



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

This is an Open Access article distributed under the terms of the Creative Commons Attribution Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which allows unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Intellectual Property Rights in India

SOHAN MISHRA

Introduction

Intellectual Property Rights (IPR) are the legal entitlements granted to creators and inventors over their intellectual creations' inventions, literary and artistic works, designs, and commercial symbols. In India, IPR is not a standalone constitutional guarantee; the power to legislate on patents, inventions, designs, copyright, trademarks and merchandise marks flows from Entry 49 of List I of the Indian Constitution's Seventh Schedule (Union List).¹ This domestic framework operates alongside India's international commitments, chiefly the Agreement *on Trade-Related Aspects of Intellectual Property Rights (TRIPS)*, which India accepted upon joining the World Trade Organization in 1995². Over three decades, India has built a fairly comprehensive if still evolving IPR regime spanning patents, trademarks, copyright, designs, geographical indications, plant varieties and semiconductor layouts.

Patents: Balancing Innovation and Access

Patent protection in India is governed by the *Patents Act, 1970*, which underwent its most consequential change through the Patents (Amendment) Act, 2005. In order to comply with India's TRIPS requirements, the amendment replaced the previous Exclusive Marketing Rights regime with a structured compulsory-licensing framework and extended product-patent protection to

¹ Constitution of India, Seventh Schedule, List I, Entry 49

² Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299

pharmaceuticals, food, and chemicals³. A defining feature of Indian patent law is Section 3(d), which bars patents for the mere discovery of a new form of a known substance unless it demonstrates enhanced therapeutic effectiveness, a clause that the Supreme Court maintained in the *Union of India v. Novartis AG* case upheld India's public-health-focused approach to pharmaceutical patenting by rejecting a patent application for the beta-crystalline form of *imatinib mesylate*.⁴ The regime continues to evolve: recent rule changes have introduced an administrative adjudication pathway that now operates alongside conventional patent litigation, aimed at faster resolution of validity and infringement disputes.⁵

Trademarks and the Shift Toward Deterrent Damages

The Trade Marks Act, 1999 governs the registration and protection of marks used in trade, and follows a "first-to-use" principle under which even an unregistered mark with prior use including reputation acquired outside India can be protected through a passing-off action.⁶ Enforcement has grown considerably sharper in recent years. Indian courts, particularly the Delhi High Court, have moved from largely nominal damages toward substantial financial awards intended to deter large-scale infringement. Delhi High Court awards multi-million-dollar damages to an e-commerce platform in a marketplace-enabled trademark infringement suit with the Beverly Hills Polo Club marks - a welcome shift from India's historically tepid damage award landscape for IP litigation.⁷

Copyright: Where Creativity and the Digital Economy Converge

Copyright in India is governed by the *Copyright Act, 1957*, with major amendments in 2012 that reflect the principles enshrined in the WIPO Copyright Treaty and the WIPO Performances and Phonograms Treaty, and bring in concepts such as digital rights management, fair dealing exceptions, rights of authors and performers in the digital sphere.⁸

³ Patents Act, 1970 (Act No. 39 of 1970), as amended by the Patents (Amendment) Act, 2005 (Act No. 15 of 2005)

⁴ *Novartis AG v. Union of India*, (2013) 6 SCC 1

⁵ Patents (Amendment) Rules, 2025; see Intellectual Property Enforcement in India 2026, Global Law Experts (2026), <https://globallawexperts.com/intellectual-property-enforcement-india-2026/>.

⁶ Trade Marks Act, 1999 (Act No. 47 of 1999); India IPR Toolkit, U.S. Patent and Trademark Office (2026 ed.), <https://www.uspto.gov/sites/default/files/documents/opia-apr26-toolkit-india.pdf>

⁷ *Lifestyle Equities CV v. Amazon Technologies, Inc. & Ors.*, 2025: DHC:1231; see Intellectual Property 2026 – India, Chambers and Partners Global Practice Guides, <https://practiceguides.chambers.com/practice-guides/intellectual-property-2026/india/trends-and-developments>.

