



The Indian Journal for Research in Law and Management

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CHALLENGES IN ENFORCING IPR IN INDIA

-Pragya Rani

INTRODUCTION:

"Intellectual Property Rights" (IPR) refer to the protection of creations and inventions that result from an individual's intellect, creativity, and innovation. An individual applies intellectual skill and creativity to develop original works and therefore possesses the right to protect such creations.

The mere existence of laws does not ensure effective protection of IPR; their proper enforcement is the true determinant of their success.

India's forward-looking approach to innovation requires robust IPR protection. Despite significant legislative reforms, the country continues to face serious practical challenges in enforcing intellectual property rights, revealing a critical gap between law and implementation.¹

UNDERSTANDING IPR AND ITS IMPORTANCE:

IPRs can be broadly classified into six categories:

- a. **Patents** are the protection and exclusive rights provided to the owner for the newly made inventions or processes that are novel and inventive. It is governed by the Patents Act, 1970 (2021 amendment).²
- b. **Trademarks** are the protection for the unique and distinctive symbols, logos, words, or designs through which a good or service gains recognition. It is governed by the Trade Marks Act, 1999 (2023 amendment).³
- c. **Copyright** is the protection provided to creators for original creative work such as music, films, books, art, and software for its reproduction and distribution. It is governed by the Copyright Act, 1957 (2023 amendment).⁴

¹ Department for Promotion of Industry and Internal Trade (DPIIT), National Intellectual Property Rights Policy, 2016 (Government of India, 2016).

² The Patents Act, 1970 (Act No. 39 of 1970, as amended up to Act No. 18 of 2023).

³ The Trade Marks Act, 1999 (Act No. 47 of 1999, as amended up to Act No. 18 of 2023).

⁴ The Copyright Act, 1957 (Act No. 14 of 1957, as amended up to Act No. 18 of 2023).



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- d. **Industrial design** is the protection provided to the unique visual appearance, shape, or pattern of a manufactured product. It is governed by the Designs Act, 2000.⁵
- e. **Geographical Indications** identify products through the quality and reputation that are linked to a specific geographical region. It is governed by the Geographical Indications of Goods (Registration and Protection) Act, 1999 (2023 amendment).⁶
- f. **Trade secrets** safeguard the confidential business formulas, methods, and recipes that provide a competitive edge, as long as they are kept a secret. There is no specific act governing it.

The importance of IPR can be understood through the following points:

- a. It stimulates innovations and research & development through granting exclusive rights to the creator to earn from it.
- b. It safeguards intellectual property rights of the individual through protecting the invention, design, or piece of work from any imitation.
- c. It assists in brand identification and facilitates the marketing process through giving identity to the trademark.
- d. It assists in capitalizing on IP assets through making the IP assets marketable and licensable.
- e. It promotes business development through assisting the small and medium enterprises in defending themselves against being overtaken by larger entities.

CHALLENGES IN ENFORCING IPR:

The enforcement of intellectual property rights is still an issue in India; although laws are in place, their implementation is poor, and this demoralizes innovation and punishes legitimate companies. There are several reasons why protecting these rights remains so challenging.

- a. **Sudden Digital Piracy Boom:** Illegal downloading, streaming, and file sharing are becoming increasingly common online. At present, India does not have an adequate DMCA policy and does not observe all the provisions of WIPO Internet treaties.⁷

⁵ The Designs Act, 2000 (Act 16 of 2000).

⁶ The Geographical Indications of Goods (Registration and Protection) Act, 1999 (Act 48 of 1999).

⁷ Press Information Bureau, "Cabinet approves accession to WIPO Copyright Treaty, 1996 and WIPO Performances and Phonograms Treaty, 1996" (July 04, 2018), available at: <https://pib.gov.in/PressReleasePage.aspx?PRID=1537563> (last visited on May 10, 2026).



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- b. **Low Awareness of Intellectual Property Rights:** Low awareness of IPR among creators, innovators, and officials leads to unintentional infringements and under-utilization of rights in India.
- c. **Complex Procedural Formalities and Limited Access to Legal Experts:** Complex procedural formalities and high costs prevent SMEs and startups from accessing and enforcing IPR protection in India.
- d. **Tension Between Public Interest and Intellectual Property Rights:** Tension between IPR protection and public interest is prominent in compulsory licensing for medicines, creating a policy balancing dilemma.^{8 9}
- e. **Spread of Counterfeiting Products:** There are some other types of areas in which counterfeit products could be found. Some of these include medicines, fashion items, electronic devices, and luxury products. It is expected that there will be a loss worth billions of dollars every year due to counterfeiting products. Considering the increasing use of social media platforms and other online stores, counterfeit products could easily be distributed through them.¹⁰
- f. **Slow Judicial Process:** It is a fact that the courts are crowded and the case proceedings tend to be lengthy, going on for more than two years. There are no specialized courts in far-off areas; therefore, it would not be possible to have effective litigation processes because of the long duration of litigation.
- g. **High Cost of Litigation:** Since it is costly and time-consuming, it would act as an obstacle for small businesses and start-ups to initiate legal action against the infringer. In many instances, people do not have the ability to file a lawsuit against someone due to the costly nature of the entire proceeding.
- h. **Inefficiency in Litigation Process:** Overpopulation in the court system means that any lawsuit takes more than just a few years. Due to the absence of specialized courts in the outlying area, an efficient litigation process cannot take place since the lawsuit process is quite lengthy.
- i. **Lawsuit Process Costly and Expensive:** Since this process is costly and time-consuming, it is a hindrance for small businesses and new enterprises to file lawsuits.

⁸ The Patents Act, 1970 (Act 39 of 1970), s. 84.

⁹ *Novartis AG v. Union of India*, (2013) 6 SCC 1.

¹⁰ Authentication Solution Providers' Association & CRISIL Intelligence, *State of Counterfeiting in India 2025 12* (ASPA, New Delhi, 2026).



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Most of the time, people have no option to sue anyone as a result of the high costs of the litigation process.

When all these challenges combine, the result is a drop in investors' confidence and delays in attaining a knowledge-based economy. What is needed to overcome this hurdle are improved judicial measures, institutional coordination, digital laws, and education campaigns.

CONCLUSION:

India has a fairly developed system of IPR laws that consist of patents, trademarks, copyrights, and other types but still has a very weak enforcement system. The reasons for such inefficacy are the following: digital piracy, counterfeiting, delay in the judiciary (for more than 2 years), costly litigations, and lack of IP courts. All those mentioned above led to a point when small enterprises did not benefit from having laws at all, while foreign investors lost trust, and the development of a knowledge-based society in India was hindered by the current situation.