

## THE GLOBAL INTELLECTUAL PROPERTY LANDSCAPE: LEGISLATIONS & DIVERSE PERSPECTIVES WORLDWIDE

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### ABSTRACT

*Intellectual Property (IP) is a dynamic and vital component of the modern global economy, encompassing a wide range of creative and innovative endeavours. This article explores the expansive definition and significance of IP, emphasizing its role in stimulating innovation, fostering creativity, and propelling economic prosperity. The global landscape of IP is witnessing a surge in patent and copyright filings, with millions of applications being submitted each year. Notable trends and challenges in countries like China, the United States, and India are discussed, highlighting their approaches to IP protection and their respective issues.*

**Keywords:** Intellectual Property, IP Protection, Innovation, Global Landscape, Development.

### INTRODUCTION

A fast Google search for the definition of Intellectual Property yields the following definition: "IP is an intangible property that is the result of creativity such as patents, copyrights, and so on." The definition itself is unimaginative. What we think IP is, is only the slightest tip of the iceberg. According to the World Intellectual Property Organisation (WIPO) "Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce."<sup>1</sup> For a definition that itself is so vast the possibilities of results and creations become endless.

To protect something that is proliferating and developing at such a rapid pace, laws must be comprehensive and must include few to no loopholes. The importance of Intellectual Property protection stems from its role in stimulating innovation, motivating creativity, and propelling economic prosperity. Intellectual property rights ensure that people and businesses' inventive efforts are acknowledged and rewarded, encouraging them to engage in research, development, and artistic expression.

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<sup>1</sup> WIPO, 'What is Intellectual Property?' <<https://www.wipo.int/about-ip/en/>> accessed 3 October 2023

Intellectual property protection not only protects the rights of artists and innovators, but it also fosters fair competition, consumer trust, and international trade. It promotes information sharing while providing legal repercussions for violation, eventually striking a critical balance between rewarding innovation and serving the larger welfare of society. If one wants to grasp the world of IPR even a little it should be done with an analogy that states that 'IP is a canvas where people use their creativity as labour to build a beautiful painting and the rights provided by law is the frame is protecting it.

Understanding the comparative lens, it is clearly visible that it's only forward and upward worldwide for IP in this new digital age. Universally there has been a sharp rise in the number of patents and copyrights filed.

According to the WIPO, 3.4 million patent applications were filed in 2021, the highest yearly number ever recorded.

In 2021, global patent filings increased by 3.6%. The filing of trademarks and industrial designs increased by 5.5% and 9.2%, respectively. Global patent filings topped 3.4 million, trademark filings were 18.1 million, and industrial design filings totaled 1.5 million. Utility model applications, a subset of patent applications, fell by 2.5% to 2.9 million.<sup>2</sup>

In 2022, a projected 278,100 PCT (Patent Corporation Treaty) foreign applications were filed, up 0.3% from 2021 and continuing the rising trend begun in 2010.<sup>3</sup>

### **The top Countries for Patent Applications in the year 2022 were:**

- China
- The United States
- Japan
- The Republic of Korea
- Germany

Now examining a few nations' approaches to and issues with respect to IP:

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<sup>2</sup> WIPO, 'IP Facts and Figures' WIPO Statistics Database (February 2023)

< <https://www.wipo.int/en/ipfactsandfigures/patents> > accessed 3 October 2023

<sup>3</sup> WIPO, 'International Patent Applications Defy 2022 Challenges, Continue Upward Trend' (February 2023)

< [https://www.wipo.int/pressroom/en/articles/2023/article\\_0002.html](https://www.wipo.int/pressroom/en/articles/2023/article_0002.html) > accessed 4 October 2023

## CHINA

A country that is known for its counterfeit and copy products is also the country out of which the highest number of patents are filed. It is not a surreptitious fact that China is a very contentious nation it has a powerful influence on global politics and economics and so it does also on the IP market. China as a state also has seen to take advantage of the loopholes of the system to infringe patents and copyrights by methods such as reverse engineering and etc. To track and gain advantages of technology and creativity, they use more creativity and technology.

