

CHAPTER: 06

CHALLENGES & OPPORTUNITIES IN FILING IPR – AN ANALYTICAL STUDY

Dr VIKRANT KUMAR

IPR expert (Patent Agent & Visiting Faculty) Delhi NCR

Dr. S.M.ANAS IQBAL

*Director (Academics) Vishisht Institute of Professional Studies and Research (VIPSAR)
{Vishisht School of Management}, Indore, M.P.*

Dr. M SAMIR GOPALAN

*(Dean & Director, Silver Oak College of Liberal studies, Silver Oak
University, Silver Oak College o Business Management)*

Dr KIRTI AGARWAL

*Director, ITERC College of Management
Institutional Area, Duhai Road, Delhi (NCR)*

Ch.Id:-NSP/EB/AARDAMGP/2025/Ch-06

ABSTRACT

Intellectual Property Rights (IPR) are essential for safeguarding innovations, promoting creativity, and stimulating economic growth in knowledge-based countries. Filing IPRs presents several hurdles, including procedural intricacies, financial costs, and insufficient awareness. Simultaneously, substantial potential arise in utilizing IPR frameworks for competitive advantage, safeguarding innovation, and enhancing global trade benefits. This paper conducts an analytical examination of the obstacles and opportunities related to IPR filing, focusing on both global and Indian contexts. The report offers a thorough analysis of aims, literature, methodology, outcomes, and recommendations to enhance IPR filing and fortify innovation ecosystems.

Keywords: IPR, Filing Procedure, Challenges, Opportunities.

INTRODUCTION

Intellectual Property Rights (IPRs) are essential for promoting innovation and protecting the outcomes of research and development. They grant inventors and artists exclusive rights, therefore safeguarding the commercial worth of their creations. Nevertheless, submitting an IPR application entails traversing a complex array of administrative, legal, and financial obstacles that frequently

dissuade people and small businesses. In the Indian context, the growing focus on "Atmanirbhar Bharat" and "Startup India" has underscored the significance of intellectual property rights (IPRs). Despite the vast prospects in global competition, innovation-driven growth, and technology transfer, systemic obstacles such as protracted patent examination, inadequate awareness, and elevated legal expenses remain prevalent (Vijay, R., 2024). This study aims to examine the problems and opportunities associated with registering intellectual property rights, providing insights for governments, enterprises, and inventors.

Concept of Intellectual Property Rights (IPR)

Intellectual Property Rights (IPR) denote the legal safeguards afforded to the authors and proprietors of intellectual creations, including inventions, literary and artistic works, designs, symbols, names, and pictures utilized in commerce. In contrast to physical property, intellectual property is intangible; nonetheless, its worth in the contemporary knowledge-based economy is substantial (P, L., 2019). Intellectual Property Rights grant unique privileges to the author or inventor, allowing them to regulate the utilization, distribution, and commercialization of their creations for a designated duration.

The primary objective of IPR is twofold:

- Promotion of Innovation - By guaranteeing that creators and inventors receive compensation for their endeavors, intellectual property rights stimulate ongoing innovation.
- Balancing Public Interest - In giving exclusivity, intellectual property rights regulations also guarantee that knowledge and innovation ultimately transition into the public domain, thereby benefiting society as a whole.
- Intellectual Property Rights (IPR) are regulated internationally by agreements such as the TRIPS

Agreement (1995) under the WTO, the Paris Convention (1883) for patents and industrial property, and the Berne Convention (1886) for copyrights. The Indian Patents Act of 1970 (amended in 2005), the Copyright Act of 1957, the Trademarks Act of 1999, and the Designs Act of 2000 are the foundation of intellectual property rights legislation in India.

