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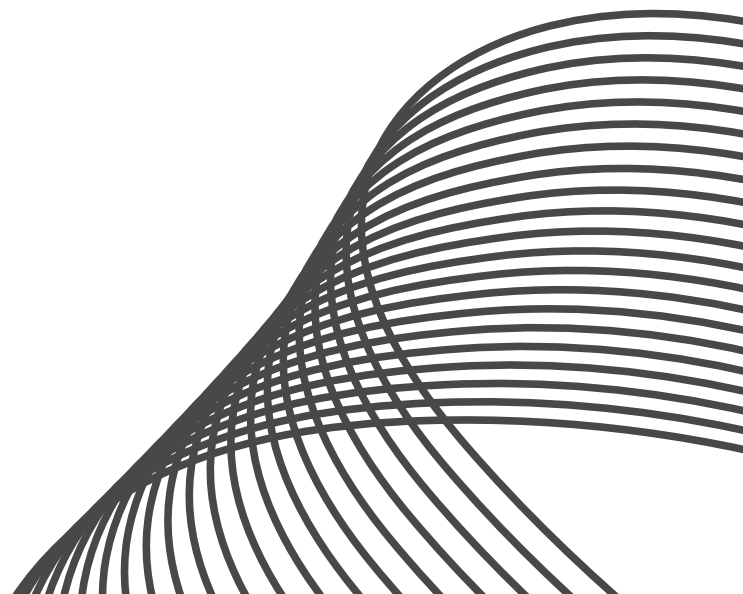
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## MONOPOLY VS. INNOVATION: RETHINKING COMPETITION LAW AND INTELLECTUAL PROPERTY RIGHTS INTERFACE IN INDIA'S DIGITAL AGE

~ Anisha Jauhar & Gunjan Iyer <sup>1</sup>

### Abstract

*India's digital age has amplified the paradox existing between monopoly and innovation, where on one hand intellectual property rights grant temporary exclusivity to the creators to spark ingenuity, yet risk creating a monopoly, and on the other hand competition law aims to restrict barriers to entry into the market. This article explores the delicate interface between intellectual property (IP) and competition law, examining how patents, trade secrets and copyright fuel digital platforms such as cab aggregators and AI platforms, potentially enabling them to engage in anti-competitive practices such as price surging and data hoarding. Through narratives, from commuters facing algorithmic fare spikes to creators challenging AI training on copyrighted works, this article examines the growing tension between protecting individual innovation and ensuring collective market access. India's legal framework, including the Copyright Act, 1957, Competition Act, 2002 and the Digital Personal Data Protection Act, strives to balance these forces, yet gaps persist.*

### Keywords

*Competition Law, Intellectual Property Law, Digital Economy, Surge Pricing, AI Training.*

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<sup>1</sup> You may contact the author at the following email address: [anishajauhar@gmail.com](mailto:anishajauhar@gmail.com) & [gunjan.iver20@gmail.com](mailto:gunjan.iver20@gmail.com).

**INTRODUCTION:**

*Serious problems arise when either regime - intellectual property protection or antitrust - is accorded disproportionate weight.<sup>2</sup>*

Monopoly and innovation in recent economic developments form a paradoxical duo: one thrives on disruption and upheaval, while the other guarantees security and reward for ingenuity. Intellectual Property Rights are rights conferred to individuals over the creative works of the mind. They grant creators exclusive rights over their intellectual property<sup>3</sup>, which in a way permits temporary monopolies in order to incentivize the creators. However, unchecked dominance can result in its abuse, which stifles the very innovation they seek to foster. This paradox lies at the heart of competition law, which aims to restrict barriers to entry in the market and safeguard consumer welfare.<sup>4</sup> In simple terms, Intellectual Property Rights protects innovations, expressions and creations through patents, copyright, trademark, industrial designs etc.<sup>5</sup> and Competition law prevents anti-competitive behaviours such as cartelisation and abuse of dominant position.

India's deep dive into the digital era has amplified this existing anomaly. Technology has woven its essence into the nation's soul, from bustling metros to remote villages; currently, there exist over 900 million internet users in India<sup>6</sup>. It is the third largest digitalised country and is estimated to contribute to one-fifth of the National Income by the year 2030.<sup>7</sup> This digital renaissance promises liberation for all, empowerment for the marginalized and efficiency for the masses, along with innovation unbound. Our nation has become the center for Big Tech dominance. The launch of Unified Payments Interface (UPI), in the year 2016, proved to be revolutionary. UPI alone

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<sup>2</sup> Robert Pitofsky, 54th Chairman of the Federal Trade Commission.