⁸ Copyright Act, 1957 (Act No. 14 of 1957), as amended by the Copyright (Amendment) Act, 2012 (Act No. 27 of 2012)

Copyright protects the expression of an idea rather than the idea itself, and covers literary, dramatic, musical and artistic works, cinematograph films and sound recordings. Despite a mature statutory framework, enforcement remains uneven, with online piracy continuing to pose a persistent challenge for rights holders in the film, music and publishing industries.⁹

Designs, Geographical Indications and Other Rights

Industrial designs are protected under the Designs Act, 2000, which safeguards only the aesthetic, eye-appealing features of an article, expressly excluding features dictated by technical function a line Indian courts have consistently policed to keep design law separate from patent law.¹⁰ *The Geographical Indications of Goods (Registration and Protection) Act, 1999* protects region-specific products such as Darjeeling Tea, while *the Protection of Plant Varieties and Farmers' Rights Act, 2001* and *the Semiconductor Integrated Circuits Layout-Design Act, 2000* round out India's sui generis protections, the latter remaining largely dormant due to low filing activity.¹¹

Institutional Architecture and Enforcement

Patents, trademarks, and designs are managed by the Office of the *Controller General of Patents, Designs, and Trade Marks (CGPDTM)*, which operates under the Department for Promotion of Industry and Internal Trade.¹² While the Copyright Office handles literary and artistic works. When the Tribunals Reforms Act eliminated the Intellectual Property appeal Board in 2021 and moved its appeal and rectification responsibilities to specialized Intellectual Property Divisions of the Commercial High Courts, principally in Delhi, Mumbai, Kolkata and Chennai.¹³ Rights holders may additionally record trademarks, designs, copyrights and geographical indications with Indian Customs under the *Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007*,

⁹ Intellectual Property Rights in India: Laws and Procedures, India Briefing (updated Mar. 16, 2026), <https://www.india-briefing.com/news/intellectual-property-rights-india-laws-procedures-registration-14312.html>.

¹⁰ Designs Act, 2000 (Act No. 16 of 2000); Chambers and Partners, *supra* note 7

¹¹ Geographical Indications of Goods (Registration and Protection) Act, 1999 (Act No. 48 of 1999); Protection of Plant Varieties and Farmers' Rights Act, 2001 (Act No. 53 of 2001); Semiconductor Integrated Circuits Layout-Design Act, 2000 (Act No. 37 of 2000); India – Protecting Intellectual Property, International Trade Administration, U.S. Dept. of Commerce, <https://www.trade.gov/country-commercial-guides/india-protecting-intellectual-property>.

¹² Intellectual Property Rights (IPR) in India: A Comprehensive Overview, Record of Law (Feb. 3, 2026), <https://recordoflaw.in/intellectual-property-rights-ipr-in-india-a-comprehensive-overview/>.

¹³ Tribunals Reforms Act, 2021 (Act No. 33 of 2021); Record of Law, *supra* note 12.

enabling seizure of counterfeit imports at the border.¹⁴ Courts have increasingly shown a willingness to impose punitive damages for egregious infringement; in one 2026 patent dispute involving antenna technology, the Delhi High Court awarded damages exceeding seventeen million US dollars, in what was also the first Indian trial to use live transcription technology.¹⁵

Persistent Challenges

India is nevertheless listed on the US Trade Representative's Priority Watch List in its yearly Special 301 Report, despite its architecture, which reflects worries about data exclusivity in other industries for pharmaceutical test data, judicial backlogs, and inconsistent enforcement of copyright against piracy.¹⁶ The Commercial Courts Act, 2015 was intended to expedite IP litigation, but unfilled judicial vacancies and resource constraints have limited its impact in practice.¹⁷

Conclusion

India's IPR framework reflects a deliberate, if imperfect, attempt to reconcile the economic incentives owed to creators and inventors with broader public interest access to medicines, agricultural innovation, and cultural participation chief among them. As India pursues deeper trade integration and positions itself as a hub for innovation-led growth, the coming years will likely test whether its enforcement institutions can keep pace with the ambition of its statutory framework.

¹⁴ Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007; International Trade Administration, *supra* note 11.

¹⁵ Communication Components Antenna Inc. v. Rosenberger Hoch frequenztechnik GmbH & Co. KG & Ors., 2026: DHC:2665 (Delhi H.C., Mar. 30, 2026); Chambers and Partners, *supra* note 7.

¹⁶ International Trade Administration, *supra* note 11 (noting India's continued placement on the USTR Priority Watch List in the 2025 Special 301 Report).

¹⁷ Commercial Courts Act, 2015 (Act No. 4 of 2016), as amended in 2018; International Trade Administration, *supra* note 11