

## A Critical Analysis of Intellectual Property Rights from an Educational Perspective

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### **Abstract**

*With the rapid rate of technology breakthroughs, scientific and medical innovation that we are experiencing in today's society, intellectual property has become increasingly important. Changes in the global economic climate have influenced the creation of company models in which intellectual property is a key factor in defining value and growth potential. To meet its international commitments under the World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), the government has passed a series of new legislation aimed at strengthening safeguards for Intellectual Property Rights (IPRs). This demand has led to a rise in the number of intellectual property specialists. The goal of this research is to enhance professionals' knowledge of intellectual property and give them with a more in-depth grasp of the issue. This will allow experts to practice and follow procedures for intellectual property protected by patents, trademarks, copyrights, designs and geographical indications. In addition to meeting the requirements for a possible job in this sector, the goal of this paper is to foster specialized education in the body of knowledge and the intricacies of the many parts of the topic.*

**Key Words:** educational perspective, intellectual property rights, copyright, patent and trademark.

### **I. INTRODUCTION**

Intellectual property includes innovations, literary and creative works, symbols, names, pictures and designs used in business. Industrial property includes innovations, patents, trademarks, industrial designs and geographical indicators of origin. Copyright applies to books, poetry, plays, movies, music, drawings, paintings, pictures, sculptures and architectural designs. Intellectual property is classified into two types: industrial property, which includes patents and copyright. Performers have performance rights; recording artists have recording rights; and radio and television producers have showing rights. Copyright protects all of these rights. Intellectual property rights provide innovators property rights that they can utilise to protect their own inventions.

Intellectual property is distinguishable from other types of property because it is intangible. This implies that intellectual property is an example of intangible property, which clarifies why this is the case. Anything that is protected must be communicated in a manner that others understand. The term intellectual property often refers to four types of intangible property: patents, trademarks, copyrights and trade secrets. In general, intellectual property refers to all four types of intangible property. Intellectual property has lately been used to protect previously private objects such as geographical indications, plant variety protection, and protection for semi-conductors and integrated circuits.

People think that the modern intellectual property system emerged during the Renaissance in northern Italy. So, the notion of intellectual property is not wholly novel. In 1474, a Venetian Law made the first formal attempt to protect ideas through the use of a patent. This was the first law written in Italian. It was also the first time a person

had a right that was exclusive to them. Around 1450, Johannes Gutenberg devised movable type and the printing press. Both of these concepts were essential components of the first copyright system ever developed. The end of the nineteenth century, new methods of production aided in the rapid acceleration of industrialization. This happened at the same time when cities grew quickly, railway networks expanded, capital was invested, and transoceanic trade boomed. Many countries passed contemporary intellectual property laws as a result of the rise of modern nationalism, new industrialist conceptions and stronger, more centralised governance. In 1886, the Berne Convention for the Protection of Literary and Artistic Works was founded. In 1883, the Paris Convention for the Protection of Industrial Property was signed. Both of these accords were signed at this time, establishing the International Intellectual Property System.<sup>1</sup>

Intellectual property is based on the assumption that the recognition and incentives associated with owning breakthroughs, inventions and creative work benefit the economy. This has always been the fundamental principle of intellectual property.

## II. REVIEW LITERATURE

Kiran, Ravi (2017),<sup>2</sup> in this paper, the authors explain how intellectual property rights practices have permeated the pharmaceutical industry's culture. The authors also explore how these strategies have influenced the growth of the pharmaceutical industry, both in the India and abroad. The study done for this report aimed to establish how each company's intellectual property rights are currently performing. The findings indicate that there has been a significant growth, but they also illustrate that the industry as a whole has to do a better job of becoming aware of and exploiting IPRs.

Veena Prasad, Arvind Kumar Dangi, et.al., (2023),<sup>3</sup> in this article authors have discussed the repercussions for the educational system and the potential to influence how information is disseminated and utilized within the classroom. Authors also pointed out that intellectual property rights serve as a means of protecting the creators of original works, such as authors, artists and inventors, and giving them exclusive rights to their creations. The protection of intellectual property rights is essential to the expansion and growth of the economy. Finally, authors studies have shown that strong protection of intellectual property rights is positively correlated with economic growth, as well as innovation and investment. It encourages businesses to invest in research and development, which in turn propels the progression of technological advancement and fosters entrepreneurial activity.