<sup>3</sup> World Trade Organization, *What Are Intellectual Property Rights?*, WTO, [https://www.wto.org/english/tratop\\_e/trips\\_e/intell\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/intell_e.htm) (last visited Sept. 26, 2025).

<sup>4</sup> Asia-Pacific Econ. Cooperation, *Study on Competition Laws for Developing Economies* (1999), [https://www.apec.org/docs/default-source/publications/1999/12/study-on-competition-laws-for-developing-economies-1999/99\\_cti\\_competitionlaw.pdf](https://www.apec.org/docs/default-source/publications/1999/12/study-on-competition-laws-for-developing-economies-1999/99_cti_competitionlaw.pdf) (last visited Sept. 26, 2025).

<sup>5</sup> World Intell. Prop. Org., *What Is Intellectual Property?* WIPO, <https://www.wipo.int/en/web/about-ip> (last visited Sept. 26, 2025).

<sup>6</sup> India Brand Equity Found., *India's Internet Users to Exceed 900 Million in 2025, Driven by Indic Languages*, <https://ibef.org/news/india-s-internet-users-to-exceed-900-million-in-2025-driven-by-indic-languages> (last visited Sept. 26, 2025).

<sup>7</sup> Press Info. Bureau, Gov't of India, *Future Ready: India's Digital Economy to Contribute One-Fifth of National Income by 2029-30* (Jan. 28, 2025), <https://www.pib.gov.in/PressReleaseIframePage.aspx?PRID=2097125> (last visited Sept. 26, 2025).

processed transactions of over Rs. 24.04 lakh crore in the month of June 2025 alone.<sup>8</sup> With the ease with which payments can be made today, it is difficult to imagine living without such inventions. Yet such data drive surge raises alarms. Imagine for a moment the shock of a commuter in Delhi, who opens an app to book a cab, only to face a tripled fare by an algorithm's whim. A surge that feels less like market dynamics and more like exploitation.

This article examines the interface between intellectual property rights and competition law in India, specifically the digital markets. By scrutinising legal frameworks, weaving narratives from cab aggregators to AI training disputes, the need for a recalibrated balance is highlighted. Where law reflects not just economic logic, but ethical wisdom, ensuring that India's digital dawn illuminates all parts, not mere of those who are privileged.

### **THE ANTITRUST-IP INTERFACE: CONCEPTUAL BACKGROUND:**

#### **INTELLECTUAL PROPERTY RIGHTS: MONOPOLY FOR INNOVATION:**

Intellectual Property Rights are the rewards given to the creators for their innovations and an incentive to create more for the benefit of the society. In India, copyrights are granted for the lifetime of the author plus 60 years<sup>9</sup> and patents grant a 20-year monopoly on inventions<sup>10</sup>, post which the works enter the public domain. This benefits the inventors by mitigating the free-rider problems. If no such protection via patent existed why would anyone invest billions in R&D knowing their competitors could effortlessly copy their technology? Joseph Schumpeter, an influential economist, termed this phenomenon as “creative destruction” where long term growth is fueled by temporary monopolies.<sup>11</sup>

In the digital era, however, these IP monopolies exist through the works of algorithms and data troves. Philosophically, we are faced with the question: whether innovation is nurtured by exclusivity, or does it entomb it in walled gardens, making it accessible only to the powerful?

Consider the example of a developer crafting an app, only to find that her code has been copied by a giant with deeper pockets. In this situation, she is granted a refuge by intellectual property rights, however, when a giant wields it, the same refuge turns into a barrier, locking out smaller voices.

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<sup>8</sup> Press Info. Bureau, Gov't of India, *India's UPI Revolution: Over 18 Billion Transactions Every Month, a Global Leader in Fast Payments*,

<https://www.pib.gov.in/PressNoteDetails.aspx?NoteId=154912&ModuleId=3> (last visited Sept. 26, 2025).

<sup>9</sup> Copyright Act, No. 14 of 1957, § 22 (India).

<sup>10</sup> Patents Act, No. 39 of 1970, § 53 (India).

<sup>11</sup> Richard Alm & W. Michael Cox, *Creative Destruction*, Econlib (Feb. 5, 2018),

<https://www.econlib.org/library/Enc/CreativeDestruction.html> (last visited Sept. 26, 2025).

In India, where our digital economy is fueled by innovation, it is critical to ensure that intellectual property rights remain a catalyst, and not a cage.

