



FRAMEWORK OF INTELLECTUAL PROPERTY RIGHTS IN INDIA.

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ABSTRACT

India's Intellectual Property Rights (IPR) regime has evolved through distinct historical, legislative, and policy phases, culminating in a TRIPS-compliant legal framework that seeks to balance innovation incentives with public interest. While statutory development has been substantial, persistent gaps remain in enforcement effectiveness, judicial capacity, and policy coherence. This paper critically examines whether India's contemporary IPR enforcement mechanisms meaningfully translate legal protection into practical outcomes for innovators and rights holders. Using doctrinal analysis and judicial interpretation, particularly the Supreme Court's decision in *Novartis AG v. Union of India* (2013), the study argues that India's IPR regime prioritizes access and competition but suffers from fragmented enforcement and underdeveloped institutional capacity. The paper concludes that stronger analytical integration between policy objectives, judicial standards, and enforcement mechanisms is necessary to transform India's IPR system from a formally robust framework into a substantively effective one.

KEYWORDS :

Intellectual Property Rights, India, History , Evolution , Patents Act 1970, Copyright, Trademarks, Awareness, Enforcement, *Novartis v. India*, IPR Policy.



Research Question

To what extent does India's intellectual property enforcement framework effectively balance innovation incentives with public interest, and what structural limitations undermine its practical effectiveness?

Objectives

1. To critically analyze the evolution of India's IPR framework in relation to development-oriented policy goals.
2. To examine enforcement mechanisms through judicial interpretation rather than procedural description.
3. To assess the role of *Novartis v. Union of India* in shaping India's patentability standards and innovation policy.
4. To identify analytical gaps between legislative intent, judicial doctrine, and enforcement outcomes.
5. To propose targeted policy reforms grounded in identified enforcement deficiencies.

LITERATURE REVIEW:

India's IPR framework has evolved through three main stages:

- 1. Pre-modern roots** – Ancient cultural and community practices valued originality and shared knowledge, such as through guilds and Ayurveda.
- 2. Colonial influence** – British statutes introduced formal intellectual property laws between 1856 and 1911, laying the foundation for exclusive legal rights.
- 3. Post-independence reform** – Modern laws like the *Copyright Act (1957)*, *Patents Act (1970)*, *Trade Marks Act (1999)*, and *Geographical Indications Act (1999)* reflected a focus on public welfare and national development. The *National IPR Policy (2016)* further unified these efforts.

Scholars often highlight the Patents Act 1970 for its development-oriented approach and note how TRIPS-related amendments (1999–2005) reshaped India's IP landscape. Despite these advances, studies consistently point out gaps in enforcement, delayed litigation, limited expertise, and growing digital challenges, and so it has become hard for a common person to find justice and too aware layman, a procedure has been provided.

The *Novartis v. Union of India (2013)* judgment stands out for clarifying the standard of innovation under Section 3(d), striking a balance between access to affordable medicine and innovation. Ongoing research also discusses the external pressures from global trade partners and the uneven implementation of IP administration, such as customs monitoring and IP cells.



METHODOLOGY :

This study adopts a doctrinal legal research methodology, focusing on statutory interpretation, judicial reasoning, and policy analysis. Primary sources include major Indian IPR statutes and landmark judicial decisions, with emphasis on constitutional principles, patent law jurisprudence, and enforcement provisions. Secondary sources consist primarily of peer-reviewed journals, authoritative legal commentaries, and policy documents. Rather than sequentially describing statutes, the paper employs a thematic analytical framework, examining how legislative design, judicial interpretation, and enforcement institutions interact. The analysis evaluates whether enforcement mechanisms operationalize the normative goals embedded within India's IPR laws, particularly innovation promotion, access, and competition.

DISCUSSION :

Introduction

In today's world, ideas and creativity are some of the most valuable resources we have. Intellectual Property Rights (IPR) are the laws that protect these creations of the mind, whether it's a new invention, a piece of art, a brand name, or an innovative design.

