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Intellectual Property Finance: A New Trend in World Countries

Jeyashri R^a Vishva R^b

^aGovernment Law College, Madurai, India ^bGovernment Law College, Madurai, India

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This article provides an overview of the IP strategies in various countries and the challenges these countries are facing. Intellectual property (IP) has the potential to provide financial support to the proprietor in the form of IP Finance, but its growing trend leads to IP infringement and other incidental issues. The absence of laws and regulations in IP Finance becomes a hurdle for companies to tackle any financial loss, especially start-ups. The main objective of this qualitative study is to explore global trends of IP finance and India's position. The data utilised are primarily from the World Intellectual Property Organisation (WIPO), which is one of the United Nations specialised agencies that protects IP across borders and monitors IP laws across the globe. This study highlights the need for legal regulations to regulate IP finance and a uniform framework for IP assets valuation globally. Beyond examining the IP strategies of world countries, this study creates awareness for future studies. Thereby, IP finance contributes to a nation's development in the growing global market rather than IP violations.

Keywords: *ip strategies, wipo, ip finance, ip infringements, ip assets.*

INTRODUCTION

Assets are the building blocks of a company. They are money, property, or land (tangible assets) and intangible assets. Traditionally, companies rely on tangible assets. Nowadays, intangible asset finance is budding, which includes patent licences, security, etc., popularly known as intellectual property (IP) finance. As a result, intellectual properties are considered a valuable asset of a company. However, the legal frameworks and institutions governing IP Finance are significantly less. Therefore, intellectual property finance is still in its infancy.¹ Internationally, in 2007, *UNCITRAL's Legislative Guide on Secured Transactions*² provided guidelines for secured uniform financing worldwide, which also includes Intellectual Property finance. Nationally, the Ministry of Micro, Small and Medium Enterprises introduced the MSME Innovative Scheme³ in 2023, aimed at strengthening the IP landscape for MSMEs across India through IP protection. This article examines the definition of intellectual property, its origin and development, intellectual property as a financial asset, kinds of IP-backed finance, India's stand, and intellectual property in another country.

DEFINITION OF THE TERM INTELLECTUAL PROPERTY

For a better understanding of the term intellectual property, the jurisprudence of the concept of 'property' can be helpful. The term Property⁴ can be broadly classified into either corporeal or incorporeal property (which is a proprietary right in rem). Incorporeal property has two types: (i) *jura in re aliena* (i.e., leases and mortgages); (ii) *jura in repropria* (i.e., intellectual property).

The term 'Intellectual property'⁵ (IP) refers to the creations of the mind, namely inventions, literary, artistic works, designs, symbols, names and images. These are used in commerce. In fact, the IP is a subset of the many non-physical, "intangible assets" businesses may own and use, which lead to high enterprise value.⁶

¹ *Moving IP Finance from the Margins to the Mainstream* (WIPO, 2025)

² 'Intellectual Property Financing - An introduction' (WIPO, 22 September 2008)

<<https://www.wipo.int/en/web/wipo-magazine/articles/intellectual-property-financing-an-introduction-36426>> accessed 08 February 2026

³ 'MSME Support for Commercialization of IP (MSME-SCIP) Programme' (DCMSME, 2023)

<https://www.dcmsme.gov.in/CLCS_TUS_Scheme/IPFC/Guideline%20SCIP%20MSME%20INNOVATIVE%20IPR%20Scheme%2019.12.2023.pdf> accessed 08 February 2026

⁴ Avtar Singh and Harpreet Kaur, *Introduction to Jurisprudence* (3rd edn, LexisNexis 2020)

⁵ 'What is Intellectual Property?' (WIPO) <<https://www.wipo.int/en/web/about-ip>> accessed 08 February 2026

⁶ *Country Perspectives: United Kingdom's Journey* (World Intellectual Property Organisation 2023)

CONCEPTUAL FRAMEWORK OF THE IP LAWS

Evolution of Intellectual Property:⁷ Internationally, in 1474, the Senate of Venice passed the first intellectual property protecting statute. Then, Britain passed a law in 1623 and 1710 to improve the trade. Subsequently, between the 18th and 19th centuries, many countries established IP legislation.

