



INTELLECTUAL PROPERTY RIGHTS



Intellectual Property Rights (IPRs) are **legal rights that protect creations and/or inventions resulting from intellectual activity in the industrial, scientific, literary or artistic fields.** The most common IPRs include patents, copyrights, marks and trade secrets.

What are the 4 types of intellectual property?

Patents, trademarks, copyrights, and trade secrets are valuable assets of the company and understanding how they work and how they are created is critical to knowing how to protect them.

Why are intellectual property rights important?

Strong and Enforced Intellectual Property Rights **Protect Consumers and Families.** Strong IP rights help consumers make an educated choice about the safety, reliability, and effectiveness of their purchases. IP rights foster the confidence and ease of mind that consumers demand and markets rely on.

How can you protect your intellectual property?

Here are five different ways to protect your intellectual property.

1. Register copyrights, trademarks, and patents.
2. Register business, product or domain names.
3. Create confidentiality, non-disclosure or licensing contracts for employees and partners.
4. Implement security measures.
5. Avoid joint ownership.

Who owns intellectual property?

Ownership of intellectual property can be owned by one entity, **typically the creator**, in the form of Sole Ownership. One or more creators can also own ownership of intellectual property through Joint Ownership.

What are the conditions of patentability?

Patent applications: the three criteria

1. Novelty. This means that your invention must not have been made public – not even by yourself – before the date of the application.
2. Inventive step. This means that your product or process must be an inventive solution.
3. Industrial applicability.

What is the difference between copyright and intellectual property rights?

Copyright as Intellectual Property Protection :

Intellectual property is protected by laws specific to the expression of an idea. Copyright is the law specific to the expression of ideas in visual or audio form. **You cannot compare copyright with intellectual**



Editorial...

Dear Readers,

Welcome to this 7th issue of our Newsletter.

In this issue, we are giving information on two important topics viz. Intellectual Property Rights and Right to Information Act. We hope you will certainly find it informative and useful for your business. We thank Adv. Arvind Chaphekar for authorizing these Articles.

Please give your feedback to us on the Newsletter and the topics you would like to get information through this Newsletter.

property; copyright is a form of intellectual property.

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consumers make an educated choice about the safety, reliability, and effectiveness of their purchases. IP rights foster the confidence and ease of mind that consumers demand and markets rely on.

What is intellectual property rights examples?

Intellectual property rights include **patents, copyright, industrial design rights, trademarks, plant variety rights, trade dress, geographical indications**, and in some jurisdictions trade secrets.

Advantages of Intellectual Property

There are many advantages to IP, including the following:

1. There are no fees associated with IP
2. Ability to have a competitive edge over other similar businesses.
3. IP enhances your company's value.
4. IP helps you market your company's products and services.
5. You can more easily obtain financing for your business.
6. Greater export opportunities.

If you have **patent protection** over your intellectual property, then you will inevitably have a competitive edge over the competition. This is because other businesses operating in the same industry cannot copy, manufacture, use, or sell your product.

Intellectual property can help generate even more income for your business through **licensing agreements** or the sale of your invention. If you sell your business, it will be worth more if you have **intellectual property protection**. Such a sale can occur through a partial sale, full sale, merger, or acquisition.



You can easily market your business's products and services if you have patent or trademark protection over your intellectual property. This can include the design of your product or logo. It can help you differentiate your business over others to draw in potential consumers.

If you have intellectual property protection, you can more easily obtain financing from lenders and other financial institutions since it enhances your credibility with such protection.

Your business will have greater export opportunities since intellectual property can increase your competitive edge in the export markets. Therefore, you can use designs to market goods internationally. To do this, you can enter into franchising agreements with international businesses that are located in countries where you want to do business or export your patented products. This can help increase profits drastically by reaching the international market across several countries.



The **Right to Information (RTI)** is an act of the Parliament of India which sets out the rules and procedures regarding citizens' right to information. It replaced the former Freedom of Information Act, 2002.

Under the provisions of RTI Act, any citizen of India may request information from a "public authority" (a body of Government or "instrumentality of State") which is required to reply expeditiously or within thirty days. In case of matter involving a petitioner's life and liberty, the information has to be provided within 48 hours. The Act also requires every public authority to computerize their records for wide dissemination and to proactively publish certain categories of information so that the citizens need minimum recourse to request for information formally.

