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Financial Stability by Intellectual Property Rights and Asset Valuation in Indian Insolvency Processes

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Abstract: Intellectual property rights (IPRs), as capital goods are essential in determining the rate of innovation, nature of competitive advantage, and systemic stability of bankruptcy and insolvency regimes. Current research explores the complex interface between IPRs and the valuation of the assets for bankruptcy. IPRs are financial asset to as these are a necessary element to determines the extent of sustainability and rehabilitation prospects of negatively affected businesses. The specific functions of patents, trademarks, and copyrights are potentially critical factors defining the outcome of insolvency. The discussion highlights the IPR-secured financing trends, through which such intangible assets are availed as security to lending institutions, thus impacting the liquidity of banks and the course of insolvency resolutions. The long-term analysis of legal opportunities and difficulties involved in the statutory incorporation of IPRs based on the precedent, regulatory framework, and cross-jurisdictional practices exemplifies the consistent inability to realize a sufficient value of property, often prone to economic and technological changes. Protecting IPRs would serve as agents in the financial market macroeconomic stability by carefully managing intellectual property amid the turbulent financial markets. There is need to engage in greater utilization of IPRs in bankruptcy situations and call for the establishment of legal and economic frameworks that can enable the smooth entry of such assets into the economy.

Keywords: intellectual property; asset valuation; bankruptcies; IPR backed financing; financial stability

1. Introduction

Financial stability is an initial requirement for long-term economic growth since it is the basis of the functioning of markets, institutional arrangements, and the economy, in general. It can also ease systemic risks that may otherwise hamper growth paths by providing a stable environment within which investment, innovation and long-term development are carried out. The world today has been characterized by increased globalization and fast technological shift, where asset composition has changed significantly (Duisenberg 2001). Intellectual property rights (IPRs) have become one of the most significant classifications of intangible assets, which trigger innovation and add great value to the economy. Patents, trademarks, and copyrights are a part of the competitive advantages and access to financial resources. The relationship between IPRs and financial stability is very important when it involves bankruptcy and insolvency regimes. In that case, intellectual property is a tangible percentage of an insolvent company's asset base, but its evaluation and treatment are much debated. This begs great scrutiny on how intangible assets can help bring stability to a financial situation in the settlement of insolvency (Bhagwati 2022).

Current research raises a question concerning the cross-section of IPRs, asset valuation, and insolvency law in India and how these elements provide fair results to the stakeholders. It critically evaluates the process of valuation and use of IPRs in insolvency management and points out the shortcomings in the current legal framework, and builds policy suggestions aimed at maximizing the treatment of such assets (Jain 2020). The methodology adopted is doctrinal, analyzing statutory provisions, case laws, and secondary literature to assess its current framework and practical implications. Comparative international jurisdiction-based insights are used to propose robust solutions for India.

2. IPRs as Emerging Assets

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IPRs are legal protections for creators and innovators of intellectual works. These include patents, which protect inventions; trademarks, which protect brand identity; copyrights, which protect creative works such as literature, music, and software; and industrial designs, which protect aesthetic creations. Each type of IPR has a different purpose, granting exclusive rights to creators while promoting innovation and economic growth. IPRs are a vital asset in the modern economic environment, where intangible assets are often more valuable than tangible ones in the valuation of an organization. IPRs as intangible assets have a different quality than physical ones: they are immaterial and at the same time have value, can bring revenue and provide a competitive edge. The usefulness and relevance of the protection of an IPR in the market, and the effectiveness of the enforcement of the protection, usually determines the value of an IPR. A patent grants a monopoly on a product or procedure that will give the holder a powerful source of income. IPRs take market-driven functions and as commodities support mergers, acquisitions and licensing. Therefore, they have become strategic tools of organizations by helping in market positioning and financial planning (Bainbridge 2010). The importance of IPRs in organizational growth cannot be overstated. Businesses are increasingly leveraging their IP portfolios as collateral for securing financing, mostly in innovation-driven sectors like technology and pharmaceuticals. These assets not only strengthen a firm's creditworthiness but also attract investments. However, valuations and management of IPRs is a difficult task because of their intangible nature, vulnerability to changes in market dynamics, and the complexity of legal enforcement. This entails special expertise, as undervaluation could mean a loss of competitive advantage, while overvaluation could precipitate financial instability (Sri and Srinithi 2024).