## III. OBJECTIVES

- To develop specialised education in the body of knowledge and the complexities of the subject's various aspects.
- To examine IPRs from an educational perspective.

## IV. METHODOLOGY OF RESEARCH

The nature of this research is descriptive and conceptual. All data and theories were derived from secondary sources, including publications, research articles, books, newspapers, websites and case studies on critical analysis of Intellectual Property Rights from an educational perspective. It is descriptive in the sense that it strives to identify

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<sup>1</sup> Myneni S.R., *Law of Intellectual Property* (Asia Law House, 11th Edition 2021, Reprinted 2022).

<sup>2</sup> Kiran, Ravi, "IPR scenario and factors for promoting IPR culture: a post-TRIPS period analysis of selected pharmaceutical firms in North India" 30(1) *Economic research-Ekonomska Istrazivanja* 873-891 (2017).

<sup>3</sup> Veena Prasad, Arvind Kumar Dangi, Etc., "Educational Perspective of Intellectual Property Rights" XI (2) *Russian Law Journal* 257-268(2023).

specific features of research objectives, and conceptual in the sense that it assesses a review of prior studies in these fields.

## V. CRITICAL CHALLENGES:

IP generation and protection are two significant difficulties in global knowledge-based competitions. Japan, China and South Korea are among the Asian countries that have already taken substantial steps to improve their intellectual property rights environment in order to stimulate increased innovation. To remain ahead of these sophisticated nations, we must make significant efforts to improve the quality of our intellectual property infrastructure. In addition to fostering more sophisticated and innovative research, wealth development, and overall societal well-being, this will ensure that they are used for the good of the nation.<sup>4</sup>

Since the World Trade Organisation and the Trade-Related Aspects of Intellectual Property Rights are developing new laws for international trade, intellectual property rights are a relatively new area of study. The basic goal of intellectual property rights across the world is to encourage people to create new knowledge and offer them legal ownership by protecting their rights through laws and regulations. It is often believed that everything that can be duplicated is valuable enough to require protection. IPR has therefore evolved as a critical component of economic growth in the twenty-first century. Because of its legal protection, it is extremely significant in India and other developing countries, especially when IPRs affect the pharmaceutical and agriculture industries. As a result, it is critical that all parties involved understand the IPR system in order to keep up with fast advances in science and technology. If we don't know enough about IPRs, the rest of the world shouldn't dismiss us as educated illiterates. The appropriate utilisation of intellectual property rights and traditional knowledge are critical to fostering innovation and national growth. India has modified its intellectual property laws to conform with the TRIPS agreement. As a result, there are now highly experienced IPR specialists available to deal with innovative concerns originating from new investments and cutting-edge technologies.

## VI. ISSUES WITH INTELLECTUAL PROPERTY RIGHTS IN INDIA

India suffers from a severe scarcity of intellectual property rights lawyers. To compete in the global knowledge economy, a country must create new knowledge while preserving its present resources. Given our country's social, cultural, and economic circumstances, some have questioned whether TRIPS-based intellectual property laws would be able to address India's internal challenges with technological growth and its applicability to vast parts of the people.<sup>5</sup> To remain competitive, we must evaluate our Indian laws and intellectual property policies to ensure they match the interests of society. The study of intellectual property rights has garnered significant attention in the Indian legal system.<sup>6</sup>

In its report to the Nation (2006-09), the National Knowledge Commission stated that in order for India to become a global knowledge leader, we must be at the forefront of new knowledge development. This necessitates the building of a favourable ecosystem that not only safeguards the creator's inventiveness but also rewards the generation of new knowledge through commercial applications. It has also stressed the need of preserving the nation's historical knowledge, as well as developing incentives for it, and establishing mechanisms for recognising key intellectual property challenges in new technology domains. This is in addition to the other ideas it has made.<sup>7</sup>

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<sup>4</sup> *Ibid*

<sup>5</sup> Sanjay KK, "Intellectual Property Rights: An Overview and Implications in Indian Markets" *available at*: <https://www.legalserviceindia.com/legal/article-10656-intellectual-property-rights-an-overview-and-implications-in-indian-markets.html#:~:text=Enforcement%20of%20IPR%20is%20a,effectively%20combat%20piracy%20and%20counterfeiting> (last visited on January 24, 2024).

