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INTELLECTUAL PROPERTY RIGHTS IN INDIA: LEGAL FRAMEWORK, POLICY EVOLUTION, AND ENFORCEMENT CHALLENGES

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Abstract

Intellectual Property Rights (IPR) is legal protections granted to creators, inventors, and businesses for their innovations and creations. In India, the development of IPR laws has been a dynamic process, influenced by historical, economic, and social factors. This article delves into the evolution of IPR in India, examining its legal framework, policy developments, enforcement mechanisms, and contemporary challenges.

Intellectual property rights (IPR) encompass legal protections for creations of the mind – including inventions (patents), brands (trademarks), artistic and literary works (copyrights), industrial designs, geographical indications, and plant varieties. In India, IPR are recognized as a means to "spur and incentivize creativity and innovation" while balancing public welfare. The government's 2016 National IPR Policy underscores that a robust IP regime attracts investment, drives research, and facilitates technology transfer. Consistent with this vision, India has seen rapid growth in IP filings: according to WIPO, in 2023 India ranked 6th globally in patent applications (with 15.7% annual growth) and 4th in trademark filings. Domestic applicants filed over half of these patents (55.2%), reflecting a strengthening indigenous innovation base. In 2023 India saw a 36.4% surge in industrial design applications and registered some 3.2 million active trademarks (mostly resident applicants). These trends show India's efforts to transform into an innovation hub, aligning with initiatives like the "Decade of Innovation" and Make-in-India.

More broadly, IPR are essential in a knowledge economy. By granting creators time-limited exclusive rights, the IP system encourages investment in R&D, promotes fair competition, and helps consumers by signalling quality and origin. For example, a trademark connects a product to its reputation, while patents protect new technologies. India's IPR framework is TRIPS-

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compliant (as a WTO member) and follows international treaties (e.g. Paris and Berne Conventions). However, it also explicitly allows TRIPS flexibilities (such as compulsory licensing and strict patentability criteria) to safeguard public interest. In summary, IPR are viewed in India as a "powerful tool" that can foster economic growth, improve exports and employment, and support public health and consumer choice when balanced by appropriate exceptions and enforcement policies.

Keywords: Intellectual Property, Intellectual Property Rights, Patent, Copyright, and Trademark.

Introduction Historical Evolution of IPR in India

India's IPR laws have evolved from colonial origins to a modern, post-TRIPS regime. Under British rule, early statutes were enacted to align with UK and international norms: the Indian Patents Act of 1856 (East India Company era) marked India's first patent law, followed by revisions in 1883 and 1911. Similarly, the first Indian Copyright Act came in 1847 (and 1914), and the Trade and Merchandise Marks Act in 1958 (replacing a 1940 law) addressed trademarks. After independence, India embarked on major overhauls of these laws. Notably, the **Patents Act, 1970** (implemented in 1972) was a landmark law tailored to India's development needs. It introduced a unique approach: while granting patents to "encourage inventions and to ensure that inventions are worked" quickly, it also excluded key areas like food, medicine, agriculture, atomic energy and life forms from patentability. The 1970 Act emphasized **process patents** for pharmaceuticals (to keep drugs affordable) and included provisions for compulsory licensing and working requirements, reflecting a balance between IPR protection and public welfare.

The global trade landscape changed in the 1990s with the WTO TRIPS Agreement (1994). As a result, India amended its IPR laws to meet TRIPS obligations by 2005. A first Patents (Amendment) Act in 2002 extended patent terms to 20 years. Crucially, a second amendment (via ordinance in 2004, enacted as a 2005 Act) reintroduced **product patents** for pharmaceuticals and agro-chemicals, a major shift from the 1970 framework. India thus fully switched to product patent protection by January 1, 2005, while retaining safeguards (e.g. Section 3(d)) to prevent frivolous "evergreening" of drug patents. Other laws were similarly updated: the **Trade Marks Act, 1999** (effective 2003) replaced the 1958 law to tighten protection and comply with Paris Convention/TRIPS. The **Copyright Act, 1957** was amended

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in 2012 to address digital and educational uses, and to expand rights for performers and broadcasters. The **Designs Act, 2000** and **Geographical Indications (GI) of Goods Act, 1999** modernized India's regime for industrial designs and geographical indications, again in response to international standards. The **Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001** was enacted to create a sui generis plant variety protection system (honoring India's commitment to TRIPS and to farmers' rights). These legislative milestones – culminating in the National IPR Policy of 2016 – chart India's journey from a welfare-oriented regime to one embracing innovation while still addressing developmental concerns.

