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# SAFEGUARDING INTELLECTUAL PROPERTY RIGHTS: A CRITICAL ANALYSIS OF INTERNATIONAL LEGAL FRAMEWORKS

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## **Abstract :**

*This research considers the complex field of international intellectual property rights, where the legal frameworks for protecting intangible assets like patents, copyrights, and trademarks are the focal point. Their importance in building economic development and cultural progress is brought into focus. The philosophical foundation for property as a set of rights is used, where the interaction of knowledge, scarcity, and utility are used to define the value of intellectual assets. This paper discusses the need for achieving equilibrium between private ownership and public interest, shedding light on how international legal structures make efforts to encourage equity, innovation, and widespread accessibility of creative works. Proper knowledge of these legal structures is imperative in order to successfully navigate the global intellectual property context.*

**Keywords :** Intellectual Property Rights, Patents, Copyrights, Trademarks, International Legal Frameworks, Innovation.

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## **Introduction :**

Intellectual Property (IP) is the intangible assets of inventions, works of art, symbols, and business procedures. Intellectual Property Rights (IPRs) confer creators exclusive dominion, guarding their work from use, reproduction, or dissemination without permission. These rights, obtained through patents, copyrights, and trademarks, stimulate innovation but with a balance between private control and public availability.

### **1. Property as a Bundle of Rights :**

Ownership of property is associated with several rights, including possession, transfer, and exclusion. Intellectual property, even though abstract, also possesses these legal entitlements.

### **2. Scarcity and Value :**

The value of tangible as well as intangible property is subject to scarcity. Intellectual capital assumes significance as a result of their distinctiveness, contribution to knowledge, and practical usage.

### **3. Knowledge and Use :**

The value of intellectual property rests on its innovation and usefulness. As knowledge



is a continuous phenomenon, legal systems have to keep updating in order to safeguard intellectual assets.

#### **4. Property Law and Fair Access :**

Property laws embody principles of distributive justice, maintaining ownership rights against universal access to knowledge and innovation.

#### **5. Conflicting Property Rights :**

Ownership rights can conflict, necessitating legal intervention. For example, patent rights have to be weighed against the public good of access to necessary technologies.

