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**THE ROLE OF INTELLECTUAL PROPERTY AND THEIR
RIGHTS AND COMPANIES**

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Abstract

In recent news, India's position in the International Intellectual Property Index 2024 has been decided as 42.² India has maintained such an average score due to its recent policies; the score provides the necessary reflection that there is a long way to go in the field of Intellectual Property. The measures implemented during the COVID pandemic concerning Intellectual Property dragged India back further in the index. India must undertake intellectual solid property measures and policies to safeguard its intellectual property and increase its index score next year.³ Thus, India still has a long way to go before becoming an intellectual property powerhouse.

Intellectual property plays an integral part in the company as we head towards a new era where the company and intellectual property are in union. A company is often identified by its intellectual property and vice versa. Intellectual property has become a critical element that helps a company establish itself worldwide and contribute towards theory growth, development, and success. Intellectual property is one of the possible ways in which a company can work towards such goals.

Keywords: Intellectual Property; Company; Company Act, 2013

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²Yogima Seth Sharma, *India's Position Unchanged at 42 on International IP Index 2024*, THE ECONOMIC TIMES, Feb. 29, 2024, <https://economictimes.indiatimes.com/news/company/corporate-trends/indias-position-unchanged-at-42-on-international-ip-index-2024/articleshow/108068073.cms?from=mdr> (last visited Mar 2, 2024).

³*Id.*

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A Glimpse into the Intellectual Property and Rights

Intellectual Property refers to those properties that are intangible, which are a result of the inventor or the creators. Such assets include creation or invention using their intellectual capabilities or any other artistic, literary, design, symbol, name, or image used ordinarily in commercial trade. The rights associated with such intellectual property are known as intellectual property rights. Intellectual properties are said to be one of the most innovative creations of the digital world, and they encompass the meaning that traditional properties hold, such as buildings, apartments, etc.

Intellectual property and its rights have several functions. Most people would agree that intellectual property acts as a revenue medium for the owners and creators of such works.⁴ In addition to that, the rights associated with intellectual property promote their growth in this ever-evolving world. These rights promote the protection of such creations and innovation and help to pay due credit to its creator or innovator. Intellectual property, thus, has, over the years, shaped our view of property and made another realm of property that is a unique creation.⁵

Glimpse into the Company Act of 2013

The Company Act has its humble origins from the event of British colonisation, which brought several tangible and intangible assets to us.⁶ The developments⁷ in the era of colonisation helped introduce legislation into India, including the Company Law, which has since been a part of the Indian legal framework till date. Independence⁸ was the central turning point. It helped India create legislation for the companies without any external influence, which they could amend on their terms.

⁴K Venkataraman & S Swarna Latha, *Intellectual Property Rights, Traditional Knowledge and Biodiversity of India* (2008).

⁵*Id.*

⁶S Verma & S J Gray, *Development of Company Law in India: The Case of the Companies Act 1956* (2006), <https://eprints.whiterose.ac.uk/2580/1/ymswp18verma2.pdf>.

⁷*Id.*

⁸*Id.*

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The Companies Act 2013⁹ is a comprehensive act that deals with all matters relating to a company.¹⁰ It lists how companies are required to function and create bodies which regulate the same. It also lays down the company's and its stakeholders' responsibilities towards one another. It also acts as a measure of control. It determines how penalties and other punishments are to be levied if there is a breach or violation of the provisions contained under this act.

The new Companies Act is a step towards creating a more inclusive law that incorporates most of the provisions for companies and is in line with international standards.¹¹ The new Act has specified the powers of the different stakeholders in the company, provided them with the ability to make decisions, and granted rights and other protections in their favour. It has also helped ease the burden of the companies in several aspects by providing them with exemptions from formal requirements.¹²

Role of Intellectual Property in a Company

The traces of intellectual property and their rights can be found in the Company Act of 2013¹³. This act directs the creation of charges on different assets, properties, and undertakings, whether tangible or otherwise, that are intangible, such as goodwill or intellectual property rights¹⁴. Such a charge must be registered with the Registrar of the Companies¹⁵. Thus, intellectual property is essential in defining a company's appearance to others.

The strengthening of intellectual property laws in India becomes essential for such companies to flourish as most of their clients can be found outside India. India has taken on many projects from foreign nations. Thus, to capture the big market, it becomes necessary for them to ensure

⁹ The Companies Act, 2013, No. 125, Acts of Parliament, 2013 (India)

¹⁰ Rajanikanta Khuntia, *COMPANIES ACT, 2013 – A NEW WAVE OF EFFECTIVE REGULATION AND CORPORATE GOVERNANCE IN INDIA*, 3 (2014).

¹¹ Bryan Cave Bulletin Indian Companies Act 2013 The Story So Far O.pdf, <https://www.bclplaw.com/a/web/2031/Bryan-Cave-Bulletin-Indian-Companies-Act-2013-The-Story-So-Far-O.pdf> (last visited Feb 29, 2024).