1. Legal Framework for IPR in India

India's IPR system is governed by several key legislations, each addressing different aspects of intellectual property:

1.1 The Patents Act, 1970

The Patents Act, 1970, is a cornerstone of India's intellectual property legislation. It grants inventors exclusive rights to their inventions, preventing others from making, using, selling, or importing the patented product or process without permission. The Act specifies the criteria for patentability, including novelty, inventive step, and industrial applicability. Amendments, such as the Patents (Amendment) Act, 2005, aligned India's patent laws with the Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement, introducing product patents in pharmaceuticals and extending patent terms to 20 years. These changes aimed to balance innovation promotion with public health concerns, ensuring affordable access to essential medicines.

India's patent system is governed by the **Patents Act, 1970 (as amended)**. An Indian patent grants the holder exclusive rights to prevent third parties from making, using, or selling the invention in India. To be patentable, an invention must be **new, involve an inventive step, and be capable of industrial application** (Section 2(1)(j) defines "invention" as a new product/process with an inventive step). Importantly, the Act excludes certain subject-matter from patentability: Section 3 lists non-inventions, including *natural substances, atomic energy, mathematical methods, literary or artistic works,* etc., and notably drugs and pharmaceuticals are patentable only as processes (pre-2005). Even after 2005, Section 3(d) erects a high bar: "the mere discovery of a new form of a known substance" without enhanced efficacy is not patentable. This "anti-evergreening" provision was upheld by the Supreme Court in *Novartis*

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AG v. Union of India (2013), reinforcing that patents on incremental modifications (e.g. polymorph forms) must show real inventive advantage.

India's patent term is 20 years from the priority date. A patent application undergoes formal and substantive examination by the Patent Office (Controller General of Patents, Designs & Trademarks under DPIIT). Notable procedural features include pre- or post-grant opposition options. The Act also contains **working requirements**: patentees must periodically file statements on commercial working in India, and failure to work an invention locally may lead to compulsory licensing. Compulsory licenses can also be granted if public demand is not met, prices are excessive, or the invention is not available at a reasonable price (Section 84). India's first compulsory license was issued in 2012 to Natco Pharma for Bayer's cancer drug Nexavar (sorafenib) and upheld in Natco v. Bayer. In that case, the Patent Office and later IP Appellate Board found Bayer's pricing and non-working violated Section 84, awarding a license at a 6% royalty. The decision emphasized that patent rights must be balanced against public health needs.

Over time, the Indian Patent Rules have been refined to improve efficiency. For example, the Patents (Amendment) Rules 2016 introduced expedited examination tracks (including for start-ups) and defined minimum timeline goals. Recent figures show fast growth: patent filings jumped from ~66,500 in FY2021-22 to about 80,000 in 2022-23, and further to ~92,000 by FY2023-24. Grants increased as well (from ~30,000 to 34,134 year-on-year). India also participates in international systems (e.g. the Patent Cooperation Treaty) to facilitate global filings. In sum, India's patent law combines innovation incentives with safeguards: while it now meets TRIPS standards (granting product patents in all fields), it retains mechanisms (Sections 3(d), 84) to prevent abuse and to serve public interest.

1.2 The Trade Marks Act, 1999

The Trade Marks Act, 1999, governs the registration, protection, and enforcement of trademarks in India. Trademarks distinguish goods and services of one enterprise from those of others, protecting brand identity. The Act provides comprehensive coverage for marks, including logos, symbols, words, and even sounds. It establishes the Trademark Registry, outlines the procedure for registration, and sets the grounds for refusal and cancellation of trademarks. Key amendments have enhanced protection by recognizing well-known trademarks and simplifying the registration process.

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Trademarks – distinctive signs that identify the source of goods or services – are protected under the **Trade Marks Act, 1999**. A "trademark" is defined broadly as "any sign capable of being represented graphically and distinguishing the goods or services of one undertaking from those of others". The 1999 Act (which took effect in 2003) modernized India's trademark regime (replacing the 1958 Act) to comply with international norms (Paris Convention, TRIPS). Its objectives are to prevent consumer confusion and unfair competition, ensuring that businesses can build brand identity. Under the Act, a trademark can be a word, logo, label, shape, sound, or other sign. The Act provides for registration (via a centralized Trademark Registry under CGPDTM), term of protection (10 years, renewable indefinitely), and grounds for refusal or cancellation.

