



# Balancing Innovation and Access: A Critical Analysis of Intellectual Property Regimes in India

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**ABSTRACT:** Intellectual Property (IP) law in India represents a complex and evolving legal framework designed to regulate the protection of intangible creations while balancing innovation with public access. This paper undertakes a comprehensive doctrinal and critical analysis of the four principal IP regimes—copyright, trademark, patent, and industrial design—focusing on their conceptual foundations, statutory structures, and practical application. It examines key thresholds such as originality, distinctiveness, inventive step, and visual appeal, highlighting how these standards function as gatekeepers to protection while also introducing interpretative ambiguities. The study explores the inherent tension between incentivizing creators and preserving the public domain, drawing attention to the role of judicial interpretation in mediating this balance. It further analyses the increasing overlap between different IP regimes, particularly the interface between copyright and design law, and the resulting challenges in classification and enforcement. The expansion of protection in certain areas, especially trademark law through doctrines such as acquired distinctiveness and well-known marks, is critically assessed in light of its potential to restrict competition. Similarly, the stringent standards in patent law are evaluated for their dual impact on preventing monopolistic abuse while potentially discouraging incremental innovation. The paper argues that although the Indian IP framework is conceptually structured and policy-oriented toward public interest, its practical implementation reveals inconsistencies, uncertainties, and risks of overreach. It concludes by advocating for a more harmonized and adaptive approach, emphasizing clearer statutory guidance, consistent judicial interpretation, and a renewed focus on the foundational objectives of intellectual property law in fostering innovation while ensuring equitable access.

**KEYWORDS:** Intellectual Property Rights, Originality, Distinctiveness, Patentability, Design Overlap.

## INTRODUCTION

Intellectual Property (IP) law constitutes one of the most dynamic and rapidly evolving areas of modern legal systems, reflecting the increasing centrality of knowledge, creativity, and innovation in contemporary economic development. In an era characterized by information economies, digital dissemination, and globalized markets, intangible assets frequently possess greater economic value than tangible property. Legal systems are therefore required to

construct regulatory frameworks that not only incentivize the creation of such intangible assets but also ensure that their protection does not impede access, competition, or further innovation. In India, this framework is primarily governed by four major statutes: the Copyright Act, 1957; the Trade Marks Act, 1999; the Patents Act, 1970; and the Designs Act, 2000.<sup>1</sup> Each of these regimes protects a distinct category of intellectual creation—expression, commercial identity, technological innovation, and aesthetic design respectively—yet they collectively operate toward a shared objective of fostering innovation while preventing unjust monopolization.

The development of intellectual property law in India must also be understood in light of its international obligations and economic trajectory. India's compliance with the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) marked a significant shift toward harmonization with global IP standards.<sup>2</sup> However, this process of harmonization has been accompanied by a persistent tension between the protection of proprietary rights and the need to safeguard public welfare, particularly in sectors such as healthcare, education, and access to information. As a developing economy, India has consistently adopted a calibrated approach that seeks to balance international commitments with domestic socio-economic priorities. This dual commitment is reflected in both legislative design and judicial interpretation, where courts have often emphasized that IP protection must not operate to the detriment of public interest.

At a theoretical level, intellectual property law is grounded in competing normative justifications that often operate in tension with one another. The incentive theory posits that granting exclusive rights to creators is essential to reward their labour, skill, and financial investment, thereby encouraging further innovation.<sup>3</sup> In contrast, the access theory underscores the importance of maintaining a robust public domain, ensuring that knowledge and ideas remain freely available for societal progress.<sup>4</sup> A related theoretical perspective, particularly relevant in the context of copyright, is the personality theory, which conceptualizes creative works as extensions of the author's personality and therefore deserving of both economic and moral protection.<sup>5</sup> These theoretical frameworks are not mutually exclusive; rather, they coexist within the legal system and inform both statutory interpretation and judicial reasoning.

Indian courts have repeatedly acknowledged this inherent tension between private rights and public interest. In *Eastern Book Company v. D.B. Modak*, the Supreme Court recognized that copyright law must strike a balance between incentivizing authors and preserving access to knowledge, thereby rejecting an overly expansive interpretation of originality.<sup>6</sup> Similarly, in *Aamir Raza Husain v. Cinevistaas Ltd.*, the court emphasized that copyright protection should encourage creativity rather than stifle it, reinforcing the need to prevent excessive monopolization.<sup>7</sup> These decisions illustrate the judiciary's role in mediating the competing objectives of IP law and ensuring that its application remains consistent with broader constitutional values and public policy considerations.