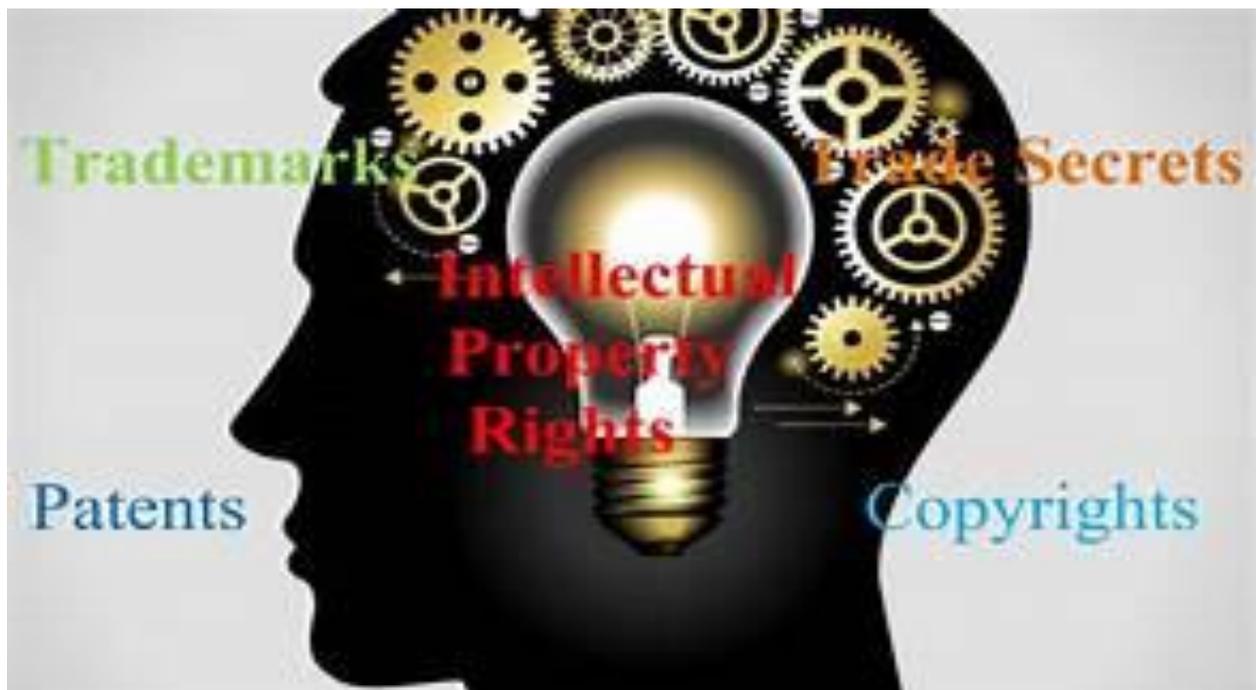
#### **6. Reasonable Limitations :**

Governments place limits on property rights for the public good. In IP, fair use and compulsory licensing exceptions allow for sharing knowledge without violating ownership.

#### **7. Striking a Balance :**

IP laws seek to remunerate creators while securing public advantage. By providing governance over ownership, access, and protection, such laws encourage innovation while securing fair access to creative and technological advancements.

### **Types of Intellectual Property**



#### **1. Patent :**

A patent gives legal protection to new inventions, and the inventor sell the invention for a limited period of time, typically 20 years. The inventor does this in exchange for revealing the invention details to the public, thereby encouraging technological development and innovation.

## **2. Copyright :**

Copyright protects original creative work, such as literature, music, movies, and art. It gives the creator exclusive rights to reproduce, distribute, and alter their work. The copyright protection lasts differently but normally for the creator's lifetime plus a further 50 to 70 years, which guarantees long-term recognition and financial rewards.

## **3. Trademarks :**

Trademarks safeguard distinctive brand identifiers like names, logos, slogans, and symbols that help identify a product or service within the market. Registration of the trademark gives ownership exclusive rights of use, banning others from utilising similar marks that may generate confusion among the consumers.

## **4. Trade Secrets :**

Trade secrets are confidential business information such as secret formulas, production methods, customer lists, and marketing plans. Trade secret protection is not limited to a specific amount of time; it just lasts as long as the information remains confidential and it offers a competitive edge.

## **Intellectual Property Rights Rationale :**

**1. Labour Theory :** Based on John Locke's inspiration, it holds that innovators are worthy of ownership for their work due to the efforts and intellectual expenditure they put in.

**2. Value-Added Theory :** This emphasizes that innovations represent progress for humanity, and such protection is appropriate to motivate sustained creativity and improvement.

**3. Personality Theory :** Intellectual property is viewed as a reflection of the personality of the creator, hence its protection being critical for personal identification and artistic integrity.

**4. Max Weber's Theory :** According to Weber, property, including intellectual property, is a method of social and economic control and is usually at the advantage of dominant groups through control over access to knowledge and innovations.

## **Constitutional Dimensions of Intellectual Property :**

Intellectual property rights are provided legal protection in many nations through constitutional provisions. These provisions are used to balance individual rights with the general public interest, making intellectual property laws consistent with national legal systems.

**Article 31A :** This clause protects law that could involve acquisition or regulation of property rights, such as intellectual property. Even when such legislation contradicts other constitutional basic rights, it can be sustained in the name of public good and economic progress.

**Article 31B :** This section limits the power to challenge legislation based on violation of fundamental rights. The courts have the jurisdiction of assessing the validity of such laws keeping in mind their larger social and economic implications.



The constitutional protection of intellectual property highlights its importance in enhancing innovation, economic development, and cultural progress. Yet it also calls for a sensitive balance between the protection of private rights and ensuring that public access to information and resources is not unnecessarily impaired. By placing intellectual property protection within constitutional schemes, countries seek to create a legal environment conducive to both creative activity and social progress.

