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**INTELLECTUAL PROPERTY RIGHTS AS DETERMINANTS
OF ACQUISITION VALUATION IN INDIA: A
COMPARATIVE ANALYSIS WITH INTERNATIONAL
VALUATION STANDARDS**

AUTHORED BY - VANSH MEHTA

B. A.L.LB (Hons.)

Amity Law School, Amity University, Noida, Uttar Pradesh

CO-AUTHOR - DR. NEHA SUSAN VARGHESE

Assistant Professor,

Amity Law School, Amity University, Noida, Uttar Pradesh

ABSTRACT

The rapid pace of technological advancement together with the digital revolution currently shapes how businesses create value because contemporary markets no longer depend on physical assets like factories and machinery to produce economic worth, which now stems from intangible resources. About 90 percent of the value of large public companies in developed economies comes from intangible assets (World Economic Forum, 2024), and even the manufacturing-driven Indian economy is changing because intellectual property, including patents, trademarks, copyrights, trade secrets, and designs, is becoming more important for innovation and competitive advantage. The research shows that companies use intellectual property as their primary asset when merging with other organizations because between 2017 and 2020 intangible assets made up 31 percent of the total value of Indian M&A transactions, which has since increase¹. India's ascendancy to the position of a global technology and cross-border deals hub is now a fact, and a thriving start-up ecosystem, together with rapid economic growth and steady foreign investment, have all contributed to the country's growing stature in the world.

¹ Rana & Co., 2025

India has made tremendous progress in the Global Innovation Index, jumping up the ladder from 81 in 2015 to 38 in 2025, therefore, it is clear that the country is advancing rapidly².

Large deals, such as Walmart's \$20.8 billion purchase of Flipkart and Tata Motors' acquisition of Jaguar Land Rover, show that the real value of many businesses is the intellectual property they hold, and foreign investors want to buy into innovative Indian companies and, more specifically, their ideas. However, valuing something you can't see or touch is hard, because India's framework for valuing IP is still in the works. The Patents Act, 1970, the Copyright Act, 1957, the Trademarks Act, 1999, and the Designs Act, 2000, together provide a sound legal foundation, but they do not address the issue of how to value intellectual property in practice, while the Reserve Bank of India, under the Foreign Exchange Management Act, requires a "fair valuation" of such assets, but does not prescribe the valuation methodology. Consequently, tax laws are getting better, but are still inadequate to address intangible assets from a tax and valuation perspective, although worldwide, standards such as IVS 210, which is applied in more than 100 countries, are the standard for valuing intangible assets. Although there is a growing trend in India to apply international standards for valuations, Indian law and regulations do not effectively deal with this issue, and this dissertation addresses one critical question: what are the methods adopted for the valuation of IP in Indian M&A deals and how do they compare to the best practices adopted globally. In addressing this question, this dissertation will adopt legal analysis, international

² WIPO, 2025

valuation standards, practical case studies, and analysis of how Indian transactions are being structured and executed in practice. As technology advances, company value is increasingly driven by intangible assets, such as intellectual property, which account for about 90% of the market value of major public companies in top economies³. The scenario has changed dramatically now as innovation has overtaken physical infrastructure as the principal driver of value creation. In India, IP has shifted to the core of the economic policy, where patents, trademarks, copyrights, trade secrets, industrial designs are becoming as important to innovation as they are to business success, because intangible assets have contributed as much as 31% of the M&A deal value in 2017-2020 and are expected to be on an upward swing. The emergence of India as a technology and cross-border deal hub, buoyed by a vibrant start-up ecosystem, strong economic growth, and stable foreign direct investment, has accelerated this trend, while India's Global Innovation Index ranking has improved from 81st in 2015 to 38th in 2025, and India has been recognized as an "innovation overperformer" for 15 years in a row, although the country still faces a challenge in converting its research output into protected intellectual property. The value of intellectual property to businesses has become clear through major acquisitions which demonstrate its role in determining company worth. Walmart's acquisition of Flipkart for \$20.8 billion in 2018 involved more than acquiring market share and logistics operations because the deal included Flipkart's algorithms and user information and brand identity and all other digital retail assets. Tata Motors' acquisition of Jaguar Land Rover in 2008 included valuable design patents and engineering expertise and a prestigious luxury brand which enabled Tata Motors to establish

³ World Economic Forum, 2024

itself as a global player in the automotive industry. Today, foreign investors -- from Silicon Valley venture capital funds to sovereign wealth funds -- seek out Indian startups with strong technology and IP portfolios, because Indian unicorns have grown from four in 2014 to more than 120 in 2025, with combined valuations exceeding \$350 billion. However, valuing IP in India is difficult, as the Patents Act, 1970; Copyright Act, 1957; Trademarks Act, 1999; and Designs Act, 2000 provide a strong legal framework for the protection of intellectual property, but they do not lay down a standardized approach for the determination of its value. Consequently, the Reserve Bank of India, under the Foreign Exchange Management Act, insists on a "fair valuation" for cross-border transactions, but does not provide a detailed methodology, allowing experts to choose how they value IP, and moreover, tax rules are moving in the right direction, but often do not address intangibles explicitly or coherently. In contrast, international standards, such as IVS 210, adopted by over 100 countries, have become the global benchmark for the valuation of intangible assets and focus on income-based, market-based, and cost-based approaches, which Indian valuation professionals are increasingly adopting in practice, although domestic laws and guidelines have not kept pace.

The research study proceeds through five chapters to establish a connection between theoretical knowledge and practical application by using national standards and empirical case studies and practitioner perspectives. The first chapter of the study reviews existing literature about intellectual property fundamentals and its function in mergers and acquisitions and fundamental valuation techniques and the significance of Intellectual Property quality which surpasses registration count. The second chapter discusses international frameworks and standards developed by the AICPA ISO and other organizations and IP valuation practices in leading jurisdictions such as the

United States United Kingdom and European Union. Chapter three provides a legal and regulatory overview of the environment for M&A activity in India, including a description of M&A regulations, foreign investment policy, tax treatment of intangibles, and a selection of relevant court decisions. The fourth chapter explains the IP valuation process used in India while it evaluates local practices against international methods of IP valuation through analytical comparisons and case studies which show the areas where Indian practices meet international standards and the areas which contain gaps and frictions. Therefore, the fifth and final chapter discusses the key issues and challenges in the current regime in India and suggests practical reforms, such as sharper and harmonized valuation tools, and urges regulators to harmonize domestic rules and guidelines with global standards and practices, and alerts investors and deal-makers to the specific risks and rewards associated with IP-driven transactions.

As India vies for a leadership role in the global knowledge economy, the ability to accurately value IP will become a prerequisite for securing highquality FDI and sustaining long-term growth, because the literature is unequivocal in stating that IP - patents for inventions, trademarks for brands, copyrights for creative works, trade secrets for confidential know-how, and industrial designs for visual features - is a key source of competitive advantage. "IP due diligence is no longer a box-ticking exercise," M&A IP due diligence experts say, rather, it has evolved into a more strategic exercise that is focused on identifying and unlocking synergies, detecting legal and commercial risks and determining what really drives deal value. In accordance with the latest World Economic Forum's report for 2024, for some industries, including technology-intensive ones, in advanced economies, intangible assets can account for up to 90 percent of companies' valuation, which underlines the correlation of IP with scalability

and profitability. Generally, there are three types of valuation methodologies, namely, the income, cost, and market-based approaches. The importance of quality needs to be emphasized as high-quality portfolios of IPs guarantee valuation premiums and better conditions for deals, whereas poor-quality portfolios pose higher risks of litigation and disputes regarding patent infringement. As it was shown empirically, including a study carried out by WIPO back in 2007 on the case of India's IP-economy relationship, strong IP protection enables achieving high growth rates, up to 8-9% of GDP per year through stimulating technological development and facilitating R&D activities; therefore, although the current patent intensity in India is below that of the leaders, it shows positive trends with an increasing number of patents and greater attention paid to IP issues. There is no doubt that government policies contribute to this trend, as the Startup India program has made IP more attractive for Indian businesses by providing various fee reductions, faster examinations, and financial assistance. Therefore, IP protection has become crucial in startup development and innovation hub emergence such as Bengaluru. However, it is crucial to note that despite the rise in the amount of scientific output produced in India, the level of IP formation based on this knowledge is still very low. Consequently, India faces problems with defining the value of IPs due to the lack of appropriate valuation frameworks⁴.

International benchmarks and standards: Across the globe, the valuation of IP assets is based on benchmarks that are well-recognized and commonly applied, and the International Valuation Standards (IVS), notably IVS 210, provide information on the three fundamental approaches to IP valuation and articulate the fair value principle in transactional circumstances. More guidance can be

⁴ *ibid*

found in AICPA publications on the recognition and measurement of intangibles for accounting purposes, while ISO 10668 establishes the methodology of valuing brands. Meanwhile, under the FASB ASC 350 provisions, impairment testing is required periodically, as one way to ensure that IP assets recognized on the balance sheets are economically

realistic. For instance, the famous purchase of Motorola by Google in 2012 utilized valuation techniques such as relief-from-royalty under the income method to estimate the value of IP assets, because the latter depends primarily on patents held by Motorola. The prevailing standard of practice in the UK is to follow IVSC guidelines, while the HMRC intangibles regime imposes taxes separately on IP gains, and cross-border protection for intellectual property has been further enhanced by the IPRED directive in the EU, among others. This is reflected, for example, in disputes between Airbus and Boeing in relation to patents, indicating the critical importance of IP in competition policy and international trade, respectively. Therefore, in those developed economies, IP asset management has become wellintegrated into financial reporting and corporate management practices.

The results obtained by the WIPO suggest that good regimes of protection make it possible to convert ideas into businesses and products faster – a sign of a mature innovation system. Hence, the country has adopted a comprehensive set of substantive IP laws; however, as regards IP valuation, India lags behind in this area. The Patent Act guarantees a 20-year monopoly on inventions, while according to the Trademarks Act, trademarks can be renewed indefinitely, thus preserving the brand value. Mergers and acquisitions are regulated by the Companies Act, 2013, and SEBI rules and regulations, while FEMA and RBI regulations determine the price and terms of investments made by foreign

players. From the standpoint of taxation, the section 56(2)(viib) of the Income Tax Act is very restrictive in its assessment of share premiums in unlisted companies. Still, there are gray areas concerning the characterization and taxation of gains derived from transactions involving IP assets. Nevertheless, India's courts have started developing the valuation jurisprudence, as exemplified by the *Ericsson v.*

Micromax case tried in the Delhi High Court in 2014, where the award of royalties for standard-essential patents implied an income-based approach to the valuation of IP rights. The policy steps taken within Startup India program have further reduced impediments to IP protection, providing rebates for registration and filing – 50 percent for trademarks, 75 percent for designs, along with a total of 31 state-level policies on IP.

Still, as indicated by inclusion of India into the Priority Watch List by the USTR's 2025 Special 301 Report, some aspects, such as enforcement and uncertainty, continue to pose problems in IP management. Moreover, there are proposals and even attempts to impose a limit on royalties in the tech and pharma industries. Such uncertainty creates apprehensions for foreign investors, making them think that return on investment would be limited to a certain extent and thereby discouraging IP-intensive investment. At the present stage of development of IP valuation, international standards have been adopted in the majority of jurisdictions, while India lacks domestic legislation or regulation in the area similar to the IVS 210, even though the latter has been adopted in over 100 countries. Nevertheless, in reality, IP valuation plays an important role in valuation of large-scale Indian deals, e.g., Walmart's purchase of Flipkart involved valuation of about 40 percent of intangible assets, including brand, algorithms, and data using market comparable and other techniques. Similarly, in the process of Tata Motors' acquisition of Jaguar Land

Rover, a combination of cost and income approaches was used to capture the historical investments in R&D and brand value.

Internationally, organizations use DCF models together with scenario analyses to assess patent portfolios and pipelines in their evaluation of Pfizer's \$43 billion purchase of Seagen. In India, the ecosystem creates more obstacles because limited venture capital availability prevents successful commercialization of intellectual property, and although Bengaluru functions as an active hub, it falls short of San Francisco's VC activity, which shows more than 1000 deals per million residents. Indian startups with strong intellectual property rights achieve two to three times higher valuation multiples than their competitors who lack such assets according to case evidence, which shows that India needs to adopt standardized intellectual property valuation practices to create fair deal valuations, attract advanced investment, and maximize the country's ability to innovate.

Aspect	India	Global (US/UK/EU)
Standards	Advisory (IVS emerging)	Statutory (IVS 210, ASC 350)
Timelines	12-18 months expedited	6-12 months routine
Enforcement	Improving, Watch List	Robust, low litigation drag
Tax Treatment	Ambiguous gains	Clear amortization

Challenges, Reforms, and Opportunities in Intellectual Property Valuation

India requires further development to establish itself as a global power in IP valuation because its existing system suffers from three major issues which include inadequate laws, unpredictable law enforcement, and insufficient

funding for innovative projects. The report shows that AI venture funding will drop to \$1.39 billion by 2025 which demonstrates that financial resources are becoming increasingly restricted while businesses urgently require high-quality IP-based innovations. The current situation demands three essential reforms which will improve existing conditions: The first requires all organizations to comply with IVS 210 standards, which will establish Indian IP valuation methods as equivalent to global practices. The second requirement demands organizations to integrate structured IP audits into their M&A process, which will enable scientific evaluations of patents, trademarks, data, and know-how. The third requirement states that targeted tax incentives for IP-focused investment funds will create a larger pool of patient capital which research-intensive businesses can access. In tandem, setting up dedicated innovation hubs with clearer ownership and licensing structures will make it easier for startups, universities, and corporates to collaborate and commercialize ideas.

