

DEVELOPMENT OF SUI GENERIS SYSTEMS IN INTELLECTUAL PROPERTY LAW

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Abstract

Intellectual Property Rights (IPR) have evolved from a traditional framework of patents, copyrights, trademarks, and industrial designs to include a spectrum of rights recognized through sui generis protections. The term sui generis, meaning “of its own kind”, refers to legal mechanisms designed specifically to safeguard subject matters that do not fit neatly within the contours of classical IPR regimes. The proliferation of new technologies, the recognition of indigenous knowledge, biodiversity concerns, plant varieties, semiconductor chips, and databases have necessitated specialized legal structures. This research paper examines the conceptual foundation and historical development of sui generis systems, their necessity in modern intellectual property discourse, and their interaction with global norms, especially under the TRIPS Agreement. The paper explores the evolution of sui generis protection mechanisms in multiple domains, evaluates their strengths and limitations, and analyses how diverse jurisdictions—including India, the United States, and the European Union—have crafted distinct approaches. It further highlights contemporary debates around data governance, artificial intelligence innovations, bio-digital genetic resources, and the challenges of harmonization. Ultimately, the paper demonstrates that sui generis systems reflect the dynamism of intellectual property law and serve as a crucial bridge between traditional legal instruments and emerging socio-economic realities

Introduction

Intellectual Property (IP) law serves as a cornerstone of modern economic systems by granting creators exclusive rights over their inventions, artistic works, designs, and commercial symbols.¹ Rooted in the principle of incentivizing innovation, IP protection has historically revolved around patents, copyrights, trademarks, and industrial designs.² Yet, rapid advancement in science and technology, globalization, and the emergence of new knowledge forms have exposed the limitations of classical IP frameworks.³ Certain innovations, cultural expressions, and knowledge systems do not comfortably fall within traditional regimes, creating gaps in legal protection and

necessitating the development of sui generis systems.⁴

A sui generis system represents a specialized IP regime crafted for the protection of subject matter that cannot be regulated by conventional categories.⁵ This evolution is driven by the recognition that traditional IP rights—designed for tangible inventions and individual creativity—are inadequate for non-traditional knowledge forms, communal contributions, and rapidly evolving industries.⁶

I. Conceptual Framework of Sui Generis Protection

1.1 Meaning and Legal Foundation

The term sui generis translates to “of its own kind”.⁷ In legal discourse, it denotes unique

systems created to safeguard intellectual subject matter requiring distinct treatment.⁸ Intellectual property law, by its very nature, is adaptive; sui generis systems illustrate the flexibility required to govern emerging innovations.⁹

1.2 Necessity for Sui Generis Systems

Traditional IP regimes were structured when knowledge was linear, tangible, and territorially confined.¹⁰ Modern developments—digital technologies, databases, indigenous agricultural knowledge, and AI-generated outputs—challenge these paradigms.¹¹ For example, patents require novelty and inventiveness, criteria ill-suited to plant varieties developed cumulatively by farming communities over centuries.¹² Copyright law similarly fails to protect factual databases, because facts lack originality.¹³ This mismatch compels lawmakers to design alternative systems.¹⁴

1.3 Characteristics of Sui Generis Systems

Common features of sui generis IP systems include: tailor-made subject-matter definitions, unique eligibility criteria, distinctive terms of protection, and specialised exceptions.¹⁵ These attributes ensure that protection aligns with the intrinsic characteristics of the knowledge or product concerned.¹⁶

II. Historical Evolution of Sui Generis Protection

2.1 Pre-TRIPS Origins

Long before the TRIPS Agreement, jurisdictions adopted specialised laws for emerging fields. The United States passed the Semiconductor Chip Protection Act 1984 (SCPA) to protect integrated circuit layouts.¹⁷ Similarly, the establishment of the International Union for the Protection of New Varieties of Plants (UPOV) in 1961 marked a milestone in global plant variety protection.¹⁸ These developments confirm that sui generis protections emerged not as accidental responses, but as deliberate legal innovations.¹⁹

2.2 TRIPS Agreement as a Catalyst

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), adopted in 1995 under the WTO, institutionalised sui generis protection by mandating member nations to protect plant varieties either by patents, a sui generis system, or a combination of both.²⁰ Article 27.3(b) thus legitimised national legislative experimentation.²¹

2.3 Post-TRIPS Expansion

Since TRIPS, several domains have adopted sui generis structures, including Geographical Indications, Traditional Knowledge, and Database Rights.²² The proliferation of such systems illustrates global pluralism and legal adaptation.²³