3. Legal Framework for Bankruptcies and Insolvencies in India

3.1 Insolvency and Bankruptcy Code, 2016 (IBC)

The Insolvency and Bankruptcy Code, 2016 (IBC)¹ was a comprehensive framework for addressing insolvency and bankruptcy issues in India. The IBC consolidates and amends existing corporate insolvency, liquidation, and individual bankruptcy, bringing much-needed clarity and speed to insolvency proceedings. The Code was designed to improve the ease of doing business, streamline the resolution process, and create a predictable and transparent system to resolve corporate defaults efficiently. The IBC provides for a time-bound resolution process so that the debtor's financial distress is addressed within 180 days, extendable by an additional 90 days. This fast resolution is important to avoid asset depreciation and ensure maximum recovery for creditors. The IBC applies to companies, LLPs, and individuals providing a fast-track insolvency process for MSMEs.

At the heart of the IBC is the corporate insolvency resolution process (CIRP) procedure, initiated by the creditors or the debtor company. The CIRP will initiate rehabilitation of the debilitated enterprise or the process of its liquidation, while the creditor interest is upheld, and the business is run like a going enterprise from a long-term perspective. Under this procedural provision, the proposed resolution plan has to be adopted by the Committee of Creditors, and it should be prepared by the insolvency professionals (Gupta, Aman and Saumya 2023).

3.2 Evolution and Current Trends of Bankruptcy Proceedings in India

The IBC has significantly altered the bankruptcy procedures in India. Until its introduction, India's insolvency laws were controlled by a variety of legislation, including the Sick Industrial Companies (Special Provisions) Act, 1985 (SICA)², the Companies Act, 1956³, and the Recovery of Debts Due to Banks and Financial Institutions Act, 1993⁴. However, the legislation was ineffectual in dealing with rising bankruptcies, was wasteful, and resulted in lengthy litigation. The IBC constituted a paradigm change towards a uniform, simplified mechanism for resolving insolvency. The Code's emphasis on time-bound resolution and the establishment of a regulatory agency, the Insolvency and Bankruptcy Board of India (IBBI), were intended to provide openness and uniformity in the insolvency process (Roy 2019). In recent years, the Indian insolvency regime has witnessed some interesting trends. There are significant corporate insolvency cases due to the IBC. A robust framework for managing insolvency resolutions has been established, introducing an Insolvency Professional (IP) as a licensed intermediary.

Although resolution of distressed companies is the preferred choice, many still go through liquidation. The effectiveness of CIRP processes in bringing about successful resolutions has increasingly become a concern. With increasing globalization, India is seeing more cases involving cross-border insolvencies. The IBC has taken steps to address this through the recognition of foreign judgments and the provision for mutual recognition of insolvency proceedings with other jurisdictions. The COVID-19 has significantly impacted insolvency proceedings. The government temporarily suspended insolvency filings under the IBC to prevent businesses from collapsing due to the pandemic's economic consequences. This led to a shift towards more lenient approaches for business distress. However, the pandemic also highlights the need for an effective insolvency resolution mechanism (Das 2024).

3.3 Role of Creditors, Insolvency Professionals and the Adjudicating Authority

The IBC creates a well-defined framework for the roles and responsibilities of diverse stakeholders in insolvency. These include creditors, insolvency professionals, and the adjudicating authority. Their coordination is essential in ensuring that the resolution process is effectively conducted. Creditors include operational and financial elements in the IBBI process. Financial creditors provide loans to the debtor, while operational creditors are those to whom the company owes payments for goods or services. Creditors hold significant power in decision-making, particularly during the Committee of Creditors (CoC) meetings, where the resolution plan is debated and voted upon. The CoC has the ultimate decision-making authority in accepting or rejecting a resolution plan, and its approval is required to move forward with any restructuring plan (Singh, Rahil, and Nishant 2019) In the Innoventive

