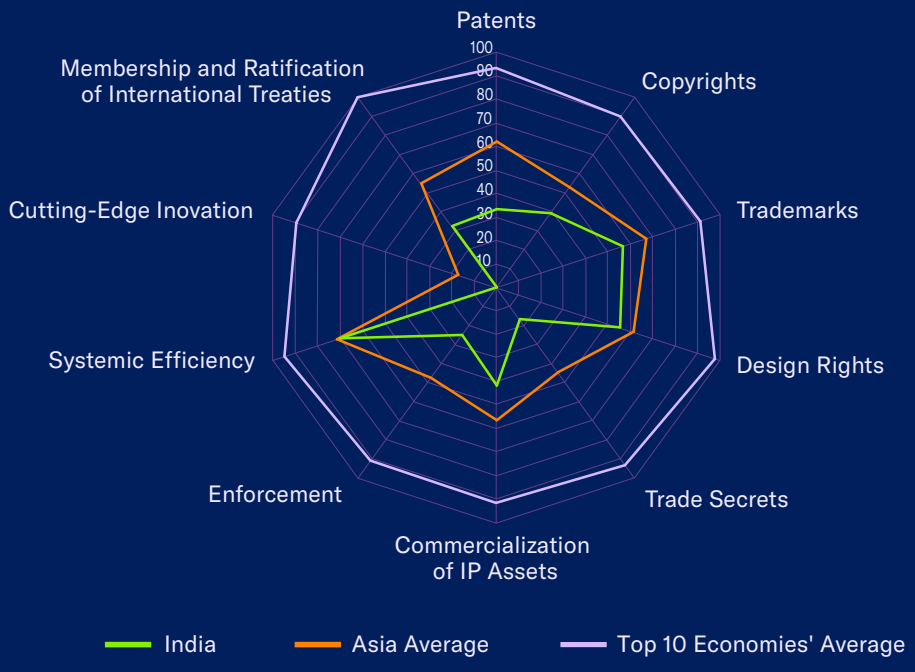
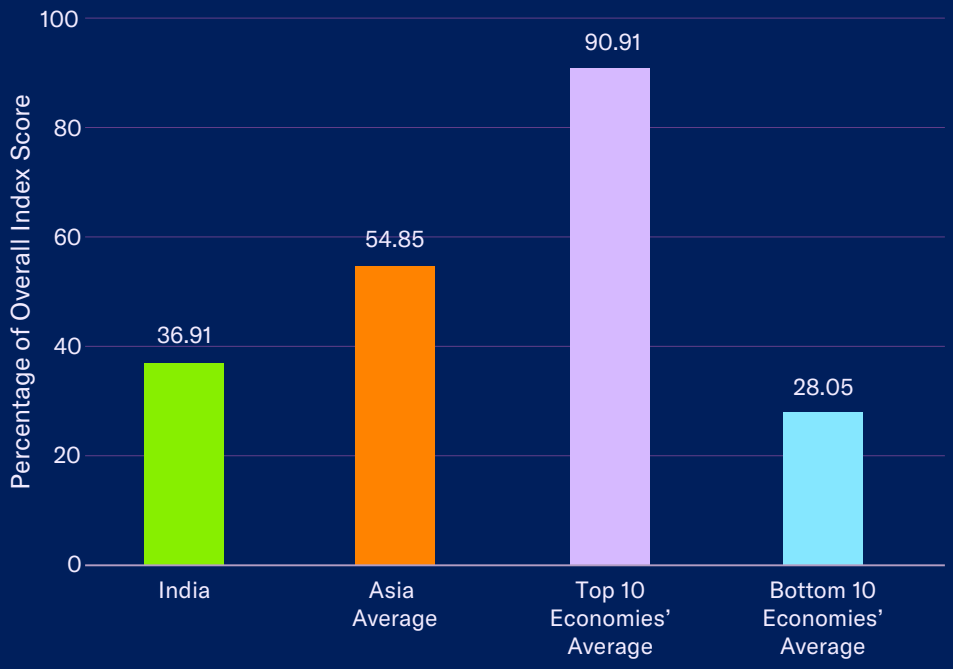
India