Startup India has already put in place an enabling framework for IP by according it a greater weightage, and this has brought the country a step closer to achieving the dream of Viksit Bharat 2047. However, the opportunity now lies not in protection of IP, but in its management and monetisation, so as to unlock its economic value, according to desikaanoon.in. In conclusion, this dissertation argues that India needs to shift from a system which is primarily focussed on protecting IP to one that is equally adept at valuing it, because for dealmakers, it is a tactical issue of getting pricing and structuring right in transactions, while for policymakers, it is a strategic issue of how to influence capital flows and industrial policy; moreover, for the economy at large, it is a must: mastering IP valuation is no longer a choice if India has to take the centrestage in the global innovation landscape.

CHAPTER 1

1.1 Introduction

The current business environment now recognizes intellectual property rights (IPR) as valuable assets. Intellectual property value exists through legal ownership rights which enable people to control and profit from nonphysical concepts. Complete knowledge of intellectual property rights together with their economic potential needs to be understood for precise IP valuation during mergers and acquisitions. The chapter brings together expert opinions about essential intellectual property types their business transaction functions and the methods used for valuation which determine how IP quality affects transaction results.

1.2 The Spectrum of Intellectual Property Rights

The field of intellectual property law protects various legal rights through different regulatory systems which create different effects on corporate activities.

In India patents grant inventors exclusive rights to produce and distribute their inventions for two decades after their patents are granted⁵. The documents function as protective barriers which prevent competitors from entering the market while enabling companies to charge higher prices and receive licensing revenues. The true worth of a patent exists between its patent strength and its market value because patent strength determines its boundaries, patent challenges assess its validity, and patent protection follows current market developments. Indian law (the Patents Act, Sections 3 and 4) imposes strict limits on patentability especially in drugs and software creating uncertainty

⁵ Khurana & Khurana, 2025

about their value⁶, 2025. The deal value of this transaction depends on this particular element. Strong trademarks enable businesses to establish higher prices while creating customer loyalty and achieving reduced advertising expenses and market expansion. Indian brands need to optimize their market presence by focusing on regional loyalty and distribution strength⁷.

Copyrights are intellectual property rights that protect creative works such as books, movies, music, art, and software. Since software is generally not patentable in India, technology companies are left with no choice but to bank on the Copyright Act, 1957, because copyrights in software are likely to be very valuable. The duration of protection for copyrights is very long -- the life of the author plus 60 years -- providing a very long period to derive income from licensing, sales, spin offs, etc., however, the ownership of copyrights is not always clear, particularly when employees, contractors, and freelancers are involved. Questions like "Who actually owns this code or this content?" can become contentious issues in deals, and further, assets such as customer lists, proprietary processes, algorithms, etc., are rarely registered anywhere and will retain value only as long as they remain secret. India does not have a dedicated trade secrets law, and businesses are forced to rely on contractual protections such as non-disclosure agreements and confidentiality clauses, as well as common law principles, because these secrets lose their value once they are disclosed.

Intellectual property (IP) refers to the legal rights that result from mental creativity in industrial, scientific, literary, and artistic fields, and in M&A

⁶ RK Dewan & Co. _____

⁷ Mondaq, 2025

transactions, these rights could constitute 30-90% of deal value depending on the industry. Patents prevent competitors from copying the core technology, trademarks provide brand recognition and customer loyalty, copyrights protect creative and software assets, and trade secrets protect confidential know-how, while industrial designs protect the visual appearance of products, therefore, the value of IP rights depends on the enforceability of the rights in practice, relevance to market demand, and strategic alignment with the business. IP due diligence in M&A transactions helps the buyer differentiate between valuable IP and mere paper assets, because patents give inventors exclusive rights to make, use, sell, or import inventions for 20 years from the date of filing. Patents are a fundamental form of protection for innovation worldwide, including India, under the Patents Act, 1970, and they serve as a competitive barrier, enabling premium pricing, generating licensing royalties, and offering bargaining power in litigation or cross-licensing negotiations. In technology-driven M&A, a strong patent portfolio can justify large acquisition premiums, and the Qualcomm licensing business model, which generates billions in revenue annually, is a textbook example globally of the power of patents, consequently, patents are more than just pieces of paper to hang on a wall, copyrights, injecting valuation uncertainty—pharma patents, vital for generics giants like Sun Pharma, face compulsory licensing risks under Section 84. Globally, the U.S. Patent and Trademark Office (USPTO) grants cover processes, machines, and compositions, fueling deals like Apple's \$2.6B Beats acquisition, where audio patents were prized. Businesses leverage patents as

loan collateral, to reassure investors, and for franchising⁸, according to WIPO and Jacobs Law.

Risks abound: reverse-engineering post-expiry erodes exclusivity, while infringement suits (e.g., Ericsson v. Micromax in India) test enforceability. Strategic patenting—defensive pools or cross-licensing—mitigates this, enhancing M&A appeal.

Trademarks: Building and Monetizing Brand Identity

The law of trademarks protects distinctive identifiers that include names and logos and slogans and sounds and colors and shapes which include CocaCola's bottle design to enable goods and services to display their unique identity and their origin. M&A activities show that brand value exceeds the worth of physical possessions because Interbrand's 2025 rankings estimate Apple and other top brands at \$1 trillion. Companies succeed when they maintain brand uniqueness through distinctiveness and non-descriptiveness and broad geographic distribution. The Trademarks Act of 1999 in India protects well-known marks from dilution through its Section 11 provision which establishes trans-border protection for these marks. The distribution networks of Indian brands Amul and Tata enhance their value through regional brand loyalty which supports their business operations⁹ notes trademarks comprising **20- 40% of consumer goods deals. Valuation employs relief-from-royalty (hypothetical licensing fee savings) or market comps, yielding premiums in cross-border buys.

⁸ ibid

⁹ Mondaq (2025)

The advantages of our system start when customers trust us because this trust leads to their repeat purchases. The system keeps competitors away through its legal protections while McDonald's franchising model enables revenue growth without new investments. U.S. examples like Nike's swoosh demonstrate that non-traditional protective measures exist which SpencePC describes as including smells and motions. In India, opposition rates hover at 15% but the system allows permanent existence through 10-year renewals when 10-year periods pass without challenges. Challenges include genericide (e.g., Aspirin losing distinctiveness) and cybersquatting, which are addressed via the UDRP. M&A diligence verifies the chain of title, infringement history, and goodwill metrics to ensure accurate pricing.

Copyrights: Safeguarding Creative and Software Expressions

Copyrights automatically vest in original works of authorship which include literary works and artistic works and musical works and software code. The author gains exclusive rights to reproduce and distribute and adapt the work for his life plus 60 years according to Indian copyright law which exists since 1957. Tech companies use this method to protect their non-patentable software through source code and interface protection which they treat as literary works.

Copyrights serve as the foundation for media and technology companies because they determine company value across Disney which depends on character intellectual property rights and software copyrights which allow SaaS licensing. The low enforcement costs combined with steady revenue from derivative works such as sequels and ports make derivative works appealing for businesses ¹⁰. The valuation process through income assessment of

¹⁰ *ibid*

projected sales or cost assessment of development expenses establishes worth especially for employee and freelancer disputes in India which requires assignment deeds to provide clear understanding. The educational and critical use exceptions of fair use create a balance between monopoly power and AI training which uses copyrighted material that leads



to lawsuits such as NYT v OpenAI. The ownership rights of creators who do not transfer their rights make it difficult to manage collaborative projects. The Berne Convention provides worldwide standards which assist in international business transactions.

Trade Secrets: The Perpetual, Fragile Edge of Confidentiality

Trade secrets shield non-public information conferring advantage— formulas (KFC's recipe), algorithms (Google's search), client lists— indefinitely, sans registration¹¹. The protection of information needs reasonable secrecy measures which include non-disclosure agreements and access restrictions and non-compete clauses. The agreement does not terminate, but the confidential information lost its worth through disclosure.

The process of mergers and acquisitions depends on undisclosed information to create market value in industries that require extensive production operations like manufacturing. The valuation determines economic effects through lost profits which resulted from the disclosure or through projected expenses of the non-disclosure agreement. India needs a United States Uniform Trade Secrets Act equivalent because its developing legal framework depends on contracts and equitable remedies which include the Delhi High Court decision in American Cyanamid v. India. The system provides permanent benefits with minimal expenses while it exposes the organization to risks through employee recruitment and cybersecurity incidents. The World Intellectual Property Organization recommends that investors should maintain

¹¹ CIPAM (2025). About CIPAM. Cell for IPR Promotion and Management.

their assets through strong control measures which include departmentalization and security inspections¹².

Designs: Aesthetic Protection in Product Innovation

Industrial designs protect novel ornamental features for 10-15 years (under India's Designs Act, 2000), complementing patents for visual designs (e.g., iPhone aesthetics). In M&A, they deter knockoffs, enhancing perceived quality[4].

Interplay and Strategic Imperatives in M&A

Layered protection maximizes value: patents + trademarks for pharma; copyrights + secrets for software. In India, exclusions drive hybrids, but gaps (e.g., no unified secrets law) demand diligence. Global standards like IVS 210 guide holistic valuation, revealing synergies.

For businesses, IP strategy yields revenue diversification (licensing), risk mitigation, and enhanced multiples—WIPO notes 20-30% valuation uplift[4]. Diligence uncovers encumbrances, ensuring deals like Flipkart's IP trove justify Walmart's \$20B bet.

Mastering this "menu" transforms IP from liability to asset, powering innovation economies.

1.3 The Strategic Role of IPR in M&A Transactions

The legal status of intellectual property has changed during the past two decades because it now serves as the primary factor that drives corporate mergers and acquisition activities. Companies are acquiring more than

¹² CIPAM (2025). About CIPAM. Cell for IPR Promotion and Management.

physical assets and product lines because they need to obtain proprietary technology and original concepts and established trademarks and specialized knowledge that gives them a competitive edge according to Maheshwari and his company which will exist until 2025. Businesses need to obtain patents and specialized knowledge because this acquisition method enables them to avoid spending multiple years on research and development. Buying an established portfolio provides faster results for organizations that work in pharmaceutical and software and advanced materials industries than creating a new portfolio through internal development. The value of a deal extends beyond its patented technology because companies obtain both specialized methods and expert employees who enable them to establish their presence in fresh business territories according to IAM Media which will publish its content in 2026. Intellectual property has become an essential element that determines a company's complete market value. The evolution of valuation techniques has made intangibles the main focus during business negotiations. Intellectual property rights must be considered during negotiations because intangible assets make up 90 percent of some top companies' total worth. The assessment of intellectual property by both parties establishes the connection between purchase prices and payment structures and risk clauses according to Resurgent India which will issue its findings in 2025. Intellectual property rights enable businesses to access new markets more efficiently. An acquiring company benefits from established brand recognition because it enables them to enter new markets through existing reputation instead of developing complete trust from customers. Patents which provide cross-border enforcement capabilities allow companies to expand their operations internationally through international patent registration without needing to process lengthy patent registration procedures according to Tax Guru which will publish its

information in 2025. The purchase of an intangible asset which falls under Section 32 of India's Income Tax Act permits taxpayers to deduct 25 percent of its value annually as an amortization expense which results in significant tax advantages. The new regulations prevent goodwill from receiving qualifying status which requires businesses to conduct distinct evaluations of their intellectual property assets. Companies determine their intellectual property valuation through three methods which include income and market and cost approaches. The company uses a combination of three valuation techniques to produce a reliable value estimate which maintains its value during evaluation tests. The income approach establishes the starting point for our analysis process. The three primary approaches for determining intellectual property value exist as three different methods which businesses use to assess their worth¹³.

The income approach provides its greatest advantage because it predicts future value based on actual economic benefits. The approach faces a disadvantage because it relies on multiple assumptions which include revenue growth and profit margins and the duration of intellectual property rights and discount rates. The factors create substantial differences between the valuation results produced by different valuers.

The market approach assesses actual completed transactions. The IP value estimation process requires knowledge of recent sales prices for comparable assets. The method proves popular because it utilizes actual market information while tax authorities appreciate its capability to establish equitable pricing (Sonisvision 2025). The process proves challenging to implement within India. Most transactions remain undisclosed because confidentiality

¹³ Khurana & Khurana, 2025

prevents any disclosure of the intellectual property purchase price. Finding truly comparable transactions presents challenges because these assets maintain their distinctive characteristics. The evaluation process requires the evaluation of all similarities which results in his legal power.

The evaluation process requires the evaluation of all similarities which results in his legal power. The evaluation process requires the evaluation of all similarities which results in his legal power. The evaluation process requires the evaluation of all similarities which results in his legal power¹⁴.

There is also the cost approach that estimates the replacement cost or reproduction cost. The former is the amount needed to produce something that would function similarly to the item in question, whereas the latter refers to replicating a particular thing (RK Dewan, 2025). Cost serves as a threshold, meaning nobody will offer more money than it takes to make a replica (RK Dewan, 2025). The cost approach is suitable for valuing newly created IP or IP that has yet to bring any revenues (e.g., software developed in-house). However, it does not take future income into account and ignores the additional value of IP. In some cases, the cost of creating IP is irrelevant to its commercial viability (Khurana & Khurana, 2025). Patents are costly to develop and may fail despite being innovative, whereas a trademark may turn out to be incredibly valuable.