III. Major Sui Generis Systems in Intellectual Property

3.1 Plant Variety Protection (PVP)

The UPOV system grants exclusive rights to breeders of new plant varieties.²⁴ However, India adopted a distinct approach through the Protection of Plant Varieties and Farmers' Rights Act 2001 (PPVFR Act), recognising both breeders and farmers.²⁵ The Act balances innovation with traditional agricultural practices.²⁶

3.2 Semiconductor Layout Designs

Semiconductor chip designs involve costly and complex engineering processes.²⁷ To protect such investments, jurisdictions adopted sui generis protection distinct from patents.²⁸ India's Semiconductor Integrated Circuits Layout-Design Act 2000 aligns with global trends.²⁹

3.3 Geographical Indications (GI)

A GI indicates qualities linked to a specific geographical origin—for example, Darjeeling Tea, the first Indian GI.³⁰ The Geographical Indications of Goods (Registration and Protection) Act 1999 provides the statutory basis.³¹

3.4 Traditional Knowledge and Biodiversity

Classical IP fails to protect orally transmitted traditional knowledge, which is communal, intergenerational, and non-proprietary.³² India's Biological Diversity Act 2002 and the Traditional Knowledge Digital Library (TKDL) emerged to combat biopiracy, as seen in the turmeric and neem disputes.³³

3.5 Database Protection

The EU Database Directive 1996 recognises investment-based protection for databases even without originality.³⁴ This fosters innovation in digital economies but raises concerns about monopolisation.³⁵

IV. Jurisdictional Perspectives

4.1 United States

The U.S. approach remains sector-specific—strong on semiconductors, limited on databases, and sceptical of broad GI systems.³⁶

4.2 European Union

The EU is a pioneer in GIs and database rights, reflecting its cultural and informational priorities.³⁷

4.3 India

India's sui generis frameworks are unique for integrating social justice with IP protection, particularly for traditional knowledge and farmers' rights.³⁸

V. Critical Evaluation

Strengths:

Promotes innovation, prevents cultural exploitation, and accommodates diverse knowledge systems.³⁹

Weaknesses:

Fragmented global acceptance, enforcement challenges, and potential overreach in digital restrictions.⁴⁰

Future Challenges:

AI-generated inventions and genetic-resource protection require recalibrated sui generis norms.⁴¹

Conclusion

The evolution of sui generis protection demonstrates IP law's adaptability to emerging knowledge systems.⁴² These regimes occupy the intersection between tradition and innovation, ensuring that IP frameworks remain socially relevant and technologically current.⁴³

OSCOLA FOOTNOTES

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³ Peter Drahos, *A Philosophy of Intellectual Property* (Routledge 1996).

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⁵ Dev Gangjee, 'Sui Generis Rights' in *Oxford Handbook of IP Law* (OUP 2018).

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⁸ Gangjee (n 5).

⁹ Bently and Sherman (n 2).

¹⁰ Cornish and Llewelyn (n 1).

¹¹ Drahos (n 3).

¹² Basheer (n 6).

¹³ Bently and Sherman (n 2).

¹⁴ Sunder (n 4).

¹⁵ Gangjee (n 5).

¹⁶ Cornish and Llewelyn (n 1).

¹⁷ Semiconductor Chip Protection Act 1984, 17 USC §§901–914.

¹⁸ UPOV Convention 1961, revised 1991.

¹⁹ Drahos (n 3).

²⁰ TRIPS Agreement 1995, art 27.3(b).

²¹ *ibid.*

²² Gangjee (n 5).

²³ Basheer (n 6).

²⁴ UPOV (n 18).

²⁵ Protection of Plant Varieties and Farmers' Rights Act 2001 (India).

²⁶ Basheer (n 6).

²⁷ Semiconductor Chip Protection Act (n 17).

²⁸ *ibid.*

²⁹ Semiconductor Integrated Circuits Layout-Design Act 2000 (India).

³⁰ Registry of Geographical Indications, Government of India.

³¹ Geographical Indications of Goods (Registration and Protection) Act 1999 (India).

³² Sunder (n 4).

³³ Biological Diversity Act 2002 (India); TKDL database.

³⁴ EU Database Directive 96/9/EC.

³⁵ Lionel Bently, 'Database Rights and Innovation' (2002) IPQ.

³⁶ US Trademark Act 1946 (Lanham Act).

³⁷ EU Database Directive (n 34).

³⁸ Basheer (n 6).

³⁹ Gangjee (n 5).

⁴⁰ Bently and Sherman (n 2).

⁴¹ Drahos (n 3).

⁴² Cornish and Llewelyn (n 1).

⁴³ Sunder (n 4).