Key provisions include Section 9 (absolute grounds for refusal, e.g. lack of distinctiveness, deceptive marks) and Section 11 (relative grounds, avoiding confusion with existing marks). Section 25 mandates renewal after 10 years or de-registration if unused for 5 years. Infringement remedies (Section 29) allow injunctions, damages, and accounts of profit. Notably, Section 30 protects certain uses like descriptive usage or honest concurrent use. Section 135 outlines civil reliefs for infringement or passing-off. Well-known mark protection (by judicial recognition or registry notification) allows famous brands to be safeguarded even without registration.

Trademark law in India also intersects with newer categories: the 2016 Trade Marks (Amendment) Act introduced protection for non-traditional marks (sound marks) and increased penalties. Other developments include strengthening well-known mark criteria, codifying dilution/passing-off principles, and integrating the GI Act to handle conflicts (since GIs and trademarks may overlap). Overall, India's trademark framework now aligns with global standards, offering brand owners strong statutory rights and enforcement mechanisms against counterfeiters.

1.3 The Copyright Act, 1957

The Copyright Act, 1957, protects original literary, dramatic, musical, and artistic works, as well as cinematograph films and sound recordings. This Act grants creators exclusive rights to reproduce, distribute, perform, and license their works, thus incentivizing creativity and cultural development. The Act outlines the process for copyright registration, infringement penalties, and exceptions for fair use, including educational and research purposes.

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Amendments, such as those in 2012, have adapted the Act to digital advancements, addressing issues like digital rights management and the protection of performers' rights.

The **Copyright Act, 1957** is the principal statute for copyright. It protects "literary, dramatic, musical and artistic works", as well as cinematograph films and sound recordings. This means books, music, paintings, architecture, movies and recorded songs are all covered. Copyright arises automatically upon creation; registration is optional, serving mainly as evidence of ownership. The author (or first owner) holds exclusive rights to reproduce, distribute, perform or communicate the work, etc. The duration is generally the life of the author plus 60 years (for most works), with special terms (e.g. 60 years from publication for films/sound recordings, or 60 years from publication for photographs).

Indian copyright law balances exclusive rights with exceptions and related rights. The Act includes fair-use or statutory exceptions (Section 52) for education, research, criticism, news reporting, and special cases (e.g. reproduction by libraries, public lectures). Notably, the Copyright Amendment Act, 2012 expanded digital and access provisions: it strengthened rights of broadcasters and performers, ensured mandatory licensing for certain music uses, and created broader exceptions for persons with disabilities (e.g. conversion of works into accessible formats). These amendments also overruled older court decisions (like *IPRS v. Eastern India Motion Pictures Assn.*) to allow artists to retain certain royalties for uses beyond films. Criminal sanctions for willful infringement (Sections 63–63A) include fines and imprisonment, reflecting copyright's serious status. Infringement suits are typically filed in civil courts (High Courts or IPAB earlier for IPR matters, now High Courts under the 2021 reforms).

Related rights include performers' rights (singers, actors) and broadcasters' rights. India acceded to the WIPO Copyright Treaty and WIPO Performances & Phonograms Treaty in 2018, recognizing stronger digital-age protections (e.g. distribution and communication rights for software and music in cyberspace). Collecting societies (like IPRS, IPRS, and record labels) manage licensing for public performances and broadcasting. In summary, Indian copyright law aims to protect creators' works while ensuring public access: it implements international standards (Bern Convention, TRIPS) and has adapted to technological change through recent amendments.

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1.4 Industrial Designs

Industrial designs (aesthetic aspects of useful articles) are governed by the **Designs Act, 2000**. A "design" means the features of shape, configuration, pattern or ornament applied to an article that appeal to the eye. The Act provides registration of novel designs (with respect to the article) for an initial 10-year term (extendable by 5 more). Only new or original designs that have not been published are registrable. Design registration gives the proprietor exclusive rights akin to copyright on the article's appearance (Section 11). The scope is limited to registered articles; functional features are excluded (only ornamentation). Enforcement resembles patent infringement: unauthorized reproduction of the registered design is prohibited. By protecting design creativity (in textiles, jewelry, furniture, machinery, etc.), the law encourages innovation in manufacturing and prevents piracy of unique product looks. Amendments (Rules) have streamlined application procedures. While design protection in India is relatively less utilized compared to patents and trademarks, it plays a role in industries like fashion, automobiles, and electronics where product appearance matters.