Rank
43/55

Category Scores



Overall Score in Comparison



India

Rank
43/55

Key Areas of Strength

- Updated 2024 Patent Rules improve existing pre-grant opposition procedure and compliance requirements under Form 27
- Continued efforts on copyright piracy through issuing of 'dynamic' injunction orders
- 2019 Precedential case law on online trademark infringement and damages
- PPH program with the JPO is a positive step
- Generous R&D and IP based tax incentives
- Global leader on targeted administrative incentives for the creation and use of IP assets for SMEs
- Strong awareness raising efforts on negative impact of piracy and counterfeiting
- Capacity building and number of examiners increased

Key Areas of Weakness

- No special IP incentives for orphan medicinal product development
- 2021 dissolution of the Intellectual Property Appellate Board combined with the long-standing issue of an under-resourced and over-stretched judiciary raises serious concerns about rights holders ability to enforce their IP rights in India and resolve IP-related disputes
- Barriers to licensing and technology transfer including strict registration requirements
- Limited framework for the protection of biopharmaceutical IP rights
- Patentability requirements outside international standards
- No RDP available or patent term restoration for biopharmaceuticals
- Lengthy pre-grant opposition proceedings
- Previously used compulsory licensing for commercial and non-emergency situations
- Limited participation in international treaties
- No patent linkage or effective patent enforcement mechanism in place

Indicator	Score
Category 1: Patents Rights and Limitations	**2.99**
1. Term of protection	1.00
2. Patentability requirements	0.00
3. Patentability of CIIs	0.75
4. Plant variety protection	0.74
5. Pharmaceutical-related enforcement	0.00
6. Legislative criteria and active use of compulsory licensing	0.00
7. Pharmaceutical patent term restoration	0.00
8. Membership of a Patent Prosecution Highway	0.50
9. Patent Opposition	0.00
Category 2: Copyrights and Limitations	**2.72**
10. Term of protection	0.47
11. Exclusive rights	0.50
12. Expeditious legal remedies disabling access to infringing content online	1.00
13. Cooperative action against online piracy	0.25
14. Limitations and exceptions	0.00
15. TPM and DRM	0.25
16. Government use of licensed software	0.25
Category 3: Trademarks Rights and Limitations	**2.25**
17. Term of protection	1.00
18. Protection of well-known marks	0.50
19. Exclusive rights, trademarks	0.25
20. Frameworks against online sale of counterfeit goods	0.50
Category 4: Design Rights and Limitations	**1.10**
21. Industrial Design Term of Protection	0.60
22. Exclusive rights, industrial design rights	0.50
Category 5: Trade Secrets and the Protection of Confidential Information	**0.50**
23. Protection of trade secrets (Civil Remedies)	0.25
24. Protection of trade secrets (Criminal Sanctions)	0.25
25. Regulatory data protection term	0.00
Category 6: Commercialization of IP Assets	**2.50**
26. Barriers to market access	0.25
27. Barriers to technology transfer	0.50
28. Registration and disclosure requirements of licensing deals	0.00
29. Direct Government intervention in setting licensing terms	0.25
30. IP as an economic asset	0.50
31. Tax incentives for the creation of IP assets	1.00
Category 7: Enforcement	**1.75**
32. Physical counterfeiting rates	0.33
33. Software piracy rates	0.42
34. Civil and procedural remedies	0.25
35. Pre-established damages	0.25
36. Criminal standards	0.25
37. Effective border measures	0.25
38. Transparency and public reporting by Customs	0.00
Category 8: Systemic Efficiency	**3.50**
39. Coordination of IP rights enforcement	0.25
40. Consultation with stakeholders during IP policy formation	1.00
41. Educational campaigns and awareness raising	1.00
42. Targeted incentives for the creation and use of IP assets for SMEs	1.00
43. IP-intensive industries, national economic impact analysis	0.25
Category 9: Cutting-Edge Innovation	**0.00**
44. IP incentives for orphan medicinal product development	0.00
45. IP incentives for orphan medicinal product development, term of protection	0.00
46. Restrictions on the effective use of existing IP incentives for orphan medicinal product development	0.00
Category 10: Membership and Ratification of International Treaties	**2.25**
47. WIPO Internet Treaties	1.00
48. Singapore Treaty on the Law of Trademarks and Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	0.50
49. Patent Law Treaty and Patent Cooperation Treaty	0.50
50. Membership of the International Convention for the Protection of New Varieties of Plants, act of 1991	0.00
51. Membership of the Convention on Cybercrime, 2001	0.00
52. The Hague Agreement Concerning the International Registration of Industrial Designs	0.00
53. Post-TRIPS FTA	0.25