The quality of intellectual property plays a critical role in assessing its value. A comprehensive collection of high-quality IP portfolio increases its value and provides bargaining power during negotiations. Conversely, flaws can decrease the value or render the entire operation meaningless.

¹⁴ Resurgent India, 2025

Patent valuation factors include the breadth of the claim, legal validity, lifetime, and technological and commercial relevance. Claims covering key technology should have wide scope; otherwise, they can easily be circumvented, rendering them practically useless. Commercial implications also matter since patents covering products and technologies in rapidly

expanding markets are more valuable than those for goods and technologies used in waning industries (IAM Media, 2026).

Trademark valuation relies on brand recognition, reputation, and customer loyalty and involves protecting IP from infringement. Strong brands can fetch higher prices, generate customer retention, and facilitate development. Trademark protection is crucial. Indian factors include loyalty, distribution capabilities, and the risk of counterfeits¹⁵. The principal factors which determine the situation require assessment of both ownership rights and legal status. The absence of transfer documents and the existence of registration and payment issues together with disputed claims create uncertainty which results in a significant decrease of value. Volkswagen paid a substantial amount in 1998 for Rolls-Royce's factories but later discovered that the trademark ownership rested with another party. The error destroyed the entire transaction¹⁶. Within the last 20 years, intellectual property law has progressed from an insignificant area to one of the main factors affecting mergers and acquisitions. Previously, the main object of M&A was tangible property, like plants and equipment. Nowadays, all the value is in intangible assets: unique and exclusive technologies, specific methodologies, famous brands, and internal know-how, providing businesses competitive advantages on a long

¹⁵ Mondaq, 2025

¹⁶ Khurana & Khurana, 2025

term basis. This transition illustrates the changes occurring in the business environment, reflecting the growing importance of creation, innovation, and differentiation, and not tangible properties. Companies buy know-how in order to compete better, to enter new markets faster, and to price their products higher. As stated by

Maheshwari & Co. (2025), such approach indicates significant evolution of deal evaluation. Acquisition of patents and know-how is becoming a favored strategy used to quickly innovate, especially in industries characterized by lengthy and costly development cycle. Thus, in the pharmaceutical industry, it takes between 10 and 15 years to produce a new drug and spend from \$2 to \$3 billion, which does not guarantee its commercial success. Acquisition of ready-to-go patents or biotech company with validated drugs saves time required to perform extensive pre-clinical and clinical tests. The same principle applies to software and advanced materials development when production cycles shrink to 18-36 months. Organic development is then economically unreasonable and thus, buying other firms' IP and know-how is the preferred method to quickly generate sales. Apart from time efficiency, intellectual property purchase allows companies to access unique processes and know-how associated with the target organizations. The acquisition includes not only patents, but also engineering departments, manufacturing processes, supply chain relationships, and accumulated experience making patents profitable. As pointed out by IAM Media (2026), such soft aspects of M&A deal might prove even more valuable than formal IP rights. Acquisition of a pharmaceutical company means

acquiring knowledge about obtaining regulatory approvals; in case of acquisition of software company, it provides a lot of additional insights, apart from source codes, regarding software design and programming.

Moreover, geographical and market expansion of companies becomes much quicker due to IP purchase. For example, if a company has well-protected intellectual property in its home country, its expansion becomes easier after acquisition of organizations possessing complementary IP portfolios in target countries. Cross-border litigation and enforcement are relatively quick ways of establishing international presence compared to building brands from scratch. An Indian software company that buys a competitor based in the US immediately obtains technological knowledge, existing customers, and regulatory certificates.

IP as the Cornerstone of Corporate Valuation

Copyrights are rights granted to original literary, dramatic, musical, artistic, film, and other works, and software copyrights are especially valuable in the domain of technology. In light of the relatively challenging process of acquiring software patents, in India it is customary to rely upon Copyright Act, 1957 for protecting valuable proprietary intellectual property, and copyrights, being protected for the life of the author plus 60 years, offer plenty of time for the owner to capitalize on their rights by means of licensing, sales, or creating derivatives. Yet the primary concern is always the question of ownership since the ownership of software developed by an employee, contractor, freelancer, etc., is always somewhat unclear, and without explicit agreement to the contrary, it can create quite a headache in the course of M&A. In any case, the most valuable information that any company possesses – customer lists, secret business processes and algorithms, pricing schemes, etc. – does not ever appear

on the registration list, for this is the information constituting trade secrets, and trade secrets, which cannot be registered with any government body, derive their value from their very status of confidentiality. To date, there is no separate trade secrets law in India, so protection of trade secrets rests upon contractually based arrangements such as NDAs, confidentiality agreements, IP assignments, common law principles, etc. – once trade secrets are exposed, their value vanishes.

The general definition of IP refers to a broad legal class of protections for innovation, creative work, and competitive advantage, and in an M&A context, IP can contribute anything from 30% to 90% of the total transaction value since, as noted above, patents block rivals from accessing your core technology, trademarks build brand recognition and customer loyalty, copyrights protect creative assets such as code, media, and content, trade secrets guard know-how which rivals cannot reproduce, and designs safeguard the appearance of products. In essence, all the values of IP rights will depend on their enforceability, market relevance, and suitability to the business strategy of your acquisition target. That is precisely why thorough due diligence of the IP assets is one of the major components of successful M&A, for it is not a mere bureaucratic procedure, but an important tool for extracting value from the acquired business or protecting yourself from risks. Speaking of patents, they offer an exclusive right for the inventor to produce, sell, use, or import his invention for up to 20 years from the filing date of the application, and patents constitute the foundation of innovation worldwide, India included (the Patents Act, 1970). Practically speaking, patents serve as excellent business tools for blocking the competition, allowing premium pricing, generating revenue via licensing, etc., and a strong portfolio of patents justifies substantial M&A acquisition premiums – just think of Qualcomm's business

model generating billions of dollars in annual revenue on the basis of licensing its patents. Patent value is, in fact, multifaceted since it depends upon such factors as claim breadth, patent validity, and relevance to current market trends (AI, biotechnology, semiconductor technologies, etc.). Generally speaking, broad and well-prepared claims covering even the variations of the invention and its possible improvements will prove hard to circumvent and thus valuable, while those having withstood rigorous examination and having sufficient prior art search records will be difficult to invalidate. Market relevance will multiply the value of everything, for a strong patent in a rapidly growing area will fetch several multiples higher than its "technical" value in a slow one; for instance, a patent in the field of semiconductors in India can be sold with an income-based valuation method at between two and five times higher than the technical value due to growth of the industry. Of course, India also has several legal restrictions on patentability, including those provided for in sections 3 and 4 of the Patents Act excluding software "as such," business methods, or evergreening of pharmaceutical patents¹⁷ notes that in India, regional loyalty, distribution network strength, and counterfeiting risk all influence trademark valuation.

Ownership issues are the first factor to consider when valuing IP assets since missing assignments, incomplete registrations, missing renewal payments or conflicting claims on ownership rights can render the valuation of the IP worthless literally overnight. Rolls-Royce serves as the best example, as in 1998, Volkswagen bought the manufacturing rights of Rolls-Royce, only to discover later that the trademark of Rolls-Royce belonged to BMW, which

¹⁷ Mondaq (2025)

meant that the "brand value" that Volkswagen thought it acquired was fictitious. Khurana & Khurana (2025) are correct to call ownership gaps deal

killers, as they directly affect what the buyer thought it was acquiring. Furthermore, the enforcement of the rights is critical as well; a trademark which has been actively enforced against infringements with proper documentation of cases or settlements will be considered stronger than merely registered trademarks. Active enforcement demonstrates that the owners take protecting their trademarks seriously, creating a history that is respected by courts and future infringers. Similarly, copyright ownership must be checked carefully, as originality and quality, registration, and ownership play a critical role in determining copyright worth since unregistered copyrights can be protected, although it is significantly harder; if there is ambiguity in who created a piece, or in contracts between employees or freelancers, it will create a commercial and legal issue in valuing and protecting those copyrights. Trade secrets require the highest level of confidentiality and security as they are based entirely on their secrecy; once they become public, they become worthless, hence why confidentiality agreements, limited access, and training staff are no longer "extra work" but are crucial if the asset is expected to have value. More importantly, however, the success of the valuation process itself does not end at the deal-making phase – the actual creation of value will depend on how successful the post-acquisition integration proves to be as far as the IP portfolio is concerned. In particular, the new owner of IP rights must rationalize and consolidate its newly gained assets, reduce redundancy and actively seek synergies, for example, by bundling overlapping patents and complementary brands. This will mean changing the innovation roadmap to avoid redundant research and development and accelerate promising and rich in IP assets

initiatives, as well as protecting, maintaining, and enforcing the acquired rights to ensure their continuity, and not let lapses happen that could potentially nullify the portfolio's worth. Equally important, people working with IP should be integrated to prevent loss of tacit knowledge and institutional know-how. An acquisition may seem to be very successful in terms of valuing the IP involved, yet if the integration fails, then everything could go wrong. As a result, the practice developed whereby acquirers would develop IP integration plans in addition to financial and operational plans, as IP became central to M&A strategy. This reflects a more fundamental shift as well – in knowledge- driven industries where IP makes up a company's competitive advantage and value, IP has become much more important than ever. Despite all of that, each of the three methods of calculating IP value – income, market, and cost-based approaches – provide a framework to do that, although each carries with it certain limitations that require professional judgment and, beyond that, the need to conduct a quality check. A portfolio of good-quality, properly maintained and easily enforced IP assets always attracts premium pricing and facilitates integration. By contrast, poor portfolios can damage business value and even result in conflicts and litigations. For dealmakers, comprehensive and proper IP valuation and due diligence are now essential preconditions for making offers and structuring deals, while for governments and taxing authorities, consistent valuation frameworks are required to prevent mispricing and loss of revenue. In light of India becoming a hub of innovation, knowing IP valuation techniques and being proficient in applying them will become absolutely essential.

CHAPTER 2

2.1 INTERNATIONAL VALUATION STANDARDS FRAMEWORK

International Valuation Standards (IVS) establish worldwide valuation standards which enable valuation professionals to perform consistent asset evaluations for various asset types and valuation needs. IVS are developed in the public interest, designed to work with the requirements of all markets and jurisdictions, and are adopted by professional valuers around the world, while they are written in straightforward language to make them accessible to valuers, clients, and the wider public. The International Valuation Standards Council (IVSC) developed IVS as an independent not-for-profit organisation, which uses these standards in over 100 countries because their primary function exists to create trust through their provision of international valuation standards, which establish consistent standards that decrease valuation uncertainty while maintaining financial market integrity. The chapter presents an overview of IVS framework structure together with standard IVS 210 that governs intangible asset valuation while also mentioning related standards and the particular challenges and opportunities which exist for intellectual property valuation in India¹⁸.

2.2 The Structure and Core Principles of IVS

IVS provides a comprehensive framework that helps valuers complete their work through a systematic and complete evaluation method. The IVS Glossary serves as the starting point because it provides essential definitions that enable

¹⁸ IVSC,2025

all participants to communicate using identical terms. The IVS Framework functions as a preface which establishes fundamental principles

about objectivity and judgment and competence requirements and situations when rules may be broken. One thing that stands out: if you're following IVS, you're expected to comply with all relevant IVSC standards¹⁹.

International Valuation Standards (IVS) can be divided into two types – General Standards (IVS 100-106) and Asset Standards (IVS 200-500). While the former refers to all valuations regardless of the type of the asset, the latter applies to certain classes of assets only. As an illustration, the scope of work is determined by IVS 101, which mandates the valuer to define what is to be appraised, for what purposes and for whom. Further, the valuer should select the most appropriate basis of value (Market Value, Investment Value, Fair Value, etc.) following the guidance of IVS 102 (Bases of Value). Finally, IVS 103 (Valuation Approaches and Methods) explains the three basic valuation approaches (market, income and cost) and valuation methods within each approach. The underlying rationale of these standards is purely economic, namely, price equilibrium for the market approach, expected future benefits for the income approach and the principle of substitution for the cost approach, while other general standards refer to the depth of investigation, the quality and sources of data, modelling and documentation (IVSC, 2025). Asset standards are devoted to specific classes of assets. IVS 210 (Intangible Assets) constitutes one of those standards which is especially important for intellectual property (IP). IVS 210 sets out the mandatory guidelines on the appraisal of intangible assets such as patents, brands, and IP generally. The General

¹⁹ PWC Viewpoint, 2024

Standards are supplemented by IVS 210, which takes into account the peculiarities of the appraisal of intangible assets and explains how to overcome the difficulties related to it,

which makes IVS 210 especially relevant when it comes to M&A, financial reporting, tax and litigation purposes (Valuaris, 2024). There are several core principles underpinning all IVS standards, which include, inter alia, objectivity and impartiality. It means that valuers must be objective in their judgments and impartial in making decisions regarding a certain asset. Apart from objectivity, valuers must be competent, implying that the valuation process is always performed by qualified professionals, while the report should indicate that the International Valuation Standards were complied with and deviations from IVS (if any) should be disclosed and justified. Furthermore, valuers should exercise professional scepticism, which implies that they critically assess data, assumptions and evidence used in the valuation process²⁰. The IVSC periodically updates IVS to reflect the development of the market, and the current version of IVS was published in January 2024 and comes into effect in January 2025, consequently the new edition includes two new chapters on Data & Inputs and on Documentation because the General Standards have been reorganised to better match how valuers perform their work. The new edition also addresses emerging trends such as technology, big data and ESG, because the changes are designed to ensure that IVS remains relevant and practical as assets and their valuation continue to evolve (IVSC, 2025)²¹.