These rights give creators the power to control how their work is used and to benefit from their own efforts. By doing so, IPR not only rewards individual creativity but also motivates people and organizations to keep inventing, designing, and sharing new ideas with the world.

At a larger level, intellectual property protection helps build a fair and competitive economy. It ensures that those who contribute original work are recognized, while also encouraging the spread of knowledge and innovation.

Origin of Intellectual Property Rights in India

The origin of Intellectual Property Rights (IPR) in India dates back to ancient times, when creativity, innovation, and authorship were deeply respected within society. Though formal codified laws were absent, the recognition of intellectual effort was ingrained in India's ethical, social, and cultural systems. Ancient Indian civilisation treated knowledge and creative expression not merely as individual achievements but as sacred contributions to the collective good. This moral foundation shaped the country's later understanding of intellectual property, where originality and moral rights of authors and creators were implicitly safeguarded long before the advent of modern legal systems.



EVOLUTION OF IPR IN INDIA: FROM MORAL RIGHTS TO REGULATED MONOPOLIES

India's engagement with intellectual property predates formal legal codification. Pre-modern traditions emphasized moral authorship and community stewardship of knowledge. However, colonial intervention transformed these ethical norms into exclusive proprietary rights designed to serve imperial commercial interests. Post-independence India consciously departed from this colonial legacy. The Patents Act, 1970, exemplified a development-oriented model that restricted monopolies in essential sectors, particularly pharmaceuticals. Subsequent amendments under TRIPS obligations altered the scope of protection but did not abandon India's public-interest orientation

This historical trajectory reveals a persistent tension: India's IPR system is legally modern yet normatively cautious, designed to prevent excessive monopolization while encouraging genuine innovation.

ENFORCEMENT AS THE CENTRAL WEAKNESS OF INDIA'S IPR REGIME

Despite comprehensive legislation, enforcement remains the most fragile component of India's IPR framework. Courts, administrative agencies, and customs authorities operate within a fragmented institutional structure that often fails to deliver timely or deterrent remedies. Judicial delays, inconsistent expertise, and limited coordination among enforcement agencies dilute the effectiveness of statutory rights. While interim injunctions and border measures exist in theory, their application remains uneven. This disconnect illustrates a broader systemic issue: legal recognition of rights has outpaced the institutional capacity required to enforce them meaningfully.

Key dates at a glance

YEAR EVENTS

1856

Act VI of 1856 – first patent-type law in India.

1859

Act XV of 1859 – revised patent privileges.

1872

Patterns & Designs Protection Act (Act XIII) introduced.

1911

Indian Patents & Designs Act, 1911 – major consolidation.



1957

Copyright Act, 1957 passed after independence.

1970

Patents Act, 1970 enacted in independent India.

1999

Major amendments (and other laws like GI Act) reflecting global standards.

Additional Notes & Context

1. The early statutes were heavily influenced by British/UK law, adapting frameworks of “exclusive privileges” for inventions.
2. The Patents Act 1970, in particular, was tailored to India’s development needs: emphasizing process patents (especially in pharma), excluding food, agriculture, and atomic energy from patentability, and requiring “working” of patents in India.
3. The amendments in 1999/2002/2005 were largely driven by India’s commitments under the World Trade Organization TRIPS Agreement (1994).
4. Design, GI (geographical indications), and trademarks saw significant modernisation in the late 1990s/early 2000s to align with global IP norms.
5. Enforcement, administration and procedural reforms (digitisation, workflow, reducing backlog) are increasingly important in recent years.

CASE ANALYSIS:

NOVARTIS AG v. UNION OF INDIA (2013)

The Novartis decision represents a defining moment in Indian patent jurisprudence. Rather than merely rejecting a pharmaceutical patent, the Supreme Court articulated a substantive standard of innovation under Section 3(d) of the Patents Act, 1970. The Court’s reasoning reflects a deliberate policy choice: patent protection must reward genuine therapeutic advancement, not incremental modifications that extend market exclusivity. This interpretation aligns patent law with constitutional values of access to healthcare and competition.