Despite the existence of distinct statutory regimes, practical complexities arise due to the increasingly interdisciplinary nature of intellectual creations and evolving commercial

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<sup>1</sup> Copyright Act, No. 14 of 1957 (India); Trade Marks Act, No. 47 of 1999 (India); Patents Act, No. 39 of 1970 (India); Designs Act, No. 16 of 2000 (India).

<sup>2</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.

<sup>3</sup> William M. Landes & Richard A. Posner, *The Economic Structure of Intellectual Property Law* 1–3 (2003).

<sup>4</sup> Yochai Benkler, *The Wealth of Networks* 35–40 (2006).

<sup>5</sup> Justin Hughes, *The Philosophy of Intellectual Property*, 77 *Geo. L.J.* 287 (1988).

<sup>6</sup> *Eastern Book Co. v. D.B. Modak*, (2008) 1 SCC 1 (India).

practices. In contemporary markets, a single product or creation may simultaneously embody multiple forms of intellectual property protection. For instance, a commercially manufactured product may incorporate artistic elements protected by copyright, branding elements protected by trademark law, functional innovations protected by patents, and aesthetic features protected by design law. This convergence challenges the traditional compartmentalization of IP regimes and raises significant doctrinal questions regarding the boundaries of protection. The potential for overlapping rights creates uncertainty for creators and businesses while also raising concerns about overreach, where cumulative protection may effectively extend monopoly rights beyond their intended statutory limits.

The problem is further exacerbated by rapid technological advancements, which continuously blur the distinctions between different categories of intellectual property. Digital works, software, and multimedia content often defy traditional classifications, thereby testing the adaptability of existing legal frameworks. Additionally, globalization has intensified the need for consistency and predictability in IP enforcement, as businesses increasingly operate across jurisdictions with varying standards of protection. These developments necessitate a re-examination of the conceptual foundations of IP law and its practical application in a rapidly changing environment.

Against this backdrop, this paper undertakes a critical examination of the Indian intellectual property framework by analysing the core principles underlying each regime and identifying areas of convergence and conflict. It evaluates how statutory provisions and judicial interpretations interact to shape the contours of IP protection in India. The central argument advanced in this paper is that while the Indian IP framework is conceptually coherent and normatively balanced, its practical application reveals inconsistencies and ambiguities that undermine legal certainty. These challenges necessitate a more harmonized and principled approach, one that clearly delineates the boundaries of protection while remaining responsive to the evolving nature of creativity and innovation.

## **COPYRIGHT LAW: BEYOND ORIGINALITY—BALANCING CREATIVITY AND ACCESS**

Copyright law occupies a foundational position within the intellectual property framework, as it directly engages with the protection of creative expression across literary, dramatic, musical, and artistic domains. The statutory framework under the Copyright Act, 1957 reflects a dual objective: to incentivize creativity by granting exclusive rights to authors, and to ensure that such rights do not impede the dissemination of knowledge and cultural development.<sup>7</sup> The tension between these objectives is most evident in the evolving judicial interpretation of the concept of originality, which serves as the threshold requirement for copyright protection.

Historically, Indian copyright jurisprudence was influenced by the “sweat of the brow” doctrine, which emphasized labour, skill, and investment as the basis for protection. However, this approach risked granting monopolies over works that lacked genuine creativity, thereby restricting access to information. The Supreme Court’s decision in *Eastern Book Company v. D.B. Modak* marked a decisive departure from this doctrine, introducing the requirement of a “modicum of creativity” as an essential element of originality.<sup>8</sup> The Court held that mere expenditure of labour and capital is insufficient; rather, the work must exhibit a minimal degree of intellectual creativity. This shift aligned Indian law with international standards, particularly

<sup>7</sup> Aamir Raza Husain v. Cinevistaas Ltd., (2010) (India).

<sup>8</sup> Eastern Book Co. v. D.B. Modak, (2008) 1 SCC 1 (India).

the U.S. Supreme Court's decision in *Feist Publications, Inc. v. Rural Telephone Service Co.*, which rejected the sweat of the brow doctrine and emphasized originality as the sine qua non of copyright protection.<sup>9</sup>

While the adoption of the creativity standard represents a doctrinal advancement, it simultaneously introduces a degree of ambiguity. The threshold of "minimal creativity" is inherently subjective and lacks precise definition, leading to inconsistent application across cases. For instance, in *Eastern Book Company*, editorial contributions such as headnotes and paragraphing were partially recognized as original, yet similar forms of editorial effort in other contexts may fail to meet the required threshold. This inconsistency creates uncertainty for authors and publishers, particularly in fields such as legal reporting, data compilation, and digital content creation, where the line between mechanical effort and creative input is often blurred.

