India's IPR policy. On the one hand, India has many problems, including low stakeholder knowledge, problems with enforcement, lengthy procedures, and a weak infrastructure for IPR protection. However, with governmental changes, international partnerships, and increased innovation in industries like information technology, pharmaceuticals, and traditional knowledge systems, the nation is seeing increasing opportunity to boost IPR. By examining present legislative frameworks, reviewing enforcement procedures, and evaluating India's adherence to international IPR norms like TRIPS, this article investigates these dual aspects. Additionally, the report makes strategic recommendations to raise awareness, develop capacity across sectors, and strike a balance between innovation and public interest. The results highlight the necessity of an IPR ecosystem that is more innovative, transparent, and inclusive in order to promote sustainable development in India.
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INTRODUCTION Knowledge, creativity, and innovation are driving the global economy more and more in the twenty-first century. A key tool for safeguarding the products of human creativity, whether they be inventions, literary and creative creations, names, symbols, pictures, or designs, is intellectual property rights, or IPR. In addition to promoting economic expansion and competitiveness, IPR also creates an atmosphere that rewards innovation and properly compensates innovators. IPR serves as both a development accelerator and an area beset by legal, administrative, and awareness-based obstacles in a rising nation like India, where the entrepreneurial spirit and technological capability are developing quickly. Intellectual property rights are extremely important in India for promoting and protecting creativity, innovation, and commercial interests. The Indian Copyright Act, the Patent Act, the Trademarks Act, and the Designs Act are just a few of the laws that regulate India's extensive IPR framework. This legal document provide artists, inventors, designers, and companies the sole right to utilised their intellectual works, allowing them to pro India has worked hard to establish compliance with TRIPS, which requires member nations to align their IPR legislation with international norms. In addition to promoting global investment and commerce, this alignment shows India's dedication to respecting international standards for intellectual property governance. The Indian government has implemented a number of measures to fortify the IPR framework in recognition of the significance of a strong IPR system. To effectively manage issues pertaining to registration and enforcement, specialized intellectual property offices have been set up in various locations. Procedural delays have been greatly decreased by the government's digitisation and simplification of the application and registration procedure. At the same time, outreach initiatives, training sessions, and academic partnerships have accelerated efforts to raise public knowledge of the importance of IPR, particularly among MSMEs, startups, students, and rural innovators. Notwithstanding these forward-thinking initiatives, India still faces a number of obstacles that prevent its IPR ecosystem from operating at its best. One of the most urgent concerns is still enforcement. Although there are legislative frameworks in place, their actual application frequently falls short because of a lack of specialized training among enforcement agencies, overworked courts, and inadequate infrastructure.	Piracy and counterfeiting are still quite common, and they cost both local and foreign right holders a lot of money. The lack of knowledge and comprehension of IPR among prospective inventors is another significant issue. Many creators, particularly those working in the informal or rural sectors, are either ignorant of their rights or believe that pursuing registration would be too difficult and expensive. The degree to which India's abundant reservoir of traditional knowledge, homegrown innovations, and creative output is safeguarded and used for profit is constrained by these disparities. Review Of Literature Chauhan, kislai (2024) The study highlights the critical role that intellectual property rights play in promoting technological development, economic growth, and creativity. IPR encourages people and companies to engage in creative endeavours by offering legal safeguards, ensuring that their works and innovations will be protected. The paper makes recommendations for doable adjustments to improve IPR's efficacy in India. Mehpara (2023) The study argues for the required reforms to safeguard the rights and possibilities of visual and performing artists in India in this changing setting and advances our knowledge of the relationship between IP law and the digital landscape. The study offers specific instances that demonstrate the present status of intellectual property law in India by examining recent court decisions and business activities. Kumari, P. (2023) The current legal framework in India with regard to several types of intellectual property rights, such as patents, copyrights, trademarks, and trade secrets, is critically evaluated in this article. It assesses whether these rules satisfy the demands of the modern economy and how well they foster innovation. The study draws attention to a number of intricacies and difficulties in India's IPR landscape. These include problems including bureaucratic roadblocks that can hinder innovation, enforcement challenges, and artists' ignorance of their rights. Objectives OfThe Study - To gain a comprehensive understanding of Intellectual Property Rights (IPR) within the Indian legal context. - To critically examine the key challenges and limitations associated with IPR. - To highlight the emerging opportunities and untapped potential of IPR as a catalyst for innovation, economic
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development, and global competitiveness in India.

Research Methodology

This study's main goal is to investigate and assess the expanding importance of intellectual property rights (IPR) in India, especially in light of its function in fostering innovation, defending the rights of creators, and propelling economic growth. Since the research was conceptual and policy-oriented, a literature-based technique was thought to be the most suitable for learning about how IPR is changing in India. A systematic literature review was carried out to guarantee a thorough comprehension of the topic.

RESULT & DISCUSSION

The framework for intellectual property rights (IPR) in India is a well-organized system designed to protect and promote creativity, innovation, and the profitable use of intellectual property. An overview of the key components of India's IPR system is provided below.

Patents in India are governed by the Patents Act, 1970, with major reforms introduced through the 2005 Amendment to align with TRIPS. In all technological domains, they safeguard innovative innovations that have practical industrial applications. The Indian Patent Office is in charge of registering patents, which have a 20-year validity period. During medical emergencies, mandatory licensing requirements provide access to necessary medications.