MEANING & TYPES OF IPR

Intellectual Property Rights (IPR) refer to the legal rights granted to individuals or entities over their intellectual creations. These rights allow creators to control, use, and protect their original works from unauthorized exploitation. At their core, IPR systems aim to encourage innovation and creativity by ensuring that creators receive recognition and economic benefit from their intellectual efforts.

Types of Intellectual Property Rights

1. Copyright

Copyright protects original works of art, literature, music, films, software, and other creative expressions. It also gives exclusive rights to creators to reproduce or perform their work.

The protection period for this is the lifetime of the creator and 60 more years after his death, in India. If there are two creators on one work, which is also known as a joint creator, then the period will be given to the lifetime of the last survivor plus 60 years. And if the work is unknown, then 60 years from the date of publication, and if the creator comes into existence, then the protection period for the work will be the lifetime of the creator and 60 more years after his death.

It gives a monopoly right to the creators so that they can earn from their own work. However, one can use the work by taking the permission of the owner, and in some cases, the work can be used without taking permission, also, which are-

- A) If the work is not copied totally but used for commenting on it, criticising it or analysing for the purpose of education, learning, etc.
- B) If the work is already published and it's factual, such as a research paper or textbook, rather than creative or unpublished, it can be used by others without permission.
- C) If the small portion is only copied, and it's not the main part of the original work.
- D) If the copying is not going to lower the sales of the original work, then it's considered a fair use of the work.

Copyright term has been brought from the U.S. Constitution to promote the owner's work as well as the growth of science, innovation and unique artistic work. It is just not helping in personal growth, but also in societal development. Owners gets recognition and financial earning and society gets the opportunity to benefit from it. For example, a Producer made a movie which became a hit. By making it, he earned the money as well as the recognition in society, and society is getting entertained by watching it. Which is proving it's not just a medium of individual growth, but society as a whole.



Section 22 of copyright talks about giving the exclusive rights to the owner on the categories like literary, dramatic, musical, and artistic, where the real owner can get the exclusive rights on these. Whenever one tries to do unauthorised acts such as copying, distributing, or performing, there can be a civil action filed in a District court under section 62 of copyright act. Injunctions, damages, fines and imprisonment for serious piracy are the remedies for infringement that are available in the act itself.

References : Copyright Act, 1957

2. Patent

A patent safeguards new inventions or discoveries that offer a novel and useful solution. It is an exclusive right granted to an inventor by the sovereign authority of a country, which is the government, to make use of or sell a new or useful invention of their own.

However, the period is very limited, which is 20 years from the filing date. To keep it patented on must pay the annual fees; otherwise, it can go in public domain. Paying annual fees starts third year onwards. Products, processes and machines that are novel are covered under this, such as a new type of medicine, machinery, or technology.

The exclusive right is given to encourage innovation so that the innovator can gain through licensing or commercialisation. Apart from this, it has limitations as well, which states that the patents are valid only in the country where they are granted.

One can easily get their work patented if it's novel, creative and has the capability of being used in industry. But there are certain things which can't be patented even if they're new, such as the discovery of minerals which were already present on the earth, a new way of solving mathematical sums or new rules made for a game.

Section 48 says that no one can use it without taking permission from the owner. If they do, it's called infringement. In case of infringement, the suits can be filed in the District Court. Moreover, when a defendant claims the patent to be invalid, the process is known as counterclaim for revocation, the whole case transfers to the High Court under section 104 of the Patent Act, 1970. Suits concerning infringement of patents are dealt under section 104-115 of the act, which includes the burden of proof and reliefs in suits in case of infringement and also the power of the court to declare when no infringement has happened.