¹ Insolvency and Bankruptcy Code, 2016 (IBC)

² <https://www.indiacode.nic.in/repealedfileopen?filename=A1986-1.pdf>

³ https://www.indiacode.nic.in/bitstream/123456789/12807/1/the_companies_act%2C_1956_no._1_of_1956_date_01.01.1956.pdf

⁴ https://www.indiacode.nic.in/bitstream/123456789/1775/1/AArecovery1993_51.pdf

Industries Ltd. v. ICICI Bank Ltd.⁵ (Desai and Vinit 2018), the Supreme Court clarified the power of financial creditors in the IBC process. The judgment emphasized that the CoC decision is sacrosanct, and the Court cannot interfere unless there is a manifest error. The ruling reinforced the notion of creditor primacy, where the interests of creditors take precedence over other stakeholders in the resolution process.

Insolvency professionals (IPs) would act as intermediaries and be responsible for managing the process of insolvency. As the company is in major financial distress, asset evaluation and identification are the key duties. The IP has to work in the best interest of all stakeholders, including the creditors and is expected to be transparent and fair in the resolution process. The IP also conducts the meetings of the CoC and ensures that the time limits under the Code are complied with. The Swiss Ribbons Pvt. Ltd. v. Union of India⁶ (Viswanathan and CAM 2019) highlighted the role of insolvency professionals in ensuring that the processes under IBC are complied with. The Court upheld the importance of the role of IBBI in the regulation of insolvency professionals, reiterating the need for professionalism and adherence to legal standards in the insolvency process.

The adjudicating authority for the insolvency resolution process under the IBC is the National Company Law Tribunal (NCLT). The NCLT empowers the admission of the insolvency petition, appoints the IP, and supervises the resolution plan implementation. The NCLT acts as a forum for adjudication of disputes arising out of the insolvency process, including the rejection or approval of a resolution plan, asset transfers, and any possible contraventions of the Code. In *K. Sashidhar v. Indian Overseas Bank*⁷ (Viswanathan, Animesh and Karan 2019), the Supreme Court clarified that the role of the NCLT is limited to ensuring compliance with the legal process, and it cannot re-evaluate or alter the CoC's decisions unless there is a breach of law or an irrational decision-making process. This ruling reinforced the autonomy of the CoC and the importance of the NCLT's role as a regulatory authority rather than a decision-making body.

3.4 Intangible Assets under the IBC

The IBC treats intangible assets, including IPRs, as part of the liquidation estate. Section 36 of the IBC provides that all assets of the corporate debtor, including IPRs, constitute the liquidation estate. Such assets can be used during the insolvency resolution through sale, restructuring, or asset transfer. The IBC does not guide how intangible assets, particularly IPRs, are to be valued or treated during an insolvency and, therefore, allows for some ambiguity.

Section 36 defines the liquidation estate and includes the debtor's IPRs. However, the Code is silent on the specific treatment or valuation of such assets, leading to inconsistent practices. IPRs, such as patents, trademarks, and copyrights, are often undervalued or not fully utilized in insolvency proceedings, impacting creditors' recovery rates. Section 28 mandates the insolvency professional to seek the approval of the CoC before selling or transferring IPRs. However, due to the lack of standardized valuation procedures, IPRs are often not leveraged effectively as assets for the resolution process.

The IBC allows the sale of assets, including IPRs, to the highest bidder. However, the Code does not provide clear guidelines on how such assets are valued, raising concerns regarding the real market value of the IPRs during the insolvency process. In *Jaypee Kensington Boulevard ... vs Nbcc (India) Ltd* on 24 March 2021⁸, the Supreme Court dealt with the valuation and sale of assets during the insolvency proceedings of Jaypee Infratech Ltd. Although the case did not specifically address IPRs, it brought out the challenges in the valuation of assets during insolvency regarding the case of intangible assets like IPRs, lacking a clear framework.