<sup>6</sup> Myneni S.R., *Law of Intellectual Property* (Asia Law House, 11th Edition 2021, Reprinted 2022).

<sup>7</sup> *National Knowledge Commission Report to the Nation (2006-2009)*, *available at*: <http://www.knowledgecommission.gov.in/downloadsreport2009engreport09.pdf> (last visited on January 24, 2024).

## VII. INDIAN ACTS REGARDING INTELLECTUAL PROPERTY RIGHTS

India has a strong legal framework that protects intellectual property rights. The following are some of the important Indian acts concerning intellectual property rights:<sup>8</sup>

**The Patents Act, 1970:** The Patents Act is the primary legislation that oversees patents in India. It specifies the requirements for patentability, the procedures for obtaining a patent, and the rights and responsibilities of patent holders. The Act was updated in 2005 to accord with global standards and to promote innovation, research and development.

**The Trade Marks Act, 1999:** The Trade Marks Act governs trademark registration and protection in India. It addresses trademark registration, cancellation and rectification as well as trademark owner rights and remedies.

**The Copyright Act, 1957:** The Copyright Act is India's primary law governing copyright. It protects original literary, creative, musical, and other works as well as the authors' rights to them. It also outlines how to register copyright as well as the rights and remedies available to copyright owners.

**The Designs Act, 2000:** The Designs Act provides for the registration and protection of designs in India. It defines the requirements for design registration, the procedures for obtaining and maintaining registration, and the rights and remedies available to design owners.

**The Geographical Indications of Goods (Registration and Protection) Act, 1999:** The Geographical Indicators Act governs the registration and protection of geographical indicators on goods. It describes the registration procedures, registered users' rights and obligations, and penalties for violations.

**The Semiconductor Integrated Circuits Layout-Design Act, 2000:** The Semiconductor Integrated Circuits Layout Design Act safeguards integrated circuit layout designs. It describes the registration procedures, registered users' rights and obligations, and penalties for violations. Overall, these statutes provide a complete legal framework for protecting and enforcing intellectual property rights in India.

## VIII. INTELLECTUAL PROPERTY RIGHTS: THE KEY CHALLENGES

In India, gaining intellectual property rights may provide a number of challenges. As a result, obtaining intellectual property rights in India has become a contentious issue, with stakeholders remaining cautiously optimistic about India's ability to handle these difficulties. To ensure that businesses in India generate the most money feasible, the government must first overcome a number of significant obstacles and issues.<sup>9</sup>

- **Preventing Patent Evergreening:** The multinational firms have substantial hurdles in preventing patent evergreening, which is an important part of intellectual property rights. It is well recognised that firms cannot keep their patents valid simply by making minor adjustments. Section 3(d) of the Indian Patent Act addresses one of the most severe challenges with intellectual property rights. The legislation forbids the issuance of patents for novel categories of chemicals. Over time, India has successfully opposed and rejected patent renewals for small alterations.<sup>10</sup>
- **Issues with Subsidies and Intellectual Property Rights:** The government offers subsidies to farmers, relieving their financial burden. The food, fertiliser, education and other subsidies are critical components of

<sup>8</sup> Setindiabiz Team, "What Are the Intellectual Property Laws in India" available at: <https://www.setindiabiz.com/learning/intellectual-property-law> 2023 (last visited on January 28, 2024).

<sup>9</sup> Baroness Neville-Rolfe, "The challenge of protecting intellectual property" *WIPO MAGAZINE* (2016), available at: [https://www.wipo.int/wipo\\_magazine/en/2016/si/article\\_0004.html](https://www.wipo.int/wipo_magazine/en/2016/si/article_0004.html) (last visited on February 04, 2024).