The RTI Bill was passed by Parliament of India on 15 June 2005 and came into force with effect from 12 October 2005. Every day on an average, over 4800 RTI applications are filed. In the first ten years of the commencement of the act over 17,500,000 applications had been filed.

Although Right to Information is not included as a Fundamental Right in the Constitution of India, it protects the fundamental rights to Freedom of Expression and Speech under Article 19(1)(a) and Right to Life and Personal Liberty under Article 21 guaranteed by the Constitution. The authorities under RTI Act 2005 are called public authorities. The Public Information Officer (PIO) or the First Appellate Authority in the public authorities perform quasi-judicial function of deciding on the application and appeal respectively. This act was enacted in order to consolidate the fundamental right in the Indian constitution 'freedom of speech'. Since RTI is implicit in the Right to Freedom of Speech and Expression under Article 19 of the Indian Constitution, it is an implied fundamental right.

Information disclosure in India had traditionally been restricted by the Official Secrets Act 1923 and various other special laws, which the new RTI Act overrides. Right to Information codifies a fundamental right of the citizens of India. RTI has proven to be very useful, but is counteracted by the Whistle Blowers Protection Act, 2011.

The Right to Information (Amendment) Bill, 2019, seeks to amend Sections 13, 16, and 27 of the RTI Act. Section 13 of the original Act: It sets the term of the central

Chief Information Commissioner and Information Commissioners at five years (or until the age of 65, whichever is earlier). Finally, in Ashwanee K. Singh's case on 20 September 2020, it is stabilized that right to information is a fundamental right.

Scope

The Act extends to the whole of India. It covers all the constitutional authorities, including executive, legislature and judiciary; any institution or body established or constituted by an act of Parliament or a state legislature. It is also defined in the Act that bodies or authorities established or constituted by order or notification of appropriate government including bodies "owned, controlled or substantially financed" by government, or non-Government organizations "substantially financed, directly or indirectly by funds".

Private bodies

Private bodies are not within the act's In a decision of *Sarbjit Roy vs Delhi Electricity Regulatory Commission*, the **Central Information Commission** also reaffirmed that privatised public utility companies fall within the purview of RTI. As of 2014, private institutions and NGOs receiving over 95% of their infrastructure funds from the government come under the Act.

Political parties

The **Central Information Commission (CIC)** held that the political parties are public authorities and are answerable to citizens under the RTI Act. The CIC said that eight national parties **Congress, BJP, NCP, CPI(M), CPI, BSP, NPP** and **AITC** - has been substantially funded indirectly by the Central Government and have the character of public authorities under the RTI Act as they perform public functions. But in August 2013 the government introduced a Right To Information (Amendment) Bill which would remove political parties from the scope of the law. Currently no parties are under the RTI Act and a case has been filed for bringing all political parties under it.

Amendment

The Right to Information Act 2019 passed on July 25, 2019 modified the terms and conditions of service of the CIC and Information Commissioners at the centre and in states. It had been criticized as watering down the independence of the information commissions.

The 2019 amendment bill amended section 13 and section 16 of the RTI Act, 2005. fixed to 5 years or until the age of 65 years whichever is earlier. However, the newly amended bill empowers the Central Government to prescribe the term of office for the commissioners as it may deem fit to the government.

Supreme Court judgement

Supreme Court of India on 13 November 2019, upheld the decision of the Delhi High Court bringing the office of Chief Justice of India under the purview of the Right to Information (RTI) Act.

Governance and process

The Right to information in India is governed by two major bodies:

- **Central Information Commission (CIC)** – Chief Information commissioner who heads all the central departments and ministries- with their own public Information officers (PIO)s. CICs are directly under the President of India.
- **State Information Commissions** – State Public

Information Officers or SPIOs head over all the state department and ministries. The SPIO office is directly under the corresponding State Governor.

State and Central Information Commissions are independent bodies and Central Information Commission has no jurisdiction over the State Information Commission.

Fees

A citizen who desires to seek some information from a public authority is required to send, along with the application (a **Postal order** or **DD (Demand draft)** or a bankers cheque) payable to the Accounts Officer of the public authority as fee prescribed for seeking information. If the person is from a **disadvantaged** community, he/she need not pay. The applicant may also be required to pay further fee towards the cost of providing the information, details of which shall be intimated to the applicant by the PIO (Public Information Officer) as prescribed by the RTI ACT.