In 2001, China formally joined the WTO. China's legal administration of IP laws was significantly influenced by the Trade-Related Aspects of Intellectual Property Rights (TRIPS), which became an important international framework. China attracted widespread criticism in the early 2000s for its lackadaisical approach to intellectual property protection. Counterfeiting and piracy were widespread, inflicting harm to both domestic and international firms. Recognizing the need to alter this attitude, China began a reform journey.

The IPR regulations in different regions of China vary, and some still face problems like Intellectual Property theft and counterfeiting. That being said China has now visibly started paying more heed to their domestic IPR laws with a change in the laws to increasing punishments and etc. China is transforming from being perceived as a hub for counterfeit goods to becoming a country that takes IPR seriously. China has strengthened enforcement by using specialized IP courts and tougher sanctions for infractions. The maximum punishment for violating copyright laws was increased by the Chinese government between 2019 and 2020. It is reported that more than three times as many IP-related lawsuits were filed in China between 2016 and 2020.

According to an article in the Financial Times, the number of IP-related cases filed in China in 2020 was more than three times the level for 2016. This is due to Chinese businesses being increasingly defensive of their own IP rights.<sup>4</sup> China is always seen as a dominant veto power to the world but due to political unrest, institutional conflicts, and etc enforcing the law isn't always a cakewalk for them either.

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<sup>4</sup> (**Maki Sagami**, Nikkei staff writer, The Financial Times Limited, "China goes on an intellectual property offensive" (SEPTEMBER 27 2021))

## USA

Being the “Land of the Free and the Home of the Brave” the United States has undoubtedly utilized technology as a tool to succeed economically and culturally the best in my opinion. The United States of America is a country that protects the fundamental rights of its citizens immensely and things that aren't paid much heed in other developing countries are taken into serious consideration and discussed there. The United States has kept Intellectual Property and its rights at the epicenter and foundation of all modern businesses and advancements today.

A study by the Commerce Department found that approximately 40 million employees in the US are supported by companies that depend heavily on intellectual property. Over \$5 trillion, or 34.8% of the GDP, is what they represent.<sup>5</sup>

In the US, trade secrets, copyrights, trademarks, and other intellectual property rights are all covered by comprehensive legal frameworks that provide IPR protection. A few examples of significant laws include the:

- Patent Act (1790),
- Copyright Act (1976),
- Lanham Act, (Trademark Act of 1946) and
- Defend Trade Secrets Act (2016).

The nation has a very well-crafted, robust and intricate system with the United States Patent and Trademark Office (USPTO) being its primary regulating body. It has a strong patent system that promotes innovation and protects inventors' rights. It grants design patents (for decorative designs) as well as utility patents (for inventions and techniques). The office tackles a number of hurdles in the arena of copyright concerns including things like fair use orphan works digital rights etc. In the United States, copyright protection extends to original works of authorship such as literary, musical, and artistic works. The Copyright Office is in charge of copyright registration. The Digital Millennium Copyright Act (DMCA) addresses digital copyright protection concerns.

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<sup>5</sup> Darrell M. West, 'COMMENTARY OP-ED India-U.S. relations: Intellectual property rights' Brookings India (June 4, 2016) < <https://www.brookings.edu/articles/india-u-s-relations-intellectual-property-rights/>> accessed 4 October 2023

‘Fair Use and Fair Dealing’ The United States recognizes the notion of "fair use," which permits the restricted use of copyrighted content for purposes such as criticism, commentary, news reporting, teaching, and research without the permission of the copyright owners. This is a concept maintained by a lot of other countries including India. The USA follows the principle of – “Better Defence means more Development” and rightfully so.

According to the International Intellectual Property Index, the United States has ranked at the top position for consecutive years and holds the highest score in legislation and regulations that safeguard artists and creators. One must always update in order to stay relevant and that’s where the US wins in accordance with their IPR legislations.