Trademarks are protected under the Trade Marks Act, 1999. They protect names, emblems, and logos that set products or services apart. Trademarks are originally registered for ten years, however they can be renewed forever. This procedure is overseen by the Trademark Registry. Additionally, the legislation provides greater protection based on public awareness by acknowledging well-known marks, even if they are not registered.

Copyrights, regulated by the Copyright Act, 1957 (amended in 2012), protect creative expressions such as literature, music, art, films, and software. Typically, the term lasts for 60 years following the author's passing. The Copyright Office oversees registration and enforcement, and new amendments have reinforced the laws pertaining to fair use and digital rights.

Industrial designs are covered by the Designs Act, 2000. They safeguard the aesthetic attractiveness of objects by preserving their form, pattern, and visual appearance. The ten-year protection is renewable for an additional five years. The Patent Office's Design Wing oversees this division and encourages innovation in industries including manufacturing, packaging, and textiles.

Geographical Indications (GIs) are protected under the GI Act of 1999. These are product names associated with certain areas that are renowned for their distinctive features, such as Basmati rice or Darjeeling tea. GIs have a ten-year validity period and are perpetually renewed. They support regional communities and crafts and are overseen by the GI Registry.

Plant Varieties and Farmers' Rights are governed by the PPVFR Act, 2001. This legislation protects farmers' rights to conserve, use, and sell seeds while giving breeders exclusive rights over new plant kinds. Depending on the crop, protection lasts anywhere from 15 to 18 years. In addition to managing registrations, the PPVFR Authority preserves genetic diversity.

Biological Diversity is safeguarded under the Biological Diversity Act, 2002. In order to guarantee that local communities benefit, it controls access to biological resources and traditional knowledge. In addition to upholding the law and fighting biopiracy, the National

Biodiversity Authority promotes the fair use of biodiversity for research and sustainable development.

The National IPR Policy (2016) was introduced to modernize India's IP system. Increasing awareness, encouraging innovation, improving enforcement, incorporating IP into education, and easing commercialisation are some of its main objectives. For the benefit of creators and the economy, it offers a strategic road map for developing a strong, inclusive, and innovation-driven IPR environment.

Challenges Of IPR In India

India still has several difficulties with implementation, enforcement, and regulatory procedures even after aligning its Intellectual Property Rights (IPR) framework with international norms such as the TRIPS Agreement.

Weak Enforcement Mechanisms

India has extensive IPR rules, but enforcement is difficult because of inadequate infrastructure, a shortage of qualified workers, and poor agency cooperation.

Piracy And Counterfeiting

High rates of product, software, and movie piracy, as well as the pervasive sale of fake items, compromise intellectual property rights and stifle creativity.

Delays And Backlogs In IP Granting

Businesses and inventors are irritated by the lengthy delays in application processing and approvals caused by the overworked Indian Patent and Trademark Offices.

Lack Of IPR Awareness

The IP system is underutilised as a consequence of many startups, MSMEs, and rural producers not understanding the advantages of IPR.

Stringent Patentability Criteria

India's stringent regulations, particularly with regard to software and pharmaceutical patents, restrict the range of protection and have strained relations with international businesses.

Issues With Compulsory Licensing

Predictability and investor confidence have been questioned in relation to provisions that permit the government to circumvent patent rights for public health.

Inadequate Judicial And Administrative

Infrastructure Long litigation procedures and a lack of judges and courts with expertise in intellectual property restrict IP holders' legal options.

Weak Protection Of Geographical Indications

Even though India has a large number of GIs registered, enforcement is weak, particularly abroad, which lessens the financial gains for regional businesses.

Challenges In Protecting Traditional

Knowledge and Biodiversity Despite resources like the Traditional Knowledge Digital Library (TKDL), India struggles to safeguard its wealth of traditional knowledge internationally and suffers biopiracy.

Digital Piracy And Cyber-IPR Violations

Due to technological complexity and lax cyber security regulations, enforcement against online piracy and cyber-infringement is ineffectual despite the rise in digital material.

CONCLUSION

Enforcing intellectual property (IP) rules effectively is essential to promoting moral and just economic practices. India has enormous potential to use intellectual property rights (IPR) to increase its market share in international

markets because to its abundant natural resources, affordable labour, and skilled labour force. The nation has launched a number of programs to promote IPR protection and awareness throughout the years. However, a more robust and flexible IPR framework is required due to the changing dynamics of global commerce. India must not only improve its legal system but also make sure that intellectual property rules are implemented and enforced effectively in a highly competitive global setting. This entails enhancing current laws, filling up enforcement loopholes, and implementing internationally standardized procedures.

REFERENCES:

- [1] Mehpara, N., Trivedi, V., & Sharma, A. (2023). Intellectual property law in the digital age: challenges and opportunities for visual and performing artists. *ShodhKosh Journal of Visual and Performing Arts*, 4(1). <https://doi.org/10.29121/shodhkosh.v4.i1.2023.2497>
- [2] Chauhan, Kislay. (2024). Intellectual Property Rights and Innovation: A Study of India's Legal Framework. 2(3), 38–45. <https://doi.org/10.36676/ijl.v2.i3.35>
- [3] Kumari, P. (2023). Intellectual Property Rights and Innovation: A Study of India's Legal Framework. 1(1), 8–17. <https://doi.org/10.36676/ijl.2023-v1i1-02>