



Investment in Intellectual Property in India with Special Focus on MSMEs, Startups and IP Audit

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Abstract

Historically, investment has been conceptualised as investing in tangible commodities like land, equipment, and infrastructures with an aim of getting returns in future. But this has evolved with the expansion of the innovation-driven economy. The key element of value creation today is ideas, technology and knowledge and thus Intellectual Property (IP) is a significant type of investment. These innovations are safeguarded by IP rights like patents, trademarks, designs, and technical know-how which help in achieving long-term economic growth.

Despite recent changes, intellectual property in India remains an underutilized investment tool particularly among Micro, Small and Medium Enterprises (MSMEs) and start-ups. These organisations are very reliant on innovation because of the lack of physical resources, but struggle to commercialise their IP. Financial institutions often prefer physical assets as security and view IP as risky because of valuation challenges, enforcement issues etc.

This paper discusses the concept of IP as an investment and its application in the Indian context. It outlines the advantages of IP investment in MSMEs and start-ups, compares the IP investment system in India with other countries and highlights the role of IP audits in terms of identifying, protecting the intellectual property.

Keywords: Intellectual Property (IP), Investment, Micro, Small and Medium Enterprises (MSMEs), Startups, IP Audit.

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Introduction

Intellectual property rights (IPR) are legally safeguarded rights that protect human-created inventions, brand names, product designs, and other artistic creations. Such rights include patents, trademarks, design protections, and copyright. They assist inventors and businesses to ensure that no other person or business duplicates their idea and they can get the profits out of it. Intellectual property is not merely an element of law but also an investment asset nowadays. Intellectual property, as with the land or machinery, can be sold, licensed, or used to generate revenue, and in most enterprises, it is the most valuable thing that they possess.²

The contemporary economies are concerned with IP, as innovation contributes to growth in the long term. Those firms which are investing in research, technology, and branding tend to be more competitive as well as sustainable. The countries that favour IP creation and protection have better positions in the world markets.³ From a legal perspective, safeguarding IP would help to get people and businesses to be innovative without the fear of abuse. Protection itself is however, not sufficient. To truly facilitate economic growth, IP should also be able to be valued, financed, and commercially exploited. This is where most of the developing economies, such as India, struggle.⁴ Among the well-established companies in India, the market is sharply competitive, and the sale of new stock heavily depends on investments in the country.

Investment is the act of putting money or resources into something that would yield benefits in the future.⁵ Traditionally, investment was understood in connection with only material objects like land, factories, machines, and equipment. These were tangible assets that could easily be valued and easily sold to secure loans. Indian commercial and financial systems were built around this idea, where value could be easily seen and measured.

This perception of investment has, however, changed today. Physical assets are not now the primary factor in many businesses. Rather, their real asset is ideas, technology, brand names,

² Jennifer Collins, *Why Is Intellectual Property Important in Today's Innovation-Driven World?*, AGH Attorneys (May 30, 2025), <https://agh-attorneys.com/why-is-intellectual-property-important-in-todays-innovation-driven-world/>.

³ Anoop Verma, *India's Intellectual Property Revolution: A Cultural Shift Towards Innovation*, ETGovernment Economic Times Gov't, (July 23, 2025), <https://government.economicstimes.indiatimes.com/news/digital-india/indias-intellectual-property-revolution-a-cultural-shift-towards-innovation/122840162>.

⁴ Smriti Yadav & Madhura Sureshkumar, *The Rise of IP as a Strategic Asset in Indian Startups*, Khaitan & Co Compass (Apr. 22, 2025), <https://compass.khaitanco.com/the-rise-of-ip-as-a-strategic-asset-in-indian-startups>.

⁵ *Investment*, in *Cambridge Dictionary* (Cambridge Univ. Press), <https://dictionary.cambridge.org/dictionary/english/investment> (last visited Jan 05, 2026).

and innovation. Intangible resources have begun to assume a bigger role than tangible ones as economies lean more towards being knowledge-based.⁶

Tangible assets are those that have a physical form, such as buildings and machines. These assets can be identified easily, and as such, banks and other financial institutions easily receive them as collateral.⁷ Intangible assets, however, do not have a physical form but still create economic value. For example, research and development, software, brand value, and intellectual property. Recognising the growing importance of such assets, India has taken several steps to enforce its intellectual property framework. The policies, such as the National Intellectual Property Rights Policy, 2016⁸ and start-ups special schemes like the Scheme for Facilitating Startups Intellectual Property Protection (SIPP)⁹ shows that the government recognises the importance of IP.¹⁰ Due to such efforts, patent, trademark, and design applications have grown, particularly among startups and small firms.