1.5 Geographical Indications

The **Geographical Indications of Goods (Registration and Protection) Act, 1999** protects product names that signify a specific region and its traditional qualities. A GI is a sign used on goods "that have a specific geographical origin and possess qualities, reputation or characteristics essentially attributable to that place". Typical examples in India include Darjeeling Tea, Basmati Rice, Kanchipuram Silk, Nagpur Oranges, and Mysore Sandalwood. GIs are registered by producers' associations; unlike a trademark, the owner is usually an association or government authority, and the protection is collective.

Once registered, a GI prohibits unauthorized use of the name for goods not originating from that region (much like PDOs in the EU). For instance, the "Darjeeling" tea mark is restricted to tea grown in specified districts of West Bengal, maintaining quality and reputation. GI registration enables rural producers to command premium prices and prevents misrepresentation. Enforcement falls under civil law; infringement actions can be taken for deceitful use of a GI. Since GIs indicate origin and quality, they also benefit consumers by ensuring authenticity.

Geographical indications were introduced in India to comply with TRIPS (India became TRIPS-compliant in 1999). The GI Act has furthered export branding: India now has 400+

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registered GIs as of 2024, and several Indian products (Darjeeling, Basmati) have obtained protection in markets like the EU and US. Challenges persist in policing counterfeit GIs, but overall GI law has raised the profile of traditional products and craftsmanship.

1.6 Protection of Plant Varieties and Farmers' Rights

India's **Protection of Plant Varieties and Farmers' Rights (PPV&FR) Act, 2001** establishes a sui generis regime for plant breeders and farmers. Under the Act, developers of new plant varieties (or hybrids) can register them and gain exclusive marketing rights for 18–24 years (depending on species). Crucially, the Act also protects farmers' rights: farmers are allowed to save, use, sow, re-sow, exchange, share or sell farm-saved seeds, including protected varieties. They must pay a "share of the benefits" (like an implicit royalty) to the breeder unless exempt by notification. Thus, unlike patent law, ordinary farming and seed saving are not infringement in India.

A statutory Plant Varieties Registry (PPV&FRA) administers registrations and dispute resolution. The Act also provides for compulsory licensing if a registered variety is not available at affordable prices or not worked by the breeder. India's law is designed to meet TRIPS Article 27(3)(b) requirements on plant variety protection without joining UPOV. Since enactment, the Act has encouraged release of new hybrid seeds for crops like cotton, rice and corn, while maintaining seed sovereignty for small farmers. For example, in *Monsanto Technology v. Nuziveedu Seeds (2014)*, the Supreme Court permitted patent claims on genetically engineered cotton seeds, subject to farmers' rights provisions. Overall, the PPV&FR framework aims to spur agricultural innovation (through breeders' incentives) without undermining traditional farmers' practices.

2. Policy Evolution and Strategic Initiatives

2.1 National Intellectual Property Rights Policy, 2016

In May 2016, the Government of India approved the National Intellectual Property Rights Policy to ensure compliance with the Doha Development Round and TRIPS Agreement. The policy aims at creating a "Creative India; Innovative India" by:

- Strengthening the IPR framework in the country.
- Creating public awareness about the economic, social, and cultural benefits of IPRs among all sections of society.
- Stimulating IPR generation and commercialization.

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- Modernizing and strengthening service-oriented IPR administration.
- Strengthening enforcement and adjudicatory mechanisms for combating IPR infringements.
- Strengthening and expanding human resources, institutions, and capacities for teaching, training, research, and skill-building in IPRs.

The policy seeks to integrate IPR as a policy and strategic tool in national development plans, foreseeing a coordinated and integrated development of the IP system in India.

2.2 Traditional Knowledge Digital Library (TKDL)

Established in 2001, the TKDL is a collaborative initiative between the Council of Scientific and Industrial Research (CSIR) and the Ministry of Health and Family Welfare. Its objective is to protect India's ancient and traditional knowledge from exploitation through biopiracy and unethical patents by documenting it electronically and classifying it as per international patent classification systems. The database serves as a preventive tool against the misappropriation of traditional knowledge and fosters modern research based on traditional practices.