2.3 IVS 210: Intangible Assets and IP Valuation

²⁰ ibid

²¹ ibid

The present standard used for valuation of intangibles is IVS 210, which is one of the IVS standards formulated by IVSC, and it is about the issues associated with the valuation of intangible assets, which are identified as non-monetary, non-physical, identifiable assets that are separable from the

entity acquired or from other rights and obligations. According to IVS 210, the intangible assets are classified into five categories: marketing-related intangible assets, customer-related intangible assets, artistic-related intangible assets, contract-related intangible assets and technology-related intangible assets (IVS 210, 2025). It is important to note that all the valuation techniques of IP are based on the three approaches of valuation stated in IVS 210, including income approach, market approach and cost approach. Income approach is most frequently used for valuation of IP, as it focuses on capturing the economic benefits generated by the IP, and the most popular technique of income approach is relief-from-royalty approach, which takes into account the savings made by the enterprise due to the ownership of IP, since if the IP had been licensed to another enterprise, the business would have paid royalty. Multi-period excess earnings method is another popular technique of income approach, because it takes into consideration the cash flows associated specifically with IP by considering required returns of other assets used along with IP assets.

Market approach can be used for valuation of IP, as it provides information regarding the value based on the basis of comparable transactions. However, it is usually hard to apply market approach to IP assets, because of lack of reliable information about comparable transactions. On the other hand, cost approach is usually considered irrelevant for valuation of IP, as cost of developing IP has nothing to do with its commercial value (IVS 210, 2025).

Several factors need

to be taken into careful consideration when valuing the IP, and they include legal rights and protection, which is considered an important factor of value for IP assets, because strength and duration of rights along with their geographical scope all affect the value of IP. Another



factor of value that is worth mentioning in this regard is the remaining useful life of the IP asset, as the IP may lose its commercial value before expiration of the protection offered by the law, and lastly, discount rate needs to be checked against total returns required from the business' assets (IVS 210, 2025)²².

Another factor that comes into account when IP assets are to be acquired is TAB, which represents a huge value consideration for IP assets that can be amortized for taxation purposes, thus representing an opportunity for saving money for the business (IVS 210, 215). Besides IVS, other complementary standards exist that provide more specific guidance, such as American Institute of Certified Public Accountants, that issued Statement on Standards for Valuation Services (SSVS, VS Section 100), for use in USA only. SSVS is meant to serve as guidance for conducting valuations of businesses, business ownership interest, securities and intangible assets, applying to any valuation regardless of its purpose, by providing step-by-step approach as to how the valuation should be done and reported.

Professional judgment of the valuer is considered very important according to this document and two types of engagements are introduced – valuation engagement and calculation engagement, with the difference that valuation engagement requires a conclusion of value being issued by the valuer that applies appropriate valuation methods, whereas calculation engagement requires calculated value being issued by the valuer, based on the valuation methods and assumptions agreed upon before the valuation starts. This allows the valuer to tailor the engagement to the needs of his client, although the report

²² *ibid*

is supposed to provide all necessary information concerning the type of the engagement – scope, methods and assumptions used²³.

The ISO organisation has also issued the ISO 10668 on brand valuation due to the nature of the standard since the standard is based on the three approaches to valuation, the income approach, the market approach, and the cost approach in relation to brand valuation and uses the future economic benefit, comparable market transactions or the cost of replacement respectively (ISO 10668, 2010). Therefore, the three standards IVS 210, AICPA SSVS and ISO 10668 can be said to represent three tiers in a valuation process where IVS 210 represents the global valuation standard, AICPA SSVS represents the US jurisdiction- based valuation guidance and the ISO 10668 represents the standard on brand valuation.

The standard requires clear transparency and accountability and also requires reliable process documentation. The difficulty in comparing brand sales means that the income approach prevails (ISO 10668, 2024).

In comparing IVS 210 and ISO 10668, both standards have a focus on the future economic benefit and the process documentation with the basis of the three broad valuation approaches. However, IVS 210 has a broader coverage compared to ISO 10668 which is specific in its coverage and jurisdictional (Portebrown, 2024; Global Valuation, 2024).

IVS 210 is the standard for valuation of intangible assets published by the International Valuation Standards Council (IVSC) and it is the premier framework for intangible assets valuation due to the inherent complexity of the

²³ AICPA, 2025

valuation of intangible assets, including but not limited to patentable assets for innovative inventions, software for the management of digital platforms, trademark of brand name and the trade secret, which are crucial in maintaining competitive advantages. In the era whereby the intangibles account for the largest proportion (85-90%) of the market value of most corporations, the IVS 210 serves as a framework in the valuation process.

This standard has increased in significance in recent years owing to the rapid development of the knowledge economy whereby the traditional valuation techniques fall short when applied to the valuation of the intangible assets since their value emanates from future benefit and not from the form²⁴.

Defining Intangible Assets Under IVS 210

IVS 210 is the main global standard that establishes guidelines for intangible assets valuation, providing criteria and rules for assessing the value of nonphysical assets, which cannot be realised separately but are capable of generating economic benefits to their owners – patents, software, trademarks, trade secrets, etc. According to IVS 210, an intangible asset is an identifiable non-monetary asset without physical substance, where the criteria of identifiability imply its capacity for separate existence or arising from a contractual or legal right regardless of whether the latter is separable or transferable from the acquired entity or from other rights/obligations. The concept of identifiability explicitly excludes subjective and ill-defined notions like "synergies" and general "goodwill", while embracing objective economic factors that can be clearly identified and owned, as per IVS 210, intangible assets are generally classified into five groups with unique valuation

²⁴ WIPO,2025

peculiarities. For example, marketing-related intangibles include trademarks, trade names, Internet domain names, non-compete agreements, etc., and their value depends on the differentiation capabilities of the subject



enterprise and/or customer attraction and retention potential of the intangibles, typically assessed via relief-from-royalty methodology. As another example, the value of customer-related intangibles, such as customer lists, order/backlog lists, customer contracts, and customer relations, depend on predictably repetitive revenue stream, implying the importance of customer retention ratios and lifetime value metrics. Likewise, artistic-related intangibles, including copyright licenses for literary or musical works or photography, are evaluated based on licensing revenues, taking into account the realistic period over which they can generate revenues. Finally, the values of contract-related intangibles, i.e. various kinds of licensing agreements, leases, employment agreements, franchises, advertising contracts, etc., depend on contract specifics, transferability, and duration, while the values of technology-related intangibles, namely patents, software, technological know-how, databases, trade secrets, and similar, depend on projected incomes with special attention being paid to high risks associated with technological obsolescence. Classification of intangibles plays a very important role in ensuring the completeness of assessment and helping to choose methods that match the economic characteristics of particular categories, as with IVS in general, IVS 210 distinguishes three basic valuation approaches – income, market, and cost approaches. In general, experienced valuers tend to apply "triangulation", i.e. using more than one method and comparing results whenever possible, to obtain an accurate estimate, while the income approach is the most commonly applied method of IP valuation under IVS 210 due to its intrinsic focus on the income generation capabilities of an asset. The relief-from-royalty method is the most popular application of the income approach, implying the calculation of royalty payments that would be required in case of renting the IP from a third-party company, projecting revenues attributable to the intangible asset,

estimating royalty rates based on comparable licensing transactions, adjusting for taxes, and discounting the net cash flow at an IP-specific discount rate. Second most popular income-based approach, the Multi-Period Excess Earnings Method (MPEEM), is typically applied when valuing a particular intangible in a multi-intangible environment, implying the projection of total company revenues, subtraction of required returns for contributory assets, attribution of excess profits to the intangible asset, and discounting them to obtain a net present value. Other variants of the income approach include the with-andwithout method (comparison of business value with and without ownership of a particular intangible) and Greenfield method (hypothetical scenario of a start-up owning only the subject intangible but having to acquire or construct all other necessary assets from scratch), although income approach in general is quite efficient at capturing economic reality, IVS 210 warns that it is extremely sensitive to assumptions like revenue growth, profit margin, market share, speed of technological change, and discount rates, which all strongly impact the result.

Market approach focuses outside of the company to determine value based on prices or multiples established through transactions involving comparable intangible assets, such as recently completed sale of patent portfolios, licensing deals with known royalty terms, or merger and acquisition deals of IP-rich companies. Under IVS 210, market valuers have to make necessary adjustments to account for legal status, remaining life, positioning in the market, and geographical coverage, whereas the cost approach implies determining how much it would currently cost to reproduce a particular intangible asset precisely or create an equivalent substitute for it, with the resulting gross cost adjusted for physical, functional, and economic obsolescence. Cost-based valuation method is most useful for the IP that has

yet to generate any income, such as software in its developmental phase or databases/assembled workforce when revenues attribution is difficult. Besides the proper method choice, IVS 210 singles out several factors that significantly differentiate intangible asset valuations from assessment of more conventional assets, starting with the scope and strength of legal rights associated with the asset, which imply that the valuer will have to pay particular attention to enforceability, territorial restrictions, remaining life, history of litigation, and success of previous efforts of enforcing these rights. Remaining life of an asset is also another factor to take into account since, for instance, 20 years of patent protection will be probably outlasting its commercial life, so, according to IVS 210, valuer should model obsolescence and market changes using probability theory, rather than relying on remaining legal life of an asset alone. Special attention should also be paid to discount rates, which may differ widely among speculative technologies, newly developed intangible assets, and well-established IP such as long-lasting branded products, with the latter allowing for significantly lower discount rates, which should be reconciled with overall WARA of the business for internal consistency sake. Another important factor in acquisition context is the tax amortization benefit (TAB), representing the present value of tax savings due to amortization and accounting for substantial part of IP value.

Given the global significance of these standards, IVS 210 has been adopted by WIPO as a valid framework to value intangible assets and it has been advised that the standards should be extended to new asset classes, such as artificial intelligence models, huge data sets, etc. apart from IVS 210, some standards provide jurisdiction-specific or asset-specific guidance. One such example of a standard is American Institute of Certified Public Accountants (AICPA) Statement on Standards for Valuation Services (VS), VS Section 100. This

standard ensures that valuations for businesses, business ownership interest, securities, and intangible assets should be of uniform quality and must be communicated clearly to the clients. The standard lays down that the valuation engagement should involve exercise of professional judgment; all procedures performed and methods used should be recorded, and the report should have sufficient information regarding the engagement. It also draws a clear line between a valuation engagement and calculation engagement, wherein the former requires an application of all valuation approaches and techniques whereas the latter requires performance of agreed-upon procedures with the client. At the international level, ISO 10668 is devoted exclusively to the valuation of brands and uses income, market, and cost approach but from a brand's perspective. It asks for transparency, reproducibility, and an assessment taking into consideration the behavioral, financial, and legal aspects. Together, IVS 210, AICPA's SSVS, and ISO 10668 form a coherent set of standards, with IVS 210 providing the global foundation for valuation of intangible assets, SSVS being the guidance for valuation and financial reporting in U.S. and ISO 10668 being the methodology for valuing brands therein.

Comparative Analysis: Harmonies and Divergences

Standard	Scope	Key Focus	Engagement Types	Primary Method
IVS 210	Global intangibles	Economic life, TAB, WARA	N/A (framework)	Income (RFR, MPEEM)

AICPA SSVS	U.S. valuations	Professional judgment, reporting	Valuation vs. Calculation	Triad, reconciled
ISO 10668	Brands (global)	Transparency, reproducibility	N/A (principles)	Income (royalty)

The three standards IVS 210 AICPA and ISO provide fundamental requirements for assessing the value of intangible assets which include patents and trademarks and brand reputation. The requirements for future benefits assessment need complete documentation according to their standards. IVS 210 provides deeper details about the process of determining the value of intellectual property which includes inventions and artistic works. AICPA provides an extensive framework for assessment while ISO concentrates exclusively on brand assessment and brand value. AICPA has limited international usage because it is primarily used in the United States. ISO serves as a beneficial additional element which enhances comprehensive systems through its specific area of concentration.

Practical Application in M&A and Beyond

IVS 210 provides essential guidelines which companies must follow to determine asset valuation during mergers and acquisitions when they need to assess customer lists and technology assets. The process guarantees that asset valuation will match international accounting standards. AICPA provides assistance to companies which need to comply with United States regulations. ISO delivers more precise information about brand names.

The field faces three main obstacles which include restricted access to data and heavy reliance on estimation methods for asset assessment and assessment of modern asset categories which include AI and blockchain that do not conform to established evaluation standards. Valuers use multiple methods together with scenario testing to assess how different scenarios will impact their asset valuation results.

Future Directions and Global Adoption

IVS 210 has been adopted in more than 100 countries and WIPO recognizes it as an official standard. IVS 210 together with AICPA and ISO standards enables valuers to discover and assess intangible assets. The system enables organizations to make better choices through their research work in innovation- based economic systems. Knowledge of these standards is vital for organizations to sustain their market position.