In Indian history before independence, firstly, the British government passed the Act IX of 1856 and 1857. Secondly, in 1872, the Patterns and Designs Protection Act XIII was passed. Similarly, in 1883 and 1888, several Acts were passed to protect inventions. Finally, in 1911, the Indian Patents and Designs Act, and in 1940, the Trademark Act were passed.

Intellectual Property (IP) and Indian Legislation: Intellectual property has many kinds. They are patents, copyrights, trademarks, industrial designs, geographical indications, trade secrets, and plant variety rights. After Indian independence, in the case of patents, in 1970, the Patent Act was passed, and Amendments were made in 1999, 2002, 2005, 2016 and 2021. In the case of a trademark,⁸ the Trademark Act 1999 came into force.

Other Intellectual Property Legislations: In 1999, the Geographical Indications of Goods (Registration and Protection) Act was passed, and in 2000, the Design Act was passed, and in 2000, the Semiconductor Integrated Circuits Layout-Design (SICLD) Act was passed, and the Protection of Plant Varieties and Farmers' Rights Act was passed in 2001.

Intellectual Property is a Financial Asset: In the context of IP, the term Finance is interpreted broadly. The form of finance may be equity investment, debt (borrowing) or grant funding. The purpose of the finance is to create, protect, or commercially use inventions or original works. In 2006, Andrew Gower established the relationship between Intellectual Property and finance.⁹

⁷ Vishal Shukla, 'History of Intellectual Property' (*MCRHRDI*) <<https://mcrhrdi.gov.in/2025/itpepd/week1/Topic%201-%20History%20of%20IP.pdf>> accessed 08 February 2026

⁸ Trade Marks Act 1940

⁹ Andrew Gowers, *Gowers Review of Intellectual Property* (The Stationery Office 2006)

The term “financial asset” is defined under Section 2 (l)(vb) of the SARFAESI Act 2002,¹⁰ which includes any right, title or interest on any intangible asset or licence or assignment of such intangible asset. This legal framework shows that intellectual property is a financial asset.

Section 9 of the IBC Act 2016 provides power to the interim resolution professional to take control and custody of any asset, including intangible assets and their rights.

KINDS OF IP-BACKED FINANCE AND INDIA’S POSITION

IP-backed finance is the use of IP to achieve financial benefits, credit or revenue.¹¹ There are many kinds of IP-backed finance. The major kinds are:

Direct Collateral: IP serves as security for the loan.

Securitisation: IP serves as an underlying asset to issue securities in capital markets. Simultaneously, a company can enter into a licensing agreement.

Sale-and-Leaseback: IP sold in exchange for upfront funding. Simultaneously, a company enters into a licensing agreement to retain the ability to commercialise or use the IP.

In the case of India, in 2021, the Standing Committee on Commerce, chaired by Mr Vijayasai Reddy, submitted its report on the ‘*Review of the Intellectual Property Rights (IPR) Regime in India*’. One of the major recommendations is IP-backed finance. The Committee noted that the use of IP-backed financing can enhance financial innovation, the availability of credit, and increase the capital base. Further, it recommended:

- (i) amending the Insurance Act, 1938, to minimise monetary risks from infringement of IPR,
- (ii) devising a uniform system of valuation of IP,
- (iii) enacting legislation to protect and determine financial standards, and
- (iv) adopting risk-sharing policies with companies.

¹⁰ Securitisation And Reconstruction of Financial Assets and Enforcement of Security Interest (SARFAESI) Act 2002, s 2(l)(vb)

¹¹ ‘Review of the Intellectual Property Rights Regime’ (*PRS India*) <<https://prsindia.org/policy/report-summaries/review-of-the-intellectual-property-rights-regime>> accessed 15 February 2026

INTELLECTUAL PROPERTY FINANCE IN ANOTHER COUNTRY

The intellectual property-backed finance is practised in many countries, namely¹² the United Kingdom, Canada, Brazil, Japan, Singapore, China, Switzerland, etc. Some of them are discussed in detail.