3. Enforcement Mechanisms and Challenges

3.1 Enforcement Challenges

The implementation of IPR laws in India faces several challenges:

1. **Patent Examination Backlogs:** Delays in patent examinations hinder the timely grant of patents.
2. **Enforcement Difficulties:** Issues such as counterfeit goods, piracy, and lack of awareness among the public impede effective enforcement.
3. **Judicial Interpretations:** Varying interpretations across different High Courts create uncertainty for stakeholders.

3.2 Sector-Specific Challenges

1. **Pharmaceutical Sector:** Tensions exist between innovation protection and affordable healthcare access. The implementation of IPR laws has led to debates on the balance between encouraging pharmaceutical innovation and ensuring the availability of affordable medicines.
2. **Traditional Knowledge:** Protecting traditional knowledge remains an ongoing challenge, with concerns about biopiracy and the need for documentation and recognition of indigenous knowledge systems.

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3.3 Enforcement Mechanisms (Judiciary, Customs, ADR)

1. Enforcement of IPR in India involves civil courts, criminal procedures, and specialized border measures. Civil infringement suits are heard in district and high courts (and Commercial Courts for some IPRs). Previously, appeals and oppositions (e.g. on patents, trademarks, GIs) were handled by the Intellectual Property Appellate Board (IPAB, constituted 2003). However, the IPAB was abolished in April 2021. Now, appeals against patent and trademark decisions go to the respective High Courts; copyright appeals to Commercial Courts; and GI appeals to High Courts. Consequently, the judiciary must absorb IP appeals, raising concerns about delays. The High Courts of Delhi, Madras and a few others have begun setting up IP divisions (and an IP bench in Chennai High Court, 2023) to handle this caseload.
2. Customs authorities play a key role in IPR enforcement at the border. Under the Customs Act, 1962 and the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, rights holders can register their IP (trademarks, copyrights, designs, GIs) with Customs to enable interception of infringing imports. For example, a trademark owner files samples and certificates; Customs then suspends clearance of suspect shipments. This preventive mechanism has been increasingly used against counterfeit clothing, electronics, and pharmaceuticals. However, patents are not directly enforceable at the border (as proving patent infringement requires technical analysis). Courts have clarified that Customs can act on patents only under court order or if there is "specific and reasonable ground" to believe a shipment infringes a patent. The Delhi High Court, in *Ericsson v. Union of India*, held that Customs may suspend goods if they have concrete reasons to suspect patent infringement, but enforcement ultimately needs judicial determination. India has also established specialized IPR cells at major ports and airports, staffed to process applications and train officials in detecting counterfeits.
3. On the criminal side, willful infringement of copyrights and trademarks can lead to fines and imprisonment (e.g. up to 3 years' jail for sound recordings under Section 65). Enforcement agencies include customs, police (cybercrime cells), and specialized task forces (e.g. in software piracy). Co-ordination among agencies and inter-departmental committees have been recommended to tackle piracy and counterfeiting. Alternative dispute resolution (ADR) is also gaining traction: the Arbitration and Conciliation Act, 1996 covers IP disputes, and WIPO's Arbitration and Mediation Center provides neutral forums. While still nascent, mediation and arbitration are viable for resolving complex licensing and technology disputes more efficiently than courts.

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4. Contemporary Developments and Case Studies

1. **Novartis v. Union of India (2013)**

   In a landmark decision, the Indian Supreme Court upheld the rejection of a patent application by Novartis for the cancer drug Glivec. The court interpreted Section 3(d) of the Patents Act, which disallows patents on new forms of known substances unless they demonstrate enhanced efficacy. This decision emphasized the importance of balancing patent protection with public health considerations.

2. **Amar Nath Sehgal v. Union of India (2005)**

   This case marked a significant development in the recognition of moral rights under the Copyright Act. The Delhi High Court upheld the moral right of an artist whose mural was removed by the government without consent, leading to the restoration of the artwork and the acknowledgment of the artist's rights.

3. **Natco Pharma Ltd. v. Bayer Corporation (2013)**

   IPAB (affirmed by Delhi HC), this case affirmed India's first compulsory license. Natco was granted the right to produce a generic version of Bayer's cancer drug Nexavar, as Bayer's pricing and non-production failed Sections 84–87 criteria. The IPAB emphasized that granting a patent does not curtail a nation's right to protect public health and ensure reasonable prices.

4. **Telefonaktiebolaget LM Ericsson v. Union of India (2009) 5 SCC 138**

   Delhi High Court. In a case on patent enforcement, the Court held that Customs may detain potentially infringing goods if there are "specific and reasonable grounds" (Section 7 of IPR Rules). This confirmed that border measures can extend to patents under certain conditions.