The scope of copyright protection is further limited by the idea-expression dichotomy, a principle that lies at the core of copyright jurisprudence. This doctrine ensures that copyright protection extends only to the expression of an idea and not to the idea itself. The Supreme Court reaffirmed this principle in *R.G. Anand v. Delux Films*, holding that themes, concepts, and historical facts remain within the public domain and are not subject to exclusive rights.<sup>10</sup> This limitation is essential to prevent the monopolization of abstract ideas, which would otherwise hinder creativity and innovation. However, the practical application of this doctrine presents significant challenges, particularly in cases involving alleged infringement where similarities between works may arise from shared ideas rather than copied expression.

The difficulty of applying the idea-expression dichotomy is closely linked to the doctrine of substantial similarity, which serves as a test for infringement. In *Zee Telefilms Ltd. v. Sundial Communications Pvt. Ltd.*, the court emphasized that the determination of infringement depends on whether the "substance" or "kernel" of the original work has been reproduced.<sup>11</sup> This approach requires courts to adopt the perspective of an ordinary viewer or reader, assessing whether the overall impression of the two works is substantially similar. While this test is conceptually sound, it introduces a high degree of subjectivity, as it relies on perceptual judgment rather than objective criteria. Consequently, different courts may arrive at divergent conclusions when evaluating similar factual scenarios, thereby undermining predictability in copyright enforcement.

Additional limitations on copyright protection are provided by the doctrines of merger and *scènes à faire*, both of which aim to preserve the public domain by excluding certain elements from protection. The merger doctrine applies in situations where an idea can be expressed in only one or a limited number of ways, resulting in the fusion of idea and expression. In such cases, granting copyright protection would effectively confer a monopoly over the idea itself. This principle was illustrated in *Herbert Rosenthal Jewelry Corp. v. Kalpakian*, where the court denied protection to a bee-shaped jewel pin on the ground that the idea and its expression were inseparable.<sup>12</sup> Similarly, the doctrine of *scènes à faire* excludes elements that are standard, customary, or inevitable in a particular genre. In *Walker v. Time Life Films Inc.*, the depiction of common features associated with urban crime settings was held to be unprotectable, as such

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<sup>9</sup> *Feist Publ'ns, Inc. v. Rural Tel. Serv. Co.*, 499 U.S. 340 (1991).

<sup>10</sup> *R.G. Anand v. Delux Films*, (1978) 4 SCC 118 (India).

<sup>11</sup> *Zee Telefilms Ltd. v. Sundial Commc'ns Pvt. Ltd.*, (2003) (India).

<sup>12</sup> *Herbert Rosenthal Jewelry Corp. v. Kalpakian*, 446 F.2d 738 (9th Cir. 1971).

elements are intrinsic to the genre.<sup>13</sup> These doctrines play a crucial role in maintaining a balance between protection and access, yet they also underscore the inherent difficulty in distinguishing between original expression and generic elements.

Beyond economic rights, copyright law also recognizes the moral rights of authors, reflecting the personal and reputational interests associated with creative works. Section 57 of the Copyright Act grants authors the right to claim authorship and to prevent distortion, mutilation, or modification of their works. The significance of these rights was highlighted in *Amar Nath Sehgal v. Union of India*, where the Delhi High Court held that the destruction of a mural constituted a violation of the author's right of integrity.<sup>14</sup> The court emphasized that artistic works embody the personality of the author, and any act that harms the work may also harm the author's reputation. This recognition of moral rights distinguishes copyright from other forms of intellectual property, underscoring its unique focus on both economic and personal interests.

From a critical perspective, Indian copyright law reflects a nuanced attempt to balance competing objectives. On one hand, the requirement of originality and the recognition of moral rights provide robust protection for authors, incentivizing creativity and safeguarding artistic integrity. On the other hand, doctrines such as the idea-expression dichotomy, merger, and *scènes à faire* ensure that the public domain remains accessible, preventing undue monopolization. However, the absence of clear and consistent standards for determining originality and substantial similarity introduces a level of uncertainty that may have adverse consequences. Creators may be discouraged by the unpredictability of legal outcomes, while excessive litigation may arise from ambiguous boundaries of protection.

In conclusion, while Indian copyright law has evolved significantly to align with international standards and address contemporary challenges, its effectiveness depends on the development of clearer doctrinal guidelines and more consistent judicial application. Achieving this balance is essential to ensure that copyright law continues to fulfill its dual role of promoting creativity and preserving access to knowledge.

