

## PATENT LAW UNDER INTELLECTUAL PROPERTY RIGHTS (IPR)

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### Abstract

The concept of Intellectual Property Rights (IPR) has emerged as a cornerstone of modern innovation and economic development. Among the various branches of IPR, patent law plays a pivotal role in safeguarding technological inventions and promoting creative advancement. A patent grants inventors exclusive rights to their inventions for a limited period, ensuring recognition, financial reward, and encouragement for further research and innovation.

This paper examines the fundamental principles, objectives, and evolution of patent law within the framework of IPR. It explores international instruments such as the Paris Convention, Patent Cooperation Treaty (PCT), and the TRIPS Agreement, which have harmonized global patent systems. Special emphasis is placed on the Indian Patent Act, 1970, its subsequent amendments, and the balance it maintains between promoting innovation and protecting public interest.

The study also analyses key provisions related to patentability, procedure for grant, compulsory licensing, and infringement remedies, supported by landmark judicial decisions. Furthermore, it highlights current challenges in the Indian patent regime, such as evergreening, accessibility to medicines, and adaptation to emerging technologies like biotechnology and artificial intelligence.

Ultimately, the paper concludes that an effective and balanced patent system is essential to encourage innovation while ensuring equitable access to knowledge and technology for societal welfare.

**Keywords:** Patent Law, Intellectual Property Rights, Innovation, TRIPS Agreement, Indian Patent Act, Compulsory Licensing, Infringing

### Introduction

Intellectual Property Rights (IPR)<sup>1</sup> represent one of the most important tools in protecting the products of human intellect and creativity. In a world driven by innovation and technology, the role of patents as a subset of IPR has become indispensable. Patent law, in particular, provides inventors with exclusive rights over their inventions, thereby encouraging research, creativity, and technological advancement. The concept of patent protection strikes a delicate balance between rewarding inventors and ensuring public access to innovations after the expiration of the patent term.

The protection of patents ensures that inventors are motivated to disclose their inventions for

public benefit while enjoying a temporary monopoly. This balance fosters industrial growth, foreign investment, and economic progress. Patent law, therefore, plays a crucial role not only in safeguarding individual rights but also in promoting national development and global technological cooperation.

### Concept and Meaning of Intellectual Property Rights (IPR)

Intellectual Property Rights (IPR) are the legal rights given to persons over the creations of their minds. These rights allow creators to control the use of their intellectual creations for a certain period of time. IPR includes various categories such as patents, trademarks,

copyrights, industrial designs, and geographical indications.

The World Intellectual Property Organization (WIPO) defines IPR as “creations of the mind: inventions; literary and artistic works; and symbols, names, and images used in commerce.” (WIPO, 2024). The essential aim of IPR is to encourage innovation by ensuring that creators receive recognition and economic benefit from their work.

Among the various types of IPR, patents occupy a significant position due to their direct relation to technological development. Patent law, in particular, protects inventions that offer new technical solutions to existing problems, thereby stimulating progress in science and industry.

### Historical Background of Patent Law

The concept of patents dates back several centuries. The earliest known patent laws were enacted in Venice in 1474, granting inventors exclusive rights to their inventions for ten years.

This Venetian Statute laid the foundation for modern patent systems worldwide.

In England, the Statute of Monopolies (1624) was a landmark development. It restricted the power of the Crown to grant monopolies but allowed patents for new inventions for a limited period, establishing the concept of exclusive rights for inventors.

The Industrial Revolution (18th–19th centuries) further accelerated the importance of patent protection, leading to the establishment of structured patent systems in countries like the United States, France, and Germany.

In India, the history of patent law began during the colonial period with the Act VI of 1856, modelled after the British Patent Law of 1852. The legislation evolved through the Indian Patents and Designs Act, 1911, culminating in the Patents Act, 1970, which remains the cornerstone of Indian patent law today.

### Meaning and Definition of Patent

A patent is a statutory right granted to an inventor or assignee by the government for an invention that is new, involves an inventive step, and is capable of industrial application. Section 2(1)(j) of the Indian Patents Act, 1970<sup>966</sup> defines an invention as “a new product or process involving an inventive step and capable of industrial application.”

In essence, a patent provides the patent holder the exclusive right to make, use, sell, and distribute the invention for a specific period, usually twenty years from the date of filing. This right excludes others from exploiting the invention without permission.

The key criteria for patentability include:

- Novelty – The invention must be new and not part of the existing knowledge.
- Inventive Step – It must involve a technical advancement that is not obvious to a skilled person.
- Industrial Applicability – The invention must be capable of being made or used in an industry.

### Objectives and Importance of Patent Law

The primary objectives of patent law are:

- To encourage innovation – By granting exclusive rights, inventors are motivated to invest time and resources in research and development.
- To disseminate knowledge – In exchange for disclosure, the invention becomes publicly available, promoting further innovation.
- To attract investment – Patent protection encourages industries and foreign investors to invest in new technologies.
- To balance private and public interest – Patent law ensures inventors benefit

<sup>966</sup> <https://ipindia.gov.in/writereaddata/portal/ev/sections/ps2.html>

from their work while the public eventually gains access to new technologies.

Thus, patent law functions as both a private incentive mechanism and a public policy tool, promoting creativity, competition, and economic growth.

