



# REALM OF IP- EMERGING AND DYNAMIC INVESTIGATION

*Intellectual property is indeed a creation of human intelligence that is always present around us, both inside and externally, and on which we exist. It's critical to evaluate the influence of IPRs on creativity, the economy, and society, and afterwards put in place the necessary resources, tools, regulations, and authorities to enable a functional IP system. IPRs are increasingly taking on extra responsibilities as a result of the interplay between globalised markets, national authorities, and local norms.*



**Kanhaiya Singhal**  
BA-LLB student, PES University

*Though the roads we travelled were littered with glaring errors and dark alleys, the fact that we recognized the flaws and reimagined today's Intellectual Property says something else about us: we can change, just as the concept of property has transformed from tangible property to intangible assets to intellectual property in the era of digital transformation, the internet, and artificial intelligence. The notion of IPR has never been redundant or static; it has developed through time. This will continue to do that as new aspects of law & technology emerge on a regular basis.*

## INTRODUCTION

Tangible properties, be it, movable or immovable, have a physical structure and presence they can be possessed. They have been acknowledged as goods since time immemorial. On the contrary, intangible properties have only been accepted as properties in quite recent past, let alone affording safeguard to them under IP Rights.

A brand has a lot of Intellectual Property Rights (IPRs) built around it. Taking an example of the most common requirement nowadays- a Smartphone, it is protected by multiple layers and layers of IP rights. The product name, the logo of a brand, words coupled with the logo, color combination used or the design and size of the logo, these are all protected under Trademark laws<sup>i</sup>. Similarly, the innovative technologies used inside a phone are protected by Patent laws<sup>ii</sup>.

The cover-case of a phone, its water proof materials, its networking and data storage pattern technologies, the sensors, the electromagnetic applications and other features are all protected as Patents. Further, the source codes written by coders underlying programmes in a phone are protected by Copyright laws<sup>iii</sup>.

Thus, Intellectual Property is a creation of human intellect which always surrounds us, something that is internal and external to us, something that we live upon.<sup>iv</sup>



According to Article 2 of World Intellectual Property Organization (WIPO), the international forum for intellectual property, "Intellectual Property (IP) refers to the creations of mind, such as inventions; literary and artistic works; designs; and symbols, names, and images used in commerce."

### RESEARCH OBJECTIVES

The following are the primary objectives for authoring this paper:-

- To understand the domain of Intellectual Property Rights.
- To understand the realm of IP as inevitable and dynamic domain.
- To understand the changes IP has gone through during these years.
- To understand the current IP system.
- To understand recent developments in IP system.
- To understand the future of IP system.

### RESEARCH METHODOLOGY

This work was written using a doctrinal research technique that included descriptive examination of secondary data sources. All of the resources used are reliable and trustworthy. Secondary data was derived from a variety of relevant books, publications, research papers, and Master's theses provided by different scholars and published in sources on the internet, online publicly available journals, the provisions of the Indian Constitution, statistical as well as non-statistical data from government bodies, news stories published by numerous global news agencies, and judicial case laws as well as case analysis from articles, journals, and reporters such as SCC and Manupatra. For this research work, the researcher gathered information from a variety of credible websites.

Many research scholars have written and presented their opinions on this topic, either directly or indirectly, and this research article includes those works as well as a thorough research study of those academic papers. In this work, the researcher does use and examines several court cases involving human rights violations; the study is conducted by the researcher in accordance with requirements and materiality of the instances.