Section 108 deals with the reliefs in case of patent infringement, which are-

- a) Stopping the infringers from using, making or selling the patented invention.
- b) The owner can get compensation for the loss incurred because of the infringement.
- c) The infringer must give up the money earned by the infringement.
- d) The court can order the seizure, destruction, or confiscation of the infringing product without paying any money to the infringer.

References: Patents Act, 1970.



3. Trademark

A trademark protects brand identities, names, logos, symbols, or taglines that distinguish one business from another. It is associated with a service or product of a company, which is very unique in nature. When a trademark is registered, it can't be used by any third party without their permission. It is protected for 10 years but can be renewed indefinitely.

Section 2 (m), Trade Mark Act 1999- Signature, name, word, letter, numeral, device, combination of colours, shape of good or any device is considered as a mark. There are many trademarks which are registered in India, helping most importantly, to identify the company, such as the swoosh symbol for Nike, Half eaten apple with the leaf for Apple, and the yellow "M" for McDonald's company.

Anyone can register their brand for a trademark. But there are certain grounds available as well, which can lead to its refusal. The ground for refusal are mentioned under section 11 of the act. Some of the grounds are-

- a) If the trademark is related to a good or service that is already registered.
- b) If the trademark is similar to a registered trademark.
- c) If the trademark violates someone's existing trademark rights, it can't be registered.

Section 29 deals with acts of using a similar work without taking permission or using a business name that causes harm to the original company's reputation, which is known as infringement. In case of infringement, the suits can be filed in the District Court under section 134 of the Trade Marks Act. Injunctions, damages or destruction of infringing items are available as remedies.

References : Trade Marks Act, 1999.

4. Designs (Industrial Designs)

This right protects the aesthetic or visual features of a product, its shape, pattern, or style, not its function. People nowadays tend to buy more of those products that look visually appealing rather than just buying an ordinary looking product. So the companies fight over designs that have more capacity to attract the consumer. In this process, the Design Act 2000 plays a vital role in protecting the design. It also helps the design owner (company) in restraining others from using the same design. The design covers two-dimensional aspects, such as the pattern of Products as well as three-dimensional aspects, such as the shape of products. For example, the curve design of a perfume's bottle or the particular shape of a car.

A design to be protected under act it must be novel, should not be copied, and must be an original design. However there are a few designs which can't be registered under the act, even though its new, such as maps, cartoons, building structure etc.

It is protected for ten years and can be extended by another 5 years, which is mentioned under section 11 of the act itself.



Copying someone else's design is called infringement or the piracy of a registered design under section 22 of the act, which includes

- a) A company copying the design of another company's design without permission
- b) Importing and selling or promoting the company's product that copies the design of another company without the owner's permission.

In case of infringement, the owner can ask for fixed money as a penalty or file a civil case in the District court or higher court to get compensation for damages or to stop the infringing company from copying. However, if the defendant challenges the validity of the design, the case will be totally transferred to the High Court for the decision. Compensation and destruction orders are remedies for the infringement.

References : Designs Act, 2000.

5. Geographical Indications (GI Tags)

GI tags protect unique products that come from a particular region and possess qualities or reputations. It also covers agricultural and manufactured products, either handcrafted or made by machines. It helps in protecting the product from unauthorised use, to make it nationally and internationally recognised, so that premium pricing can be set for those products. In the long run, it helps in preserving the skill and knowledge of a certain place or community. eg- Banarasi Silk, Pashmina Shawl Or Kanchipuram Silk, etc.

It is protected for 10 years from the date of registration, and it can be renewed in every ten years, under section 18 of the Geographical Indications of Goods (Registration and Protection) Act, 1999.

Generally, a GI name can be registered, but there are a few situations that restrain it from being registered, which are discussed under section 9 of the act-

- a) If the GI name is misleading the public about the origin of the goods.
- b) If the name, after being registered, would break the existing law.
- c) If it includes any kind of offensive or wrong words.
- d) If it would hurt the sentiments of any religion.
- e) If the GI name has such a nature that the court can't protect it.