Table 1: Advantages of Intellectual Property Rights (IPR)

Advantage	Description
Encourages Innovation and Creativity	By rewarding inventors and creators with exclusive rights, IPR incentivizes continuous research, artistic creation, and technological advancement.
Economic Growth Driver	Strong IPR regimes attract foreign direct investment (FDI), promote startups, and encourage knowledge-based industries, directly contributing to GDP growth.
Competitive Advantage	Companies with patented products, trademarks, or copyrighted material gain an edge over competitors by differentiating their offerings.
Revenue Generation	IPR holders can commercialize their rights through licensing, franchising, or technology transfer, generating significant income streams.
Protects Brand Identity	Trademarks and copyrights help protect the uniqueness of a brand, ensuring consumer trust and preventing market confusion.
International Market Access	With globalization, strong IPR protection enables firms to expand into international markets while safeguarding against infringement.
Promotes R&D Investment	Assured protection and possible returns motivate both private firms and public institutions to invest heavily in research and development.
Supports Startups and Entrepreneurs	Startups can leverage IPR as collateral for funding or partnerships, thereby strengthening the innovation ecosystem.
Prevents Unauthorized Use	Patents, trademarks, and copyrights legally deter imitation and unfair competition by providing remedies against infringement.
Cultural Preservation	Copyrights and Geographical Indications (GIs) protect traditional knowledge, art forms, and local products (e.g., Darjeeling Tea, Banarasi Sarees).
Enhances Consumer Trust	Consumers are more likely to trust products and services protected under IPR, as they are linked with quality and authenticity.
Global Integration	A robust IPR system aligns domestic industries with global standards, fostering participation in global value chains and trade agreements.

LITERATURE REVIEW

Maskus (2000) highlights that intellectual property rights (IPR) are a critical driver of innovation as they assure inventors of economic rewards for their creativity. However, he argues that despite these incentives, the procedural hurdles in filing IPR—such as lengthy timelines, complex documentation, and high costs—act as barriers for broader participation, particularly in developing nations where institutional support is weak. This tension between innovation stimulation and practical filing challenges reflects a global problem of underutilization of IPR systems. Fink and Maskus (2005) further emphasize that IPR protection plays a significant role in global technology transfer and trade competitiveness. They argue that countries with stronger IPR enforcement mechanisms tend to attract more foreign investment, but inconsistent filing frameworks across jurisdictions create difficulties for innovators seeking protection abroad. Their study suggests that harmonization of filing rules and greater international cooperation would unlock new opportunities for firms engaged in global trade. Bessen and Meurer (2008) argue from a cost-based perspective, highlighting that while patents can theoretically benefit innovators, the reality is often shaped by litigation risks and administrative burdens. They find that small firms and startups face disproportionate costs in IPR filing, including legal disputes, renewal fees, and compliance requirements, which frequently outweigh the benefits of protection. This creates a chilling effect on innovation where only larger firms with legal and financial muscle can sustain IPR strategies effectively. Hall and Harhoff (2012) provide a contrasting perspective by suggesting that harmonization of IPR regimes across borders can create immense opportunities. Their research indicates that global firms benefit from reduced redundancy in filing across multiple countries, allowing for smoother cross-border operations. For instance, initiatives like the Patent Cooperation Treaty (PCT) have reduced the need for repeated filings, thereby lowering costs and creating stronger incentives for global innovation.

Gupta (2016) highlights the unique challenges faced by Indian startups in the IPR domain. Despite growing awareness, many young entrepreneurs struggle with financial constraints, lack of legal expertise, and insufficient professional guidance in the patent filing process. This leads to under-filing of patents and weak protection of indigenous innovations. Gupta's analysis suggests that targeted government support programs, subsidies, and training initiatives could encourage greater participation of startups in IPR protection. The World Intellectual Property Organization (WIPO Report, 2018) discusses how digitalization has transformed the IPR landscape by improving accessibility and efficiency. Online filing systems, AI-enabled patent searches, and blockchain-based registries have significantly reduced processing delays and administrative backlogs. However, the report also cautions that digital transformation brings challenges related to cybersecurity, data protection, and equitable access across countries with varying technological readiness. Chaudhary and Singh (2021) analyze the Indian context, noting that while India has improved its position in global IPR indices, institutional challenges persist. They point to delays in patent examinations, lack of

trained professionals, and limited awareness among small businesses and universities as persistent hurdles. Nonetheless, they highlight opportunities in India's proactive reforms, such as fast-track examinations and startup-friendly IPR schemes, which provide optimism for future improvements in the ecosystem.