#### **COMPETITION LAW: PREVENTING ABUSE OF MONOPOLY:**

The role of competition law could be said to be the opposite. It is the guardian of the collective, a philosophical counterweight to IP's individualism. The Competition Commission of India (CCI), through the Competition Act, 2002, prohibits anti-competitive agreements<sup>12</sup>, abuse of dominant position<sup>13</sup> and promotes consumer welfare in the society. However, it uniquely carves out IP exemptions under section 3(5) of the Act,<sup>14</sup> imposing reasonable conditions in order to prevent an IP infringement of any person.

The IP's 'right to exclude' seems to contradict with the competition law's objective of 'right to compete'. A patent holder's refusal to license might spur innovation, however, it invites scrutiny when it leverages dominance to foreclose markets.<sup>15</sup> This occurrence is exemplified in the digital markets as data lock-ins amplify IP's exclusionary powers. From this paradox we can realise that the monopoly of intellectual property rights can be the necessary evil to spark invention, but only under the watchful eye of competition law can it let the rest of the marketplace flourish. Imagine a village artisan who is overshadowed by a platform's algorithm, who prioritises its own products. In such situations, competition law steps in to level the playing field and ensures that the minority's voices aren't drowned by monopolistic tides. Today our world is a global village<sup>16</sup>, where data flows like rivers and empires are made through platforms. This intersection demands justice to ensure the pursuit of innovation doesn't stifle the greater good. In digital spaces, this balance grows even more complex. Network effects and algorithmic control turn platforms into gatekeepers, where the market terms are dictated by their intellectual property rights.<sup>17</sup> [16] Vigilance here is of paramount importance in order to craft markets where competition fuels dreams, not despair.

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<sup>12</sup> Competition Act, No. 12 of 2003, § 3 (India).

<sup>13</sup> Competition Act, No. 12 of 2003, § 4 (India).

<sup>14</sup> Competition Act, No. 12 of 2003, § 3(5) (India).

<sup>15</sup> Robert Pitofsky, *Antitrust and Intellectual Property: Unresolved Issues at the Heart of the New Economy*, Fed. Trade Comm'n,

<https://www.ftc.gov/news-events/news/speeches/antitrust-intellectual-property-unresolved-issues-heart-new-economy> (last visited Sept. 26, 2025).

<sup>16</sup> Marshall McLuhan, *Understanding Media: The Extensions of Man* 6 (McGraw-Hill 1964).

<sup>17</sup> Julian Wallace, *Modelling Contemporary Gatekeeping: The Rise of Individuals, Algorithms and Platforms in Digital News Dissemination* (2017),

[https://www.researchgate.net/publication/318411801\\_Modelling\\_Contemporary\\_Gatekeeping\\_The\\_rise\\_of\\_individuals\\_algorithms\\_and\\_platforms\\_in\\_digital\\_news\\_dissemination](https://www.researchgate.net/publication/318411801_Modelling_Contemporary_Gatekeeping_The_rise_of_individuals_algorithms_and_platforms_in_digital_news_dissemination) (last visited Sept. 26, 2025).

**POINTS OF INTERSECTION:**

Tension is inevitable at the intersection of these two worlds, where the right to exclude of intellectual property rights meets the call to include of competition law. Section 3(5)<sup>18</sup> of the Act exempts reasonable IP agreements, recognizing that some monopolies fuel innovation. Philosophically, this evokes ancient debates on the commons. Knowledge, like land, must serve the collective once its creator's due is paid.<sup>19</sup> India's challenge is to craft a legal philosophy where IP and antitrust harmonize, ensuring that monopoly sparks innovation without smothering competition, and that digital progress uplifts all, not just the anointed.

**THE TURBULENT RIDE: IP FUELED DOMINANCE AND PRICE FLUCTUATIONS IN INDIA'S CAB AGGREGATORS:**

In our country, home to the world's largest population, everyone is in a hurry to be somewhere, while never being anywhere on time. Cab aggregators have revolutionized mobility, turning smartphones into portals for instant rides. A decade ago, such technology wouldn't even be imaginable, however, today's innovations have made it into a reality. Such convenience of an easy travel masks a deeper narrative of IP-driven dominance, where dominance is asserted through proprietary algorithms and data troves, that are responsible for causing price fluctuations. It does raise profound questions of innovation's double-edged sword. At the center of which lies innovation and intellectual property, patents on the matching algorithms, copyright on the app interface and trade secrets. These are also the cause of surge pricing, where the fare skyrocketed during peak demand<sup>20</sup>. It reiterates the monopoly-invention paradox: where IP has spurred the creation of an efficient and user-friendly system, its usage by dominant players can morph it into a tool for exclusion, where price fluctuations are no longer just market forces of demand and supply but rather resting on the boundaries of fair competition.