<sup>10</sup> WIPO, Strong IP laws prevent so-called "evergreening" of patents to enhance access to TB drugs in India" available at: [https://www.wipo.int/policy/en/news/global\\_health/2023/news\\_0023.html#:~:text=Section%203D%20of%20the%20Indian,extensions%20based%20on%20small%20changes](https://www.wipo.int/policy/en/news/global_health/2023/news_0023.html#:~:text=Section%203D%20of%20the%20Indian,extensions%20based%20on%20small%20changes) (last visited on February 04, 2024).

the overall subsidy system. However, in order to properly implement the TRIPS Accords, these subsidies must be reduced or eliminated. As a result, the Indian government must find a balance between providing subsidies and protecting intellectual property rights.

- **Process for Obtaining Product Patents**: A product patent protects the product. It gives the original author a high level of protection while lowering competition for the identical product. A process patent on the other hand protects the method employed to manufacture the product rather than the product itself. It minimises the likelihood that a single firm will dominate the market. Because India has signed the TRIPS agreement, all nations must modify their patent regimes to focus on product patents rather than process patents. This remains a challenge for India, despite the fact that a method patent would benefit a country like India. This is due to the fact that India is a developing country where regular folks struggle to access basic necessities such as food.<sup>11</sup>
- **Traditional Knowledge**: The traditional knowledge is like a treasure trove, particularly in the field of medicine. The Indian government has a duty to preserve indigenous knowledge by barring multinational businesses from patenting ancient processes. To prevent the patenting of traditional information, the government established the Traditional Knowledge Digital Library or TKDL. As a result, one of the difficulties of intellectual property rights in India is emphasised here.<sup>12</sup>
- **Compulsory Licencing and Drug Price Control Order**: The practice of forced licencing is one of the most important issues concerning intellectual property rights, and the government must address it. In addition, the government must make an order to restrict drug prices. The agreement on Trade-Related Aspects of Intellectual Property Rights provides this leniency to impoverished nations, which organisations may occasionally exploit. The medicine Price Control Order mandates pharmaceutical companies to explain medicine costs in terms of their investments. When someone breaches the rules, the government has the authority to intervene and respond. Multinational corporations are pressing the government to abolish this provision. On the other side, the government refuses to give in to the demands in order to protect the people's interests.<sup>13</sup>

## IX. CHALLENGES IN IPR EDUCATION

India's most pressing issue right now is a lack of appropriately skilled workers in the field of intellectual property rights. The demand for human resources in the field of intellectual property rights is increasing every day. Intellectual property rights are growing more significant. Papers on intellectual property rights legislation are becoming required reading in many educational institutions. Many universities offer certificates and degrees in intellectual property law. Graduates with a background in intellectual property rights might find lucrative employment in a variety of fields, including law, science, the arts, commerce and management.<sup>14</sup>

## X. EFFECTS OF INTELLECTUAL PROPERTY RIGHTS ON EDUCATION

- The preservation of intellectual property rights has substantial ramifications for the educational system, with the potential to influence how information is transmitted and applied in the classroom. From a pedagogical

<sup>11</sup> Narayanan P, *Intellectual Property Law* (Eastern Law House, 3rd Edition 2017, Reprinted 2023).

<sup>12</sup> Protecting India's Traditional Knowledge, *available at*: [https://www.wipo.int/wipo\\_magazine/en/2011/03/article\\_0002.html](https://www.wipo.int/wipo_magazine/en/2011/03/article_0002.html) (last visited on February 05, 2024).

<sup>13</sup> Ajay Prasad Varsha Iyengar, "Direct Price Control on Patented Drugs in India: The Probable Effects on Innovations and Access to actions and Access to Medicines of Medicines" Volume 20 Issue 2 2008, *available at*: <https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1074&context=nlsir#:~:text=%20The%20DPCO%20allowed%20the%20government,Pharmaceutical%20Policy%2C%202002%20constitute%20the> (last visited on February 08, 2024).