### **International Conventions On Intellectual Property Rights :**

International conventions have been instrumental in establishing a standardized framework for the protection of intellectual property rights. These agreements promote global cooperation, ensuring the safeguarding of creative and innovative contributions of individuals and organizations across borders. Below is an overview of significant international conventions in this domain:

<b>Convention</b>	<b>Year</b>	<b>Key Aspects</b>
<b>Paris Convention</b>	1883	- First major international agreement on industrial property.- Ensured protection for patents, trademarks, and industrial designs in foreign countries.- Initiated after exhibitors at the 1873 International Exhibition of Inventions in Vienna hesitated to participate due to concerns of idea theft.
<b>Berne Convention</b>	1886	- Established to protect literary and artistic works.- Grants creators control over their works and entitles them to remuneration.- Covers novels, short stories, poetry, plays, music, paintings, sculptures, and architectural works.
<b>Madrid Agreement</b>	1891	- Introduced the Madrid System for International Registration of Marks.- Provided a centralized system for trademark registration across multiple countries.- Formed the basis for further international intellectual property services.
<b>BIRPI Establishment</b>	1893	- Merged the administrative bodies of the Paris and Berne Conventions.- Created the United International Bureaux for the Protection of Intellectual Property (BIRPI).- Served as the predecessor to the World Intellectual Property Organization (WIPO).
<b>WIPO Establishment</b>	1970	- Reorganized BIRPI into WIPO.- Became an intergovernmental organization with its headquarters in Geneva, Switzerland.- Focused on harmonizing intellectual property regulations globally.
<b>WIPO Joins the UN</b>	1974	- Recognized as a specialized agency of the United Nations.- Opened membership to all UN member states.- Strengthened its role in fostering international cooperation in intellectual property protection.

### **Impact of International Conventions :**

These conventions have significantly contributed to:

- **Global Harmonization:** Establishing uniform intellectual property protection standards.
- **Innovation and Creativity:** Encouraging inventors and artists to share their work globally without fear of infringement.
- **Economic Growth:** Facilitating trade and investment in intellectual property-driven industries.
- **Cultural Exchange:** Enhancing the dissemination of artistic and literary works across nations.

By setting comprehensive guidelines, these agreements continue to provide a robust foundation for intellectual property rights worldwide, ensuring that creators and innovators receive due recognition and protection for their contributions.

### **The Trade-Related Aspects Of Intellectual Property Rights (Trips) :**

The Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement is one of the most comprehensive international treaties governing intellectual property (IP). It is enforced by all member nations of the World Trade Organization (WTO) and covers various forms of intellectual property, including patents, copyrights, trademarks, geographical indications, industrial designs, trade secrets, and plant variety protection. The agreement officially came into effect on January 1, 1995, and is binding on all WTO members.

### **Objectives of TRIPS :**

The TRIPS Agreement was established in 1994 as a result of the Uruguay Round of Multilateral Trade Negotiations. It serves three primary purposes:

1. **Reducing Global Disparities** – Ensures uniform protection of intellectual property rights, thereby minimizing distortions and obstacles to international trade.
2. **Providing Effective Safeguards** – Strengthens legal protection for various IP assets, such as copyrights, patents, and trademarks, across all member states.
3. **Balancing Rights and Trade** – Ensures that enforcement measures do not hinder legitimate trade and economic development.

This agreement is structured into seven parts, comprising 73 articles. Part II outlines the minimum standards for intellectual property protection, including trademarks, copyrights, patents, and measures against anti-competitive practices in licensing agreements. It also establishes a higher degree of protection for geographical indications related to wines and spirits.

### **Trademark Protection and Legal Developments in India :**

The use of trademarks dates back to the Industrial Revolution when businesses needed distinct marks to differentiate their products in competitive markets. In India, the legal framework for trademark protection has evolved through various legislations:



Year	Legislation
1889	Indian Merchandise Marks Act
1940	Trade Marks Act
1958	Trade and Merchandise Marks Act
1999	Trademarks Act ( enacted in response to TRIPS)

The Trademarks Act of 1999, which came into force in 2003, aligns India's trademark laws with global standards. India's participation in the Paris Convention (1883) further demonstrates its commitment to international intellectual property protection.