5. **Yahoo! Inc. v. Akash Arora (1999) 13 PTC 457 (Delhi HC)**

   Early Internet trademark case, the court recognized the domain name "Yahoo.com" as a trademark and granted interim relief against a copycat site "Yahooindia.com", applying trademark principles to Internet use.

6. **Taj Mahal Tea Co. Ltd. v. NTR & Sons (Supreme Court, 2010)**

   Trademark, the Supreme Court recognized "TAJ MAHAL" (the well-known tea brand) as a famous mark entitling automatic protection. It held that passing off remedies are in addition to registered rights, and that unauthorized use by a rice exporter infringed the well-known tea mark's reputation.

7. **Gramophone Company of India Ltd. v. Birla & Co. (1984) 154 ITR 148 (SC)**

   Copy Right, this case established that owning a sound recording (gramophone record)

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does not confer rights on the artist; rather, the producer owns the copyright in the recording. It also held that playing a copyrighted record in public without permission infringes the record producer's rights.

8. **Eastern India Motion Pictures Assn v. Indian Performing Right Society (1977) 69 FJR 1126 (SC)**

   Copyright/performance rights, the Supreme Court held that performers (actors, singers) originally had no copyright share in film songs or scripts by default (the film producer was the first owner), a principle later addressed by the 2012 amendments to ensure equitable royalties.

9. **Roshanlal Oil Mills v. Shakti Industries (Delhi HC, 1995)**

   Trademark case, the Delhi High Court granted a temporary injunction protecting the "Taj Mahal Label" trademark for edible oils, against an infringer. This case helped shape interim relief standards in infringement suits.

5. Challenges in Indian IPR Framework

Despite improvements, India's IPR system faces significant challenges. Enforcement gaps are often cited: online piracy of films, music and software remains rampant, and physical counterfeiting of goods (apparel, pharmaceuticals, electronics) causes economic and safety issues. India was placed on the USTR's "Priority Watch List" in 2023–24 due to concerns over enforcement and piracy. The U.S. report specifically noted "high rates of online piracy" and a "significant trademark backlog" in India. Delays in resolution are another problem: patent prosecutions can take 5–7 years on average, and court cases drag on (in part due to the IPAB's abolition). Low IPR awareness among SMEs, researchers and farmers also limits filings (only ~36% of patents are filed by Indians), as noted by the Parliamentary Committee.

Legal and institutional issues persist. Some stakeholders argue that ambiguities in law (e.g. the broad exceptions in Sections 3 and 4 of the Patent Act, or the margin of appreciation in "copyright fair use") create uncertainty. The lack of an IP-specific commercial court (apart from the high courts) hampers speedy adjudication. Funding constraints mean enforcement agencies (customs, police) cannot fully police the extensive import/export networks. Moreover, some critics contend that the abolition of IPAB may increase backlog, as the specialist tribunal had expertise in IPR. There are also periodic debates on whether India's strong patentability standards (e.g. Section 3(d)) or compulsory licensing overly chill investment, especially in pharmaceuticals. Balancing IP incentives with health and environment needs (e.g. the call for

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TRIPS waivers for COVID-19 vaccines) remains a contentious global issue affecting India's policy choices.

Technological changes bring new challenges. The rise of digital technologies (streaming, AI-generated works, blockchain, NFTs) raises questions about how to apply existing IP laws. Protecting trade secrets in the IT sector and e-commerce (without explicit trade-secret legislation) is another noted gap. Finally, India's diverse markets (from traditional handicrafts to biotech) require tailored IP strategies. In short, while legislative structures are in place, India must address enforcement capacity, judicial efficiency, and evolving digital issues to fully realize the benefits of its IPR system.

6. Policy Reforms and Recommendations

To strengthen IPR, various policy initiatives and expert recommendations have emerged. The National IPR Policy 2016 laid out objectives such as IP awareness, administration, commercialization, and enforcement. It led to measures like awareness campaigns for startups and artists, and institutional restructuring. A Parliamentary Committee report (2019) evaluated India's IPR regime and offered suggestions. It noted that India's low R&D spending (0.7% of GDP) correlates with fewer patents compared to peer countries. The Committee urged more public R&D funding, CSR funding for research, and incentives for corporate innovation. It also recommended that the government intensify outreach to SMEs and artisans to boost domestic IP generation. On enforcement, the report called for stronger inter-agency coordination and well-resourced IPR cells within police forces and customs. Notably, it criticized the IPAB abolition and suggested either reinstating it or ensuring High Courts can handle the case load efficiently.