If a GI is used on the goods that are coming from another place and still using the registered GI name on those goods and not meeting the required quality, it's called infringement, as it's misleading the public. In case of infringement, the case can be filed in the District Court or a higher court under section 66 of the act.

Injunction, Damages, give up of profits that are made by using the registered GI name, or delivery or distribution of those infringing products are available as remedies under section 67 of the act. Apart from this, the court can also give an ex-parte injunction. But the defendant won't be given punishment of paying heavy damages if he proves that he was unaware of the fact that GI was registered, and the next minute only stopped selling the products when he got the information about it.

References : Geographical Indications Act, 1999.



6. Trade Secrets

Trade secrets cover confidential business information that provides a competitive advantage. They stay protected as long as secrecy is maintained. If it's revealed than the company can loose compeition, this is the main reason why a trade secret never goes public. A company tends to keep it as secret as possible ,as it contains formulas, methods, processes, etc. Example - Coca-Cola- the formula for making it is kept secret as it helps the company to hold a unique position in the market.

Everything can't be kept as a trade secret; to qualify as this, it must have a certain quality, such as-

- a) It must be secret and has never been made public.
- b) It must add economic value to the business, via getting compeitive advantage.
- c) The owner must make enough efforts to keep it secret.

To keep the trade secret secret, companies take the help of an agreement, as there is no formal registration for this. So Non-disclosure agreements(NDAs) are signed between companies and employess. For secrecy it depends on companies for how long they are able to keep it safely becuase it can be kept for an unlimited period of time.

In case of infringement, the owner can file a civil or criminal case against the infringers. A civil action can lead to an order for payment of compensation for the damages made by infringers or an injunction against the acts of infringers.

References : Indian contract/common law, Information Technology Act, 2000

ENFORCEMENT OF IPR IN INDIA

India's IPR enforcement framework combines civil remedies, criminal sanctions, and border control mechanisms. Courts play a central role by granting interim injunctions, ordering search and seizure, and appointing local commissioners. Customs authorities, under the Customs Act and IPR Enforcement Rules, may intercept infringing goods at borders upon recordation of registered rights.

Enforcement typically begins with market monitoring and cease-and-desist notices, followed by civil or criminal proceedings where necessary. Remedies include injunctions, damages, account of profits, seizure of goods, and penal consequences in appropriate cases. The National IPR Policy further supports enforcement through institutional coordination, awareness, and capacity building.

Recent developments indicate stronger judicial intervention, improved customs mechanisms, and the emergence of specialized IP cells in several states, reflecting a gradual strengthening of India's IPR enforcement landscape.



LIMITATIONS

The enforcement and protection of Intellectual Property Rights (IPR) in India continue to face several interconnected challenges and limitations that affect their overall effectiveness. A major concern is the persistent delay in litigation caused by heavy court backlogs and the absence of specialised IP benches in many jurisdictions, which diminishes the practical value of legal remedies by forcing rights holders to endure prolonged proceedings. This problem is compounded by the lack of specialised expertise among enforcement agencies such as the police and customs authorities, as well as within certain courts, often resulting in inconsistent interpretations and outcomes. Effective enforcement is further weakened by inadequate resources, including limited manpower, insufficient training, and lack of technological support, particularly in identifying and intercepting counterfeit and pirated goods. Many instances of infringement also remain under-reported, as rights holders are discouraged by procedural delays and costs, while damages and penalties imposed in several cases fail to create a strong deterrent effect. The rapid expansion of digital platforms has intensified these difficulties, with online piracy, mirror websites, unauthorised streaming, and cross-border infringements presenting complex jurisdictional and enforcement issues. Counterfeiting and piracy remain widespread across multiple sectors such as software, films, music, apparel, footwear, and pharmaceuticals, while patent enforcement faces additional hurdles, especially at borders, where technical assessment requirements make swift customs intervention difficult. These systemic shortcomings have also affected India's international reputation, reflected in its placement on the United States Trade Representative's "Priority Watch List" in 2025 due to concerns over IP enforcement. Alongside these challenges, several structural limitations persist, including limited public awareness of IPR protection and registration procedures despite the prevalence of innovation, procedural complexity and lengthy registration timelines that discourage creators, and gaps in existing laws that do not always ensure comprehensive protection or stringent enforcement. Judicial delays in resolving disputes further erode confidence in the system, while the ease of copying and distributing digital content, often anonymously or from outside national borders, complicates monitoring and action. Additionally, the high costs associated with filing, maintaining, and enforcing IPRs pose a significant barrier for small creators and startups, even though government initiatives such as awareness programmes, e-filing platforms, fast-track mechanisms, contractual safeguards, and reimbursement schemes for MSMEs offer partial relief but remain underutilised.