The convenience of cabs like Ola and Uber turns into a nightmare in a second. Consider my own experience as a regular commuter in Delhi's monsoon chaos. One evening, stranded after a late meeting, I opened the uber app only to discover the fare of a 10 km ride had tripled from the usual Rs. 200 to Rs 600, citing higher demand. The story repeated across the various cab aggregator

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<sup>18</sup> Competition Act, No. 12 of 2003, § 3(5) (India).

<sup>19</sup> Michael J. Boyle, *Understanding the Tragedy of the Commons in Economics: Causes and Solutions* (2025), <https://www.investopedia.com/terms/t/tragedy-of-the-commons.asp> (last visited Sept. 26, 2025).

<sup>20</sup> Junzhi Chao, *Modeling and Analysis of Uber's Rider Pricing*, ICEMCI 2019 (2019), [https://www.researchgate.net/publication/338438722\\_Modeling\\_and\\_Analysis\\_of\\_Uber's\\_Rider\\_Pricing](https://www.researchgate.net/publication/338438722_Modeling_and_Analysis_of_Uber's_Rider_Pricing) (last visited Sept. 26, 2025).



apps. As the rain continued its assault over the city, I spent nearly an hour waiting while various drivers cancelled or demanded extra cash, a complaint which has been echoed by thousands. This leaves commuters trapped in an algorithmic lottery. Another prominent incident is the differences in prices for different models of phones. An iPhone user often encounters a higher fare as compared to their android counterparts for the exact same destination.<sup>21</sup> These fluctuations cannot be considered as mere market mechanics, but a part of amplified IP-protected algorithms that analyse huge sets of data such as user locations, past behaviour, even the model of the device in order to maximise profits, more often than not, at the expense of equity.

CCI has scrutinized this dominance, probing whether such pricing constitutes abuse. In cases against Uber, allegations of predatory below-cost strategies to edge out rivals were dismissed for lack of proven dominance, yet concerns linger over algorithmic collusion, where platforms act as "hubs" facilitating price-fixing among drivers.<sup>22</sup> Ola faced similar heat, with findings of abusive conduct in Bangalore, including surge pricing that foreclosed competition.<sup>23</sup> Philosophically, this dominance challenges the IP rationale: algorithms, patented for efficiency, enable opaque pricing that erodes consumer trust, turning innovation into a veil for monopoly. As a customer, these experiences feel like a betrayal: the app that promised empowerment now dictates terms, with surges during strikes or rains exacerbating vulnerability.

## **MONOPOLY AND INNOVATION IN INDIA'S DIGITAL ECONOMY:**

### **RISE OF DIGITAL PLATFORMS:**

India's digital landscape is a modern mythology, where platforms such as Google, Amazon, Flipkart, Reliance, wield IP and data as sceptres of power. These tech giants are armed with patented technologies and copyrighted interfaces with much ease. This raises a timeless question: does innovation thrive in concentrated power, or does it demand multiplicity? From the consumer's perspective, these platforms offer efficiency. Hassle free shopping, instant communication and much sought-after convenience. However, their IP-protected ecosystems exclude and sideline

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<sup>21</sup> Tini Sara Anien, *Why Do Android Users Pay Less Online?*, Deccan Herald (2024), <https://www.deccanherald.com/india/karnataka/bengaluru/why-do-android-users-pay-less-online-3273642> (last visited Sept. 26, 2025).

<sup>22</sup> Nikita Shah & Yaatri Shah, *A Tail Without the Head: A Non-“Competition” Law Market Study on the Cab Aggregator Industry*, 12 Int'l J. on Consumer L. & Prac. (2024), <https://repository.nls.ac.in/cgi/viewcontent.cgi?article=1294&context=ijclp> (last visited Sept. 26, 2025).

<sup>23</sup> Asian Int'l News, *Supreme Court Seeks Response from Ola in “Predatory Pricing” Case* (2022), <https://www.ndtv.com/india-news/supreme-court-notice-to-ola-in-predatory-pricing-case-2960115> (last visited Sept. 26, 2025).



startups and bury diversity. We all marvel at Amazon's ease, Blinkit's 10-minute delivery, yet wince when we see the local sellers of our childhood vanish, unable to compete with its algorithmic might.