However, the gap between legal recognition and financial acceptance remains evident, especially in the case of Micro, Small and Medium Enterprises (MSMEs) and start-ups. Such businesses do not necessarily have big physical resources, yet they are rich in ideas, innovativeness and creativity. They develop valuable IP and get IPR protection but in most cases are unable to utilise their IP in order to finance themselves because of lack of awareness, valuation challenges and low financial institution support. This means that the intellectual property rights are largely applied on a purely legal protection rather than on an economic gain.

In this case, an IP audit would be highly significant. An IP audit assists a business to determine and be aware of what intellectual property it possesses and the value of the same.¹¹ For MSMEs, IP audits help uncover hidden value, reduce legal risks, and make IP suitable for valuation and financing. Without proper auditing, IP-backed financing becomes risky for lenders. Thus, an

⁶ Andrews, D. & A. de Serres (2012), “Intangible Assets, Resource Allocation and Growth: A Framework for Analysis”, *OECD Economics Department Working Papers*, No. 989, OECD Publishing, Paris, <https://doi.org/10.1787/5k92s63w14wb-en>.

⁷ CFI Team, *Tangible Assets*, Corporate Finance Institute, <https://corporatefinanceinstitute.com/resources/accounting/what-are-tangible-assets/> (last visited Jan. 5, 2026).

⁸ Government of India, Department for Promotion of Industry and Internal Trade, *National Intellectual Property Rights Policy* (May 12, 2016), <https://ipindia.gov.in/writereaddata/Portal/Images/pdf/2016-National-IPR-Policy-2016-English-and-Hindi.pdf>.

⁹ Department for Promotion of Industry and Internal Trade (DPIIT), *Scheme for Facilitating Start-Ups Intellectual Property Protection (SIPP)* (10 Apr. 2023), <https://example.gov.in/> (last visited Jan. 28, 2026).

¹⁰ Drishti IAS, National IPR Policy, DRISHTI IAS (June 2, 2023), <https://www.drishtiias.com/daily-updates/daily-news-analysis/national-ipr-policy>.

¹¹ Aggarwal Associates, *Intellectual Property (IP) Audits: Protect Your Assets & Maximize Value*, Aggarwal Associates (Apr. 2025), <https://aggarwalassociates.com/intellectual-property/intellectual-property-audits/>.

IP audit is not merely an administrative tool, but it is a tool that is necessary in making IP a useful investment.

Intellectual Property as an Investment Asset: Concept and Legal Basis

Intellectual Property (IP) is the idea of creations of the human mind that have legal protection. Even though IP is not in physical form, the legislation gives the owner exclusive rights over their creations, and also the owner has the right to regulate them. This makes IP of economic value and makes it capable of being treated as an asset. There are various types of IP that are safeguarded by other laws in India.¹²

Type of IP	What it Protects	Relevant Legislation	Why it matters for investment
Copyright	Original expression like books, articles, music, film, etc. (but only expression, not ideas)	The Copyright Act, 1957	Generates income through licensing, publishing, assignment, etc.
Trademark	Brand identity such as name, logo, symbol, tagline, etc.	The Trademark Act, 1999	Protect brand value and goodwill, which influence investors' confidence.
Patent	New inventions (products or processes)	The Patent Act, 1970	It grants exclusive rights over innovation, ensuring market advantage and secure returns for investors.
Geographical Indications	Products that are linked to a specific	The GI Act, 1999	Enhances market value

¹² Karan Singh, *Types of Intellectual Property Rights in India*, Swarit Advisors (Mar. 24, 2021), <https://swaritadvisors.com/blog/types-of-intellectual-property-rights/>.

	place due to quality and reputation		
Industrial Design	Appearance of products, like shape, patterns, color, etc.	The Design Act, 2000	Strengthens investment value by enhancing product aesthetics, brand identity, and commercial competitiveness.

The only similarity between all these types is that they are all rights known and accepted by the law as property and enforceable. These rights are legally safeguarded, and therefore, the IP is not just a notion but a piece of property. This recognition is essential for perceiving IP as something that money, time, and effort can be put into with the view of future payoff.

i. Investment in Intellectual Property: A Shift in the Approach

Intangible investment consists of a significant portion of intellectual property. Invention of a patent, trademark, or design is costly in terms of money and time used in conducting research, development, registration, and protection with the promise of receipt of returns in the future. Intellectual property, in contrast to physical property, can be reused and can generate revenue over the long term, and this can be either through licensing or selling or even through commercial use.

The emergence of start-ups and technology-based businesses in India is an indication of increasing appreciation of intellectual property as an economic asset. This tendency has become more noticeable in the COVID-19 pandemic, when people depend more on technologies.¹³ Nevertheless, even with this pragmatic expansion, Indian law has yet to completely evolve a clear policy to consider intellectual property as an organized type of investment. “Common methods of investing in intellectual property-

¹³ E.R. Gold, *What the COVID-19 Pandemic Revealed About Intellectual Property*, 40 Nat. Biotechnology. 1428, 1428–30 (2022), <https://doi.org/10.1038/s41587-022-01485-x>.