Brazil:¹³ Interestingly, Brazilian law classifies industrial property and copyright as movable assets, which can be used as a pledge to guarantee financing as per its Civil Code. Therefore, it can be used for collateral and other types of financing purposes. Moreover, Innovation financing in Brazil has two distinct categories: firstly, funding to generate intangible assets through collateral such as personal assets or guarantees, and secondly, IP-based financing as collateral, which is comparatively less than financing for research to develop new technologies. In Brazil, the *Accounting Convergence Act* regulates bookkeeping and the preparation of financial statements relating to intangible assets. It will be useful for the judicial collection of public debt owed to the Government and measures for recovering debt, which includes the IP assets as per the *Tax Enforcement Act*. Furthermore, Intangible assets relating to IP face two challenges as collateral. Firstly, the difficulty in determining their value without harmonised valuation standards. Secondly, the absence of a secondary market for trading IP assets results in their illiquidity.

Canada: The Canadian Government plays a crucial role in supporting IP development and financing.¹⁴ It is witnessed in recent years, except in 2022. For instance, trademark filings by Canadian companies have been rising both domestically and abroad, indicating an expanding global footprint of Canadian trademarks.¹⁵ Notably, in 2018, the Canadian government launched the ‘National IP Strategy’, which included several initiatives to support the development of IP and promote IP-backed financing.

¹² *Unlocking IP-backed Financing – Country Perspectives* (World Intellectual Property Organisation 2023)

¹³ *Country Perspectives: Brazil’s Journey* (World Intellectual Property Organisation 2023)

¹⁴ *Country Perspectives: Canada’s Journey* (World Intellectual Property Organisation 2023)

¹⁵ *IP Canada Report 2021* (CIPO 2023)

Five program areas were created under the National IP Strategy of Canada:

- IP Centre of Expertise¹⁶
- Indigenous IP Program
- IP Legal Clinics¹⁷
- Innovation Asset Collective¹⁸
- ExploreIP online tool¹⁹

In 2021, the Canadian government introduced the ‘*IP Village scheme*’, which aims to strengthen the ability of all parties to guide Canadian enterprises and connect them with IP information to enhance the effective use of IP among Canadian SMEs.

In fact, Canada is a federal country.²⁰ The process of using IP as collateral in Canada will differ with respect to both federal and provincial laws. Registering security interests under both the provincial and federal IP Statutes is necessary. It enables a more comprehensive record of security agreements. The Canadian government introduced an “IP insurance” policy. Indeed, it can be used as a tool for growth. However, it will not apply to patent infringement, damages from IP infringement allegations and trade secret misappropriation.

Japan: In Japan, the development, use and management of intellectual property (IP) are important in business strategies, especially for small and medium-sized enterprises (SMEs).²¹ For instance, Hiroshima Bank is a regional bank engaged in IP-backed financing, and Kiraboshi Bank is operating an intellectual asset evaluation system for loans. Certainly, the financing methods were categorised into three categories: corporate finance, asset finance and project finance. Firstly, ‘corporate finance’ focuses on the creditworthiness of corporations; secondly,

¹⁶ ‘Intellectual Property Centre of Expertise’ (*Government of Canada*, 15 August 2025) <<https://www.canada.ca/en/services/business/ip/intellectual-property-centre-of-expertise.html>> accessed 15 February 2026

¹⁷ ‘Intellectual Property Strategy’ (*Government of Canada*, 02 February 2026) <<https://ised-isde.canada.ca/site/intellectual-property-strategy/en/intellectual-property-strategy>> accessed 15 February 2026

¹⁸ ‘Patent Collective Program’ (*Government of Canada*, 03 February 2026) <<https://ised-isde.canada.ca/site/ised/en/programs-and-initiatives/patent-collective-program>> accessed 15 February 2026

¹⁹ ‘Explore Canada’s public sector intellectual property (IP) ecosystem’ (*Government of Canada*) <<https://ised-isde.canada.ca/ipm-mcpi/?lang=en>> accessed 15 February 2026

²⁰ ‘Settling in Canada’ (*Government of Canada*, 09 June 2025) <<https://www.canada.ca/en/immigration-refugees-citizenship/services/settle-canada/government.html>> accessed 15 February 2026

