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## IP and the SDGs: Building our Common Future with Innovation and Creativity

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*This article deals with the deep and integral connection between intellectual property (IP) and fostering innovation and creativity. Intellectual property rights are related to development and innovation. As the age of globalisation accelerates technological advancement and the AI revolution, in specific reference to equitable development and Global North vis-a-vis Global South justice IP protection regimes, there is a need to focus on sustainable development and the IP. The yearly theme for 2024 by World Intellectual Property Day is 'IP and the SDGs'. It becomes imperative to understand the relationship between IP and sustainable development goals and how they both go hand in hand for the global and localised progress of humanity. Understanding the aspect of technology transfer, facilitation of economic growth and upliftment of marginalised communities, the aim and scope of this article is to study the interrelation of IP with the SDGs, proposing focal points on local needs and inclusivity. The paper focuses on the need for country context-specific tailored IP law regimes. Analysing the relevant case studies, which serve as remarkable examples of the interconnection between IP and various SDG goals, the paper highlights a way forward in the IP laws that could address various pressing issues across the globe, including inequality, poverty and hunger and build a better tomorrow.*

**Keywords:** *ip, sdgs, inclusivity, creativity, innovation.*

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## INTRODUCTION

The history of humankind has been driven by the creatives and the innovators. At this junction of humankind, the era of globalisation, most revolutionary science and technological innovations, including the Artificial Intelligence revolution, in every sector, its impact on human lives is inevitable and accelerating.

Social progress depends upon IP, not just economic but also general welfare and human development index as with innovations, technological advancements, and new insights into literature and art, the civilisation as whole leaps forward. Sustainable development is interconnected development with inclusive aspects of each stakeholder of the society, nature to a marginalised community, the standard of life, medicine to aesthetics, keeping future generations safe and preserving traditional knowledge. Intellectual property, in essence, is the fundamental base for not just market manifestations and consumerism but also welfare and inclusivity.

*'IP and the SDGs'* is the theme of the World Intellectual Property Day 2024 campaign in light of understanding the interconnection between the two in building a common future for all (SDGs), with innovation and creativity-driven solutions (role of IP).

## INTELLECTUAL PROPERTY: DEFINITION

Intellectual property as defined under Article 2(viii) of the convention establishing the World Intellectual Property Organization (WIPO), includes rights relating to literary, artistic and scientific works, performances of performing artists, phonograms, and broadcasts, inventions in all fields of human endeavour, scientific discoveries, industrial designs, trademarks, service marks, and commercial names and designations, protection against unfair competition, and all other rights resulting from intellectual activity in the industrial, scientific, literary or artistic fields.

Intellectual property is defined as the commercially valued intangible property which is a product of the human intellect or application of mind. IP gives the creators, designers, inventors, or innovators ownership over their elaborated idea, and not a mere abstract idea, which is

similar to that of tangible property and protection of that ownership. Conventionally, IP is categorised as Industrial Property (which includes patents for inventions, trademarks, industrial designs, and geographical indications) and Copyright (which includes literary works, films, music, artistic works, and architectural design).

## THE EVOLVING NATURE OF IP

Additionally, the current technological advancements have blurred the conventional understanding of IP as technology, innovation, and certain emerging hybrid sui generis systems also require IP protection, as the WIPO convention at Geneva in 2002 passed the resolution in this effect, also focusing upon traditional knowledge aspect as well. Technology has attributes similar to a sellable product. It has use and exchange value and has restricted circulation information. It is knowledge and therefore, intangible property which is not extinguished by its use.

**Intellectual Property Rights (IPR):** Intellectual property rights refer to a bundle of rights that the creator or owner of the intellectual property has in accordance with the laws. It gives recognition to the creative owners' efforts and facilitates trading fairly by giving legal protection to intellectual creativity and innovations. It protects the intellectual property from being infringed or used by any third party without permission or credits or any other unauthorised use.

## TYPES OF IP

The various kinds of IPR include copyright, patent, trademark, industrial design, geographical indications, trade secrets, and layout design of integrated circuits.

**Copyright:** it is related to the rights over literary and artistic creations, which gives the copyright holder or the author an exclusive right over his/her creation. Such literary and artistic works typically include novels, poetry, plays, prose, articles, computer programming and databases, film, musical compositions, songs, dance choreography, painting, photography, sculpture, architecture, technical drawings and the like. The IP protection of copyright prevents the copying, unauthorised usage or publication of the original work of another. Since the inception

of any artistic creation as an expression in a tangible form, the right of copyright is vested in it. The copyrights vest the original author with two components of rights, viz, firstly, the economic rights, which give the right to reap financial benefits from the artistic or literary creation, and secondly, the moral rights, which are the non-economic rights over the work, which includes the right to not allow edits, amendments to original work, claim authorship.

**Patent:** This right relates to inventions and innovations, which can be a new product, an improvement to an existing one or a new process or method or a technical solution. A patent gives rights to the inventor, giving them a monopoly over their invention, having an industrial and commercial value. This exclusive right, valid for a limited period, is conferred in exchange for the disclosure of the invention. Patent could be sold, or a third party might be granted a license to use the same.