One of the well-known forms of intellectual property investment is research and development. Innovators and firms will use money to create new products, processes, or technologies. The intellectual property rights allow them to recover these costs by providing special rights over the innovation. Such an investment would be dangerous without legal security, as competitors would be able to replicate the innovation without any restrictions.

Crowdfunding is another method that gives innovators a chance to collect funds from the public, particularly start-ups. Even though this practice promotes entrepreneurship and creativity, it also poses a question of idea security and misuse of invention because invention can be abused when publicly disclosed with no proper protection under the law. Crowdfunding has not been clearly regulated by the Indian IP laws, so crowdfunding is legally an uncertain form of investment.

Licensing and assignment are common ways of monetizing of intellectual property. The difference between assignment and licensing is that in the former, the ownership is transferred entirely, whereas in the latter, other people are allowed to use the intellectual property under particular conditions. These approaches are good indications that intellectual property is like property-it can be bought, shared and utilised to make money. Nevertheless, the implementation and reasonable assessment are significant obstacles.

Franchising is one business model where the intellectual property is applied in expanding the business through trademarks, trade secrets, and business methods. The performance of food and retail franchises demonstrates that the intellectual property can ensure the expansion of business without the need to have the physical outlets all the time. Although not fully addressed in the Indian IP laws, it is governed by contract law instead of an exclusive IP investment law.

Intellectual property may also be secured as a collateral like land or machinery to raise funds. However, in India, the practice is undergoing severe challenges because of valuation, enforcement and legal non-recognition. Current legislation is only partially supported and in an indirect manner, thus, the financing based on IP is not certain and is not used sufficiently.

Despite the fact that intellectual property is now being dealt with practically as an investment asset, the Indian law lacks a coherent and transparent system of IP investment. Other important investment-related operations like crowdfunding, collateralisation, and franchising are either loosely regulated or not addressed at all. This loophole leaves doubt among investors,

innovators and financial institutions. Consequently, intellectual property has not been utilised as an economic resource in India, particularly by the MSMEs and start-ups.”¹⁴

ii. Intellectual Property Valuation

In order to attract investment, it is very important to know the value of your intangible assets. So, IP valuation is basically determining the value of your intellectual property, such as patents, trademarks, copyrights or trade secrets, in monetary terms.¹⁵ In contrast to a machine or land, IP does not have a definite price, and so we must refer to the legal rights, business potential, and demand in the market to determine its worth. It is essential that businesses, particularly startups and small businesses, know the worth of IP to attract a source of financing, sell or license their idea, or strategise their future development.¹⁶ “IP is generally valued in three major ways:

- **Cost Method:** This examines the amount of money that was used in the creation of the IP (such as R&D, legal fees, marketing). Good news for the new IP, but it does not say how much money it would make further on.
- **Market Method:** The market method is where you compare your IP with other similar IP which have been sold or licensed. Applicable to well-renowned brands, but it may be difficult to locate identical-like examples.¹⁷
- **Income Method:** Determines the earnings that the IP can make in the future and moves them to the present. Patent or brand which generates income, but the figures are based on projections, which are not always true.”¹⁸

¹⁴ Asna Ahmed, Ahmar Afaq & Rupal Chhaya, *Revisiting the Investment Opportunities in Intellectual Property*, 27 J. Intell. Prop. Rts. 317 (2022).

¹⁵ Susan Chaplinsky & Graham Payne, *Methods of Intellectual Property Valuation*, SSRN Electronic Journal (Oct. 2008), <https://doi.org/10.2139/ssrn.1279326>.

¹⁶ World Intellectual Property Organization, *Intellectual Property Valuation: Valuing Intellectual Property Assets*, WIPO, <https://www.wipo.int/sme/en/ip-valuation.html> (last visited Jan. 7, 2026).

¹⁷ Rajdip Das, *Various Methods of Intellectual Property Valuation: All You Need to Know*, LegalServiceIndia.com, <https://www.legalserviceindia.com/legal/article-13353-various-methods-of-intellectual-property-valuation-all-you-need-to-know.html> (last visited Jan. 10, 2026).

¹⁸ Christopher S. Walton, *IP Valuation: Intellectual Property Valuation Starter Guide* (Oct. 14, 2025), adgadvisors.in, available at <https://adgadvisors.in/ip-valuation-how-to-assess-the-true-worth-of-your-intellectual-property/>.