4. Valuation of Intellectual Property in Insolvency Proceedings

Intellectual Property (IP) has become an increasingly valuable asset in the modern economy in the digital age, where intangible assets often constitute a substantial portion of a company's total value. The valuation of IP assets in insolvency proceedings is thus indispensable in deciding the company's financial value and guiding the direction of the resolution strategies implemented. Fair value distribution among the stakeholders, creditors and investors is the most important aim in valuing IP in insolvency and deciding its fate, as this influences the course that business restructuring or liquidation may take.

In insolvency proceedings, accurate valuation of assets, particularly IP, is indispensable in determining the fair market value of the assets and ensuring an equitable distribution of proceeds among creditors. For tech companies, startups, and firms in creative industries, IP is often the most valuable asset and can significantly affect the company's financial recovery prospects. Effective IP valuation helps stakeholders better understand the economic potential of the company post-insolvency and assists insolvency professionals in determining whether the business can be restructured, sold, or liquidated. The ability of IP assets to influence a company's ability to raise financing, attract buyers, or enter into licensing agreements makes their proper evaluation critical for an effective insolvency resolution strategy. Insolvency laws in India, such as the Insolvency and Bankruptcy Code, provide a framework for the valuation of assets during insolvency. The role of an insolvency professional is essential as they are supposed to evaluate the value of IP and make a critical decision on its utilization or liquidation. This valuation is also imperative in determining the company's debts and a repayment plan (Interns 2024).

a. Methods of Valuing Intellectual Property

The main approaches to IP valuation assets are market-based, income-based, and cost-based. All these methods will have relative advantages and challenges depending on the nature of the IP involved and the circumstances surrounding each insolvency.

In market-based approach, the IP under consideration is compared to similar IP assets sold or licensed in the market. This method is applicable in significant IP transactions, for example, trademarks or patents. This approach may rely on comparable

⁵ <https://indiankanoon.org/doc/181931435/>

⁶ <https://indiankanoon.org/doc/17372683/>

⁷ <https://indiankanoon.org/doc/17372683/>

⁸ <https://indiankanoon.org/doc/123645104/>

licensing agreements or sales. However, applying this approach is often difficult in insolvency proceedings, especially for unique or niche IPs, because finding suitable market comparables can be challenging.

Under the income approach, the value of the IP is measured based on its income-generating capacity. This strategy is beneficial in generating income through licensing, royalties, or direct exploitation of IP Assets. In most cases, the income approach involves calculating the future projected income generated by the IP and discounting it to the present value by applying a discount rate that builds in the risk. The patents, copyrights, and trademarks for which commercial success has been established are more practical under this approach. However, forecasting future income contains assumptions that may change over time, and the difficulty is to account for how IP remains relevant over time.

The cost-based approach estimates the value of IP by calculating the cost of creating or replacing the asset. This method is applied mainly to software or technology-related IP, where the costs to develop the IP can be calculated based on past expenditures, research and development. While this method is useful in newly or not-yet-commercialized IP, it may not reflect the actual value of IP that has become valuable due to its commercial application or market position. It also doesn't factor in future potential revenue from the asset (Garg 2021).

4.1 Challenges in IPR Valuation during Insolvency

Valuing IP in the insolvency is beset by several challenges related to the intangible nature of IP and changing market conditions that define the value of such assets. The obsolescence risk is one of the major liabilities of an IP in an industry where the speed of change is high, as is the case. An example of this is a patent or software that may become out of commercial value at the time a more sophisticated technology is introduced into the market. Hence, the future applicability of IP in insolvency proceedings can prove misleading. IP associated with products whose novelty has been superseded may attract very little market interest despite its having once had great value with regard to development. IP assets are generally subject to legal disputes, which may impact their valuation. Continuing litigation or disputes regarding ownership can diminish market value, especially if the litigation's outcome is uncertain. In such cases, accurate IP valuation becomes very challenging because the risk linked with the enforceability and commercial use of the asset is quite high. A trademark or patent under litigation may face devaluation due to the uncertainty of its future protection.