**Trademark:** Trademarks are graphical representation marks that may consist of letters, logos, symbols, a combination of colours, or packaging style on the goods and services of one person, distinguishing it from the goods and services of another in a competitive market so that there is no likelihood of confusion. The idea is that the market trust of one brand may not be used by the competitor brand or enterprise as the unwary mind of the consumer has an infallible memory and the overall impression is the key concern of trademark IP protection. The registration of a trademark is vital to ensure the IP protection of the goods and services of a brand, assure quality goodwill, and prohibit imitation or deceptive similarity of the same.

**Geographical Indications:** It is used in relation to the identification of the source of goods to have a particular geographical origin or significance, which may be attributed to the quality, reputation or other essential characteristics of such goods. Examples of GI would include Lucknowi Chickenkari embroidery, Darjeeling Tea, etc. GI is important to confer legal rights and IP protection while boosting exports as well as promoting and boosting the local economy of the concerned geographical area. Registration of GI prevents its unauthorised use by others.

## NEED FOR IP PROTECTION AND SIGNIFICANCE OF IPR

The general view about knowledge without acknowledging the developed market realities is that, as a matter of characteristic, the use of knowledge by one does not diminish it for the use of another, giving IP as a 'non-rivalry' feature. Economists put knowledge as, therefore, a *non-rival public good*. The same is the rationale for certain WIPO-governed international treaties to have savings against the total prohibition of using intellectual property without authorisation. However, on the other hand, such knowledge or the products embodying knowledge, it is difficult to prevent plagiarism, copying, or piracy, which can be done at a fraction of the cost required for the research and development, invention, and marketing of the original one, to make a newer or better innovation. This results in *market failure*.

This cuts the incentive of the creator to create if, from his labour, he cannot reap the fruits, but someone else takes it. In the case when every step used in inventing a product is disclosed, the possibility that someone else would create a better product or improve the invention is not rare. To prevent market failure, protection of intellectuals' creation and IP rights are of utmost importance for example, with patenting, temporal and spatial temporary market exclusivities given to the patentee allow them to recoup the cost of investments and reap the profits in the form of royalties that the market is cultivating upon his labour, in exchange for sharing his knowledge which is ultimately helping in better advancement of technologies and welfare for the society at large.

IP Protection can, therefore, be seen as a bargain on behalf of society, acknowledging the sharing of knowledge and not keeping that to oneself because the latter case would result in insufficient invention and innovation. Such disclosure of knowledge is for the greater good of society at the end of the creation, along with bolstering the betterment of innovation. However, the same cannot be at the cost of innovators' intellectual labour, which would crush the spirit of innovation and creativity if not given due incentives through short-term monopolies. Thereby, the need for IP protection is vital for overall progress and development.

In the case of biotechnology and information technology, IP is more of a measure of success as it primarily survives by continuously churning out new products and services.<sup>1</sup> With strong rules of protection, IP is used for technology transfer and partnership agreements as a bargaining chip. IP rights, in this sense, become an asset of firms, companies, or institutions. They may use some of their IP assets to gain access to other key IP assets owned by their competitors or pool their IP assets and form alliances or joint ventures. Such arrangements accelerate the commercialisation of inventions and further the innovative and development spirit.

## IP AND DEVELOPMENT

There is an intrinsic link between IPR and development. Article 7 of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) emphasises that ‘the protection and enforcement of intellectual property rights should contribute to the promotion of technological innovation and the transfer and dissemination of technology, to the mutual advantage of producers and users of technological knowledge and in a manner conducive to social and economic welfare, and to a balance of rights and obligations.’

Thus, IPRs are not just an incentive to the inventor; their role in the growth and development of the economy and betterment of technology, by technology transfer and mutual advantage or moving towards the common future, is another aspect that cannot be undermined.

## SUSTAINABLE DEVELOPMENT

The United Nations General Assembly, under its Resolution (A/70/L.1) – *Transforming Our World: the 2030 Agenda for Sustainable Development*, adopted on 25<sup>th</sup> of September 2015, launched the Sustainable Development Goals (SDGs) era, with 17 SDG and 169 targets to be achieved in the next 15 years, replacing the UN Millennium Development Goals launched in 2000. The 2030

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<sup>1</sup> Graham Dutfield, ‘Literature survey on intellectual property rights and sustainable human development’ (*IPRs online*, April 2003)  
<[https://www.iprsonline.org/unctadictsd/docs/GDutfield\\_LiteratureSurveyOnIP\\_April2003.pdf](https://www.iprsonline.org/unctadictsd/docs/GDutfield_LiteratureSurveyOnIP_April2003.pdf)> accessed 15 September 2024

Agenda, signed by leaders of 193 nation-states, agreed upon the long-term, inclusive, and equitable sustainable development process.

## IP AND THE SDGS

The SDGs did not make IP a self-standing goal, but it is incorporated under goal 17 as ‘technology transfer and innovation’ via partnerships that would enhance the North-South and South-South relationship and also help the developing countries. IP being a bargaining chip in technology transfer, SDG 17 implies the protection and enforcement of IPRs.