RESEARCH METHODOLOGY

This research employs a qualitative and analytical design, utilizing secondary data from journals, WIPO reports, publications from the Indian Patent Office, and policy papers. The examination is theoretical and examines existing frameworks, difficulties, and opportunities in intellectual property rights filing.

Objectives of the Study

1. To analyze the major challenges in filing IPRs at both global and Indian levels.
2. To examine opportunities offered by IPR filing in fostering innovation and competitiveness.
3. To provide recommendations for improving IPR filing frameworks.

ANALYSIS & INTERPRETATION (THEORETICAL ANALYSIS OF OBJECTIVES)

Objective 1: To analyze the major challenges in filing IPRs

The procedure for submitting Intellectual Property Rights entails several stages: drafting, examination, publication, opposition, and grant. Each of these phases is susceptible to delays and procedural intricacies. In India, the typical duration for patent examination frequently exceeds 3–5 years, dissuading inventors. Additionally, filing expenses, legal charges, and the necessity for specialized knowledge serve as obstacles for companies and individual entrepreneurs. International applications under the Patent Cooperation Treaty (PCT) are too expensive, rendering worldwide protection unattainable for most entities. Consequently, this target underscores systemic inefficiencies and financial pressures as primary problems. A modest biotech business in India may possess a novel medicine formulation; nevertheless, delays in patent approval and significant litigation risks hinder prompt commercialization, allowing opportunities for competitors to replicate the product.

Objective 2: To examine opportunities offered by IPR filing in fostering innovation and competitiveness

Despite the clear hurdles, the potential in filing Intellectual Property Rights are equally substantial. Acquiring patents, trademarks, or copyrights guarantees exclusive economic rights and enhances brand equity. In nations such as India, robust intellectual property rights filings can draw international investment, enable knowledge transfer, and enhance standings in global innovation rankings. Moreover, efforts such as India's IPR Policy (2016) and accelerated examination for startups

create a conducive atmosphere. A startup such as “Ola Electric” receives advantages from intellectual property rights filings that protect its innovative technologies from competitors, enabling it to attract funding and expand internationally.

Objective 3: To provide recommendations for improving IPR filing frameworks

Evaluating both difficulties and opportunities establishes a basis for practical recommendations. Theoretical reasoning is based on policy harmonization, the digitalization of intellectual property rights filing systems, subsidized filing fees for small firms, and the enhancement of institutional capacity. Global initiatives by WIPO to implement AI-driven patent search tools can mitigate delays. India can enhance awareness initiatives and establish university-affiliated IPR cells to assist innovators. Institutions such as IITs and IIMs, equipped with IPR support cells, have experienced a significant increase in patent applications, demonstrating that institutional assistance amplifies filing prospects.

FINDINGS OF THE STUDY

1. The process of filing Intellectual Property Rights is expensive and intricate, deterring small enterprises.
2. Procedural delays diminish incentives for innovation.
3. The absence of awareness in India diminishes filing rates, notwithstanding its revolutionary potential.
4. The digital platforms launched by WIPO have enhanced worldwide accessibility.
5. The harmonization of laws helps mitigate issues associated with cross-border filings.
6. India's Intellectual Property Rights Policy (2016) has prospects however encounters inadequate execution.
7. Startups may utilize accelerated inspection; however, only a limited percentage take advantage of this option.
8. Institutions having Intellectual Property Rights cells exhibit superior filing rates compared to those lacking such facilities.
9. Litigation risks persist at elevated levels in developed economies, deterring certain entrepreneurs.
10. Filing Intellectual Property Rights (IPRs) bolsters competitiveness, brand equity, and investor assurance.

11. International treaties facilitate access to global markets contingent upon the resolution of cost barriers.
12. Awareness and training initiatives directly enhance IPR filing rates.