## **TRADEMARK LAW: MARKET IDENTITY AND THE PROBLEM OF OVER-PROTECTION**

Trademark law occupies a distinct position within the intellectual property framework, as it is primarily concerned not with the protection of creativity, but with the regulation of market behaviour and the prevention of consumer confusion. Unlike copyright and patent law, which reward intellectual or technological innovation, trademark law is rooted in commercial identity and the protection of goodwill. The statutory foundation for trademark protection in India is found in the Trade Marks Act, 1999, which defines a trademark as a mark capable of graphical representation and of distinguishing the goods or services of one person from those of others.<sup>15</sup> This requirement of distinctiveness serves as the cornerstone of trademark protection, ensuring that only those marks that perform a source-identifying function are granted exclusive rights.

The concept of distinctiveness is best understood through the spectrum of distinctiveness, which classifies marks into categories ranging from inherently distinctive to non-distinctive. Fanciful, arbitrary, and suggestive marks are considered inherently distinctive and are afforded

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<sup>13</sup> Walker v. Time Life Films Inc., 784 F.2d 44 (2d Cir. 1986).

<sup>14</sup> Amar Nath Sehgal v. Union of India, 2005 (30) PTC 253 (Del).

<sup>15</sup> Trade Marks Act, No. 47 of 1999, § 2(1)(zb) (India).

strong protection, whereas descriptive and generic marks are generally excluded unless they acquire distinctiveness through use.<sup>16</sup> This classification reflects an underlying policy objective of trademark law—to prevent the monopolization of common language and to preserve the availability of descriptive terms for all market participants. Without such limitations, trademark protection could impede competition by restricting the use of language necessary to describe goods and services.

However, the doctrine of acquired distinctiveness, also known as secondary meaning, complicates this framework. Marks that are initially descriptive may, through extensive use and consumer recognition, become associated with a particular source and thereby qualify for protection. While this doctrine serves the legitimate purpose of recognizing commercial goodwill, it also raises concerns about overreach. The transformation of descriptive terms into exclusive property rights risks shrinking the public domain and disadvantaging new entrants in the market who rely on descriptive language to communicate the nature of their goods or services. This tension highlights a fundamental challenge within trademark law: balancing the protection of established businesses with the need to maintain open competition.

The doctrine of deceptive similarity plays a central role in determining trademark infringement. In *Amritdhara Pharmacy v. Satya Deo Gupta*, the Supreme Court held that the likelihood of confusion must be assessed from the perspective of an average consumer with imperfect recollection.<sup>17</sup> This consumer-centric approach reflects the primary objective of trademark law—to prevent confusion in the marketplace. However, the reliance on an abstract standard of the “average consumer” introduces a degree of subjectivity into the analysis. Courts must evaluate phonetic, visual, and conceptual similarities between marks, often leading to divergent interpretations depending on the specific facts of each case. While this flexibility allows courts to adapt to varying circumstances, it also creates uncertainty for businesses seeking to predict the legality of their branding strategies.

Trademark law in India further extends protection beyond registered marks through the common law doctrine of passing off. This doctrine is grounded in the principle that no trader should misrepresent their goods or services as those of another. The classical trinity of passing off—goodwill, misrepresentation, and damage—was articulated in *Reckitt & Colman Products Ltd. v. Borden Inc.*<sup>18</sup> This framework provides a flexible mechanism for addressing unfair competition, particularly in cases where formal registration is absent. However, the inherently fact-specific nature of passing off claims introduces a degree of unpredictability, as the outcome depends on the court’s assessment of evidence relating to reputation, consumer perception, and market conditions. While this flexibility is necessary to address diverse commercial practices, it also complicates the enforcement landscape.

A particularly contentious aspect of modern trademark law is the protection of well-known trademarks. Under Section 11 of the Trade Marks Act, well-known marks are granted protection even in relation to dissimilar goods or services, provided that their use would result in unfair advantage or dilution of the mark’s distinctive character.<sup>19</sup> This extended protection reflects the recognition that certain marks possess significant reputational value that transcends specific product categories. However, the broad scope of this protection raises concerns about the expansion of trademark rights beyond their traditional function of preventing consumer

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<sup>16</sup> *Id.* § 9.

<sup>17</sup> *Amritdhara Pharmacy v. Satya Deo Gupta*, AIR 1963 SC 449 (India).

<sup>18</sup> *Reckitt & Colman Prods. Ltd. v. Borden Inc.*, [1990] 1 WLR 491 (HL).