Total Score: 19.56

Spotlight on the National IP Environment

Past Editions versus Current Score

India's overall score has increased from 19.32 out of 53 indicators in the 13th edition to 19.56. This reflects a score decrease on indicator 32 and an increase on indicator 53.

Patent Rights and Limitations

2. Patentability requirements; and 3. Patentability of computer-implemented inventions (CIIs): As has been noted in previous editions of the Index, rights holders in India face many basic challenges in registering and protecting patent-eligible subject matter. To begin with, Indian patent law imposes an additional requirement for patentability that goes beyond the standard novelty, inventive step, and industrial applicability requirements. Under Section 3(d) of the Indian Patent Act, there is an additional "fourth hurdle" regarding inventive steps and enhanced efficacy that limits patentability for certain types of pharmaceutical inventions and chemical compounds. Several court cases have established an interpretation of Indian patent law whereby Section 3(d) can only be fulfilled if the patent applicant can show that the subject matter of the patent application has an improved therapeutic efficacy compared with the structurally closest compound as published before the patent application had been filed (regardless of whether or not a patent application on the earlier compound was filed in India).

This interpretation and related case law generally deny patentees protection for aspects that extend significantly beyond what is explicitly disclosed in the patent application. Compounds that are covered by a claimed chemical formula but are not explicitly mentioned in the patent may not be considered protected.

The result is that, over the years, many inventions have either been denied patent protection in the first place or had their protection revoked before expiration. This happened again in 2025, when the Indian patent office revoked the granted protection for the heart medication Entresto.

Similarly, the environment for protecting CIIs in India has historically been marred by uncertainty. The Patent Act excludes "a mathematical or business method or a computer program per se or algorithms" as patentable subject matter. Old guidance documents, including the Indian patent manual, did not clarify the extent to which CIIs were patentable. Over the last decade, new patent guidelines have been published to address this situation. Of particular note are the 2017 Guidelines for Examination of Computer-Related Inventions (CRIs), which significantly improved the patenting environment for CIIs in India. Unlike previous drafts, the finalized Guidelines included no requirement for hardware innovation. On this basis, the score on Indicator 3 increased by 0.50 in the sixth edition of the Index.

In 2025, the Controller General released a new, updated set of Guidelines. Like their 2017 predecessor, these guidelines do not condition or link the patentability of CIIs to hardware. The 2017 Guidelines have had a positive effect on CII patenting in India. Patent statistics from WIPO for India show a considerable increase in both the number of patent applications (patent publications by technology) and the number of patents granted under the categories "Computer technology" and "IT methods for management." In the 10-year period before the issuance of the 2017 Guidelines (2008-2017), the average was 3,225 applications and 307 patents granted per year under the categories "Computer technology" and "IT methods for management."

In the six years following the issuance of these Guidelines (2018-2023), the yearly averages increased to 5,729 and 1,269, respectively. As a percentage, this was an increase of 77.65% in CII patent applications and over 400% in patents granted. This shows the positive impact policy changes can have. The Index will continue to monitor these developments in 2026.