MSMEs and Startups in India: IP as a Strategic Investment

Startups and Micro, small and medium enterprises (MSMEs) are a key component in the Indian economic setup. On the basis of investment and turnover, MSMEs are defined under the Micro, Small and Medium Enterprises Development Act, 2006¹⁹ whereas startups are recognised under the Startup India framework as being entities driven by innovation, scalability and generation of employment.²⁰ The significance of MSMEs and startups is much higher than numbers. “After agriculture, MSMEs are the second-largest employer and contribute immensely to the GDP of India, manufacturing output as well as exports.”²¹ Not only does this sector contribute to the economic growth but also the development of regions and entrepreneurship. On the other hand, startups serve as the engines of innovation by introducing new technologies.

Investment in intellectual property presents various benefits to the MSMEs and startups. Trademark protection of brand identity assists businesses in developing trust, preventing abuse of brand names, and establishing credibility in the domestic and international markets.²² Innovations based on technology and products are protected by patents and design protection, which allows the business to use their creations without fear of copying.²³ Exclusivity in the market is also another benefit of intellectual property rights, which allows businesses to recover their research and development expenses, reinvest in innovation, and grow their operations in a competitive and fair environment.²⁴

Despite the advantages of intellectual property, most MSMEs and startups struggle to use the system effectively.²⁵ The registration of IP is time-consuming and consists of complicated procedures, which are difficult for small enterprises to manage without the assistance of a

¹⁹ The Micro, Small and Medium Enterprises Development Act, No. 27 of 2006, India.

²⁰ Startup India, Government of India (2026), *Startup India Official Portal*, <https://www.startupindia.gov.in/> (last visited Jan. 7, 2026).

²¹ Press Information Bureau, Government of India, “Udyami Diwas-MSME Day 2025: Driving Innovation, Enabling Inclusion,” (June 26, 2025), Press Note No. 154772, <https://www.pib.gov.in/PressNoteDetails.aspx?NoteId=154772> (last visited Jan. 07, 2026).

²² Sahithi, *Legal Protection of Business Identity: Trademark Filings by MSMEs*, 9 IRE J. 7 (Jan. 2026), <https://doi.org/10.64388/IREV9I7-1713250>.

²³ *Intellectual Property Rights (IPR) and Why Startups Must Prioritise Patents*, Startup India (June 27, 2023), <https://www.startupindia.gov.in/content/sih/en/bloglist/blogs/intellectual-property-rights.html> (last visited Jan. 7, 2026).

²⁴ Bao Tran, *How Smart Businesses Turn Intellectual Property Into Competitive Advantage*, PatentPC (Dec. 11, 2025), <https://patentpc.com/blog/how-smart-businesses-turn-intellectual-property-into-competitive-advantage>.

²⁵ Shobha Tiwari, *IPR in Startups: Challenges and Strategies*, LawArticle (Aug. 3, 2025), <https://lawarticle.in/ipr-in-startups-challenges-and-strategies/>.

professional. The filing and maintenance of IP rights is also expensive, which is a liability to businesses with limited budgets. Most of the entrepreneurs fail to realise the importance of IP and the ability to protect and enforce it due to insufficient knowledge of the law. Even with the IP protection, enforcement is frequently not strong, and small businesses might lack money and resources to prevent the copying of their ideas.

These issues demonstrate that intellectual property could be highly beneficial to MSMEs and startups, though there is a requirement of improved awareness regarding IP, institutional support, and simplified procedures in order to effectively utilise IP as a growth and investment tool.

India has taken several steps to strengthen the IP ecosystem for MSMEs and startups. Key initiatives include:

i. National IPR Policy, 2016²⁶:

The introduction of the National Intellectual Property Rights (IPR) Policy, 2016, was aimed at establishing a robust and balanced intellectual property system in India by looking at intellectual property as an instrument of innovation, entrepreneurship, and economic investment beyond a mere legal right.

The policy is meant to raise awareness among the people and businesses on intellectual property and its economic worth. It aims at educating, training, and sensitising them in order to know the significance of protecting their ideas and encourage them to invest in IP. Simultaneously, the policy aims at advancing innovations and development of intellectual property, including patents, trademarks, and designs, to convert innovative ideas into profitable and commercially exploitable property.

The policy also suggests legal and administrative changes such as streamlining procedures, accelerated application review and digitisation of IP offices, which can minimise uncertainty in businesses. The other significant objective of the policy is to assist in the commercialisation

²⁶ Gov't of India, Dep't for Promotion of Indus. & Internal Trade, *National Intellectual Property Rights Policy, 2016* (2016), https://ipindia.gov.in/writereaddata/Portal/Images/pdf/2016- National_IPR_Policy-2016_English_and_Hindi.pdf.

of intellectual property.²⁷ Through promotion of licensing, transfer of technology, and entrepreneurship, it aims to turn IP into actual economic value, which will enable businesses to gain economic advantages out of their innovations.