In many cases, especially for unique or specialized IP, there may not be enough comparable data to rely on a market-based approach. This limitation forces insolvency professionals to depend on income or cost-based approaches, which, as discussed, come with their challenges. The lack of comparable data can create subjective interpretations in IP valuation, leading to potential inaccuracies. IP assets can have strategic value beyond their direct income generation or market comparables. Patents or trademarks may have synergistic value to specific buyers, such as competitors, which is difficult to quantify. This unique strategic value may not be reflected adequately in conventional valuation methods (Anonymous 2022.).

4.2. IP Valuations in India

Innovation and financial stability are a policy-related dilemma that is critical and complex. The solvency of any economy lies in its economic stability, and this demands the availability of an insolvency regime that is structurally effective and whose operations are predictable. Innovation in areas that require technological use, medicine and entertainment, is the main force of growth, and under these circumstances, the IPRs play the leading strategic role. The analytical issue is whether insolvency mechanisms would hinder innovation, or it can be restructured in such a way that enterprises are allowed to utilize their intellectual properties as a form of recovery.

The Insolvency and Bankruptcy Code (IBC) in India provides fast and all-encompassing solutions to insolvency, ensuring that the assets that have been hampered due to distress are removed and productive use is made in the shortest possible time. Despite this requirement, the Code indicates that IPRs are regarded as only potential funds of liquidation instead of a tool that can be used as a means of restructuring. The value that is hidden in such intangible assets is long overdue. Patents may be monetized by licensing agreements and/or through outright assignment; that trademarks may be licensed to rival enterprises in the same field; and that copyrights may earn post-insolvency income.

A leading telecom company in India filed for insolvency proceedings under the Insolvency and Bankruptcy Code in 2015. The main company's asset was its huge patent portfolio in mobile technology, previously licensed to global manufacturers. The insolvency professionals adopted an income-based approach for the valuation of the patent portfolio, considering projected royalty income from existing licenses. The valuation was robust, and the company's IP portfolio was sold to a foreign buyer at a high price, ensuring a fair distribution of proceeds among the creditors (Srivastava, Mohit and Shikha 2022).

A tech startup, in contrast, filed for insolvency in the year 2017, and it was an all-technology firm offering its proprietary software solutions. Assets on the balance sheet constituted software programs and related proprietary technology. However, errors in assumptions regarding IP valuation were related to inaccuracies in its potential earning capabilities. The income-based approach failed to account for fast-changing technology and market variables, leading to the overvaluation of the asset price. In the resulting case, when the assets went up for auction, bidders did not match, and creditors received much lower-than-expected returns on their claims (Raj 2024).

Valuation of intellectual property in insolvency proceedings is a complex and nuanced process. It is essential for determining financial outcomes for stakeholders and guiding the company's future, whether through restructuring or liquidation. Of the various methods available to value IP, each has its challenges. In IP Valuation, insolvency professionals keep an eye on litigation risks and the special strategic value that the IP may have. Successful and failed case studies from India show how important it is to ensure accurate and careful IP valuation to ensure fair and equitable resolutions during insolvency (Anonymous 2013).

5. IPRs in Restructuring and Recovery

IPRs can be strategized for restructuring financial loans, which can be a boon for the investors during insolvency. Companies with strong IP portfolios can negotiate more favorable terms with creditors using their intangible assets. The IP licensing assets can bring immediate cash inflows to help pay off debt and revive business operations.

Companies like Dr Reddy's Laboratories have used their patent portfolios to secure financing, and this has been one example where IP-backed funding in India has succeeded. Startups with innovative technology often fail to realize the full potential of their IP assets due to poor valuation and management during insolvency proceedings.

Countries with mature IP frameworks, such as the US and the UK, offer valuable insights into leveraging IP assets in insolvency. The Chapter 11 bankruptcy allows companies to reorganize and protect their IP assets in US. Companies like Kodak have monetized patents through licensing and sales during restructuring. The UK Insolvency Act of 1986 prioritizes intangible assets, with specific instructions on how they should be valued and treated in insolvency.

In this sense, it is possible to learn something in India by following the example of such jurisdictions at the stage of developing specialized IP valuation mechanisms and integrating international best practices in the insolvency regime. The enhanced importance of IPRs in restructuring and recovery will only increase the efficacy of such proceedings on the insolvency process and deliver the best outcomes to the stakeholders.