<sup>19</sup> Trade Marks Act, No. 47 of 1999, § 11 (India).

confusion. In particular, the doctrine of dilution allows trademark owners to prevent uses that may not cause confusion but are deemed to harm the mark's reputation or distinctiveness.

From a critical perspective, the increasing recognition of well-known marks and dilution-based protection signals a shift in trademark law from a consumer protection model to a property-based model. This shift has significant implications for competition, as it enables trademark owners to assert control over a wider range of uses, including those that may be non-confusing or even expressive in nature. The risk of over-protection is particularly pronounced in the context of multinational corporations, whose extensive market presence and advertising capabilities facilitate the establishment of well-known status. This creates an uneven playing field, where smaller businesses may face barriers to entry due to the expansive rights claimed by established brands.

Furthermore, the cumulative effect of doctrines such as acquired distinctiveness, deceptive similarity, passing off, and well-known mark protection raises concerns about the potential for trademark law to extend beyond its intended scope. While each of these doctrines serves a legitimate purpose in isolation, their combined application may result in excessive protection that stifles competition and innovation. The challenge, therefore, lies in ensuring that trademark law remains anchored in its core objective of preventing consumer confusion, rather than evolving into a mechanism for granting broad proprietary rights over language and symbols.

In conclusion, trademark law in India reflects a complex interplay between consumer protection, commercial interests, and competition policy. While the legal framework provides robust mechanisms for safeguarding brand identity and preventing unfair competition, its increasing tendency toward expansion raises important normative concerns. A more balanced approach would require stricter scrutiny of claims of distinctiveness and well-known status, as well as a renewed emphasis on the foundational principle that trademark protection should not extend beyond what is necessary to prevent consumer confusion. Such an approach would help ensure that trademark law continues to facilitate, rather than hinder, competitive markets and innovation.

### **PATENT LAW: INNOVATION, ACCESS, AND THE LIMITS OF MONOPOLY**

Patent law represents the most explicit and structured form of state-sanctioned monopoly within the intellectual property framework, granting inventors exclusive rights over their inventions for a limited period in exchange for public disclosure. This bargain between the inventor and society lies at the heart of patent jurisprudence: while inventors are rewarded for their ingenuity and investment, the public ultimately benefits from the dissemination of knowledge and the eventual entry of the invention into the public domain. The Patents Act, 1970 governs this regime in India, and it establishes a set of stringent requirements—novelty, inventive step, and industrial applicability—to ensure that only genuine technological advancements receive protection.<sup>20</sup> These criteria function as critical filters, preventing the grant of patents for trivial, obvious, or non-functional innovations.

Among these requirements, the concept of inventive step plays a particularly significant role in delineating the boundary between patentable and non-patentable subject matter. Defined under Section 2(1)(ja) of the Patents Act, an inventive step requires that the invention involve a technical advance or economic significance and must not be obvious to a person skilled in

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<sup>20</sup> Patents Act, No. 39 of 1970, §§ 2(1)(j), 2(1)(ac) (India).

the art.<sup>21</sup> This standard serves as a safeguard against the proliferation of patents for incremental or routine modifications that do not contribute meaningfully to technological progress. The importance of this requirement was underscored in *Novartis AG v. Union of India*, where the Supreme Court denied patent protection for a modified form of a known pharmaceutical substance on the ground that it did not demonstrate enhanced therapeutic efficacy.<sup>22</sup> The Court's interpretation was widely viewed as a decisive stance against the practice of "evergreening," whereby patent holders seek to extend their monopoly by obtaining patents for minor variations of existing products.

While the strict application of patentability criteria, as exemplified in *Novartis*, serves to protect public interest and prevent abuse of the patent system, it also raises concerns about under-protection. Critics argue that excessively stringent standards may discourage investment in research and development, particularly in industries such as pharmaceuticals and biotechnology, where innovation involves significant financial risk and long development cycles. The requirement of demonstrating enhanced efficacy, for instance, may deter incremental innovations that, although not groundbreaking, contribute to improvements in safety, stability, or accessibility. This tension reflects a broader policy dilemma within patent law: how to ensure that the system rewards meaningful innovation without creating barriers to incremental progress.