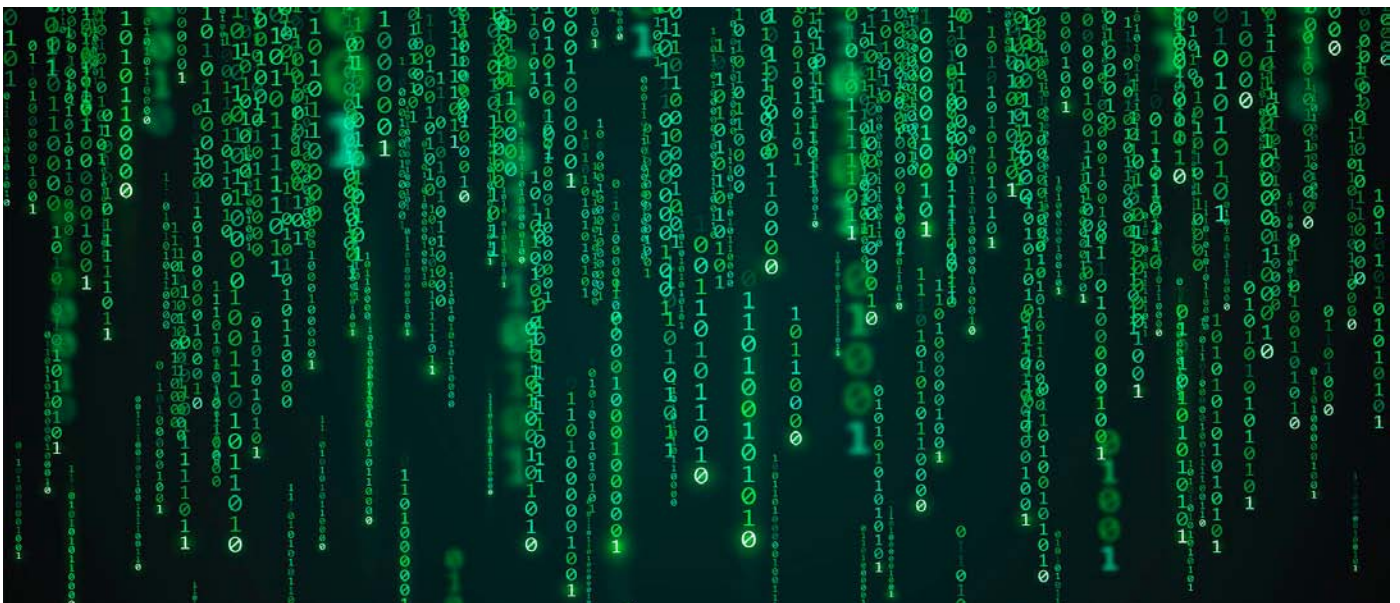
### RESEARCH QUESTIONS

In this paper, researcher is searching answers to the following mentioned questions:-

- What is intellectual property?
- Is IP a static or dynamic realm, if dynamic, how?
- How IP has evolved during all these years?
- What is the current system of IP?
- What are the recent developments in this field?
- What is the future of IP system?
- How IP system is enlarging and emerging day- by- day?

### THE CURRENT IP SYSTEM

Traditionally, the IP system has helped to create certainty in the marketplace by enabling rights holder to confidently defend and commercialize their IP. Intellectual Patent Offices, for their part, have focused their role on examining applications, registering, administering and granting IP rights (IPRs).





Applications for registering IPRs maintain a steady ascending figure and, in 2020, reached more than 3.5 million applications for patents, 2.4 million for utility models, 14.9 million for trademarks, and 1.7 million for industrial designs, outpacing global economic growth<sup>vi</sup>.

IPRs are growing both in number as well as in complexity, mainly due to the shifting nature of the innovation to which they are all linked. Innovation has nowadays, become more global, interconnected, and interdisciplinary due to the extensive use of technologies across multiple sectors in the world<sup>vii</sup>.

The IP system must settle into not only the changing nature of innovation but also to the deeper interconnections implicated in human creativity, our societies, innovative ways in which people conduct their business and their lives, and the correlated requirements of IP stakeholders. This interconnection confirms the significance of IP in our up-to-date digital economy, and underscores the need to comprise IP considerations in public, industrial, as well as economic policies.”