Recent years have seen incremental legal reforms. The Patents (Amendment) Rules 2022 simplified patent term extension and revocation procedures. The Draft Copyright Rules 2025 (proposed) aim to streamline licensing and payments in the digital era. The Trademark (Amendment) Rules 2024 expedited disposals of opposition cases to clear the backlog. On the policy front, the government is formulating guidelines on IP valuation and IP-backed financing to help startups use IP as collateral (as encouraged by the 2019 report). Additionally, committees have recommended updating patent eligibility norms (to clarify application of Sections 3(b)-(e) on living things and biological processes) and improving the technology transfer regime from public research institutions.

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Looking ahead, stakeholders propose fostering an "IP culture" through education (IP curricula in universities), easier commercialization of patented inventions, and incentives for green technologies patents (aligned with climate goals). In the pharmaceutical sector, the government may adjust drug pricing policies to balance innovation and access. There are also discussions of extending TRIPS flexibilities (e.g. for pandemics) while engaging in international IP diplomacy. Overall, the reform agenda is to accelerate application processing, bolster infrastructure (e-filing, digital platforms), and integrate IP policy with national innovation missions. The goal is a dynamic IP ecosystem that rewards creators and contributes to "Aatmanirbhar" self-reliance in critical technologies.

7. International Context and Comparative Study

India's IPR system is deeply influenced by international treaties and trade relations. India is a member of the WTO (thus bound by TRIPS), WIPO, and adherent to Paris and Berne Conventions, and the Madrid Protocol (for trademarks). In 2018 India acceded to the WIPO Internet Treaties (WCT and WPPT), thereby extending strong protections for software and digital media, reflecting global alignment. Unlike many developed countries, India did not join UPOV for plant varieties, instead choosing a sui generis farmers' rights law (PPV&FR Act) to preserve traditional seed practices.

Comparatively, India's IPR stance has often been described as "pro-development" or flexibly TRIPS-compliant. Its standards (like Section 3(d) of the Patents Act) are stricter than U.S. patent law on secondary patents, limiting "evergreening" of pharmaceuticals. At the same time, India fully protects patents, trademarks and copyrights on paper, and its recent WIPO rankings reflect rising innovation (for instance, the WIPO IP Index 2024 notes India's improved filings and IP activity). However, international observers still point out differences: for example, India's patent office grants fewer patents per capita than the US or China, and some sectors (like electronics and film) complain of piracy. In trade discussions, Western countries frequently urge faster IPR enforcement in India, whereas India emphasizes TRIPS flexibilities for public health and development.

Global comparisons also show Indian strengths: India ranks high in registered trademarks (4th globally by filings) and has a booming startup ecosystem driving patent and design outputs. Indian courts have contributed influential jurisprudence (e.g., *Novartis* on pharma patents) cited worldwide. In contrast, challenges such as backlogs and legal awareness appear more

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pronounced in India than in jurisdictions like the EU or Japan, as noted by foreign trade reports. India is increasingly engaging in bilateral and multilateral IPR dialogues – for example, the India-U.S. Trade Policy Forum addresses IP concerns. In sum, India's IP regime is robust by developing-country standards and converging with global norms, but its implementation capacity and policy priorities (access, diversity of economy) give it a distinct character.

8. Future of IPR in India

The future of IPR in India will be shaped by technology and policy trends. Emerging technologies – artificial intelligence, 3D printing, blockchain, synthetic biology – will test existing laws. For instance, questions arise about patenting AI-generated inventions or copyrighting AI-generated art. WIPO and policymakers are already debating how to adapt IP laws for AI; India may need to clarify whether AI "inventors" can be recognized or whether default legal authorship rules apply. Similarly, as genomic and biotech innovations advance, India might revisit gene patentability provisions (keeping in mind ethical and public interest norms).

Digitization will also drive reforms. India is considering digital public platforms for trademark and patent registration to speed up procedures. The Copyright office is exploring amendments for easier online licensing (e.g. collecting society payment portals, streamlined statutory licenses for digital music). Data from 2024 indicates the Patent Office cleared huge backlogs (granting over 100,000 patents that year), suggesting ongoing efforts to modernize operations. The roll-out of Geographical Indication cell (2022) hints at increasing focus on IP awareness and protection in agriculture and crafts.