6. Legal and Policy Challenges

While comprehensive in scope, the Insolvency and Bankruptcy Code (IBC), 2016, does not have explicit provisions relating to intellectual property rights (IPRs). Section 36 of the Code includes intangible assets within the definition of the liquidation estate, but it does not provide an explicit mechanism for determining the special nature of IPRs. This has resulted in inconsistent treatment of IPRs in insolvency proceedings, with their valuation usually subject to ad hoc decisions rather than being guided by standardized criteria. The lack of a clear framework also creates uncertainty for stakeholders, undermining the potential of IPRs to contribute effectively to financial recovery.

In insolvency proceedings, conflicting interests among creditors, debtors, and potential buyers further complicate the treatment of IPRs. While creditors try to maximize returns and are most often inclined to sale of tangible assets over the valuation and monetization of intangibles, debtors may part with IP assets that are core to their business continuity. Potential buyers may be risk-averse towards IPRs due to uncertainties around ownership, enforceability, or market demand. These perverse incentives of various stakeholders are often at the heart of delayed negotiations, delayed resolutions, and loss of overall value in the insolvency process.

The valuation of IPRs demands a nuanced understanding of their legal, economic, and market dimensions. India faces a significant shortage of professionals equipped to handle such specialized assessments. Unlike tangible assets, the value of IPRs depends on factors such as market relevance, enforceability, and potential future income, which require expertise to evaluate accurately. Capacity-building measures, such as training programs for insolvency professionals and valuers, are essential to address this gap and ensure that IPRs are valued appropriately during insolvency proceedings.

The intersection of insolvency laws with intellectual property and contractual obligations presents further challenges. For example, licenses and assignments of IPRs often involve contractual terms that may conflict with insolvency proceedings. "Technology Development Board v. Airtel" highlighted that overlapping statutory frameworks complicate legal enforcement. Additionally, cross-border insolvencies involving multinational IP portfolios face jurisdictional conflicts, with differing legal standards exacerbating the complexity of asset valuation and distribution.

7. Recommendations and Policy Interventions

The existing legal and policy frameworks don't respond adequately to the unique challenges of intangible assets present in the insolvency process. An important area is to develop IPR valuation methodologies that have been standardized and can be applied in insolvency. Unlike tangible assets, the value of IPRs is elusive because they are mostly intangible and their marketability depends on various factors, including the threat of litigation, technological obsolescence, or changes in consumer preferences. Appropriate models for the valuation of IPRs may bring clarity and consistency in IPR treatment during insolvency proceedings. Further discussion is needed regarding how insolvency professionals (IPs) can manage IPRs during insolvency. Currently, IPs manage the entire insolvency process through specialized expertise to value intangible assets efficiently. This suggests the potential creation of a special class of insolvency professionals' experts in IPRs, or the establishment of a certification system enabling IPs to develop such specialization.

While reducing inconsistencies around IP valuation, detailed guidelines are incorporated into the IBC, catering to intangible assets' peculiarities. To that end, these should define the valuation methods, establish criteria for the market assessment, and clarify how to deal with various IPR types. The inclusions guarantee uniformity in valuation practices, making the insolvency resolutions credible enough to earn stakeholders' confidence.

A specialized tribunal or advisory body under the aegis of the IBBI could address IP-related matters, thus bringing expertise and oversight. It may act as a dispute resolution tribunal in matters of IPRs and advise insolvency professionals in the valuation of intangible assets; more fundamentally, it would be tasked with developing sectoral valuation norms. Establishing a mechanism for dealing with IP assets would significantly streamline the treatment of IP assets in insolvency proceedings, cutting backlogs and disputes.

Comprehensive training programs for insolvency professionals and valuers to bridge the knowledge gap in handling IPRs have become important. The programs should cover all the essential topics of the legal framework governing IPRs, valuation techniques, and market analysis. The quality of these programs can be enhanced by linking academic institutions and international organizations to develop professionals who are adequately equipped to deal with increasingly complex IP valuations.