<sup>14</sup> Vivek Y. Dhupdale, "Intellectual Property Rights and Challenges before Higher Education in 21st Century" *available at*: [https://ir.nbu.ac.in/bitstream/123456789/3150/1/March%202013\\_07.pdf](https://ir.nbu.ac.in/bitstream/123456789/3150/1/March%202013_07.pdf) (last visited on February 06, 2024).



perspective, intellectual property rights protect and give exclusive rights to creators of creative works, such as authors, artists and inventors. This is done by assigning exclusive rights to the work's creators.<sup>15</sup>

- The protection of intellectual property rights in educational settings is critical. Copyright law protects original works, such as written texts, photos, music, and video by allowing the authors the only right to reproduce, distribute and show them. Original works may include text, images, music or video. The regulations governing copyright influence how students and teachers use and distribute copyrighted content in educational settings. For example, before using copyrighted materials in their classrooms, educators must obtain permission from the proper copyright owners. Similarly, students must obtain permission before using intellectual property-protected materials in their studies or courses.
- Patent and trademark laws as well as copyright law are applicable in educational institutions. Inventors have the sole right to produce, use and sell their own innovations due to the protections afforded by patent law. In the context of learning, patent law has the potential to influence how research and development are performed, as well as to stimulate innovation by allowing innovators to protect their ideas.
- In contrast, trademark law prevents third parties from exploiting corporate names, logos and slogans without authorization. In the context of education, trademark law has the power to influence how educational institutions sell and promote themselves, as well as to encourage innovative and creative branding and marketing strategies.
- Intellectual property rights are important in the educational system because they protect original works, foster innovation and motivate creative endeavours. Nonetheless, a balance must be made between these interests and the need to provide students with more access to information and knowledge inside educational institutions.<sup>16</sup>

## XI. STUDY FINDINGS

IPR refers to a broad set of legal safeguards that apply to creative works, inventions and other forms of innovation. The following is a list of some of the most noteworthy outcomes regarding IPR:

- The Intellectual Property Rights Technical Assistance Portfolio provides lucrative opportunities to work on patents, trademarks, industrial designs, geographical indications, and copyrights. Creative nations should provide targeted support to underdeveloped countries to improve their ability to generate, use and manage intellectual property.
- Offering technical assistance to protect intellectual property rights in three areas: regional intellectual property policies, policy and legislative consulting, and intellectual property office business solutions.
- Protecting intellectual property rights is essential for economic growth and development. According to research, strong intellectual property protection correlates positively with economic progress, innovation and investment. It stimulates businesses to invest in R&D, resulting in technological advancement and more entrepreneurial activity.
- Infringement of intellectual property rights is a global concern. Piracy, counterfeiting, and intellectual property theft are widespread activities in many countries. It not only damages people who create new goods and innovations, but it also has major economic and social ramifications.
- Balancing intellectual property rights with public interests may be difficult. While protecting intellectual property rights is vital, it must also guarantee that it does not inhibit competition, limit access to critical drugs, or obstruct the flow of information and knowledge.

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<sup>15</sup> Arpana Sharma, Aadyaa Bhardwaj, "Intellectual Property Rights in Context of New Education Policy 2020" 47 *Journal of Intellectual Property Rights* 415-419 (2022) available at: <https://nopr.niscpr.res.in/bitstream/123456789/61251/1/JIPR%2027%286%29%20415-419.pdf> (last visited on February 07, 2024).

<sup>16</sup> Narayanan P, *Intellectual Property Law* (Eastern Law House, 3rd Edition 2017, Reprinted 2023).

- The efficiency of intellectual property protection differs by sector and nation. Different countries' intellectual property laws and enforcement systems differ greatly, influencing patterns of innovation, trade and investment. For example, the patent system may be effective in the pharmaceutical sector but may not be appropriate for use in the software industry.
- New technologies provide challenges in preserving intellectual property rights. The rise of new technologies such as artificial intelligence, blockchain, and 3D printing has prompted challenges regarding the appropriate method for protecting the intellectual property rights associated with these creations. To strike a balance between innovation and the public good, intellectual property rights must be preserved in a proactive and responsive way.
- Intellectual property rights are complicated and constantly evolving, necessitating careful consideration of economic, legal and social elements.

## **XII. CONCLUSION**

The protection of people's intellectual property is vital for the long-term success of any knowledge-based society. Because it is impossible to foster a creative environment without expanding IPR awareness and implementation, IPR is a necessary prerequisite for engaging in fair commerce on both a local and global scale. Policymakers must include intellectual property rights into the core education system and make IPR identification easier by empowering inventors and developers. India possesses all of the available resources, including raw materials, low-cost labour, inventive and devoted creative talent, and other resources. There is little doubt that enforcing intellectual property rights will enable India and other rising economies to reap their fair share of global trade.