#### **DATA AS THE NEW IP:**

Data has become the lifeblood of this new digital age that often blurs into IP through copyrights on databases and as trade secrets on algorithms. Data is unlike traditional IP. Its non-rivalrous nature invites philosophical reflection: should it be hoarded like a treasure, or shared like a river? The DPDP Act's<sup>24</sup> fiduciary duties hint at a communal view, yet exemptions for AI training risk establishing giants. As users we often notice how our search patterns shape ads, how searching for a product on one platform leads to a multitude of those products being shown on another platform.<sup>25</sup> Yet, we are locked out of the data's value. This rising tension probes the ethics pertaining to ownership: does data's exclusivity foster refinement, or does it choke the ecosystem's vitality? A balance should be strived, where data empowers all, not just the dominant.

#### **AI TRAINING ON COPYRIGHTED WORKS:**

An ethical fire is ignited by AI's voracious appetite for data: Can machines feast on human creativity without consent? In India, the landmark case of *ANI v. OpenAI*<sup>26</sup> has sparked major debates across the nation. ANI, a news agency, has accused OpenAI of training its GPT-4 database using its copyrighted footage and articles without permission, and claiming infringement under the Copyright Act, 1957. The opposition countered by arguing lack of jurisdiction, claiming that no training occurred in India, and thus there was no infringement under the local law.<sup>27</sup> As of September 2025, the case remains ongoing, with the court deliberating whether text and data mining for AI falls under the ambit of section 52's<sup>28</sup> fair dealing provisions. Such ambiguity is the cause of an outdated framework, predating AI's rise. This case could set a precedent, potentially requiring royalties for training data.

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<sup>24</sup> Digital Personal Data Protection Act, No. 22 of 2023 (India).

<sup>25</sup> Spreeha Dutta, *How Does Instagram Show Me Ads About What I Have Searched on Google*, Medium (2020), <https://medium.com/swlh/how-does-instagram-show-me-posts-regarding-what-i-have-searched-on-google-20744326a4a9> (last visited Sept. 26, 2025).

<sup>26</sup> *Ani Media Pvt. Ltd. v. OpenAI, Inc.*, CS (Comm) 1028/2024 (Del. HC).

<sup>27</sup> Pragya Jha, *Does Human Learning Equal Machine Learning? High Court of Delhi to Rule on Lawfulness of TDM for Machine Learning* (2025), <https://legalblogs.wolterskluwer.com/copyright-blog/does-human-learning-equal-machine-learning-high-court-of-delhi-to-rule-on-lawfulness-of-tdm-for-machine-learning/> (last visited Sept. 26, 2025).

<sup>28</sup> Copyright Act, No. 14 of 1957, § 52 (India).

Competition law enters as a vital counterbalance, addressing the issue of IP misuse in training AI databases can foster monopolistic dominance. Section 4<sup>29</sup> of the Competition Act, could apply when AI giants hoard copyrighted data and create barriers for smaller players to enter into the market. In India's digital tapestry, this intersection demands a humane approach, to ensure that AI respects the human spark while fostering a market where innovation thrives collectively and not monopolistically.

## CONCLUSION:

The paradox of monopoly and innovation endures as a profound philosophical riddle, one that probes the essence of creation, ownership, and community in an ever-evolving world. IP's temporary monopolies ignite the individual's creative fire, offering sanctuary for bold visions to take shape, while competition law makes it certain that the flame warms the collective rather than scorching it. In India's digital odyssey, this balance is not merely optional but existential in shaping whether technology becomes a liberator or a divider. The narratives reveal that balance is achievable, not through rigid dogma but through empathetic adaptation.

As platforms rise and AI awakens, India stands poised to philosophize a new paradigm: one where IP rewards the pioneer without isolating the pathfinder, and competition fosters multiplicity without diminishing merit. Reforms must embody this spirit, guidelines that clarify, regulations that collaborate, and global dialogues that inspire. Ultimately, this balance holds the key to a future where creativity lifts all boats. Might India lead the way, forging a new paradigm for the world? Crafting a future where innovation's monopoly yields to humanity's shared symphony.

Reforms must harmonize and create a balance between IP protection and free and fair market competition, ensuring progress lifts all. Can India forge a global beacon? With wisdom, yes.

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<sup>29</sup> Competition Act, No. 12 of 2003, § 4 (India).