### Intellectual Property Protection in India :

India has established a robust framework for IP protection across statutory, administrative, and judicial levels. Since the TRIPS Agreement came into effect on January 1, 1995, India has actively worked to align its intellectual property laws with international standards. This has led to stronger enforcement mechanisms and reduced trade distortions.

### Key Provisions of the TRIPS Agreement :



### Patents :

The TRIPS Agreement mandates that patents be granted for inventions in all fields of technology, covering both products and processes. To qualify, an invention must meet the following criteria:

- **Novelty** : Must be a new development.
- **Inventive Step** : Should involve a technical advancement or an innovative concept.
- **Industrial Applicability** : Must be capable of industrial use.

### **Copyrights :**

The agreement provides protection for literary and artistic works, aligning with the Berne Convention. India's **Copyright Act of 1957**, amended in 1999, reflects these international obligations and also covers performers' rights.

### **Geographical Indications :**

TRIPS ensures the protection of geographical indications (GIs) to prevent misleading claims regarding the origin of products. India enacted the **Geographical Indications of Goods (Registration and Protection) Act, 1999**, to safeguard unique products associated with specific regions.

### **Industrial Designs :**

Industrial designs refer to the ornamental and aesthetic aspects of products. The TRIPS Agreement mandates minimum protection standards for such designs to promote innovation and fair competition.

### **Impact of TRIPS on Pharmaceuticals in India :**

The implementation of TRIPS has had a profound effect on India's pharmaceutical sector. Before TRIPS, the **Indian Patents Act of 1970** allowed only process patents, enabling the production of generic versions of patented drugs. Following TRIPS compliance, significant changes were introduced, including:

- **Minimum Patent Term** : Patent protection extended to 20 years.
- **Product Patent Protection** : Patents now cover pharmaceutical products, not just processes.
- **Patent Working Requirement** : Patents must be utilized within a stipulated timeframe to prevent monopolization.
- **Compulsory Licensing** : Allows production of patented drugs under specific conditions, ensuring accessibility and affordability.
- **Burden of Proof** : Places responsibility on the alleged infringer to prove non-violation of patent rights.

These provisions have significantly shaped India's pharmaceutical industry, balancing the interests of innovation with the need for affordable medicines.

The TRIPS Agreement has played a crucial role in standardizing intellectual property laws across WTO member states, including India. It has contributed to stronger IP protection, facilitated international trade, and influenced sectors like pharmaceuticals, trademarks, and copyright law. While TRIPS has introduced challenges, particularly in the pharmaceutical industry, India has adapted its legal framework to ensure compliance while safeguarding national interests and public welfare.



## **Conclusion :**

Intellectual property protection is a significant component of world legal frameworks, providing recognition to creators and innovators while safeguarding public interest. The study of international legal frameworks accentuates the philosophical basis of intellectual property, its forms, rationales for protection, constitutional issues, and international agreements that govern such rights.

Intellectual property laws are based on the ideas of ownership, scarcity, and utility-knowledge relationship. These ideas define the legal frameworks for safeguarding creative and technological achievements in a way that also provides fair access. Different intellectual properties, such as patents, copyrights, trademarks, and trade secrets, have different purposes for protecting innovation and creativity.

The justification for intellectual property protection comes from several different viewpoints, such as labor-based theories, economic value principles, and legal systems that identify intellectual contributions. Some countries have incorporated these rights into their constitutions, upholding their importance while ensuring public access against private ownership.

Internationally, institutions such as the World Intellectual Property Organization (WIPO) and treaties such as the Paris and Berne Conventions, Madrid Agreement, and the Trade-Related Aspects of Intellectual Property Rights (TRIPS) have significantly contributed to uniform protections and global cooperation. The TRIPS agreement, a building block of the World Trade Organization (WTO), sets international minimum standards for intellectual property protection across the globe.

In India, compliance with TRIPS has impacted major legal developments in patents, copyrights, and trademarks, impacting industries such as pharmaceuticals and technology. Harmonizing national laws with global standards has assisted in reducing trade barriers while maintaining a balanced approach between innovation and accessibility.

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