Policy-wise, India's IP strategy will likely continue emphasizing grassroots innovation (such as schemes for traditional knowledge patents and farmer innovation), as well as industry needs (e.g. incentivizing patenting in strategic sectors like electronics and green tech). There are discussions about establishing an "IP Bank" to finance projects via IP assets, reflecting the 2019 Committee's recommendations. In enforcement, technology (AI-enabled detection of counterfeits, digital watermarking) may augment customs and cyber-policing. Internationally, India will navigate new trade agreements (like RCEP or IPEF) which include IP chapters, balancing its development agenda with market access.

In sum, India's IP future will involve harmonizing with evolving global norms (e.g. stronger

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digital protections) while preserving its socio-economic priorities (access to medicines, climate-friendly innovations, and benefit-sharing in agriculture). The coming decades will test India's ability to craft IP laws and institutions that stimulate high-tech growth without undermining traditional sectors. Ongoing legislative reviews, expert panel reports, and stakeholder consultations (for example, the recent formation of panels on AI and copyright) indicate that India is actively preparing for the challenges ahead in the IP arena.

9. Future Outlook and Recommendations

To strengthen the IPR regime in India, the following steps are recommended:

1. **Reducing Procedural Delays:** Streamlining patent examination processes to reduce backlogs.
2. **Strengthening Enforcement Mechanisms:** Enhancing awareness and capacity to combat IPR infringements.
3. **Harmonizing Judicial Approaches:** Establishing specialized IP benches in High Courts to ensure consistency in rulings.
4. **Promoting Research and Development:** Increasing investment in R&D to foster innovation and reduce reliance on generic manufacturing.

Conclusion

India's journey in developing a robust IPR framework reflects its commitment to fostering innovation while balancing public interests. While challenges persist, strategic initiatives and legal developments continue to shape the landscape of IPR in the country. By addressing existing gaps and promoting a culture of respect for intellectual property, India can enhance its position in the global knowledge economy.

References:

1. Legal Framework for IPR in India
2. National Intellectual Property Rights Policy, 2016
3. Traditional Knowledge Digital Library
4. Novartis v. Union of India
5. Amar Nath Sehgal v. Union of India
6. Government of India, Department for Promotion of Industry & Internal Trade (DPIIT), *Annual Report 2022–23: Intellectual Property India* (Office of CGPDTM, 2023).

 ISSN: 2582-6433

7. Government of India, Press Information Bureau, "India Accelerates in Global IPR Rankings" (Mar. 2024).
8. Government of India, *National Intellectual Property Rights (IPR) Policy*, 12 May 2016 (Dept. of Industrial Policy and Promotion).
9. Patralekha Chatterjee, "Five Years After The Indian Supreme Court's Novartis Verdict," *Intellectual Property Watch* (May 20, 2018).
10. UNCTAD, "Bayer v. Natco (India's First Compulsory License): Case Summary" (IP Appellate Board, 2013).
11. Department of Commerce, United States Trade Representative, *Special 301 Report 2024* (Apr. 25, 2024).
12. Parliamentary Standing Committee on Commerce (Rajya Sabha), *Report on Review of the Intellectual Property Rights Regime in India* (16th Lok Sabha, 2019).
13. IP Helpdesk, EU-India SME, *India Infographics Series* (2022–23) – various topics (Customs enforcement, sector guides).
14. Udayan Das, "IPR and Economic Development: The Indian Experience," *WIPO UN University Journal on IT, Law and Society* (2007).
15. Sampath K. and R. K. Mishra, *National IPR Policy 2016: An Analysis* (Swaniti Initiative, Oct. 2019).
16. Intellectual Property India, *Office of the Controller General (Patent, Designs, Trade Marks), Official Website*.
17. Various Authors, *Intellectual Property Rights in India* (SpicyIP, Lexology, iPleaders, legal analyses, 2010–2024) – including discussions of Novartis, Natco, and other cases.
18. **Primary Sources (Statutes and Treaties):** The Patents Act, 1970; Trade Marks Act, 1999; Copyright Act, 1957; Designs Act, 2000; Geographical Indications of Goods Act, 1999; Protection of Plant Varieties & Farmers' Rights Act, 2001; WTO TRIPS Agreement (1994); Paris and Berne Conventions; WIPO Internet Treaties (WCT/WPPT, 1996). These texts define the legal framework (see India Code).