Even though the National IPR Policy, 2016, has empowered the intellectual property system in India, it has its shortcomings and creates some concerns. One of them is that the policy places too much emphasis on increasing the number of patents and IP rights, particularly in relation to research that is government-funded. This may discourage the researchers from openly exchanging knowledge that could benefit society.²⁸ The other issue is that the policy is focusing more on formal businesses and urban innovators, unlike rural and informal sectors where creativity can be everywhere without the necessary documentation and legal knowledge. Lastly, the policy tends to give more advantages to IP owners than the general public, and this may restrict the sharing of the knowledge and form an inequality unless special measures are taken.

Though the policy enhances confidence with the IP system and allows investment to take place, its benefits will only be realised fully when protection is balanced with affordability and inclusiveness. This equilibrium is significant in the long term and in innovation-led economic growth.

ii. Intellectual Property Protection Scheme of Facilitating Startups (SIPP)²⁹.

The Intellectual Property Protection Scheme of Facilitating Startups (SIPP) by the Government of India is one of the most significant attempts to attract startups and innovators to invest in intellectual property. The scheme was introduced as a part of the Startup India Action Plan geared towards affordable, efficient and accessible IP protection.

In the case of startups, early patents and trademarks are discouraged due to the high cost and ignorance of the law. The gap was filled with SIPP, which offers free professional IP services where the government covers the costs of facilitators. SIPP scheme assists Indian startups in

²⁷ Vajiram Editor, *National Intellectual Property Rights (IPR) Policy 2016*, Vajiram & Ravi (Jan. 5, 2026), <https://vajiramandravi.com/upsc-exam/national-intellectual-property-rights-policy/>.

²⁸ Id.

²⁹ Scheme for Facilitating Start-ups Intellectual Property Protection (SIPP), Intellectual Property India (Gov't of India), <https://ipindia.gov.in/SIPP.htm>.

safeguarding their ideas and inventions. It applies to DPIIT-registered startups, WIPO-supported centre users, government educational institutions and those who submit international patent applications. The programme offers free assistance to startups through highly qualified professionals such as patent agents, lawyers, and government institutions that take them through all the various stages of the process, such as drafting and submission of applications, hearings, and approval. It also invites startups to secure their inventions in the international market.³⁰

The SIPP scheme enables startups to perceive intellectual property as an investment, not an expense, by lowering the costs involved and introducing them to legal services. Protected IP enables start-ups to access investors, improve the worth of their enterprises, sell or license their inventions, and compete in local and global markets. In this way, SIPP can assist in transforming creative ideas into business assets and contribute to the development of India as an innovation-driven economy.

iii. Establishment of IPFCs

The Indian government has also come up with various programmes to assist startups and MSMEs to invest in IP and utilise it as an asset to the business. There are numerous small businesses that come up with good ideas and innovations, yet they lack knowledge of how to safeguard or even make profits out of them. To solve this issue, the government established Intellectual Property Facilitation Centres (IPFCs) in the country.³¹ These centres make businesses realise that IP is not merely a legal requirement, but it may also add value to the company and enable people to invest in it.

Intellectual Property Facilitation Centres (IPFCs) act as a valuable service to companies, particularly MSMEs and startups which may lack the financial resources and expertise to address IP issues. These centres assist businesses to verify the originality of their ideas and trademarks by conducting IP searches, provide legal assistance on patents, trademarks, and copyrights, and assist businesses with registration and filing of IP rights, and advise businesses

³⁰ Kritika Narula & Ragini Kumar, *Safeguarding Innovation: Government's Focus on Startups' Intellectual Property Protection* (May 25, 2023), *Invest India*, <https://www.investindia.gov.in/blogs/safeguarding-innovation-governments-focus-startups-intellectual-property-protection>.

³¹ Ministry of Micro, Small & Medium Enterprises, *IP Facilitation Centre for MSME*, Government of India (last updated Oct. 22, 2016), <https://msme.gov.in/ip-facilitation-centre-msme>.

on how to defend and enforce their IP against abuse. They also encourage the creation and commercialisation of IP, e.g. via licensing. IPFCs facilitate businesses to safeguard and utilise their intellectual property at an early phase by simplifying IP procedure and making it less costly.³²

From an investment perspective, IPFCs are important in the creation of IP-backed financing. When intellectual property is registered, valued and institutionally supported, it can become a valuable asset of the business. It will bring investors more confidence and make more likely the chances of raising funds, commercialising innovations, or licensing IP. However, challenges remain. Most MSMEs remain unaware that IP can be utilised as a source of finance, another challenge is that India does not have a well-defined legal structure of utilizing IP as a security for a loan, and the banks and other financial institutions are generally unwilling to treat IP as a reliable asset for financing.

iv. Role of International and Industry Collaboration

Besides the domestic government programmes, the international and industry-based partnerships are very important in enhancing the intellectual property ecosystem in India, especially among startups and MSMEs. “One of them is the MoU signed by WIPO and FICCI that resulted in the establishment of the FICCI- WIPO IP Business Center.³³”