The patent regime addresses this tension, in part, through mechanisms that limit the scope of patent rights in the interest of public welfare. One such mechanism is compulsory licensing, which allows third parties to use a patented invention without the consent of the patent holder under certain conditions. Section 74 of the Patents Act provides for compulsory licensing where the reasonable requirements of the public are not satisfied, the patented invention is not available at an affordable price, or it is not worked in India.<sup>23</sup> The application of this provision in *Bayer Corporation v. Union of India* marked a significant moment in Indian patent jurisprudence, as the Controller granted a compulsory license for a life-saving cancer drug, enabling it to be sold at a substantially lower price.<sup>24</sup> This decision underscored the principle that patent rights are not absolute and must be exercised in a manner consistent with public health and access to essential medicines.

However, the use of compulsory licensing also raises complex questions regarding the balance between innovation incentives and public interest. While such measures enhance access to critical technologies, they may also create uncertainty for patent holders, potentially affecting their willingness to invest in high-risk research. The challenge, therefore, lies in ensuring that compulsory licensing remains an exception rather than a routine intervention, applied judiciously in circumstances where public interest considerations are compelling.

Another significant limitation within Indian patent law is the exclusion of certain subject matter from patentability under Section 3 of the Patents Act. In particular, Section 3(k) excludes "a mathematical or business method or a computer program per se or algorithms" from patent protection.<sup>25</sup> This exclusion has generated considerable debate, especially in the context of rapidly evolving technological fields such as software development, artificial intelligence, and data analytics. Critics argue that the rigid interpretation of this provision fails to account for

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<sup>21</sup> *Id.* § 2(1)(ja).

<sup>22</sup> *Novartis AG v. Union of India*, (2013) 6 SCC 1 (India).

<sup>23</sup> Patents Act, No. 39 of 1970, § 84 (India).

<sup>24</sup> *Bayer Corp. v. Union of India*, (2014) (India).

<sup>25</sup> Patents Act, No. 39 of 1970, § 3(k) (India).

the technical contributions of software-related inventions, thereby placing India at a disadvantage in the global innovation landscape. On the other hand, proponents of the exclusion contend that granting patents in these areas could lead to excessive monopolization and hinder the free flow of information and technological development.

The challenges posed by emerging technologies highlight a broader issue within patent law—the difficulty of adapting a traditionally rigid statutory framework to a rapidly changing technological environment. Patent law, by its very nature, requires clear definitions and boundaries to ensure legal certainty. However, technological innovation often transcends these boundaries, creating hybrid inventions that do not fit neatly within existing categories. This mismatch between legal structure and technological reality necessitates a more flexible and adaptive approach to patent interpretation.

From a critical perspective, Indian patent law reflects a deliberate attempt to balance innovation incentives with public interest considerations. The stringent requirements of patentability, the rejection of evergreening, and the availability of compulsory licensing collectively demonstrate a policy orientation that prioritizes accessibility and social welfare.

However, this approach is not without its drawbacks. The strict interpretation of inventive step and subject matter exclusions may inadvertently stifle certain forms of innovation, particularly in emerging technological sectors. Additionally, the uncertainty surrounding the application of these standards may create challenges for inventors and investors seeking to navigate the patent system.

In conclusion, patent law in India embodies a complex interplay between exclusivity and accessibility, innovation and regulation. While the existing framework successfully addresses concerns of monopolistic abuse and public welfare, it must continue to evolve in response to technological advancements and economic realities. A more nuanced and flexible approach, capable of accommodating both breakthrough and incremental innovations, is essential to ensure that patent law remains an effective tool for promoting progress while safeguarding societal interests.

## **INDUSTRIAL DESIGN LAW AND THE PROBLEM OF OVERLAP**

Industrial design law occupies a distinctive and often under-theorized position within the intellectual property framework, as it operates at the intersection of art, industry, and commerce. Unlike patent law, which protects functional and technical innovations, and copyright law, which safeguards expressive creativity, industrial design law is primarily concerned with the aesthetic features of products that appeal to the eye.

The Designs Act, 2000 defines a “design” as features of shape, configuration, pattern, ornament, or composition of lines or colours applied to an article, which in the finished state appeal to and are judged solely by the eye.<sup>26</sup> This emphasis on visual appeal reflects the underlying rationale of design protection: to incentivize the creation of commercially valuable aesthetic innovations while ensuring that such protection does not extend to functional aspects better suited to patent law.

The limited scope and duration of design protection—typically ten years, extendable by five years—further underscore its role as a narrowly tailored form of intellectual property.<sup>27</sup> Unlike

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<sup>26</sup> Designs Act, No. 16 of 2000, § 2(d) (India).

<sup>27</sup> *Id.* § 11.

copyright, which may subsist for the life of the author plus several decades, design law provides a relatively short-term monopoly, reflecting the rapidly changing nature of consumer preferences and market trends. This temporal limitation is intended to strike a balance between rewarding designers and ensuring that aesthetic innovations eventually enter the public domain.