DISTINGUISHING LEGAL DESCRIPTION FROM ANALYTICAL INSIGHT

Much discourse on Indian IPR remains descriptive, focusing on statutory provisions rather than functional outcomes. This paper departs from procedural narration and instead interrogates whether enforcement mechanisms fulfill their intended regulatory role. The persistence of piracy, counterfeiting, and infringement suggests that enforcement is not merely a legal issue but an institutional and policy failure. Without specialized courts, trained enforcement personnel, and coherent administrative coordination, statutory rights risk becoming symbolic rather than operative.

FINDING OF RESEARCH

The research findings reveal that India's intellectual property regime is deeply rooted in a long-standing cultural respect for creativity, which provided the moral and philosophical basis for the later development of formal intellectual property laws. Following independence, India established a comprehensive legal framework governing patents, copyrights, trademarks, designs, and geographical indications, which was further strengthened through amendments made in the post-TRIPS era to align with international obligations. A distinctive feature of the Indian approach is its attempt to balance innovation with public interest, most notably reflected in *Novartis v. Union of India*, where strict standards of patentability were applied in the pharmaceutical sector to prevent evergreening and to safeguard access to affordable medicines. Despite this robust legal structure, the research highlights persistent weaknesses in enforcement, including procedural delays, limited technical expertise within enforcement agencies, inadequate institutional resources, and penalties that often fail to deter infringement effectively. These challenges have been amplified in the digital age, as online piracy and cross-border violations have evolved faster than conventional enforcement mechanisms. High costs associated with filing, prosecution, and maintenance of intellectual property further discourage small enterprises and individual creators, notwithstanding the existence of certain government reimbursement schemes. At the same time, positive developments such as increased awareness initiatives, improved customs procedures, and growing digitisation of IP administration indicate gradual progress. Nevertheless, continued international scrutiny of India's IP enforcement framework underscores the need for stronger compliance measures and sustained, constructive engagement with global intellectual property norms.

RESEARCH-DRIVEN POLICY RECOMMENDATIONS

1. Specialized IP Benches: Establish dedicated IP benches with technical expertise to ensure consistency and efficiency.
2. Enforcement Capacity Building: Mandatory IP training for police, customs, and judicial officers.



3. Data-Driven Enforcement: Institutionalize empirical monitoring of infringement patterns and enforcement outcomes
4. Targeted MSME Support: Simplify procedural compliance and expand financial assistance schemes.
5. Digital Enforcement Framework: Develop coordinated online infringement monitoring mechanisms.
6. Doctrinal Expansion: Extend the analytical rigor seen in Novartis to other IP domains through judicial guidance. Each recommendation directly addresses an identified analytical gap between legal recognition and enforcement effectiveness.

CONCLUSION

India's IPR framework reflects a sophisticated balance between innovation and public interest at the normative and judicial levels. However, enforcement mechanisms remain institutionally weak and analytically underdeveloped. The disconnect between legislative ambition and enforcement capacity undermines the system's credibility and effectiveness. For India's IPR regime to function as a true engine of innovation, reform must move beyond statutory expansion toward institutional strengthening and analytical coherence. Only then can intellectual property protection evolve from formal compliance to substantive impact.