²¹ *Country Perspectives: Japan’s Journey* (World Intellectual Property Organisation 2023)

‘asset finance’ focuses on the value of their assets, including moveable assets and IP; thirdly, ‘project finance’ deals with cash flow generated by the proposed project. In the case of IP-backed finance of SMEs, the use of the latter two approaches is limited. Interestingly, IP litigation in Japan is more limited than IP litigation in Europe, the United States and China. One of the reasons is that the damages awarded will be modest. Notably, in 2016, the Japanese government launched the *Overseas Intellectual Property Litigation Insurance Scheme*, which covers costs incurred, including fees for filing an action, arbitration, evaluation, legal counsel and translation of any documents required for disputes arising with regard to patents, utility models, industrial designs and trademarks.

United Kingdom: Certainly, there are three essential preconditions for Intellectual property finance to work at scale. Firstly, it must have a large population of innovative businesses with high-growth potential. Secondly, it must have a well-established legal framework for Intellectual property. Thirdly, it must have a legal system that enables security to be taken over movable, intangible assets. The United Kingdom (UK) fulfilled the three essential preconditions for ‘Intellectual property finance to work at scale’. The United Kingdom Intellectual Property Office (UK IPO) is responsible for the United Kingdom Intellectual Property framework. In the United Kingdom economy, small and medium enterprises (SMEs) are the driving force for growth. They account for over 99 per cent of businesses by volume and contribute 50 per cent of national private sector turnover. Basically, the laws and regulations dealing with Intellectual Property are categorised into three main headings:

Accounting Standards: It consists of a set of rules that deal with the financial information of small and medium enterprises (SMEs), used to determine the extent to which value is attributed to Intellectual property. As a result, intangibles can be reflected in company financial statements.

Financial Regulations: It consists of a set of rules that specify the capital treatment that banks must apply to different types of assets when lending to small and medium enterprises (SMEs).

Common Law and Precedent: It determines how effective security can be taken over assets in general, and Intellectual property and intangibles in particular.

In the case of the United Kingdom (UK), the laws and regulations dealing with Intellectual property are as follows:

Accounting Standards: Three groups of organisations play an important role in standard setting and monitoring:

The International Financial Reporting Standards (IFRS) Foundation and the International Accounting Standards Board (IASB) are the two organisations that set international regulations and largely dictate the rules with which national approaches must comply. The Financial Reporting Council (FRC) is the UK body that regulates certain activities of auditors, accountants, and actuaries in the public interest, and monitors and enforces action when necessary. The UK Endorsement Board (UKEB) has responsibility for determining how international accounting standards should be implemented in the United Kingdom.

Financial Regulations: In the United Kingdom, the framework legislation governing the regulation of banking and financial services is the Financial Services and Markets Act 2000.

Common Law and Precedent: In the United Kingdom, Intellectual property is classed in law as a form of personal property.

Despite several laws and regulations in the United Kingdom, non-regulatory factors affect the use of Intellectual property in finance. In particular, the High transaction costs and lack of confidence in recoverable value lead to several interrelated underlying factors:

- The relative unfamiliarity of the asset class in the finance context;
- The absence of transparent markets for IP assets; and
- A perceived lack of standardisation in IP valuation processes and practices.

CONCLUSION

This article examines intellectual property as a financial asset and the kinds of IP Finance backing and its scope in world countries. The primary objective was to highlight the scope of IP finance in this epoch worldwide. In the final analysis, this article reveals the need for commercialisation of IP Finance, especially for Small and medium enterprises, which play a significant role in the country's development. To achieve this goal, this article emphasised the

three essential preconditions of IP Finance, which have to be fulfilled by a country. It indicates that laws and regulations must be standardised to govern the IP finance of the country. The implications of this article are profound. They underscore the urgent need for policymakers and global economic institutions to frame a uniform valuation of IP Financial assets. Incorporating IP insurance and IP village schemes will protect the start-ups from financial crises. This article also reveals unfamiliarity, the absence of transparency and other issues relating to IP Finance. Additionally, this article is largely from a global perspective and does not fully explore Indian IP Finance. In conclusion, intellectual property finance must be commercialised, and the standard legal frameworks should be established in India.