2.5 Comparative National Standards: Harmonization and Distinctions

Regulators and professionals are currently developing worldwide standards which will establish unified methods for assessing the worth of intangible assets like trademarks and patent rights. The International Valuation Standards (IVS) initiate this initiative whereas national regulations and practices continue to guide the process of conducting valuations. The United States uses Uniform Standards of Professional Appraisal Practice (USPAP) as the official standard which The Appraisal Foundation (TAF) established because USPAP serves as the main ethical and technical standard for conducting real estate personal property business interest and intangible asset appraisals. The appraiser must define the appraisal purpose according to USPAP requirements while selecting a suitable methodology for the analysis and producing an extensive documented report which follows American Society of Appraisers (ASA)

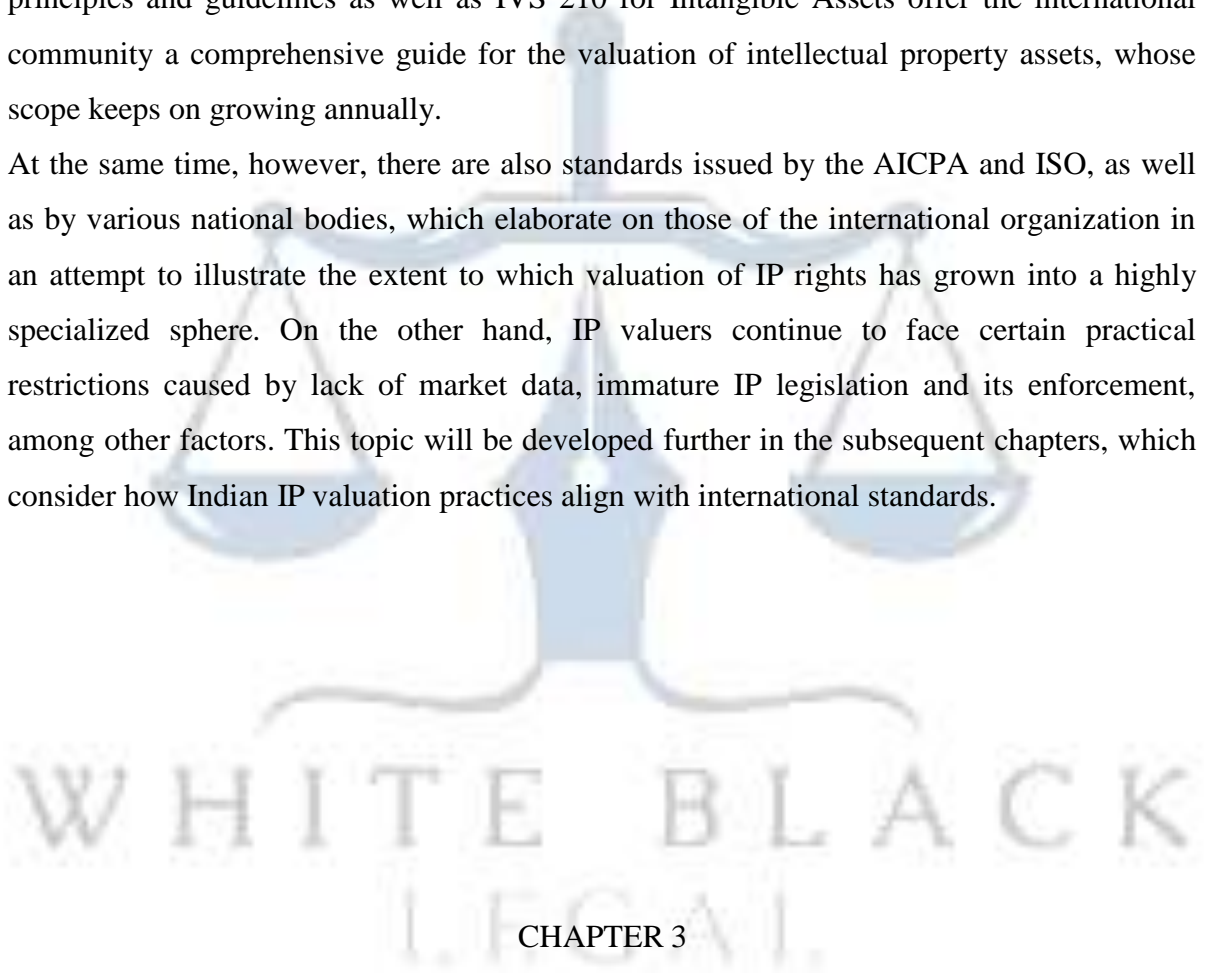
standards. The Royal Institution of Chartered Surveyors (RICS) "Red Book" in the UK and various jurisdictions includes IVS through its professional and ethical standards which RICS members must follow and all RICS valuers use the IVS global baseline and then apply additional guidance from RICS which is particularly helpful for cross-border valuations and portfolios that cover multiple countries.

RICS members use IVS 210 to assess intangible assets and intellectual property however they implement RICS detailed guidance according to RICS guidelines because RICS members in the United States must meet both RICS regulations and state appraisal licensing requirements which need to be obtained for specific business transactions. Valuation professionals who work for RICS must obtain professional indemnity insurance however this requirement does not apply to all U.S. appraisers. The two groups handle standard deviations through different methods since USPAP's "jurisdictional exception" rule requires institutions to follow specific compliance guidelines which differ from standard operating procedures.

However, it should be acknowledged that IP valuations may also differ on account of the disparity between legal regulations for patents and trademarks around the world, their enforcement, and even taxation rules, since tax amortisation benefits, for instance, in the form of acquired intangibles deduction, can also be very valuable in some jurisdictions and absent or limited in others. Thus, the process of IP valuation not only requires specific competencies in the sphere of valuation procedures but also in international IP law and taxation, as observed by Guild Valuation (2024). Nevertheless, the need for international standards creates new consistency in practice, since IVSC, AICPA, RICS, and other entities are collaborating to develop

standardized practices, terminology, and valuation approaches, building confidence throughout the globe. With the increasing importance of intangible assets in terms of corporate value, clear and internationally consistent valuation standards will gain even greater relevance, and constant cooperation will be necessary to keep up with changes in the asset class and the market, according to WIPO (2025) and IVSC (2025). In general, IVS principles and guidelines as well as IVS 210 for Intangible Assets offer the international community a comprehensive guide for the valuation of intellectual property assets, whose scope keeps on growing annually.

At the same time, however, there are also standards issued by the AICPA and ISO, as well as by various national bodies, which elaborate on those of the international organization in an attempt to illustrate the extent to which valuation of IP rights has grown into a highly specialized sphere. On the other hand, IP valuers continue to face certain practical restrictions caused by lack of market data, immature IP legislation and its enforcement, among other factors. This topic will be developed further in the subsequent chapters, which consider how Indian IP valuation practices align with international standards.



CHAPTER 3 INDIA'S LEGAL AND REGULATORY FRAMEWORK FOR IPR

3.1 The value of intellectual property in India is in its legal rights, because the law defines what constitutes protectable intellectual output, the duration of the

protection, and to what extent the rights will be enforced. The Patents Act 1970 and Copyright Act 1957 and Trade Marks Act 1999 and Designs Act 2000 together provide fundamental legal frameworks which enable the creation ownership management and commercial exploitation of intangible assets to generate economic value through intellectual property rights. This chapter examines how legal systems operate in real-life situations and how regulatory frameworks influence business operations and international investment and how tax systems affect intellectual property valuation while courts establish standards for equitable and just intellectual property assessment.

3.2 Statutory Framework for IP Protection

The value of IP in India arises from the statutory rights, and the patents law originates from the Patents Act, 1970, which was amended in order for India to become TRIPS-compliant. For an invention to be patentable, it must be new, possess a non-obvious inventive step, and have the capability of being industrially applicable. The legislation includes vital exceptions, which include but are not limited to the provisions outlined in Sections 3 and 4. Examples of exceptions include mere scientific discoveries and certain types of pharmaceutical inventions. Patent grants last for a period of 20 years starting from the date on which the patent application is made, hence providing a known future period of earnings from which the cash flows are easily estimated in DCF valuation models. Moreover, the tough infringement provisions of the patent laws add value, as any breach of a patent right could be restrained using an injunction and damages might be payable, among other things. Some features of the law complicate matters, as patent owners are required at times to disclose how the invention is being worked in India, while Section 3(d)

makes it hard to get patent protection for pharmaceutical inventions, as stated in Patents Act, 1970, and RK Dewan, 2025.

Copyright, under the Copyright Act, 1957, is a significantly more valuable type of IP, as it applies to books, music, films, software, among other forms of creative works and protects the unique expression, but not the underlying ideas, whereas copyright protection in India lasts for the author's lifetime and an additional 60 years after death, as these creations usually have longterm economic lives and can produce continuous revenues over several decades from licensing or distribution or even through derivative products. Also, while it is not required by law to register works of copyright for protection, doing so provides greater evidence of ownership and authorship and increases the asset's perceived value and ease of enforceability, and because infringement is actionable either in civil courts or under criminal law, copyright enjoys statutory support for protection. Thus, current trends in changes in copyright legislation have been towards combating online misuse and cyber infringement in order to enable creators to capitalize on their copyrights.

Trademarks may be protected under the Trade Marks Act, 1999, and almost any identifier which denotes the origin of the goods or services can be used as a trademark, including names, logos, packaging, shapes, colors, and sounds, and registration lasts initially for 10 years and can be renewed indefinitely, allowing strong marks to appreciate indefinitely in value as long as they continue to be used and maintained. As Indian businesses gained access to international trademark protection through the Madrid Protocol following its ratification in 2013, Indian companies have found it increasingly easy to establish their trademark presence in multiple jurisdictions, thereby increasing the mark's valuation, as discussed in the Trade Marks Act, 1999 and Khurana

& Khurana, 2025. Lastly, designs, as regulated by the Designs Act, 2000, pertain to the visual appearance of a product and may include shape, configuration, pattern, ornamentation, and the overall look, and registration for a design provides the right holder initial 10-year protection and another five-year extension. During this period, the design holds the strongest influence over consumer choices, and thus during that time, the rights holder may exploit the design commercially for profits through various means²⁵.

3.3 Regulatory Framework for Acquisitions and Foreign Investment

In case of foreign capital or other major assets including IP, the Reserve Bank of India takes charge and makes use of the guidelines of FEMA, 1999 and non-debt investment regulations from 2019. They include guidelines on foreign exchange, the manner and price of entry of funds, pricing policies, and valuation of assets including intellectual property rights. Two major channels for FDI to enter India include the "automatic" channel, where 100% FDI is possible in all sectors barring defense and media, without any prior government approval. Some other sectors such as defense or media use the "government route" requiring additional permissions. DPIIT provides specific guidelines in case of each sector (RBI, 2018).

The important regulation in case of issuance of shares to foreigners by unlisted companies involves the requirement of a formal valuation. It may be carried out either by a Merchant Banker registered with SEBI or a Chartered Accountant. Previously DCF method used to be the only method for calculation but currently, any method recognized globally is allowed provided it is free from conflict of interest. It should be a "fair arm's length valuation".

²⁵ Designs Act, 2000; Sonisvision, 2025

In case of transfer of shares from Indians to foreigners, the minimum price will be determined based on fair market value while for transfers from foreigners to Indians, it will be determined as a cap²⁶.

The Reserve Bank of India has changed its pricing policies from specific price regulations to current market price determination methods which it now uses. The requirement to demonstrate fair value for cross-border deals remains in effect because it prevents parties from using these transactions as a means to conduct tax fraud and violate international currency laws. The Reserve Bank of India treats investment structures which provide foreign investors fixed returns as quasi-debt instruments instead of authentic equity instruments which leads to negative evaluations of such investments (RBI 2024). The recent clarifications by RBI have made life simpler for corporates by making the system more predictable and for example an Indian company that becomes a Foreign Owned or Controlled Company FOCC is now allowed the same flexibility as a direct foreign investor including in respect of structures like share swaps. The requirements for reporting have increased in difficulty because any company that becomes an FOCC must complete extra documentation to improve their transparency practices. The pricing rules do not apply to all situations except for rights

issues which non-resident shareholders can easily access though nonresidents must pay the fair market value for any unsubscribed shares that the board approves for them to acquire (Trilegal 2025).

3.4 Taxation Framework for IPR and Asset Valuation

²⁶ RBI, 2019

First of all, the Income Tax Act, 1961, in its Section 9(1)(i), amended following the Vodafone case, makes India liable to tax capital gains on the transfer of the shares of a foreign company, where the value of shares derives "substantially" from Indian assets. That means that, if the Indian assets make up at least ₹10 crore or half of the total value of the foreign company, then a portion of the gain will be taxed in India, according to Rule 11UB, which also defines the method of calculating fair market value and specifies that a valuation report should be made by a qualified professional. This section comes into play, of course, when dealing with foreign companies with holdings in Indian IP. Further, there is the Section 56(2)(x), according to which the recipient of a property, including shares or any IP rights, either for free or for a sum smaller than its fair market value, must pay tax for any difference between the two exceeding ₹50,000. Fair market value is calculated based on Rule 11UA according to the Net Asset Value (NAV) method or the Discounted Cash Flow (DCF) method, and the certification is done by a SEBI-registered merchant banker. The whole framework serves as a deterrent against artificially low valuation of IP and other property purely for the sake of tax avoidance; however, in the meanwhile, it creates a very complicated set of restrictions.