One of the most significant and complex issues in this domain is the overlap between copyright and design law, particularly in cases where artistic works are applied to industrial products. Section 15 of the Copyright Act, 1957 addresses this overlap by providing that copyright in a design ceases once the design is reproduced more than fifty times through an industrial process, provided that the design is capable of registration under the Designs Act.<sup>28</sup> This provision is designed to prevent dual protection, which would otherwise allow creators to extend the duration of their monopoly by claiming copyright protection for what is essentially an industrial design. By limiting copyright in such cases, the law ensures that designs intended for mass production are governed by the more restrictive framework of design law.

The judicial interpretation of this provision in *Microfibres Inc. v. Giridhar & Co.* provides important clarity on the application of Section 15.<sup>29</sup> In this case, the Delhi High Court held that fabric designs, when applied to textile products through an industrial process, fall within the scope of the Designs Act and cannot be protected under copyright once the threshold of industrial reproduction is crossed. The Court emphasized that the intention behind the creation of the work—whether it is meant for artistic expression or industrial application—plays a crucial role in determining the applicable regime. This decision reinforces the principle that intellectual property protection must be aligned with the nature and use of the work, rather than allowing creators to selectively choose the regime that offers the most advantageous protection.

However, despite the clarity provided by judicial decisions, the application of Section 15 remains fraught with practical difficulties. One of the key challenges lies in determining whether a particular work is “capable of being registered” as a design. This inquiry often involves a subjective assessment of the nature of the work, its intended use, and its mode of reproduction. In industries such as fashion, textiles, and applied arts, the distinction between artistic expression and industrial design is particularly blurred. A design may originate as a purely artistic creation but later be adapted for mass production, raising questions about the point at which copyright protection ceases and design law becomes applicable.

This ambiguity creates significant uncertainty for creators and businesses, who must navigate the risk of losing copyright protection upon commercial exploitation of their works. For instance, a designer who fails to register a design under the Designs Act may find themselves without any protection once the threshold of industrial reproduction is crossed, as copyright would have ceased to subsist. This outcome highlights a potential gap in the legal framework, where the failure to comply with formal registration requirements can result in the complete loss of protection, even for works that involve substantial creative effort.

From a critical perspective, the overlap between copyright and design law reflects a broader tension within intellectual property law between form and function, art and industry. While Section 15 serves an important role in preventing the misuse of copyright to secure extended protection for industrial designs, its rigid application may not adequately account for the realities of modern creative industries, where the boundaries between artistic and commercial production are increasingly fluid. The binary distinction between copyright and design

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<sup>28</sup> Copyright Act, No. 14 of 1957, § 15 (India).

<sup>29</sup> *Microfibres Inc. v. Giridhar & Co.*, 2009 (40) PTC 519 (Del).

protection may therefore be insufficient to address the complexities of contemporary design practices.

Furthermore, the current framework places a significant burden on creators to correctly classify their works and choose the appropriate form of protection at an early stage. This requirement may be particularly challenging for small designers and emerging businesses, who may lack the legal expertise to navigate these distinctions. As a result, the system may inadvertently favour larger entities with greater resources, thereby creating an imbalance in the protection of design innovation.

In conclusion, industrial design law in India plays a crucial role in protecting the aesthetic dimension of innovation, yet its interaction with copyright law presents significant doctrinal and practical challenges. While statutory provisions such as Section 15 of the Copyright Act aim to maintain clear boundaries between different regimes, their application often reveals ambiguities that undermine legal certainty. A more nuanced approach, potentially involving clearer guidelines on the classification of works and greater flexibility in addressing hybrid creations, may be necessary to ensure that the legal framework remains responsive to the evolving nature of design and industry.

### CONCLUSION: TOWARDS A HARMONIZED IP FRAMEWORK

The Indian intellectual property framework reflects a sophisticated and carefully calibrated attempt to balance competing interests of innovation, commercial reward, and public access. Each regime—copyright, trademark, patent, and industrial design—has been structured with distinct objectives and doctrinal thresholds, ensuring that protection is tailored to the nature of the subject matter involved.

Copyright law emphasizes originality and creative expression, trademark law focuses on distinctiveness and consumer protection, patent law prioritizes technological advancement through novelty and inventive step, and design law safeguards aesthetic appeal.<sup>30</sup> Despite this conceptual clarity, the interaction between these regimes often produces complex legal questions that challenge the coherence of the overall framework.