A successful adjustment of the IP system demands agility, effectiveness, efficiency, diversification, and inclusiveness. It relies on the incorporation of new tools, and changing practices and measures, including adapting obtainable IP rights, or creating new ones.

The IP system has, however, managed to effectively deal with the new challenges as posed by new technologies. For example, trade secrets of a company’s data can now be protected using blockchain technology and new IPRs have been shaped to better capture emerging technologies, such as non-traditional marks.

The globe has become progressively more technologically dependent. Disruptive technologies, including Artificial Intelligence (AI) and blockchain, impact the IP system’s importance and effectiveness. While the degree of such impact is a subject to open debate, the fact that there is an impact is undoubtedly clear.

IPOs themselves are also taking advantage of the profits of these technologies to present cutting-edge, personalized, and expeditious services to its stakeholders, including enhanced search- ability and registerability of IPRs. For instance, AI is now being assimilated into IPO workflow, resulting in decreased tension between timeliness and quality<sup>viii</sup>.

Disruption of the IP structure happens at several levels. It includes the increasing utilization of substitute means to resolve IPR disputes and the expansion of private regimes for both recordation as well as enforcement of the IPRs. Until recently, these conventional IP functions were principally under the exclusive authorization of public authorities. The IPO of the upcoming years must acknowledge that this may possibly no longer be the reality.

Interruption of the IP system also comes from a deficiency of understanding and insufficient awareness about its benefits. Today, the IP system overall is strong, effective, and consequently evolving. Nevertheless, it lingers underused in some sectors or in some economies. Current and potential beneficiaries do not take complete advantage of the rights, tools, and procedures provided at domestic, regional, and worldwide level, to protect their innovative intangible assets<sup>ix</sup>.





### **BALANCING INTERNATIONAL INTERESTS**

We are a witness to the difficulties in both the international and national IP systems that are putting pressure both, externally and internally, for IP policy makers across the various levels of economy. For one, there are issues involving realistic normative standards that are obtained from the developed world that create special problems for the current developing world.

A dedicated episode on intellectual property has more and more become a crucial mainstay in many multilateral as well as bilateral trade agreements, some overriding the bare minimum standards or flexibilities provided in TRIPs.

In contrast, some governments are seeking support for domestic interests while ensuring that they do not run contradictory to the fundamental doctrine of the IP system. Balancing these worldwide interests is crucial in ensuring a successful IP system that crosses borders<sup>x</sup>.

### **BALANCING DOMESTIC INTERESTS AND UNDERSTANDING EVOLVING PUBLIC SENTIMENT**

Intellectual property rights systems attempt to maintain a balance between private as well as societal benefit. In fact, IP policy has been predicated upon enhancing personal rights that, in turn, stimulate innovative and creative accomplishments, ultimately leading to instantaneous or follow-on societal advantage. In some cases, however, private and public IP interests are absolutely opposed, resulting in passionate policy debates.

The debate is further problematical when considering trade-offs between current private consumption and upcoming societal benefit; differences of interests across categories of IP and how these dynamics play out another way across jurisdictions<sup>xi</sup>.

Overall, the IP system functions support immeasurable industrial advancement and creativity. However, striking the accurate balance between opposing interests is challenging and there will be instances of unjustified pressure for governments and misuse, underuse, or overuse of IP by IP holders. Certain instances, such as patent “trolling” or trademark “squatting”, have worsened the situation further and have created anti-IP sentiment.

In a few quarters, this anti-IP emotion may have been further stoked by a short of understanding of the IP system by beneficiaries and the community at large; a focus on digital services and swift turnarounds which disagrees with the duration and complication of IPR registration; slow turnaround times and backlogs in several IPOs that bring insecurity to the marketplace; commentators’ tendency to represent IPRs negatively or as benefiting only large scale businesses; and, encouragement from IP-skeptic commentators.