It is imperative to amend the IBC to include provisions that expressly address the treatment of IPRs. A set of proposed amendments would therefore include define the scope of intangible assets with express reference to IPRs; mandate using certified valuers for assessing IP assets; allow securitization and monetization of IPRs during a resolution plan; and address jurisdictional issues in cross-border insolvencies involving an IP portfolio. The changing nature of the judiciary's approach to insolvency matters is evident

through legal precedents such as *Innoventive Industries Ltd. v. ICICI Bank and Swiss Ribbons Pvt. Ltd. v. Union of India*. Incorporation of the lessons learned from such cases into legislative reforms would strengthen the framework for the treatment of IP assets.

Securitization of IPRs refers to converting the IPRs into tradable financial instruments, through which businesses can use their IP portfolios for funding purposes. The benefits of policy incentives in such practices improve credit availability to innovation-driven enterprises. Among the tax benefits, government-backed guarantee schemes, and partnerships with financial institutions, IP securitization may be a way to enrich financial stability and contribute to economic growth.

With the increasing integration of India's economy into international markets, it becomes imperative to consider how other jurisdictions treat IPRs in insolvency proceedings. For instance, US, UK, and Germany have legal frameworks governing the treatment of IPRs vis-à-vis corporate bankruptcy. Insolvency laws need to be amended as they lack an implementation process.

IPR securitization, involves the role of IPRs in improving financial access for distress. Securitization allows companies to convert their intangible assets into tradable securities, providing liquidity that can be used to address economic distress. Future research should focus on the scope of IBC integration for IPR securitization, which may offer an important avenue for businesses to leverage their intellectual property more effectively in the recovery process.

With increasing interconnectivity, cross-border insolvency cases are becoming more frequent. IPRs in cross-border insolvencies raises complex legal questions, particularly for jurisdiction, recognition of foreign judgments, and the applicability of national laws. India can streamline its cross-border insolvency processes, particularly for IPRs, as the country seeks to strengthen its role in the global economy.

The IBC can be strengthened by introducing specific amendments that deal with the treatment of intangible assets such as IPRs. Specialized tribunals or advisory bodies must be established for the treatment and valuation of IPRs, and the introduction of specific provisions on the treatment of IP assets during insolvency resolutions stands out.

8. Conclusions

IPRs are an indispensable corporate resource, in sectors focused-on innovations and creativity. These are specifically relevant in today's corporate landscape of financial distress, like insolvency and bankruptcy proceedings. IPR management within the insolvency framework of India, is crucial in ensuring financial stability & promoting innovation in an economy increasingly based on intangibles. However, their penetration under the Indian Insolvency and Bankruptcy Code (IBC), is extremely problematic because the framework was mostly developed with consideration to real properties, machines, and securities. The lack of well-written rules to guide the valuation, administration and realization of IPRs upon insolvency often leads to their under-realization or poor management, hence failing to distribute favorable interests to the creditors as well as to the insolvent firm. Whereas Section 36 of the IBC places IPRs in the liquidation estate of the debtor, the legislative architecture is silent on strategies to be adopted to suitably value IPRs leading to significant difficulties in areas where intellectual property is the key value source. The lack of consistency of the valuation process and the qualified professionals in the insolvency environment have led to inconsistent treatment of intellectual property, reducing the chances of realizing the full market potential thereof. Accordingly, the patents, trademarks, copyrights and other IPRs that may be used as security or sold to affect a restructuring may be overlooked or undervalued in liquidation. Technology companies, are utilizing their portfolios in intellectual properties to gain finance, and bargain on business collaboration and market coverage. During insolvency, the under recognition and under-control of these intangible assets can destroy much value, endangering the recovery of creditors and reducing the chances of a business to exit distress. Guidelines should be developed to appreciate and administer IPRs in the course of insolvency processes, and train the insolvency professional to deal with intangible assets in a manner that portrays expertise. Firms should be able to use IPRs to finance their restructuring as opposed to outright liquidation. It would shift the insolvency process aligning with the priorities of creditors and, encouraging a business environment where enterprises are continually motivated to innovate and continue to drive sustainable economic growth even during financial stress.

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