Judicial interpretation has played a central role in maintaining equilibrium within this system. Courts have consistently emphasized that intellectual property rights are not absolute monopolies but limited rights subject to public interest considerations. In *Eastern Book Company v. D.B. Modak*, the Supreme Court rejected an expansive interpretation of originality, thereby preventing undue monopolization of information.<sup>31</sup>

Similarly, in *Novartis AG v. Union of India*, the Court adopted a strict approach to patentability to curb evergreening and protect access to essential medicines.<sup>32</sup> In the context of trademark law, decisions such as *Amritdhara Pharmacy v. Satya Deo Gupta* have reinforced the importance of consumer perception and market fairness.<sup>33</sup> These judicial interventions demonstrate a consistent effort to align IP protection with broader socio-economic goals.

However, the preceding analysis reveals several areas of concern that undermine the effectiveness and predictability of the Indian IP framework. One of the most significant

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<sup>30</sup> Copyright Act, No. 14 of 1957 (India); Trade Marks Act, No. 47 of 1999 (India); Patents Act, No. 39 of 1970 (India); Designs Act, No. 16 of 2000 (India).

<sup>31</sup> *Eastern Book Co. v. D.B. Modak*, (2008) 1 SCC 1 (India).

<sup>32</sup> *Novartis AG v. Union of India*, (2013) 6 SCC 1 (India).

<sup>33</sup> *Amritdhara Pharmacy v. Satya Deo Gupta*, AIR 1963 SC 449 (India).

challenges lies in the absence of clear and consistent standards for key doctrinal concepts such as originality, distinctiveness, and inventive step. While these standards are essential for determining the scope of protection, their inherently subjective nature often leads to inconsistent application across cases.

For instance, the “modicum of creativity” standard in copyright law and the “non-obviousness” requirement in patent law both rely heavily on judicial interpretation, resulting in uncertainty for creators, inventors, and businesses seeking to understand the extent of their rights.

Another major issue is the overlap between different IP regimes, particularly between copyright and industrial design law. Section 15 of the Copyright Act attempts to address this overlap by limiting copyright protection for designs capable of industrial application.<sup>34</sup> However, as demonstrated in *Microfibres Inc. v. Giridhar & Co.*, the practical application of this provision involves complex and often subjective determinations regarding the nature and intended use of a work.<sup>35</sup> Such overlaps not only create doctrinal ambiguity but also increase the risk of strategic litigation, where parties attempt to secure the most advantageous form of protection by navigating between regimes.

The expansion of certain forms of IP protection also raises normative concerns regarding overreach. In trademark law, the increasing recognition of well-known marks and dilution-based protection has extended rights beyond their traditional role of preventing consumer confusion, potentially restricting legitimate competition.

Similarly, in patent law, while mechanisms such as compulsory licensing serve as important safeguards, their application must be carefully balanced to avoid discouraging innovation. These developments highlight the need for a more restrained and principled approach to IP protection, one that remains grounded in its underlying policy objectives.

Addressing these challenges requires a more harmonized and coherent approach to intellectual property regulation in India. First, there is a need for clearer statutory definitions and guidelines that reduce reliance on subjective judicial interpretation. This would enhance legal certainty and enable stakeholders to better navigate the IP system.

Second, greater consistency in judicial reasoning across different regimes is essential to ensure that similar principles are applied uniformly, thereby reducing fragmentation within the legal framework. Third, policymakers and courts must place greater emphasis on the underlying objectives of IP law—namely, the promotion of innovation, the prevention of unfair competition, and the preservation of the public domain.

In addition, the evolving nature of technology and commerce necessitates a more flexible and adaptive legal framework. Emerging fields such as artificial intelligence, digital content creation, and interdisciplinary design challenge traditional categorizations of intellectual property, requiring a rethinking of rigid doctrinal boundaries. A forward-looking approach that accommodates such developments while maintaining core principles of fairness and accessibility is essential for the continued relevance of IP law.

Ultimately, the goal of intellectual property law should not be the maximization of proprietary rights, but the creation of a balanced ecosystem that fosters creativity, innovation, and economic growth while ensuring that the benefits of such progress are widely shared. The Indian IP framework, with its emphasis on public interest and judicial moderation, provides a

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<sup>34</sup> Copyright Act, No. 14 of 1957, § 15 (India).

<sup>35</sup> *Microfibres Inc. v. Giridhar & Co.*, 2009 (40) PTC 519 (Del).

strong foundation for achieving this objective. However, realizing its full potential will require ongoing refinement, harmonization, and responsiveness to the changing realities of the modern world.



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