Finally, Transfer Pricing Provisions, sections 92-92F, are highly important with regard to IP because, like with other related party transactions, in IP transactions, including licensing or assignment, all parties must be treated at arm's length, which means that any transaction must follow the same terms it would if conducted by independent parties. In particular, IP is included in such provisions, and, in order to avoid improper shifting of the income from one country to another and consequent tax avoidance, the CUP or Profit Split Method must be used. Marketing intangibles, however, are a bit of a controversial area, for, in cases when an Indian subsidiary spends heavily on

advertisement of the goods or brands, it is assumed that such expenses improve the image of the foreign parent, and, therefore, compensation must be provided. As for the Patents Act, 1970 (amended to conform to TRIPS), it sets the standards of protecting patents in India and directly affects valuation of patents in M&A operations since it lists three conditions of patentability – novelty, inventive step, and industrial applicability.

Sections 3 and 4 of the Patents Act, on the other hand, carve out certain subject matter from the scope of patent protection. Section 3 excludes from patentability the mere discoveries of scientific principles or abstract ideas, business methods, and software ("as such") while Section 3(d), which specifically concerns pharmaceutical inventions, denies patentability for new forms of already known substances unless they demonstrate "enhanced efficacy". Section 4 excludes inventions in relation to atomic energy. Carving outs in Section 3 and 4 present legal risks that valuers have to incorporate in their analysis; the higher the probability of refusal or invalidation, the lower the valuation. The term for which the patent lasts – twenty years from the filing date – makes patent valuation possible using discounted cash flow or relief from royalties methodologies. However, the legal term does not necessarily equal economic term because the patent is subject to a variety of factors that may limit its earning capacity, including market saturation and emergence of competing technologies, which means that in addition to legal term, valuation needs to consider the realistic commercial term of the invention. It should be noted also that Indian legislation requires patentees to annually report about how a patent is worked, which creates additional complications because patent working may lead to the granting of compulsory licenses allowing the use of the invention for a fee by third parties. The provisions in question present

additional risks to the value of the invention, prompting valuers to make conservative assumptions when valuing patents.

In addition to the provisions mentioned above, patentees are entitled to seek compensation in case of patent violation; however, the process may be delayed by court backlog. For investors or acquirers, it is critical that besides having rights on paper, patents are also protected effectively in practice, that is, in case of disputes, the patentee obtains appropriate measures. Infringement can be enjoined, damages awarded, and the infringer can be ordered to account for profits earned as a result of the infringement. In addition to that, the courts have powers to seize or destroy counterfeit products, thus reinforcing the commercial exclusivity principle. Post-grant opposition and revocation proceedings create additional risks of patent refusal. As one might see, enforcement of the patent is a very important factor affecting its value. As far as copyright is concerned, the Copyright Act 1957 is much more comprehensive and flexible compared to the Patents Act 1970. Copyright covers literary works (including software), dramatic works, musical works, artistic works, films, and sound recordings. Unlike patent, copyright is automatic – there is no need to register copyright in India. Though registration provides prima facie evidence of copyright and facilitates enforcement, it is more preferable for valuation purposes than unregistered copyrights.

Copyrights in India have a life span of the lifetime of the author plus sixty years for successful products like books, movies, music catalogues, and software which can be exploited through licenses and other methods for decades through broadcasts, streaming, translations, adaptations, and remakes among others due to the long duration of copyrights; hence, income approaches are ideal for valuation despite the economic life being shorter than the statutory life due to

changing tastes and technological advances among other factors, which reduce the earning capacity of the asset. Civil and criminal actions and initiatives to curb online piracy are vital in maintaining this earnings stream, however, the Trademarks Act, 1999 is the principal statute concerning valuation of enterprises dependent on branding, because a trademark is any device such as a word, logo, shape, color, or sound that distinguishes one company's products or services from those of other entities. Registration gives the owner exclusive rights to utilize the trademark in connection with the goods and services it is registered for and stop anyone else from employing the trademark for identical or similar goods or services, and lasts for a period of ten years which is renewable indefinitely provided the trademark is still in use and renewal fees have been paid.

In essence, an effective trademark is capable of adding value consistently overtime, since the well-known marks receive stronger protection for goods or services not listed in the trademark registry as well as protection against any dilution; besides, India having become a member of the Madrid Protocol, it has facilitated international registration of trademarks for Indian entities and vice versa. From a valuation standpoint, trademarks are based on their ability to command premium prices, maintain customers' loyalty, and protect the share in the marketplace, however, there are risks associated with counterfeits, infringement, and even genericization that must be considered along with proper enforcement including border measures. The Designs Act, 2000 is the third part of the picture providing protection of the aesthetic aspects of the product including its shape, configuration, pattern, or ornamentation, because design registration grants ten years of protection and an optional extension of five years which coincides with the most important phase of the product when aesthetics play a vital role in the sale, particularly in the fashion, electronics,

and automotive industries. Like trademarks, the designs rights are licensable and transferrable thereby creating an extra source of income; nevertheless, they are usually valued lower than patents and powerful trademarks owing to the novelty requirement and shorter duration.

All in all, the legal framework, regulations, and taxation laws of India govern the kind of IP assets, their life span, enforceability, and treatment for taxation and regulation in general, which affect valuation directly, although the statutory framework is quite in compliance with international standards despite practical problems with regard to enforcement and lack of regulatory clarity among other things. All these mean that as the country strives to become an innovation hub, reforms will be necessary to enhance valuation practices of IP assets.

3.5 Judicial Perspectives on IPR Valuation

Indian courts adopt a supervisory role with respect to corporate restructuring and IP valuation. The technical details are left to valuation professionals, who are supposed to provide a detailed assessment that is reasonable. In merger transactions, courts rule out any professional valuation unless it is obviously unfair or incorrect. Thus, the Bombay High Court, ruling on the amalgamation of ICICI Limited, stated its role was supervisory in nature and would only interfere if there is a groundless claim or any evident mistake. In the matter involving Hindustan Lever, the Supreme Court reiterated the focus of judges on fairness and noted that independent expert valuation is valid until and unless it is challenged through solid evidence (Judicial Pronouncements, 2020).

The NCLT (National Company Law Tribunal), responsible for dealing with schemes of companies, also employs the same judicial approach. It seeks to determine whether statutory compliance exists and the transaction is

reasonable and involves proper disclosure. In the matter of Hemendra Aran v. Aranca, NCLT approved valuation by experts and determined if there was no challenge and the methodologies used in valuation were reasonable and in conformity with accounting norms, the tribunal did not seek to undertake independent valuation, which applies even in IP matters (NCLT Orders, 2024).

With respect to taxation, in the case of CIT vs. Smifs Securities Ltd., the Supreme Court ruled that goodwill resulting from a merger in which the price paid exceeds the net asset value of the firm should be treated as depreciable intangibles. Additionally, in this judgment, the Supreme Court ruled that non- compete fee is also a depreciable intangible in certain circumstances. Recently, the Supreme Court emphasized the issue of chronic asset undervaluation during insolvency proceedings and emphasized the need for valuers' accountability. It has also reiterated the NCLT's role in regulating valuers during insolvency (Supreme Court Judgments, 2024).

In general intellectual property rights-related cases, one of the recent important judgments is Vishal Pipes Limited v. Bhavya Pipe Industry, delivered by the Delhi High Court. In the case, the court ruled that in bringing a claim, the plaintiff is required to use the true market value of the IP involved, thus precluding anyone from undervaluation in order to forum shop for a more favorable venue. In other words, domestic products or services also have to be realistically valued.

3.6 India's Global Standing and Policy Environment

The global IP landscape now shows India in a stronger position than it held in previous times. The government has put R&D and IP front and center as drivers of growth, and the numbers back it up. The system has been successfully modernized, which has resulted in better international performance. The WIPO

Global Innovation Index 2025 ranks India as the 38th most innovative economy among 139 economies, which represents a significant improvement from its 2015 position at 81st. The country maintains its position as the top performer among lower-middle-income countries, which international organizations label as an "innovation overperformer" every year. The country excels in delivering knowledge and technology results, particularly through its IT service exports and its extensive startup ecosystem. The country still faces problems in its infrastructure development, business development, and institutional operations²⁷.

The DPIIT acts as the main contact for both IP policy matters and the execution of the 2016 National IPR Policy. The Cell for IPR Promotion and Management (CIPAM), under the DPIIT, coordinates these efforts. CIPAM handles all activities which include public education initiatives and assistance for increased IP filing and IP office modernization and company support for rights commercialization and activities which improve IP enforcement. They developed educational programs and delivered IP enforcement training to police officers while providing significant government fee reductions to startups and schools which helped increase patent filings.

India has formed a strong partnership with WIPO. One outcome is the network of Technology and Innovation Support Centers (TISCs) across the country which CIPAM manages while local universities operate the centers. These centers offer inventors access to IP databases and they provide assistance for patent research while training innovators on IP strategy development. The

²⁷ WIPO, 2025; IBEF, 2025

broader aim: make IP support available nationwide and build technical IP skills, so more people can protect, use, and profit from what they create²⁸.

The Indian system for assessing intellectual property value and managing acquisition processes operates under its strong legal framework and its growing collection of specific regulations. The judicial system manages the entire process to maintain integrity while specialists conduct the technical valuation procedures. Asset valuation faces two major challenges because there is insufficient data and evaluators must use their professional expertise. India shows its dedication to developing a knowledge-driven economy

through its improved innovation rankings and its government efforts to enhance intellectual property regulations. People who want to invest in India or create new products or research the country's intellectual property system need to learn about how laws combine with regulations and court systems and market activities.



²⁸ ibid





CHAPTER 4 COMPARATIVE ANALYSIS OF VALUATION APPROACHES INDIAN AND INTERNATIONAL REGIMES

4.1 Methodology

The evaluation of India's intellectual property system requires more than assessment of its official regulations. The evaluation needs to include the impact of these standards on actual results achieved by businesses and investors and innovators. This chapter analyzes how Indian practices differ from global standards and examines how international treaties shape India's intellectual property framework while major mergers and acquisitions demonstrate actual market valuation methods for intangible assets. The study includes enforcement mechanisms and methods for dispute resolution and current developments that transform international intellectual property valuation practices.

4.2 Gap Analysis: Indian vs. International Valuation Standards

There is no standard valuation policy for the valuation of intellectual property in India. The valuation process in India relies on a variety of legal rules and

guidelines. The Companies (Registered Valuers and Valuation) Rules, 2017, along with the Institute of Chartered Accountants of India (ICAI), play an instrumental role in the country's current valuation landscape. Although the ICAI's efforts towards harmonization have resulted in the development of the institute's own Valuation Standards Board, which created standards, the latter were adopted by the institute and are mandatory for company valuations and highly recommended for other essential laws. Still, as far as the valuation of intangible assets is concerned, some problems are revealed by the standards currently applied in India. For instance, the Insolvency and Bankruptcy Code has no provisions concerning valuation procedures in regard to intangible assets. Globally, the International Valuation Standards (IVS) can provide a more comprehensive approach to valuation issues, although they are not mandated by any Indian legislation. Nonetheless, many practitioners rely on these international standards for valuation of assets in India to fill gaps within the national standards.

The differences between the two sets of standards mainly include their scope and applicability. Unlike ICAI's standards, which are legally mandatory for certain aspects of business, the IVS are used internationally only as a reference point. Moreover, IVS covers more cases and gives practitioners access to various tools and step-by-step procedures needed for valuations, especially in complicated cases of intellectual property valuations.

4.3 Influence of International Treaties on India's IP Regime

International treaties have forced India to reconsider its IP laws and adjust the way IPs are valued. TRIPS Agreement from WTO is the most important factor that drives standardization of IP laws internationally. When joining the

organization, India was required to reform its patent, copyright, and trademark laws. For instance, prior to TRIPS, India would not issue patents for drugs and agrochemicals. According to Article 27 of TRIPS Agreement, the country was compelled to give product patent protection for these categories, increasing significance and value of IP in business transactions and licensing. Although India utilizes various provisions from TRIPS Agreement (like provisions for public interest, compulsory licensing etc.), in general, the document improves IP owners' rights, thus increasing risks and enhancing valuation process (TRIPS, 1995; Lawyersclub, 2016). The United Nations agency WIPO aims at establishing effective global IP regimes. While TRIPS Agreement establishes the legal basis, WIPO takes care about management and valuation aspects of IP. Its guidelines suggest using income approach in IP valuation due to uniqueness of intellectual property. As a result, Indian valuers use approaches such as DCF, Relief-from-Royalty, and Multi-Period Excess Earnings, paying attention to future financial gains. India joined a number of WIPO treaties including WIPO Copyright Treaty and classification systems, such as Nice Classification and Locarno Classification (WIPO, 2025).

4.4 Case Studies: IP Valuation in Indian M&A

Theory & Practice Theory & Practice offer the conceptual framework that helps understand the nature of IP value and allows one to see how those theories are implemented in real-life deals. In particular, IP value is particularly important for deals involving companies working in technology or consumer-facing industries, where the majority of the value comes from intangible assets such as intellectual property. Two deals are of particular interest, namely Walmart's acquisition of Flipkart and Tata Motors' acquisition of Jaguar Land Rover (JLR), as in both cases, intellectual property and not physical production

facilities played a key role in setting a price for and planning future operations with the purchased entity. With regards to the first example, Flipkart's most valuable assets include its technology platform, its customer list, brand value, proprietary logistics algorithms and the network of retailers and other partners. The technology platform itself, in particular, should be noted since it involved not just the website itself, but an entire suite of software and algorithms that optimized search results, provided personalized recommendations to customers, and helped manage the inventory as well as deliver goods in time to end consumers. Although not patented, the IP in question was protected with a bundle of software copyrights and trade secrets that made the company competitive even against Amazon and gave Walmart a way to circumvent years of research and development.