¹² *Id.*

¹³ The Companies Act, 2013, No. 125, Acts of Parliament, 2013 (India)

¹⁴ The Companies Act, 2013, § 78(1), No. 125, Acts of Parliament, 2013 (India)

¹⁵ Nandan Pendsey & Aparajita Lath, *Security Interest over Intellectual Property Rights*, LEXOLOGY (2018), <https://www.lexology.com/library/detail.aspx?g=835049a6-94ea-4832-a68d-366b86c40440> (last visited Mar 2, 2024).

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Intellectual Property and other safeguards are already in place. India can no longer ignore such requirements¹⁶.

Brief Case Study of Tata Group

The Tata Group has been a pioneer in every field it has entered since it was founded in 1868 by its pioneer and founder, Jamsetji Tata. It has gone on to become one of the largest groups to have existed in India. This is evident enough by how it has captured every market, ranging from communications to steel, chemicals, motors, etc. Tata has always been known for its strategy and management, shaping its excellence and productivity in every project¹⁷.

Intellectual property is the key which opens the gates for businesses to operate and dominate markets globally. In doing so, we cannot skip out the name of Tata, which in the early 2000s formed committees to deal with such intellectual property, namely the Intellectual Property Executive Committee and Team Intellectual Property¹⁸. This household name was reaching for the world, which was evident through their actions, but it had several challenges. The first challenge was to determine how they could commercialise the intellectual property. The commercialisation of intellectual property advertises the company and invites people to invest in it.¹⁹

The second challenge was to pick out which partners would play a suitable role if they collaborated in manufacturing. Tata continued to use its technologies properly and maintain its intellectual property, sharing such intellectual property in the form of licenses and agreements and creating a perfect balance between these²⁰. Thus, Tata acted in the right direction to establish itself globally. They continue to be pioneers and shape how a company can utilise intellectual property to its true potential and contribute to its global growth.

¹⁶Rakesh Basant, *Intellectual Property Rights Regime and Creation of Innovation Based Enterprises in India*.

¹⁷Omid Nodoushani & Patricia A Nodoushani, *Strategy and Structure: The Case of Tata Group*, 10 142 (2012).

¹⁸B K Bhuyan et al., *Emerging IPR Consciousness in India: Strengthening IP and Open Source Systems of Technological Innovations*, 33 VIKALPA 71 (2008), <https://doi.org/10.1177/0256090920080206> (last visited Mar 4, 2024).

¹⁹*Id.*

²⁰*Id.*

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Brief Case Study of Wipro

Wipro was initially formed in 1945 by its founder, M.H. Premji, not as an I.T. company but as a company that dealt with peanut oil. It began with its I.T. endeavours much later, from the 1980s onwards, which might be an exciting beginning for most of us reading about it. It ended up settling in the field of I.T. and worked on the development and research about the manufacturing of computers. It is known for its high-quality goods and services, which it distributes and deals with²¹.

Wipro is known to pay vast sums of money for the training and development of its employees. It believes that such investments are necessary as such employees work towards the research and development of its products and help create patents, copyrights and trademarks²². In addition, Wipro has taken on several projects that aim to increase its intellectual capital to maintain the base of clients they have built over the years²³. Thus, Wipro has become a power-packed company that is leading with its innovations and ideas, especially in intellectual property.

Conclusion

Intellectual property is the leading sphere in India. Intellectual property serves an essential purpose for companies. It allows companies to work on the research and development of intellectual property, which protects their works and, in addition to that, helps them gain recognition and investment from India and other foreign nations as well. Intellectual property can become a mode of advertisement that allows potential investors to be drawn in. A company that develops and subsequently obtains ownership of its intellectual property can provide a license, among other things, which would help it earn revenue.

Intellectual property enables the company to grow, irrespective of the field; intellectual property dominates all companies, from entertainment to pharmaceutical companies. Intellectual property,

²¹K. Annapoorneshwari Shetty & Subrahmanya Bhat, *The Giant of the Global Software Industry - WIPRO: A Case Study*, 6 INTERNATIONAL JOURNAL OF CASE STUDIES IN BUSINESS, IT AND EDUCATION (IJCSBE) 512 (2022), <https://supublication.com/index.php/ijcsbe/article/view/202> (last visited Mar 5, 2024).

²²Shyamal Banerjee, Ashim Paul & P.K. Bandgar, *Accounting for Intellectual Capital: A Case Study of Select IT Companies in India*, 47 THE MANAGEMENT ACCOUNTANT - THE JOURNAL FOR CMAS (2012).

²³*Id.*

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if used strategically by a company, can help them gain profit and recognition simultaneously. Thus, most companies work on the development of their intellectual property.



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