SDG 9, ‘Build resilient infrastructure, promote inclusive and sustainable industrialisation and foster innovation’ which could be possible by IP protection, and for SDG 10, ‘Reduce inequality between and among countries’ technology transfer has a key role in modernisation with green-clean technological advancement which would elevate the economy. To quote the OECD, ‘Sustainable development can be implemented through technological development. Intellectual property rights and green technology transfer can also be implemented by intellectual property rights.’<sup>2</sup>

The SDGs are not isolated goals but rather interconnected in its essence. With the enhancement of technology and skilling of labour, poverty (SDG 1) and hunger (SDG 2) are also eradicated, and with the elevation of living standards (SDG 6 water and sanitation, SDG 7 modern energy for all, SDG 11 inclusive and safe human settlements or cities, SDG 16 peaceful and Inclusive society), education is accessible (SDG 4) and inequality diminishes (SDG 5).

*‘Intellectual Property and Human Rights’* co-published by UNHCR and WIPO, emphasises IP protection that can ‘contribute to the economic, social and cultural progress of the world’s diverse population’.<sup>3</sup> It also encourages investment and innovation.<sup>4</sup>

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<sup>2</sup> OECD, 2012

<sup>3</sup> World Intellectual Property Organization 1998

<sup>4</sup> World Intellectual Property Organization 2010

Studies<sup>5</sup> Have concluded, in its empirical examination of a diverse country panel from 1990-2005, that:

- IPR encourages technology transfer.
- IPR stimulates domestic innovation having economic values.

The United Nations formed the Technology Facilitation Mechanism (TFM), established by the Addis Ababa Action Agenda (AAAA), for the implementation of SDGs that can be facilitated through technological development.<sup>6</sup> It aims to promote coordination and cooperation to enhance capacity-building initiatives and the transfer of technology. It has played a vital role in enhancing the capacity of least-developed countries (LDCs) to benefit from Science, Technology and Innovation (STI).

## **CRITIQUE AND ANALYSIS**

The IP protection regime affects the developed countries differently than the developing or least developed countries. In the advocacy of IPRs and its role in development, sustainable and inclusive development cannot be achieved by ignoring the gap of haves and have nots as in the Eurocentric states driving the Washington Consensus international institutions and treaties on the one hand and the Global-South on the other. LDCs and other developing countries that have low absorptive capacity, limited skilled labour, an abundance of unorganised and unskilled manual labour, and underdeveloped technological infrastructure are left behind in driving the benefits of IP protection and the development of their economy.

The relation between IPRs and economic development is represented by a U-shape curve. When the level of development is at low levels, reduction in IPRs encourages economic growth until a certain point. Beyond this, the increase in IPRs encourages economic growth. The extent to which IP could be used as a tool for industrial development depends on the level of development or the technological capacity.

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<sup>5</sup> Walter G. Park and Douglas C. Lippoldt, 'Technology Transfer and the Economic Implications of the Strengthening of Intellectual Property Rights in Developing Countries' (2008) OECD Trade Policy Working Papers 62/2008 <<http://dx.doi.org/10.1787/244764462745>> accessed 12 September 2024

<sup>6</sup> United Nations 2015



The contraction is nevertheless not in the role of IPRs in sustainable protection but exists in the legal regime as strong or developed countries focus on stronger and strict IP laws for their economic growth and development, while the have-not countries of Global South press upon lenient laws.

## WAY FORWARD

The role of IP protection and enforcement is vital to attaining SDGs, as the WIPO Magazine issue of 2024, with the agenda of IP and SDGs,<sup>7</sup> quotes examples across the globe like Mexico's cocoa brand, which developed with much credit to IP and working with Indigenous communities, is reviving traditions while also spurring the social, economic, and environmental development in the state.

Another example of IP at work is IP protection, the invention of food-wrapping sheets infused with botanicals that help keep food fresh for longer periods and also help in the reduction of food wastage and eradication of hunger. Such innovators, including those for drug discovery in African regions, mostly include the diversification of the market, create inclusivity and help in equity.

Addressing the gap between the Global North and the Global South, IPR development has to be taken not as one model fits all but with an individualistic approach, addressing the socio-economic factors of the states for capacity building so that the potential of sustainable development does not drift into neo-economic-colonialism.

## CONCLUSION

IP is vital to SDGs. Today, 31.4% of patents now relate to the SDGs.<sup>8</sup> It is through innovation and a creative approach that is inclined to the local needs, marginalised communities inclusion, environmental and bio-diversification aspects of protection and preservation of traditional knowledge along with advancement, innovation, inventions, knowledge and know-how

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<sup>7</sup> 'IP and the SDGs' (2024) 1 WIPO Magazine <<https://www.wipo.int/edocs/pubdocs/en/wipo-pub-121-2024-1-en-wipo-magazine-issue-1-2024.pdf>> accessed 12 September 2024

<sup>8</sup> *Ibid*

sharing, and technological transfer that alleviates our existing problems like inequalities, discrimination, poverty, hunger, and undignified standard of living. The role of IP is crucial, not just to the innovator or market but also to the cosmopolitan society at large in terms of welfare and sustainable development, building our common future brighter and better.