Digital right to information systems

A digital portal has been set up, *RTI Portal*, a gateway to the citizens for quick search of information on the details of first Appellate Authorities, PIOs etc. amongst others, besides access to RTI related information disclosures published on the web by various Public Authorities under the government of India as well as the State Governments. It is an initiative taken by **Department of Personnel and Training, Ministry of Personnel, Public Grievances and Pensions**.

Controversies

The Right to information in India has been mired with controversies ranging from their use in political battles, asking for educational degrees of political rivals, or cases of blatant refusals to provide information on high-profile projects to allegations of misuse by civil society. The backlash against RTI by the state hampered the citizen's right to know.

Commonwealth Human Rights Initiative (CHRI) data points to over 310 cases across India where people were either attacked, murdered, physically or mentally harassed or had their property damaged because of the information they sought under RTI. The data throws up over 50 alleged murders and two suicides that were directly linked with RTI applications filed. R.T.I. Act 2005 applies to both central as well as state governments. It also covers the acts and functionaries of the public authorities.

There is a consensus felt that there is a need to amend the RTI Act to provide for the protection of **those seeking information under the Act**. The **Asian Centre for Human Rights** recommends that a separate chapter, "Protection of those seeking information under the (RTI) Act", be inserted into the Act.

Protection measures suggested include:

Mandatory, immediate registration of complaints of threats or attacks against RTI activists on the **First Information Report** and placing such FIRs before the magistrate or judge of the area within 24 hours for issuance of directions for protection of those under threats and their family members, and periodic review of such protection measures

Conducting inquiry into threats or attacks by a police officer not below the rank of **Deputy Superintendent of Police/Assistant Commissioner of Police** to be concluded within 90 days and we also use RTI and get its benefit.

Intellectual property rights

Many civil society members have recently alleged the subversion of the right to information Act by the invocation of Intellectual Property rights argument by the government agencies from time to time.

Most notable are:

The Right to Information denied by RBI on Demonetization citing Intellectual Property Laws.

The Right to Information Denied by Uttar Pradesh Irrigation Department after more than 8 months of a wait on under construction Gomti Riverfront Development Project. A group of researchers requested for environment Impact and Project Report on the project which is flagged for negative impacts, tax money wastage by environmental scientists and research reports.

Debates

Rejection of RTIs

Scholars argue that the Right to Information Act's original intent to make government transparent and accountable is faltering as RTI requests are rejected and the bureaucratic systems are bogged down by millions of requests.

Many RTIs are rejected because the bureaucratic requirements (including the technocratic language used) of filing are too onerous and legalistic for ordinary citizens. Sixty percent of the RTI appeals made to Information Commissioners in Delhi are rejected for a variety of reasons, including those appeals are not typed or not written in English, or lack an index of the papers attached or a list of date. This bureaucratic barrier, worse

for those without access to higher education or information, makes the right to information inaccessible. Many citizens have to seek out NGOs, RTI activists, or lawyers, to file their RTIs.

Benefits

Many activists view the Right to Information Act as a final liberation from British colonialism; they describe the RTI law as "a tool for empowering ordinary citizens and changing the culture of governance by making it transparent, less corrupt, participatory, and accountable". They also note that RTI requests provide strategy and substance for activists on a broad range of social issues, including "land and environmental rights, social security benefits, the working of financial institutions, political party financing reform, civic infrastructure, and even public-private partnerships.

Exempted organisations

As per section 24 of the Act, intelligence and security organisations, both central and state, such as Intelligence Bureau, Aviation Dept. Revenue Intelligence, Directorate of Enforcement, Special and Border Security Force, Central Reserve Police Force, National Security Guard, Directorate General of Income Tax, Financial Intelligence Unit, India, Border Roads Organization, National Security Council Secretariate exempted from the RTI Act except in cases of corruption or human rights violation. Such central organisations are listed in schedule 2 of the Act. The schedule has been amended four times, in September 2005, March 2008, October 2008 and May 2021.

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Tejasvi was very spontaneous in responding with all the details required for completing Police Intimation formalities of my property in a smooth and efficient manner. Have always been a good 4 years' experience using Anulom Services for my Rent Agreement Registration.

INSIYAH DARUKHANAWALA

Madhuri was very spontaneous in responding with all the details required for completing Police Intimation formalities of my property in a smooth and efficient manner. For the last 2 years I have been using Anulom Services for my Rent Agreement Registration. They are very prompt to reply to any queries. Best service provider for online rent agreement registration. Thank you very much.

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