The partnership has achieved several important results in terms of supporting MSMEs and startups. It has also contributed to capacity building through the provision of training programmes to explain the importance of intellectual property and how it could be utilized to develop business. It also offers strategic IP advisory services, which assist small businesses and startups on how to secure their ideas, inventions, and brands in order to align with their business objectives and assist them to attract investors. Moreover, the partnership provides access to WIPO global IP tools and resources, which enable business to make informed decisions not only to the Indian market but also to the international markets. Awareness

³² World Intellectual Property Organization (WIPO), Intellectual Property Finance, WIPO, <https://www.wipo.int/en/web/ip-financing> (last visited Jan. 05, 2026).

³³ WIPO, *WIPO and FICCI Sign MoU to Boost IP Ecosystem for Indian Startups and MSMEs* (Apr. 8, 2025), <https://www.wipo.int/en/web/business/w/news/2025/wipo-and-ficci-sign-mou-to-boost-ip-ecosystem-for-indian-startups-and-msmes/>.

programs are also conducted to inform startups, MSMEs and enforcement authorities about protecting IP and commercial use.

Intellectual property investment at an early stage gives startups and MSMEs the incentive to consider their ideas, inventions, and brands as valuable business assets. This builds investor confidence and enhances commercialisation and licensing. Indian businesses can be more competitive internationally by implementing international IP best practices. All in all, these strategic alliances can be used to make intellectual property not only a legal obligation but also a significant investment capable of facilitating innovation, business development, and new market access.

Comparative Analysis of IP Investment

The question of IP being able to draw investment is determined by the extent to which the legal system acknowledges IP as an object which can be owned, transferred and used as security. This chapter examines the support of IP-based investment by some foreign countries via legal framework, and subsequent comparisons it with the Indian legal framework.

i. United States:

The investment on intellectual property is assisted by the ordinary commercial law in the United States, rather than an independent or special IP financing law. “The primary legislation is the Article 9 of the Uniform Commercial Code (UCC), which concerns the secured loans. In Article 9, the intellectual property is considered as a kind of general intangible, i.e. it can be put up as a security for a loan.”³⁴

It is significant as it enables lenders with the ability to secure patents, trademarks and copyrights like they would secure a physical property. In case a borrower does not pay the loan, the law permits the lender to use this security to recover the IP value. The position of the IP as a strong element of the law in the United States is indicated by the level of investment in intangible assets. “In 2024, the United States spent around USD 4.7 trillion on intangibles

³⁴ Uniform Commercial Code: Article 9, Uniform Law Commission, <https://www.uniformlaws.org/acts/ucc> (last visited Jan. 9, 2026).

assets, the intangible assets in question are the research and development, the software, data, branding, and organisational knowledge. It was the maximum rate of such investment in the world.”³⁵

This number points at the fact that viewing IP as a stable and enforceable asset as provided in the law promotes massive investments.³⁶ It further demonstrates that IP investment is not exclusive to big companies; the same legal framework applies to startups and other small businesses whose major impact is based on innovation.

ii. European Union (EU):

There is no distinct law in the EU that discusses the topic of investment or financing of intellectual property. Rather, it assists in IP investment using the current IP laws and business policies. The common laws of common market like the EU trade mark regulation and European patent convention guard IP rights in the EU. Such laws ensure that IP is recognised and has protection in member countries.³⁷

The EU considers intellectual property to be an intangible asset to be used in investment purposes. That is why it is possible to reflect IP in the balance sheet of a company and use it when giving loans or financing. EU agencies such as EU Intellectual Property Office (EUIPO) assist companies in this by providing easy-to-follow information on the IP valuation and also promoting IP audits, particularly among small firms.³⁸

Even though the banks are not obliged by law to accept IP as collateral, the EU funding programmes demand banks to consider intangible assets when evaluating SMEs. Due to this, IP comes into importance to investment decisions indirectly. This strategy has led to big investment in intangible assets. “In the year 2024, countries such as France (approximately

³⁵ World Intellectual Property Organization, *World Intangible Investment Highlights 2025* fig. 11 (2025).

³⁶ *Investment in intangible assets grows four times faster than tangible investment and consolidates itself as a driving force behind the global economy*, PONS IP (July 10, 2025), <https://ponsip.com/en/ip-news/news/investment-in-intangible-assets-grows-four-times-faster-than-tangible-investment-and-consolidates-itself-as-a-driving-force-behind-the-global-economy/>.

³⁷ *Why You Should Invest in IP: Insights from the EPO and EUIPO's 2025 Reports, IP in Italia* (Jan. 2025), <https://www.ipitalia.com/euipo/why-you-should-invest-in-ip-insights-from-the-epo-and-euipos-2025-reports/> (last visited Jan. 09, 2026).