Copyrights and Limitations

14. Scope of limitations and exceptions to copyrights and related rights:
Like many other Index economies, the use of machine learning and AI-based technologies and applications is increasing in India. In the last few years, the Indian government has responded with several new initiatives to establish an appropriate legal and policy environment for the use and application of these technologies. This includes, for example, the development of a Digital India Act, which would provide a clear legal framework for AI and other digital technologies. This continued in 2025 with the Ministry of Electronics and Information Technology releasing the document "Report on AI Governance Guidelines Development" for public consultation early in the year.

As noted in the Index, AI and machine learning are important areas of future economic activity, as advances in computational power and new technologies enable scientific research and innovation through the analysis of large volumes of data. However, there are real concerns about how the development, application, and use of these technologies will affect creators and rights holders worldwide. The draft Report recognizes these challenges and the gaps in the current legal framework and policy discussion. Given the existing dynamics of the Internet and the volume of infringing content available online, it is essential that safeguards be adhered to, and that rights holders can appropriately enforce their rights. The Index will continue to monitor these developments in 2026.

Membership and Ratification of International Treaties

53. At least one post-TRIPS FTA with substantive IP provisions and chapters in line with international best practices:
Over the last few years, India has concluded several important FTAs. As noted in the Index last year, after more than 15 years of discussions and 21 rounds of negotiations, India and the European Free Trade Association (EFTA) signed a Trade and Economic Partnership Agreement (TEPA) in 2024. In 2025, the British and Indian governments announced the conclusion of a Comprehensive Economic and Trade Agreement (CETA).

A positive feature of this Agreement — like the one with EFTA last year — is that it includes a dedicated IP chapter, Chapter 13 "Intellectual Property Rights." As noted in the Index, this is not always the case; many 21st-century post-TRIPS FTAs do not include a dedicated IP chapter or skirt meaningful IP provisions altogether. Positively, this chapter includes many important modern IP provisions aligned with international best practices, as identified in the Index, including those related to online piracy, border enforcement, and judicial remedies. Such standards, if adopted and fully implemented in India, would improve India's national IP environment. Unfortunately, many of the Agreement's positive aspects have been diminished by carve-outs and exceptions. For example, regarding border enforcement, Article 13.92 requires contracting parties to grant customs officials *ex officio* authority to seize suspected IP-infringing goods. Yet Article 13.87 explicitly excludes goods in transit from any enforcement efforts.

More broadly, the treaty does not mention or cover important 21st-century IP rights and standards, such as patent term restoration due to registration and regulatory delays — both in general and for biopharmaceutical products specifically — or regulatory data protection for clinical test data submitted as part of the pharmaceutical market approval process and sanitary registration. Likewise, Article 13.103, which requires a notice-and-takedown mechanism for online infringement, lacks detail on the specific rights and responsibilities of online service providers. As noted in the Index, while Indian courts have become world leaders in providing injunctive relief and orders disabling online access to copyright-infringing content, the existing notification mechanism, as defined in the Copyright Act, suffers from several structural deficiencies, including the requirement of a court order. Historically, this indicator has been scored based on whether an economy is a signatory to, and has ratified or acceded to, a modern post-TRIPS FTA that includes substantive IP provisions in line with international best practices, as identified in the Index. As such, this indicator has not accounted for the allocation of partial scores in cases where a post-TRIPS FTA includes only a limited number of substantive IP provisions, consistent with international best practices and identified in the Index.

To better account for the growing number of post-TRIPS FTAs that include some substantive IP provisions identified in the Index, this edition of the Index will introduce the option to achieve a partial score. Scores can now range from 0, 0.25, 0.5, 0.75, and 1. Like all other indicators in this category, score allocation will still be evenly divided between the signature and ratification or accession to an international treaty. As a result of the change in the scoring methodology, the score for this indicator increased by 0.25.