As a second critical piece of IP, one can name Flipkart's customers along with all relevant data, as the firm already owned tens of millions of active customers with detailed information about their purchasing behavior. Valuers could make use of methods such as the Multi-Period Excess Earnings Method (MEEM) to attribute a significant share of the price paid by Walmart to its customers and demonstrate why it is economically justified to invest in them and continue to sell to them. From the same perspective, one should note the importance of the Flipkart brand to Walmart, as the company is one of the most popular e-commerce platforms in India with its "Big Billion Days" sales and great customer services. The brand value, protected by trademarks, significantly cuts down customer acquisition costs and promotes customer retention, which can be reflected in valuations using the Relief from Royalty method to determine how much the buyer would have to pay to license this brand otherwise. Finally, one must also take into account that in India, e-

commerce business is subject to additional regulation regarding discounting and inventory-led pricing policies.

By acquiring a local entity that already had an appropriate structure, the regulators saw to it that by purchasing Flipkart, Walmart was automatically positioned as a player who would play according to those regulations, so regulatory positioning became another intangible asset. Moreover, Flipkart's purchase was also subject to certain rules laid down by FEMA and RBI concerning the need to have a "fair valuation" of the company using the accepted methods of DCF or multiples or other income approaches to justify the huge price tag. It must be noted that Flipkart was operating in losses at the time of its sale, so the justification for the high price of the transaction came from the future prospects of growth in India's e-commerce market, which falls well within income-based logic – discounting of future free cash flows. A rather traditional, but at the same time a very interesting example of IP-driven transaction was Tata Motors' acquisition of Jaguar Land Rover in 2008 for the sum of \$2.3 billion, as this time the target company had a lot of tangible assets, but even greater value was found in the intangibles, namely world famous brands, brand names, capabilities in engineering and design and portfolio of patents and trademarks. The problem with Jaguar Land Rover was that at the time it was in the process of financial restructuring, yet Tata recognized the intrinsic value in its intellectual property and legacy, which was greatly undervalued at the moment.

Among intangibles that played the greatest role in the valuation of Jaguar Land Rover was certainly the reputation of the brands, as the trademarks of Jaguar and Land Rover brands stood for decades of reputation in the segment of luxury automobiles. In fact, this value was mostly associated with the pricing

power these trademarks allowed the company – consumers would be ready to pay a great premium above the price of competing cars simply because the nameplate was Jaguar or Land Rover. Using the Relief from Royalty technique, valuers could find the amount of royalty fees paid to the licensee to exploit this brand name, and hence, find out how much value this intangible added to the enterprise. Another set of key intangibles was related to engineering and design capabilities, as JLR had developed several patented innovations that gave it a competitive advantage in the global market for manufacturing and distribution of automobiles, and allowed it to continue developing future generations of vehicles. For Tata Motors, the transaction meant the chance to accelerate its own research and development efforts and enter the market of premium automobiles immediately.

Human capital and organizational know-how should also be considered as key intangible assets that contributed to the value of Jaguar Land Rover. The skills and experience of JLR's experts in engineering and design were crucially connected to the brands themselves and the technologies developed by them, and retaining and effectively integrating them was absolutely necessary for Tata to unlock the intrinsic value of the transaction. As we know, traditional valuation techniques usually fail to consider human capital adequately, however, tacit knowledge often gets valued through deals and negotiations. The results of the transaction show that IP management postacquisition can play a crucial role in creating value in a corporation. With Tata's ownership, Jaguar Land Rover managed to develop new models, penetrate into new markets and invest into future technologies building on its strong IP position. Profitability was recovered and the global reach of the brand was expanded, confirming that Tata had correctly evaluated and unlocked the value of its intellectual property.

Furthermore, it becomes obvious that valuation is a dynamic process because the value of intellectual property is subject to fluctuations, depending on whether and how well it is being managed and exploited, and juxtaposing the acquisition of Flipkart and JLR highlights the similarities and dissimilarities in terms of IP-driven valuation, since in both cases, intangible assets were the foundation of the transaction, but while the value of Flipkart was generated mainly through digital intangible assets such as software, databases, algorithms, and platforms, the value of JLR was built on traditional intellectual property, including brands, patents, designs, and technological know-how. From the standpoint of methodology, in the case of Flipkart, income-based methods dominated due to the fact that Flipkart was a startup, which meant that it lacked revenues and tangible assets to support cost-based valuation approaches, while the established revenue base, tangible assets, and years of operating experience allowed JLR to apply multiple valuation techniques – income, cost, and market. Moreover, both transactions demonstrate the importance of context in intellectual property valuation, since market conditions, competitive environment, regulatory regime, and corporate strategy influence the price that the acquiring company is willing to pay.

Specifically, for Walmart, it was crucial to obtain immediate access to the Indian e-commerce market and to do it as quickly as possible, and therefore a premium was charged based on the value of Flipkart's data, platform, and brand, while for Tata Motors, gaining a foothold in the global luxury automobile industry was critical, and it was achieved using the unique intellectual property of JLR. Thus, the optimal valuation in each of these acquisitions was based not only on calculations but also on corporate strategy and risk tolerance. Finally, the cases discussed demonstrate the strengths and limitations of intellectual property valuation techniques, and while discounted

cash flow analysis, relief from royalty method, and excess earnings approach provide a clear framework, they depend heavily on assumptions related to future cash flows, market growth, technology, and competition. In turn, slight changes in these factors can dramatically affect value estimates, which is why proper IP due diligence becomes absolutely indispensable for M&A deals. In particular, ownership, registration, licensing, and litigation of intellectual property should be checked, and assumptions should be tested.

4.4.1 Walmart-Flipkart Acquisition (2018)

In 2018, Walmart acquired a 77 percent stake in Flipkart for \$16 billion, bringing the company's valuation to more than \$20 billion. Flipkart experienced its first loss of approximately \$1 billion during the previous year. The transaction demonstrates that companies can achieve higher market value through their intangible assets, which include brand recognition and technology systems, customer loyalty, and proprietary business methods, than through their physical assets and their current business earnings. Walmart obtained the core assets of Flipkart, which included its brand, complete customer list, its proprietary technology platform, its advanced analytics systems, its logistics capabilities, and PhonePe, which serves as a major digital payments platform. The valuation technique used for this transaction chose to evaluate both future growth possibilities and present market standing instead of assessing past revenue performance. The contract established management personnel retention as a mandatory element of the agreement because the parties understood that human capital functions as an essential intangible asset which enables organizations to build sustainable value over time.

4.4.2 Tata Motors–Jaguar Land Rover Acquisition (2008)

Tata Motors acquired Jaguar Land Rover from Ford in 2008 for \$2.3 billion which allowed the company to enter the global luxury automotive market within a single transaction. The deal involved the transfer of extensive intellectual property rights which included the famous Jaguar and Land Rover trademarks along with a dedicated customer base and advanced design and engineering resources and a team of highly qualified professionals. Tata Motors operated JLR as an independent business unit after acquiring it because the company wanted to maintain the brand's unique identity and organizational culture which created its most valuable assets. JLR reached a valuation of \$14 billion after five years because its profits became the main source of earnings for Tata Motors. The case demonstrates how effective management and acquisition practices enable organizations to unlock intellectual property value.

4.5 Enforcement Mechanisms and Dispute Resolution

Valuation standards achieve their function only when legal authority supports their implementation. India has successfully improved its law enforcement capabilities to match international standards although some operational challenges remain. India meets TRIPS requirements through its IP enforcement system which includes civil and criminal and administrative enforcement mechanisms. Rights holders initiate legal proceedings through civil and commercial courts to obtain injunctions and damages. The Delhi High Court established its IP Division in 2021 as a major reform which develops specialized knowledge to expedite legal processes while serving as a model for other High Courts. The establishment of criminal penalties for counterfeiting and piracy creates effective deterrence for these crimes. The customs authority prevents infringing goods from entering the country through border control measures. People choose faster and less adversarial methods for dispute

resolution since these methods enable them to settle intellectual property disputes through private and rapid resolution processes (IP Enforcement India, 2025).

The enforcement system appears to function well on paper but actual implementation suffers from delays which create difficulties in assessing damage values. The global method for calculating lost profits and reasonable royalties through Relief-from-Royalty is implemented in India yet finding license agreements for comparison purposes proves to be a challenge which makes it difficult to use the Market Approach. Enforcement agencies struggle to keep up with digital piracy and the rapid growth of online marketplaces which create constantly changing enforcement challenges. Courts have started to evolve by implementing "dynamic injunctions" which empower IP owners to stop new infringing websites without needing to file additional lawsuits. The system gap between developed and developing countries is decreasing yet three obstacles continue to exist which include speed and consistency and damage calculation (Enforcement Mechanisms, 2024).

4.6 Emerging Trends in Global IP Valuation

The value of intellectual property rights continuously fluctuates because both technological advancements and investor demands experience ongoing transformations. Artificial intelligence and machine learning are taking things to a new level. AI platforms now analyze real-time data which includes patents, trademarks, litigation records, and research and transaction information to conduct valuation assessments that used to require static methods. The system identifies patterns which enable it to deliver precise forecasts that adapt in real-

time to assist with enhanced merger and acquisition activities, licensing agreements, and strategic planning efforts. The process of determining AI company values proves difficult because traditional methods like DCF valuation do not apply to this industry. The establishment of new methods requires researchers to evaluate proprietary algorithms, assess training dataset quality and size, and examine revenue generated through data monetization and model licensing²⁹.

ESG (Environmental Social Governance) has become a valuation factor because it serves as more than a superficial ethical practice for businesses. The existence of strong ESG performance through green patents and ethical brand recognition establishes higher intellectual property value which remains protected from market uncertainties. Poor ESG practices lead to business value destruction which results in legal consequences and supply chain interruptions. Valuers are increasingly factoring ESG into their assessments, treating it as a serious driver of risk and value. The spike in green tech filings by companies seeking to meet climate obligations supports this.³⁰

Apart from these developments, there is another shift worth noting. Innovations such as blockchain technology contribute greatly to ensuring the reliability of IP management through providing accurate ownership and transaction records and making the process of due diligence and valuation more accurate and trustful. As biotechnology and blockchain continue to develop further, it becomes even more crucial to employ specialists capable of working with these innovations and adapting to changes that occur fast enough

²⁹ AI Business Valuation, 2026

³⁰ ESG and Valuation, 2025

in the relevant markets. In addition, companies are becoming much more proactive concerning the management of their IP portfolios, regularly analyzing and optimizing it based on which IP-related assets contribute to their development most of all. As far as the state of affairs with IP valuation in India is concerned, one could say that, although the legislation that ensures IP protection in this country is robust enough and the best international practices are increasingly introduced here, there is still room for improvement. For instance, the implementation of international agreements and standards concerning IP protection, especially TRIPS, made the IP system in India more effective, and it is quite common to include the valuation of intangible assets in business deals in this country. However, many difficulties are faced here, among which enforcement is the main problem, and it is necessary to keep pace with such trends as AI-driven valuation and sustainability issues. At the moment, the entire IP valuation domain is rapidly transforming thanks to such factors as the emergence of new technologies, changes in investors' demands, and increasing complexity of intangible assets.

The process of analyzing large volumes of data and identifying patterns can be accelerated significantly with the use of AI and ML. It is important in relation to all forms of IP because they require a holistic view of the IP landscape, which is achieved through using advanced technologies.

For example, when working with patents, AI tools help assess the patent portfolio, predict potential problems related to it, and evaluate different patents.

As for trademarks and brands, AI-based systems are able to analyze social media conversations, trends in searching activity and consumer opinions and sentiments in order to estimate the strength of a brand and its future prospects,

and this is especially true in relation to the industries when the brand's reputation becomes the determining factor. In assessing the value of an AI company, aspects like the quality of the underlying algorithms, the quality and quantity of the utilized data sets, and the way in which monetization was performed are taken into consideration because they help identify growth prospects and determine profitability. Conventional methods of valuation do not apply to AI-based businesses; therefore, it is important that innovative approaches to assessing the value of AI businesses are developed.

Another important topic to cover in this context is that of ESG and the way in which it applies to intellectual properties. One of the areas that can become quite important for the assessment of the patent portfolio of a firm is "green patents" because the patents relating to renewable energy generation or environmentally-friendly products can be particularly valuable owing to governmental support and tax benefits. On the contrary, any carbon intensive industries might expect certain devaluation of their patents due to changes in regulation.

When assessing the strength of a brand and its future development prospects, social criteria come into play. A company with a good reputation as an ethically-conscious entity with regards to data protection and treatment of clients will enjoy much stronger brands as people are increasingly reluctant to do business with companies having questionable social records. Therefore, negative publicity can harm a company's brand image and future development prospects.

Finally, governance criteria include transparency and control measures which can improve investor confidence and are of particular importance for companies dealing with intellectual properties. The development of blockchain

technology revolutionized the process of tracking intellectual property rights, providing better solutions to verify IP owners and track the lineage of the specific IP asset in question. Such technologies can significantly speed up due diligence processes.