³⁸ *Fundamentals of EU IP Law*, IP-PorTal, <https://www.ippt.eu/legal-texts/fundamentals-eu-ip-law/fundamentals-eu-ip-law-1>, (last visited Jan. 9, 2026).

USD 631 billion) and Germany (approximately USD 602 billion) were the leading countries on investment in the intangible assets across the world.”³⁹

iii. China:

China pursues an authoritarian manner of investment of intellectual property. Although the IP rights are regulated by the laws like the Patent Law and Trademark Law, the investment and financing of IP is primarily backed by the government regulations, administrative guidelines and policy directions which are issued by the authorities including the China National Intellectual Property Administration (CNIPA).

One of the main peculiarities of the Chinese system is that the law allows pledging the IP rights, i.e. the patents and trademarks are legally allowed to serve as the security to get a loan. This is not left to market choice all the way. Consequently, funding based on IP assets is available even to small and medium enterprises.⁴⁰

Valuation and IP audits in this system is not an optional business tool but a realistic legal obligation. Enterprises are required to demonstrate evident ownership, registration, and commercial relevance of their IP in order to have IP-backed loans, subsidies and incentives.⁴¹ This renders IP audits of legal importance because it has a direct impact on whether one is eligible to be financed and supported by the government.

“The IP-backed lending in China stood at about CNY 486.9 billion (about USD 67.2 billion) to 2022. This was further boosted in 2023 reaching approximately CNY 495 billion (approximately USD 68.3 billion) during the first three quarters only with a rapid growth rate per year.”⁴²

³⁹ World Intellectual Property Organization & Luiss Business School, *World Intangible Investment Highlights 2025* (2025), <https://www.wipo.int/web-publications/world-intangible-investment-highlights-2025/en/world-intangible-investment-highlights-2025.html>.

⁴⁰ M. M. Berrell & J. Wrathall, Changing Attitudes to Intellectual Property Rights in China: The Nexus Between Chinese Culture and the Rule of Law, in *Proceedings of the 15th Annual Conference of the Association for Chinese Economic Studies Australia* (ACESA, Melbourne, VIC 2003).

⁴¹ Millie Ward, *China's Evolving IP Market Is Attracting Foreign Investment, but Increased Competition Poses Threats*, World Trademark Review, Sept. 18, 2024, <https://www.worldtrademarkreview.com/article/chinas-evolving-ip-market-attracting-foreign-investment-increased-competition-poses-threats>.

⁴² *China's IP-Backed Financing Landscape (WIPO Report)*, Markables (Mar. 28, 2025), <https://www.markables.net/chinas-ip-backed-financing-landscape-wipo-report>.

Nevertheless, there are also certain risks shown by the approach of China. Although the IP registrations have grown at an alarming rate, quality has been questioned as to quantity. Poor IP makes its usefulness in licensing, enforcement and long-term investment weak. This demonstrates that legal compulsion is not sufficient, but meaningful IP audits and credible valuation are also paramount.

iv. Comparative Position of India on IP Investment:

The IP investment framework in India is not well developed as compared to the United States, European Union and China. In the U.S., commercial law of IP is the collateral, thus there is a practice of lending based on IP. The EU makes IP part of financing and accounting regulations of SMEs, which gives importance to the intangible assets in the considerations of the financing decision. China follows a state supported system in which IP audits and valuation are significantly correlated with access to finance.

India on the other hand does not have a unified IP financing system. Despite the robust protection laws on IP, it is not widely accepted as security and there is no standard of valuation and IP audits are largely compliance oriented. This complicates Indian MSMEs and startups to leverage their IP to raise money, expand and compete globally.

However, “according to the data of the 2011-2022, India has increased its investment on intangible assets (patents, software, research and development, brands, designs) at an average of 7 percent annually, more than the US, France or Sweden. This is partly since India began with lower intangible capital thus it is catching up fast.”⁴³

Though the laws that safeguard intellectual property are strong in India, there are several challenges in the system. There is no standard way for valuing IP so this makes it difficult for lenders and investors to determine the true value of the patents, trademarks or any other intellectual property. Many small businesses also do not know that their intellectual property can be utilized to obtain investments or loans. In India, IP audits are primarily performed to achieve legal or compliance requirements and rarely help businesses to raise funds. The

⁴³ World Intellectual Property Organization & Luiss Business School, World Intangible Investment Highlights 2025 13 (2025), <https://www.wipo.int/web-publications/world-intangible-investment-highlights-2025/en/world-intangible-investment-highlights-2025.html> (showing India’s rapid growth in intangible investment in Figure 13).

financial bodies and banks tend to be hesitant to offer loans on IP due to the risks and the uncertainty of the value. In addition, IP financing programs are primarily government driven and very few individuals in the private sector participate. These loopholes make it challenging for Indian MSMEs and startups to raise capital, grow their businesses, and compete on an international level.