## **INDIA**

India is thought of as a relatively young nation and is undoubtedly in the process of expanding, with plenty of room to grow in all market areas. India is a nation that inherited a legal system after centuries of foreign jurisdiction, a legal system that included various forms of IPR protection. With that, it inherited all its problems as well. As it takes into consideration both domestic and global demands, the Indian Intellectual Property industry and its protection are dynamic and continually evolving. Keeping up with legislative developments and communicating with Intellectual Property practitioners is essential for individuals and organizations navigating the IPR landscape.

The government strongly favours promoting domestic products and concepts- ‘MAKE IN INDIA’ and IP is a powerful wave in this ocean. Since there are many productive mindsets in India waiting to be encouraged and identified, laws and regulations have a significant impact on the development of the IP business. One of the biggest and most dynamic economies in the world, India has been strongly working to improve its IPR system over time.

Legislation includes the:

- Patents Act (1970),
- Copyright Act (1957),
- Trademarks Act (1999), and
- Geographical Indications of Goods (Registration and Protection) Act (1999).

These laws have been amended over time to address evolving needs and international obligations. India grapples with the highest level of physical and online piracy which affects various industries including entertainment software publishing all of this points towards negatively affecting IPR protection.

My perspective is that, still the major problem that acts as one of the biggest hindrances for IPR in India is the lack of awareness. There remains a need for greater awareness and more importantly education about the importance of IPR amongst businesses, creators and moreover the general public this will create the actual wave of change that India needs right now to get ahead in this race. If there is an active and systematic increase even in the manpower the amount taken for grants will reduce facilitating the process. Still, there has been an active change in recent years, in September 2021 the IPR landscape in India saw tremendous and significant developments, there are ongoing efforts to strengthen and harmonise IPR laws with international standards. There have been policy debates. The government, business, and civil society are engaged in continuing policy debate and collaboration to solve IPR concerns and develop balanced policies. In both local and international markets, India has made initiatives to preserve and promote its geographical indications (GIs). This includes popular items such as Basmati rice and Darjeeling tea. A big step towards creating an identity for these items globally.

Digital platforms for IP registration and enforcement have been established, making access to services and information easier for stakeholders. An ease in the process will naturally create an inclination towards the world of IPR and recognising it more. Overall streamlining of patent and trademark grants is something that the government has done. Efforts have been undertaken to expedite the patent examination process, minimize pendency, and improve the quality of patents awarded. The Indian government has participated in various international trade agreements and has taken steps to enhance the protection of Intellectual Property rights. India has expressed its commitment to creating a stronger IP environment and has initiated IP reforms, particularly in the pharmaceutical sector and is innovating and creating wonderfully.

Despite these positive efforts, India continues to rank poorly on the Global Intellectual Property Center (GIPC) index, which assesses IP protection and enforcement, so there is a lot of scope for improvement still.

India lags behind many countries in terms of formal patent applications, with an annual average of approximately 9,500 filings compared to 269,000 in the United States. In contrast to the United States, there is insufficient economic encouragement for Intellectual Property in India, leading to limited incentives for innovation. The GIPC also highlights other concerns, such as the historical and ongoing use of compulsory licensing for non-emergency situations, challenges in enforcing IP rights, and significant levels of both physical and online piracy in India. So very visibly yes there is a need for systematic growth and development but India has definitely started seeing this canvas of IP and has started to put all brushes and tools together.

## CONCLUSION

In conclusion, in the face of accelerating technical breakthroughs and shifting economic realities, the global intellectual property environment is experiencing a transformational change. As technology advances, new challenges in the IP area have emerged. Since we all know that technology won't stop developing anytime soon, we can expect that these challenges will only worsen until they are resolved worldwide with practicality and sensitivity.

These include issues with Intellectual Property in the digital age, such as data privacy, online infringement, and how IP works with cutting-edge technology like artificial intelligence and 3D printing. While intellectual property rights constitute essential for innovation and creativity, there is continuous discussion over how to strike the correct balance between safeguarding these rights and advancing public interests such as access to information, inexpensive treatments, and cultural exchange.

In this new era economy, IP will undoubtedly do a lot of backseat driving, and it is critical that legislation all across the world enforce seatbelts even in this backseat.