The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2026

Editor-in-Chief – Dr. Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

INTELLECTUAL PROPERTY RIGHTS AND ECONOMIC GROWTH — A LEGAL AND MANAGERIAL PERSPECTIVE

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INTRODUCTION

A trademark, patent and copyright are all forms of legal instruments which can be filed or registered worldwide on behalf of multiple business entities around the globe. As a result of these legal instruments being so plentiful, they collectively form an important part of business & economic development in the world today. There is no better example of the above than what is happening in India today: Throughout FY2024-25 the total number of intellectual property applications filed in India were in excess of 749,946 and represented a 20% year-on-increase; furthermore, patent applications reached an unprecedented level, first time ever reached over a 100,000.[1] In that very same year (FY2024-25) India was ranked as the 39th largest economy in the world according to the Global Innovation Index published by World Intellectual Property Organisation, which is up from 81st last decade.[2] Behind all of the above statistics, there is an overarching and even deeper convergence: The legal protection of the intellectual property that is the basis for development & success of businesses is exceedingly more closely tied in with the strategies for monetisation of those same businesses.

THE LEGAL ARCHITECTURE OF INCENTIVE

[1]Office of the Controller General of Patents, Designs, Trade Marks & Geographical Indications, Gov't of India, *Annual Report 2024-25,* at 12-14 (2025), https://ipindia.gov.in/storage/uploads/media/English_Annual_Report_2024-25.pdf.

[2]World Intellectual Property Organisation, *Global Innovation Index 2025: Innovation as a Spark Amid Sluggish Growth 21* (2025), https://www.wipo.int/web-publications/global-innovation-index-2025/en/gii-2025-results.html.

Intellectual property rights are established because unprotected creative ideas are subject to fragile economies, they lose some degree of value when they are revealed, and it is very easy for others to duplicate them at little to no cost, encouraging those who thought of them to possibly not continue to spend time and money on the ideas they developed until someone else does. The legal systems that provide some level of protection resolve this market failure by conferring exclusivity for a limited time period so that in that period, they can recover their investment before their competitors can begin using these now-patented inventions or registered works, generally at no cost.[3] India's patent, trademark, and copyright obligations under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS agreement) allows for patents and copyright created and used within those time-limited exclusive rights as long as they are created in the manner required within Indian law, with flexibility for public health as well as to accommodate the transfer of technology, while still meeting its obligations under the TRIPS agreement.[4] With regard to Indian law, both of these measures are governed by the Patents Act of 1970 and amended thereafter (PAA) and the National IPR Policy of 2016, which defines IP as a means of obtaining private rights, but also as a public policy framework for the creation, protection and monetising of rights to creators for IP in all sectors.[5]

A number of recent procedural reforms such as simplified procedures for pre-grant opposition to patents, digital filing for patents and more than four hundred new patent examiners being hired, demonstrate a concerted effort by the legislature to implement the legal right as an effective public policy tool. [6] In that way, the law is treated like infrastructure; in this case, the law holds up the structure from which innovation-driven economies are constructed.

THE MANAGERIAL TURN: FROM RIGHT TO ASSET

From the perspective of management, a granted patent or registered trademark is an intangible asset that must be recognized, appraised, and utilized in the same manner as any other asset shown on a balance sheet. An increasing number of companies perform IP audits to identify

[3]Kenneth J. Arrow, Economic Welfare and the Allocation of Resources for Invention, in *The Rate and Direction of Inventive Activity* 609, 616-17 (Nat'l Bureau of Econ. Research ed., 1962).
[4]Agreement on Trade-Related Aspects of Intellectual Property Rights art. 7, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.
[5]Dep't for Promotion of Indus. & Internal Trade, Ministry of Commerce & Indus., Gov't of India, *National IPR Policy*, ¶ 1.2 (2016).
[6]The Patents Act, No. 39 of 1970, India Code (1970), as amended by the Patents (Amendment) Rules, 2024.

their IP portfolios, freedom-to-operate analyses to mitigate infringement liability, and licensing strategies to generate royalty revenue from IP that they will never produce. For businesses with consumer-facing products, brand equity created by the protection afforded to trademarks often has an aggregate value that eclipses the value of all of their physical assets combined (e.g., factories, machinery), while cross-licensing/patent pool agreements enable technology companies to monetise innovation without incurring the attorney fees associated with pursuing litigation.

These are the intersections of legal drafting and managerial strategy; in essence, the value of a well-drafted patent specification is only as great as the licensing/enforcement strategy associated with it. Trademark filings in India rose from 431,213 in FY2020-21 to 552,190 in FY2024-25[7] — this trend reflects the increased awareness among Indian businesses, particularly start-ups and MSME's that creating and protecting brands is a business imperative rather than merely a legal formality.

A NOTE OF CAUTION: QUANTITY IS NOT QUALITY

The filing boom in India has several issues attached to it that need to be addressed before we can truly understand how this phenomenon will impact India's overall innovation economy. Many have pointed out that much of this boom has been driven by educational institutions responding to filing incentives and fee concessions for the purpose of improving their own metrics for output. As a result, there are serious questions about whether or not the inventions being filed based on these incentives are actually viable in the marketplace or simply many governmental and or institutional filings that are solely intended to improve institutional output (filing) metrics.[8] Under the current system, if there is no scrutiny on the quality of the patents being granted, then there will be no connection between the IP activity being pursued and the actual economic value that results from that activity, an important reminder that legal and managerial functions must work simultaneously, not separately, in advancing economic growth from innovation. Without exhibiting rigorous examination capabilities and providing more

[7] Office of the Controller Gen. of Patents, Designs, Trade Marks & Geographical Indications, *supra* note 2, at 9-10.

[8] Sunil Mani, India's IP Surge: A Questionable Patent Filing Boom Obscures a Persistent Innovation Deficit, *The India Forum* (Mar. 26, 2026), https://www.theindiaforum.in/education/indias-ip-surge-patent-filing-boom-obscuring-persistent-innovation-deficit.

structured procedures for managing a portfolio, converting IP filings into economic growth will be extremely difficult for India.

CONCLUSION

IP law provides the means of providing exclusive rights for innovation to occur; management provides the means for the exclusive rights to have value. Neither aspect of the innovation process functions at its highest potential without the other. As India becomes one of the leading nations in innovation, our focus must not just be on the increasing of filings, but on increasing the creation of, protection of, valuation of and commercialisation of the inventions being made in India and lawyers and managers must literally draft the future together.