Fractionation and trade of IP rights have been possible online, creating additional liquidity for assets whose worth used to be hard to monetize; hence, new opportunities for fundraising and investing in IP have emerged. There is growing specialization in the evaluation of intangible assets, and with rising complexity in technology, generalists may lack the ability to comprehend all nuances; hence, companies need to hire specialists for IP valuation. Biotechnology requires an understanding of clinical trials and regulation, whereas blockchain IP involves cryptography and tokens, and this implies the need for specialized IP valuation professionals.

Multidisciplinary teams composed of experts from finance, legal, and technical disciplines have started forming, and there is growing activism by companies in managing their intellectual property assets. Companies audit their IP portfolios to find those patents, copyrights, and trademarks that are valuable, unused, and outdated, thus adding value and facilitating the comprehension of IP by stakeholders. Indian laws and standards on IP valuation are sound, but practical implementation is delayed by bureaucratic inefficiency, and India needs more investment in the IP valuation infrastructure to catch up with others.

There is inadequate transactional data and differences in valuation methodologies, making Indian markets less interesting to foreign investors than those in the US and EU, where valuation data and standards are much clearer and enforcement stronger. IP valuation laws in India are in sync with

international standards due to TRIPS, and the country has solid legislation regarding patents. However, there are still delays in patent application and enforcement; thus, it is vital for India to increase the efficiency and effectiveness of the process.

Indian laws and regulations include references to fair valuation in terms of FEMA and Income Tax, but there is no standard specifically on IP valuation. High courts have set up special IP benches, and regulators are making efforts to streamline procedures; hence, new opportunities for development and growth in India's IP markets emerge. Foreign investment and startup pressure are driving changes towards better valuation practices, while emerging technologies like artificial intelligence, sustainable development, and blockchain offer many new opportunities to India.

India must adopt prudent measures to attract investors to its IP market since a careful integration of AI, sustainable development, and blockchain can significantly add value and enhance the competitiveness of Indian IP portfolios. The risk is that the companies will remain behind their foreign competitors and that the country's IP will become less attractive. Therefore, it is necessary to develop valuer skills and collect relevant data, adopt the best IP valuation practices, and tailor them to the economy of India.

Today, IP valuation has much to do with technology, sustainability, and strategies to invest, collaborate, develop, and sell. This makes it a tool for decision-making, not just a way of placing a price tag on assets. It will become the differentiating factor in the competition between companies and states, and thus, India should weave together the three strands in daily work to write a new chapter on IP valuation in India.



CHAPTER 5

CHALLENGES AND RECOMMENDATIONS FOR ENHANCING INDIA'S IP VALUATION ECOSYSTEM

5.1 Introduction

Valuing intellectual property in India presents difficult challenges because the process requires various assessment methods. The situation involves three elements which create difficulties because they need to establish exact patent and brand and copyright and trade secret valuation methods. The IP valuation



process faces multiple challenges which I will explain throughout this chapter together with my proposed methods for India to achieve international standards while simplifying the process for all people involved.

Key Challenges in IP Valuation in India

Valuing intangible assets requires some degree of uncertain estimation which is very difficult to completely avoid. The income approach requires people to make their own predictions about future profits and choose an appropriate discount rate while estimating the duration of asset value. One expert's optimistic forecast becomes another expert's warning which causes two asset valuers to produce entirely different valuation results for the same asset. The academic research shows that opponents of intellectual property asset valuation use different estimation methods which lead to major valuation disagreements between lawyers and tax officials and between buyers and sellers. The subjectivity of this process arises because people must make predictions about technological advances and market developments and regulatory changes and competitor behavior. Different valuers produce different valuation results which they support using various logical methods of calculation³¹.

5.2.2 Lack of Comparable Data

The process of locating benchmarks becomes more difficult because multiple challenges exist. The market approach requires tracking the sale prices of comparable assets, but obtaining this data in India proves to be extremely difficult. The majority of IP deals remain undisclosed to the public, which prevents people from knowing the exact worth of the IP. New technologies

³¹ Resurgent India, 2025

which are distinct from existing ones create substantial difficulties because there is no historical data about large court awards and public information about IP litigation cases. The process of evaluating IP asset value becomes challenging because all existing methods fail to provide accurate results³².

5.2.3 Legal and Regulatory Confusion

The present legal situation generates confusion about which rights parties can enforce. The rights enforcement capabilities of an agreement depend on its future development. Different judges or authorities see things their own way. Indian patent law (particularly Section 3(d) for pharmaceutical patents) requires detailed examination which creates a risk of losing important patents. The value of patent applications under review remains uncertain because their registration status and subsequent legal disputes remain unpredictable. The legal risks associated with the asset will substantially decrease its expected revenue according to requirements that all valuers must consider (Khurana & Khurana, 2025).

5.2.4 Fast-Paced Obsolescence

Then there's the technology treadmill. In software and biotech fields, products that achieved major success yesterday have become worthless today, which leads to their rapid decline in value. Valuers need to decide if a technology will remain useful or face extinction because this process involves uncertain outcomes. The modern smartphone market requires multiple patents to protect its products, which creates difficulties in assessing the worth of individual patents. Brand strength and advertising practices create confusion about which

³² IAM Media, 2026

intellectual property asset should be assigned responsibility for particular outcomes³³.

5.3.1 Update the Rules

The law requires updates to match current times. The IBBI (Valuation) Rules 2017 need to establish distinct guidelines for valuing intangible assets according to Indian regulations. The standardized requirements help valuers understand their duties while creating pathways for their professional development. The Companies Act needs to establish comprehensive IP valuation standards which companies must conduct during major mergers instead of treating it as an optional task. Companies should implement this practice because it demonstrates the importance of IP which serves as their core asset³⁴.

5.3.2 More Data, More Transparency

India requires improved data resources. The establishment of a national IP exchange through a public registry would enable people to list their IP assets while also allowing them to license and sell those assets. The establishment of transparent pricing systems along with accessible transaction records would create advantages for all users, with particular benefits for valuers and investors. Every corporate insolvency process must begin with a required assessment to discover all hidden or undervalued intellectual property assets. Standard audit templates together with disclosure regulations will create a shared foundation that all parties can utilize as their reference point³⁵.

5.3.3 Upskill and Educate

³³ Valuation Standards, 2024

³⁴ IIPRD, 2025

³⁵ IIPRD, 2025

The existing rules will only be meaningful when competent authorities enforce them. India should establish strong IP valuation certification programs through partnerships with regulatory bodies and universities. The educational program needs to provide advanced training which includes international methods and sector-specific details and legal knowledge. Key judicial members of NCLT and NCLAT require this knowledge to deliver judgments which maintain and protect asset worth. India's partnership with WIPO and other global organizations will enable the country to maintain its international standards. Dedicated IP valuation panels within universities and accounting bodies will enhance their knowledge base while developing new concepts³⁶.

5.3.4 Adopt International Standards

The Indian standards that include ICAI Valuation Standards for their domestic usage require international standards to implement international Valuation Standards as their main international framework. The local regulations require maintenance because they function as the fundamental framework which needs international best practices to create a complete system. The Indian valuation system will receive international recognition through this approach. The RBI and DPIIT should officially recommend IVS 210 for acquisition contexts, so Indian valuers can operate more easily on a global stage.³⁷

5.3.5 Strengthen Due Diligence

People fail to complete comprehensive due diligence procedures. Stakeholders should agree on a checklist tailored for India, covering everything from who actually owns the IP to whether it's enforceable and how it's licensed. Industry bodies should create detailed guides for practitioners, highlighting common

³⁶ CIPAM, 2025

³⁷ IVSC, 2025

pitfalls and the documents needed to get it right from the start. Companies in M&A should engage with legal and valuation experts right away because early contact provides significant benefits throughout the entire process.³⁸.

5.3.6 Build Global Relationships

The international community must acknowledge India's perspective. India should maintain its involvement in global development initiatives which include international working groups and IVSC-led projects. India's partnership with WIPO through its existing innovation support centers will enhance the country's technological capabilities. Why not explore direct diplomatic relations with nations that possess advanced intellectual property markets including the United States and United Kingdom and European Union countries? The organization of international valuation workshops in India will enhance domestic knowledge and demonstrate the country's capacity to lead in this field.³⁹.

Here's how India can phase it in:

Phase 1 (2026–2027): Update regulations and officially recognize intangible assets. Raise the bar for valuation standards.

Phase 2 (2027–2028): Build out the market—launch pilot IP registries, introduce professional certification programs for IP valuation.

Phase 3 (2028–2029): Push capacity building—train judges, establish due diligence frameworks, and formally recommend international best practices.

Phase 4 (2029–2030): Review what's working, make the IP registry permanent, deepen international collaborations, and aim to become a global leader.

³⁸ *ibid*

³⁹ WIPO, 2025

India faces major obstacles because it attempts to determine intellectual property value through its current methods, which depend on subjective assessments and lack essential data while facing legal obstacles. The existing problems can be solved through necessary improvements which include building advanced systems and employing competent workers and following worldwide industry standards. The improvements will help India to create an environment that supports innovation while drawing bigger investors who will help the country become a leader in the international knowledge economy. As businesses begin to realize the growing value of intellectual property rights, organizations that implement strategic initiatives will achieve better results in upcoming years.



CONCLUSION

The main focus of the current study was the issue of Intellectual Property (IP) and the importance thereof to acquisition valuation in India, and the take away from this research was rather clear – IP is not only a legal phenomenon but forms the basis of corporate value, which is frequently the deciding element whether to make a deal or not, and at what price. India made impressive progress in developing its intellectual capital and moving up the IP and innovation ladder by moving up in World Intellectual Property Organisation (WIPO) Global Innovation Index rankings from 81st to 38th in less than a decade, becoming a country with the biggest start-up ecosystem in the world, meaning that India can hardly be considered peripheral anymore. This can be proven by recent large scale deals involving IP linked to India, such as the acquisition of Flipkart by Walmart and the acquisition of Jaguar Land Rover

by Tata Group. In both cases, it becomes evident that India-linked IP plays a crucial role in global M&A, in which the valuation of intangible assets in the forms of brands, technologies, customer data, contracts, and even employee expertise, plays a vital role in establishing the true value of the target company and in many cases makes or breaks a deal. India has a solid legal framework in place that ensures proper IP protection and rights of the owners which are on par with international standards thanks to the existence of Patents Act, Copyright Act, Trademarks Act and Designs Act. Nevertheless, the country lacks a valuation framework specifically for IP assets that would guide valuation professionals to value IP correctly when making acquisitions and handling cross-border deals, since RBI requires proper IP valuation without offering specific guidance on how to handle the task properly. The tax regulations in India are slowly developing in the right direction with the help of transfer pricing rules and anti-avoidance provisions, although new disputes are constantly arising and there is no consistent application of valuation standards. Moreover, while the valuation standards used in India can be considered fair in some respects, they fail to conform to international benchmarks, namely IVS 210, resulting in the creation of gaps and misunderstandings in certain situations, including crossborder transactions. On the other hand, international valuation standards and, in particular, IVS, provide a more thorough guidance on valuating IP assets using income, market and cost approach.

In addition to the IASB, the US and UK accounting systems, and the EU Financial Reporting Directive have issued relevant standards to serve as a guide to India. But the primary hurdle that lies in the way is the inconsistency between the Indian regulatory framework, data available and practices employed in valuing IP vis-a-vis the international benchmark set by these

standards. The reason being a dearth of comprehensive market data, absence of significant public precedent for valuation driven by IP, sectorspecific guidelines such as pharmaceutical exclusions, and the sheer complexity of isolating the IP component of a business enterprise in order to determine its value. However, ambiguity is most prominent when considering the valuation of IP assets under distressed circumstances, specifically insolvency. Nonetheless, the fact of the matter is that there is nothing about IP valuation which cannot be addressed in other jurisdictions. The crux of the issue thus lies in the fact that the availability of data in India is inadequate and unreliable. The lack of an integral IP registry and transactional benchmarking framework makes the situation worse. Nevertheless, the judiciary and regulatory bodies can play a crucial stabilizing role here. It is heartening to note that the Supreme Court of India, the High Courts and NCLT have displayed a keen understanding of the technical complexities associated with share and IP valuations and their unwillingness to meddle in such matters. Technical proficiency and specialist training could enhance this strength further, as the entire landscape surrounding the valuation of IP is undergoing a fundamental shift, owing to developments like the increasing role of AI-driven analytical capabilities, ESG requirements, and blockchain technology. In this context, it is noteworthy that India possesses a robust tech ecosystem that is poised to benefit greatly from these changes. Regulation, data management and capacity building have to evolve at a similar pace to reap the benefits. It is within this context that the present dissertation proposes a multidimensional strategy to address the issues raised. First, there is a need to revise existing regulations to recognize the uniqueness and importance of intangible assets as a class in valuation and include provision for specialized valuation of IP assets within the regulatory framework and profession. Second, India has to build up its

market infrastructure to facilitate valuation, especially through better disclosure of market data and development of an integral IP information or registry system that serves as a benchmark for valuation professionals. Third, investment in developing and expanding the pool of skilled valuation experts has to be prioritized through rigorous certification, training and educational initiatives. Finally, India has to take proactive steps to incorporate international practices by treating IVS as reference guidelines and forging closer ties with organizations like IVSC, RICS and AICPA. However, it is important to appreciate that the challenges faced by India go beyond mere technicalities. In a world where economic value is increasingly becoming dependent on innovative ideas, data and technology, an inefficient IP valuation system translates to lost opportunities. By building the right framework, data resources, and skilled personnel today, India stands to benefit immensely as a major producer and consumer of IP assets and also emerges as a world-class market for IP transactions.



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