### International Framework of Patent Law

#### a) Paris Convention (1883)

The Paris Convention for the Protection of Industrial Property was the first major international treaty to recognize the need for global patent cooperation. It introduced the principles of national treatment, right of priority, and independence of patents (WIPO, 2024).<sup>967</sup>

#### b) Patent Cooperation Treaty (PCT, 1970)

The PCT, administered by WIPO, allows inventors to file a single international patent application, which is recognized in multiple member countries. It simplifies the process of obtaining patent protection globally.<sup>968</sup>

#### c) TRIPS Agreement (1994)<sup>969</sup>

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), administered by the World Trade Organization (WTO), sets minimum standards for IP protection among member nations. Article 27 mandates that patents be available for any inventions, in all fields of technology, without discrimination, for at least 20 years.

#### d) World Intellectual Property Organization (WIPO)

WIPO plays a central role in coordinating global patent systems, promoting cooperation, and providing technical assistance to member states.

### Patent Law in India

#### a) Evolution of Indian Patent System

India's patent journey began with the Act VI of 1856, followed by the Indian Patents and Designs Act, 1911. The present legal framework is governed by the Patents Act, 1970, which came into force in 1972.

The Patents (Amendment) Acts of 1999, 2002, and 2005 were enacted to align Indian law with the TRIPS Agreement. Notably, the 2005 amendment reintroduced product patents in pharmaceuticals and agrochemicals.

#### b) Patentable and Non-Patentable Inventions

Under Sections 3 and 4 of the Patents Act, the following are not patentable:

- Frivolous inventions contrary to natural laws.
- Inventions injurious to public health or morality.
- Mere discoveries of scientific principles.
- Computer programs per se.
- Methods of agriculture or horticulture.
- Inventions relating to atomic energy.

#### c) Procedure for Obtaining a Patent in India

- Filing of Application – Submitted at the Indian Patent Office (IPO) in the prescribed form.
- Publication – The application is published after 18 months.
- Examination – Conducted by the Controller General of Patents, Designs, and Trademarks.
- Opposition – Third parties may oppose the grant.
- Grant of Patent – If approved, a patent certificate is issued, valid for 20 years.

#### d) Rights and Obligations of a Patentee

Exclusive right to prevent others from making, selling, or using the invention.

Obligation to work the patent in India (Section 83).

Payment of renewal fees.

<sup>967</sup> <https://www.wipo.int/en/web/about-ip>

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[https://www.jpo.go.jp/e/news/kokusai/developing/training/textbook/document/index/TRIPs\\_Agreement.pdf](https://www.jpo.go.jp/e/news/kokusai/developing/training/textbook/document/index/TRIPs_Agreement.pdf)

#### e) Term of Patent

Section 53 of the Patents Act provides that the term of every patent is 20 years from the date of filing.

#### Patent Infringement and Remedies

Patent infringement occurs when a person, without the consent of the patentee, makes, uses, sells, or imports the patented invention.<sup>970</sup>

Under Section 104–114 of the Patents Act, 1970, the remedies include:

- Civil remedies: injunctions, damages, or accounts of profits.
- Criminal remedies: penalties for falsification of patents.

Courts may also grant interim injunctions in urgent cases, as seen in Roche Products (India) Pvt. Ltd. v. Cipla Ltd. (2008), where patent infringement over a pharmaceutical product was contested.

#### Compulsory Licensing under Indian Patent Law

Compulsory licensing ensures access to essential medicines and technology. Under Section 84, any person may apply for a compulsory license after three years from the date of grant if:

- The reasonable requirements of the public are not met.
- The patented invention is not available at a reasonable price.
- The invention is not worked in India.

A landmark case is Bayer Corporation v. Natco Pharma Ltd. (2012), where India's first compulsory license was granted for the cancer drug Sorafenib Tosylate to make it affordable.

#### Case Studies

- Bishwanath Prasad Radhey Shyam v. Hindustan Metal Industries

(1982) – The Supreme Court emphasized the requirement of novelty and inventive step.

- Novartis AG v. Union of India (2013) – The Court denied a patent for Glivec on grounds that it was a new form of a known substance, not satisfying Section 3(d).

- Roche v. Cipla (2008) – Highlighted the balance between patent rights and public interest in essential medicines.

#### Challenges in Patent Law

- Evergreening of Patents – Companies attempt to extend monopoly through minor modifications.

- Balancing Innovation and Public Health – Especially in pharmaceuticals.

- High Cost of Patent Litigation – Acts as a deterrent for small innovators.

- Lack of Awareness – Many inventors remain uninformed about patent filing procedures.

#### Future of Patent Protection in India

The future of patent law in India lies in harmonizing national interests with international obligations. The focus should be on strengthening enforcement, promoting domestic innovation, and ensuring equitable access to technology. The Digital India and Startup India initiatives are expected to enhance IP culture among innovators and entrepreneurs.

Technological developments such as artificial intelligence and biotechnology will continue to challenge traditional patent frameworks, demanding dynamic and adaptive legal reforms.

#### Conclusion

Patent law serves as the backbone of modern innovation policy. It not only rewards inventors but also ensures that knowledge and technology are disseminated for societal

<sup>970</sup> <https://ipindia.gov.in/writereaddata/portal/ev/sections/ps2.html>

benefit. The Indian patent system, shaped by international obligations and national priorities, strives to balance private rights and public welfare.

In an era of rapid scientific advancement, the effective implementation of patent law under the broader framework of IPR will remain crucial for sustainable economic and technological development.

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#### Endnotes

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