IP Audit as a Tool for Strengthening IP Investment

An intellectual property audit is a formal assessment and overview of all the intellectual property assets of a business which a business has owned, utilized, licensed, or requires to acquire in future. It does not merely include the listing of patents, trademarks, copyrights, and trade secrets of a company, but evaluates their legal position, ownership, protection practices, and business applicability.⁴⁴ An IP audit is aimed at knowing, recording and realising the full potential of the intangible assets in an organised manner.

The main tasks of the audit process include determining registered and unregistered IP, its ownership and validity, review of protection such as registration and confidentiality practices, review of relevant contracts, and identification of legal or commercial risks such as infringement or protection lapses.⁴⁵ From an investment perspective, IP audit offers certainty and clarity. It establishes the fact that the business has a strong ownership and control of its IP properties and that the rights are legally enforceable. This minimizes uncertainty and legal risk, which is a major concern to investors during the evaluation of a business.⁴⁶

In the case of MSMEs and startups, IP audit is even more important. These businesses tend to develop extremely useful IP like product designs, technical processes, brand identities and proprietary know-how, yet face lack of structured mechanisms to manage it. An IP audit helps identify such hidden or underutilised IP and brings them into an organised framework. Overall, an IP audit serves as a strategic tool and not a compliance exercise. By ensuring clarity of

⁴⁴ Samridhi Dhir, *IP Audits for Indian Businesses– Importance and Process*, Kanakkupillai (Sept. 4, 2025), <https://www.kanakkupillai.com/learn/ip-audits-for-indian-businesses/>.

⁴⁵ The Essential Focus Areas of an Intellectual Property Audit, *TheLaw.Institute*, <https://thelaw.institute/management-of-iprs/essential-focus-areas-intellectual-property-audit/> (last visited Jan. 10, 2026).

⁴⁶ World Intellectual Property Organization (WIPO), *Uncovering IP Risks and Potential: IP Audit*, <https://www.wipo.int/en/web/business/ip-audit> (last visited Jan. 9, 2026).

ownership, protection adequacy, and risk management it enhances the investment readiness and long-term sustainability of businesses.⁴⁷

By discovering and protecting intangible assets, an IP audit build a level of trust in investors, less risk, and long-term growth. No matter whether a business needs investment, extending its operations or want to enter new markets, an IP audit, properly conducted would mean a more improved control over intellectual property and future prosperity.

Conclusion & Suggestions

With the increasing reliance of economies on ideas and innovation, we should look beyond physical assets and recognize the true worth of intellectual property rights. Unless this right can be exercised practically and financially, legal protection is not enough to allow business to grow. There are quite a number of small businesses and start-ups that have useful ideas and innovations but they are unable to enjoy their full benefits due to the lack of properly identifying and managing their intellectual assets.

In order to make intellectual property more useful, there must be a clear system that helps businesses understand what they own and how it can be used. Instruments like IP audits could introduce clarity, reduce uncertainty, and make the intellectual assets more reliable in the eyes of investors and lenders. When Intellectual property correctly recognized and managed, it can help in the growth of business, promote innovation, and in the growth of the economy in a significant manner.

Based on the above discussion, some suggestions are proposed. Firstly, the training of IP should be based on how it is applied in the business world and not just on legal concepts. Small business owners and entrepreneurs must know how IP can make money, attract investors and gain competitive advantage in the market. The issues that should be discussed in the training programs should include licensing, branding, and commercial exploitation of IP using practical business examples. This assists the companies to view IP as a quite useful economic instrument rather than a legal obligation.

⁴⁷ Bhavpreet Singh Soni, *The Founder's Blueprint: How an IP Audit Secures Your Startup's Future*, The IP Press (Aug. 28, 2025), <https://www.theippress.com/2025/08/28/the-founders-blueprint-how-an-ip-audit-secures-your-startups-future/> (last visited Jan 12, 2026).

Secondly, IP audits should not be carried out in the same manner for all businesses. A tiered approach is more feasible and real. Big companies tend to have large portfolios of intellectual property rights and adequate legal and financial assets; thus, they can audit their IP annually or even in 6 months. This is already practiced by multinational companies, and it assists them to effectively monitor, safeguard and commercially exploit their IP on a regular basis.

On the other hand, the MSMEs and start-ups possess less resources and IP assets. In their case, regular and thorough audits can be expensive and unwarranted. Accordingly, the IP audits of such business must be less complicated and performed once in every two or three years, or at some significant business events like fund-raising, expansion, or signing licensing agreements. This balanced approach ensures that IP is properly managed without placing huge financial or administrative burden on small businesses.