Recommendations for the study

- Streamline intellectual property rights filing processes using digital platforms.
- Implement fee subsidies and tax advantages for startups and micro, small, and medium enterprises (MSMEs).
- Mitigate examination delays by augmenting the recruitment of patent examiners.
- Enhance intellectual property rights awareness initiatives within educational institutions.
- Advocate for the global standardization of filing standards.
- Offer government-funded legal assistance for SMEs in intellectual property rights lawsuits.
- Promote relationships between industry and academia for research that can be patented.
- Establish Intellectual Property Rights facilitation centers in each state of India.
- Utilize AI and blockchain for transparent and efficient intellectual property rights management.
- Advocate for accelerated review of green technologies and social advances.
- Enhance India's engagement in international intellectual property rights forums to exert policy impact.
- Establish consistent training sessions for innovators regarding filing procedures.

CONCLUSION

Registering Intellectual Property Rights is both a challenge and an opportunity in the dynamic global economy. Despite ongoing challenges including procedural complexity, elevated costs, and insufficient awareness, the potential for fostering innovation, improving competitiveness, and stimulating economic growth is substantial. India's alignment with global intellectual property rights frameworks and the establishment of strong domestic policies can revolutionize the innovation ecosystem. Through targeted reforms and robust institutional support, intellectual property rights filing can serve as a catalyst for inclusive growth, entrepreneurship, and global integration. The survey indicates that the primary problems encompass inadequate awareness among innovators, protracted examination durations, restricted professional experience in application drafting, and elevated

financial burdens—especially for small enterprises and startups. Nonetheless, these obstacles also create opportunities for systemic reforms, including the digitalization of processes, capacity-building efforts, public-private partnership, and the worldwide harmonization of intellectual property rights rules. Opportunities exist in utilizing intellectual property rights as a mechanism for economic empowerment, allowing Indian innovators to engage in global value chains while protecting their creative assets. India's expanding startup environment and regulatory efforts such as Start-up India and Digital India present an unprecedented opportunity to cultivate a robust intellectual property rights culture. Enhancing institutional capacity, improving awareness initiatives, offering financial incentives, and conforming to global best practices will facilitate India's transition from an innovation consumer to a global leader in innovation development.

In conclusion, the duality of problems and opportunities underscores that intellectual property filing is not merely a legal or administrative obligation but a strategic facilitator of sustained growth. If managed adeptly, it can establish India as an innovation-centric economy that harmonizes protection with accessibility, so ensuring sustained competitiveness in the global market.

REFERENCES

1. Maskus, K. E. (2000). *Intellectual Property Rights in the Global Economy*. Washington, DC: Institute for International Economics.
2. Fink, C., & Maskus, K. E. (2005). *Intellectual Property and Development: Lessons from Economic Research*. World Bank & Oxford University Press.
3. Bessen, J., & Meurer, M. J. (2008). *Patent Failure: How Judges, Bureaucrats, and Lawyers Put Innovators at Risk*. Princeton University Press.
4. Hall, B. H., & Harhoff, D. (2012). Recent research on the economics of patents. *Annual Review of Economics*, 4(1), 541–565.
5. Gupta, R. (2016). IPR challenges for Indian startups: Barriers and prospects. *Journal of Intellectual Property Rights*, 21(3), 167–175.
6. World Intellectual Property Organization. (2018). *WIPO Technology Trends Report*. Geneva: WIPO.
7. Chaudhary, P., & Singh, R. (2021). Intellectual property rights in India: Challenges and opportunities. *Journal of Intellectual Property Studies*, 6(2), 45–60.
8. P, L. (2019). Does Intellectual Property Have Economic and Legal Characteristics of Security Asset? *Kaav International Journal of Economics, Commerce & Business Management*, 6(1), 82–85.
9. Vijay, R. (2024). Managing IP Risks: Strategies to Protect Business. *Kaav International Journal of Economics, Commerce & Business Management*, 11(1), 35–39.