

# IPR Regime: Evolving Space Industry

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**Relevant provisions for the applicability of domestic IPR law to Space activities exist only in US law today, found in this is the US Space bill and the NASA Act. The US Space bill extends the applicability of US patent law into outer Space. The NASA Act includes a provision to consider a "Space object as a vehicle". Intellectual Property Rights (TRIPS Agreement), patents should be available and patent rights enjoyable without discrimination to the place of invention. Therefore, the same principles should apply to invention created on outer space and used on the territory of a given country. With the private players coming in, the role of IP law on Space activities has become significant and requires immediate attention as exploration of space, requires huge investments and in such condition, any discovery made by private enterprise must be recognised and given due credit.**

## I. INTELLECTUAL PROPERTY LAW AND THE OUTER SPACE

A presuming future ahead Technological advancements in the field of outer space has taken a big leap. Questions of intellectual property rights governing these advancements have been brought to the fore relatively recently owing to the fact that these developments have become more of a private or commercial affair rather than state run activity. Protection of one's own innovation is imperative to their success with the world understanding the importance of such safeguards the demand for it has risen exponentially. Unlike earlier times space research is not restricted to the Government organisations but has extended to the private players as well. However, the involvement of non-governmental agencies is not absence of ascertaining any legal liability; Article VI of the outer space treaty, 1967 providing the study shall be responsible internationally for national activities in outer space caused out by governmental agencies or by non- governmental agencies and a state shall authorize the activities of the non-governmental agencies.

Intellectual Property Rights in space essentially implies that the state is willing and capable of granting protection to creations outside its conventional territorial boundaries in the space. The protection affords the owner of the creation the right to pursue a legal resource in the event of the creation being commercially exploited in space. However one of the main issues with the protection of creating in space by IP Law is that its foundation for the IP Law for space has laid down in the cold-war era, when space was object of interest for nations, not private activities within the nation. However intellectual property rights aim to protect the interest of the owner(s) of the creation. Hence is seen an inherent tension between the principles of space law and the IP laws.

The probable IP protections that can be allocated to space technologies are the following: -

1. Trade Secrets: -  
Entities which are self-sufficient and operate their space related technology without any third-party aid, can resort to trade secrets for protection of their creations.
2. Patents: -  
2 main aspects are
  - i) The jurisdiction(s) in which technology is used prior to being launched into space.
  - ii) The jurisdiction(s) and associated "Control" point(s) of the technology.
3. Trademarks:  
Currently there is no provision for granting the protection of trademarks to any inventions sent to the Space.  
Companies/Non-governmental agencies attempting to undertake commercial Trade in outer Space and as a result these willing to exploit this trade will have to see the protection of trademarks.
4. Copyrights: -  
The transmissions and reception from satellites can be safeguarded by copyrights.

## II. IPR LAW COMPATIBLE WITH SPACE LAW

It is only United States law and the NASA Act that explicit statutory provisions for the applicability of domestic IPR law to space activities exist.

Though India is a party to all international Space treaties, it is no different than most other countries when it comes to enact a specific space legislation of its own i.e. it does not have one.

With Indian Space activities rapidly diversifying there is a dire need for formulating Comprehensive and harmonious space legislation.

Though the regime of intellectual property is governed by national laws international entities like the World Intellectual Property Organisation (WIPO) and the agreement on trade related aspects of Intellectual Property rights (TRIPS) have succeeded in harmonizing the IP laws to some extent, such a harmonization is not sufficient for extending such protection to space related activities and creations.

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