Most significantly, the issue runs much deeper after trying to describe the net current value of IP and public value across various consumers. In the short-term, IP rights represent a monopoly that may conclude in higher prices or lack of supply for nowadays’ products. This is seen as unconstructive. In the longer-term, however, since we cannot visualize what the next innovative pattern may be, one that might greatly improve our lives, there is an under admiration for the incentives that the IP system carries.



# INTELLECTUAL PROPERTY



## A WAY FORWARD

The IPR of the Future must make sure to look for ways to strike a rational equilibrium between and among its stakeholders and to recurrently monitor and comprehend the factors driving unfavorable public emotions. To address some of the numerous concerns, the IPR of the Future will be reactive to the public at large by ensuring that it allows timely and quality IPRs, and does not allow excessively contracted or overly-broad rights and does not refuse or grant rights improvidently, or postpone the grant of rights further than the time period reasonably required for quality examination. IPOs' commitment to pendency, as well as providing precision, will provide market confidence and preserve the public interest.

In instances where perceived emotion is uneven, IPOs may bring steadiness to the dialogue. In some cases, the IPR of the Future may require to take on a role to offset points of view that may not fully consider the benefits of the IP system itself. IPRs can do this by unfolding the fundamental principles of IP and by illustrating how most IP users are building a lasting and long-term input to society.

In light of the above, it is very important to assess the impact of IPRs on innovation, the economy, as well as society, and then put in place the essential resources, tools, policies, and authorities to facilitate an effective IP system<sup>xii</sup>.

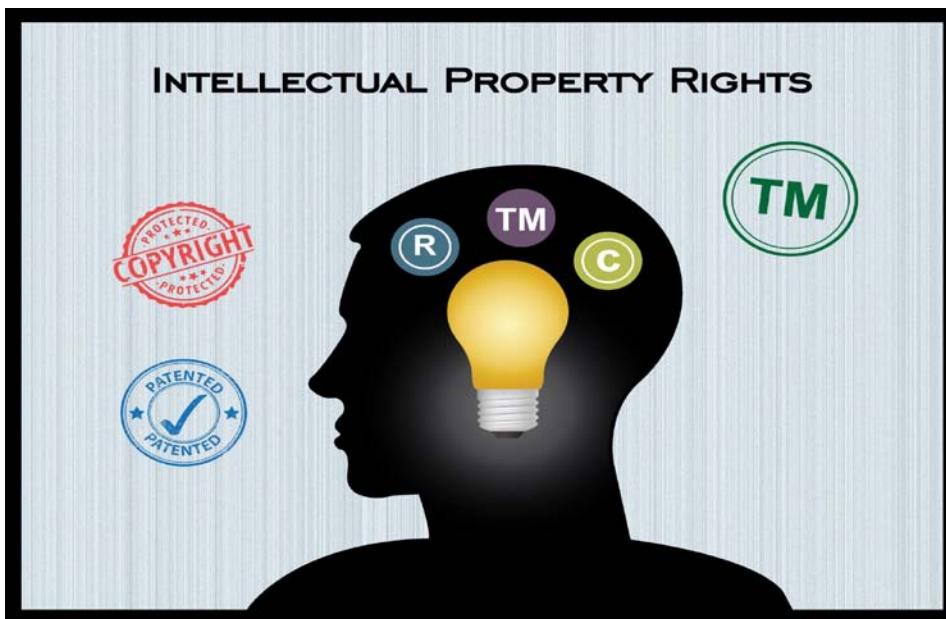
## IPRs TODAY

If some have not already done so yet, most of today's IPRs have transitioned from performing the fundamental examination and regulatory mandates to dangerous roles that impact on the economic growth of the country. In the last twenty years, inventiveness and innovation have played an essential role in economies, leading to a strong swing on the part of governments towards bringing IP to the frontage position of policy and recognizing the necessity for a important IP system. IPRs are a fundamental part of the system, dealing with conventional tasks inherent in their celebrated primary functions, for instance IPR examinations and registrations.

Most IPRs are still in commission in conventional ways, with traditional stakeholders, and are facing customary problems, such as backlogs and a lack of assets to address growing filings. Faced with increasing statistics of applications for trademarks, patents, and designs, and the mounting complexity of applications and innovative business models, the IPRs of the Future must optimize their services and build new tools to serve stakeholders' requirements. As an example, some IPOs—mainly those in developed countries—have before now started to rely on AI and additional new technologies to perform search functions and for the dispensation of applications.

Due to the interplay among globalized markets, national jurisdictions, and local rules, IPRs are ever more taking on additional tasks. However, with no general understanding about what additional roles IPRs be supposed to be taken on and at what priority; each IPO has decided independently what the character, implementation pace, and number of its new responsibilities will be.

This has resulted in a momentous diversity of roles among IPOs across the world, whether at national, regional, or international levels<sup>xiii</sup>.



## CONCLUSION

Intellectual Property; sounds like a very multifarious and complicated idea, but is something that we come across a lot of times in our common daily life. Intellectual property means creation/innovation by men and the deliberation to protect them, was made since medieval period. In the 19th century, various IP laws globally were enacted to protect the rights of the innovators/creators.

Intellectual property means a property which is a creation of human mind, such as, logos, symbols, writings, machines, etc. This creation

of human mind is worthy as it contributes a great deal to the country's economy. These creations promote innovations and reward entrepreneurs in several ways.

The concept of Intellectual Property came to be known way back in time and is considered as one of the most significant rights by industries. Many industries have relied on these rights since centuries for safeguarding their work, whereas, consumers use IP to guarantee that they purchase safe, genuine and authentic products<sup>xiv</sup>

The transformation of Intellectual Property from heavenly providence to valuable human endowment took complicated diversion and pit-stops. However, the history of Intellectual Property discloses an imprint of how we have changed as a society. It tells us of our historical values, of our combined thought, and of our remarkable competence to strike a balance amongst individuality, society, and spirituality.

Though the roads we passed were blemished with glaring mistakes and filled by dark alleys, the fact that we do identify the imperfections and reinvent Intellectual Property tells an additional thing about us that: we can change, just the way concept of property has evolved from being a possession able tangible property to intangible property to intellectual property in the modern era of globalization, internet, AI, etc<sup>xv</sup>.

To summarize, we can conclude that the concept of IPR was never redundant and static it has evolved during the course of history. And it will continue to do so as new facets of law and technology are emerging quite frequently."

<sup>i</sup>Trademark Act, 1999

<sup>ii</sup>Patents Act, 1970

<sup>iii</sup>Copyright Act, 1957

<sup>iv</sup><https://www.legalserviceindia.com/legal/article-3581-ipr-law-history.html>

<sup>v</sup>Article 2 of WIPO; <https://www.wipo.int/about-ip/en/>

<sup>vi</sup>Data Collected from WIPO Website; <https://www.wipo.int>

<sup>vii</sup><https://www.wipo.int/copyright/en/>

<sup>viii</sup>Monthly Review, vol. 41. p. 290 (1769)

<sup>ix</sup><https://www.wipo.int/about-wipo/en/history.html>

<sup>x</sup>Pila (2001) p.213

<sup>xi</sup>Southern vs How, 1617

<sup>xii</sup><https://www.wipo.int/patents/en/>

<sup>xiii</sup>REPORT: THE INTELLECTUAL PROPERTY OFFICE (IPO) OF THE FUTURE; by THE IPO OF THE FUTURE THINK TANK; Nov 2020; Published by International Trademark Association (INTA)

<sup>xiv</sup>[https://www.wto.org/english/tratop\\_e/trips\\_e/intel1\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/intel1_e.htm)

<sup>xv</sup>History And Evolution Of Intellectual Property - Intellectual Property - United Arab Emirates (mondaq.com)■