



[Click here to access](#)



# Need for Inventor Remuneration Law in India

September 2021

-  
[home.kpmg/in](https://home.kpmg/in)



## Foreword – KPMG in India

A content and motivated workforce is key to the sustainable growth of an organisation. Amongst other pertinent parameters, optimal compensation and reward strategy are integral to achieving desired objectives for employee satisfaction.

Over the years, employee remuneration plans have acted as a stimulus to enhance employee motivation, morale and retention and have been a catalyst in employee performance.

As a country like India, wants its scientists and innovators to prosper and the number of innovations to increase, it must follow the footsteps of other jurisdictions and ensure that innovators and scientists get their share in the gains arising from the commercialisation and licensing of patents. The Government of India has proposed various policies, incentives, and interventions to drive innovation. However, notwithstanding companies definitive

glaring exposure, there is a lot of vulnerability with respect to the employee inventor rights to receive compensation.

For the implementation of the remuneration schemes, suitable models are required to ensure widespread and effective reach of the initiative. Such arrangements would focus on establishing an appropriate reward design program that would motivate employees to invest in innovations. The program will have to be free of all loopholes as for a country like India with a huge population, it is very important to cover all the loopholes of any national law in order to get its positive result get reflected in the number appropriately.

KPMG in India, through its Need for Inventor Remuneration Law in India report in 2021, attempts to introduce experiences driving industry practices, differentiators and patterns dependent on our information gathered from a range of associations.

Need for Inventor Remuneration Law in India report 2021, targets directing organisations and start-ups aiming at setting up compensation practices, by giving them a review to the current worldwide patterns and simultaneously focusing light on countries offering motivations to their inventors through various incentives.

We had nearly 150 participants invest their valuable time in completing the survey and we sincerely thank them for their contributions. We believe this survey will serve as a reference for companies contemplating either to roll out new plans or re-evaluate existing plans given the current trends (including COVID-19).

We hope you find this edition insightful and useful.



**Ritesh Tiwari**  
Partner, Advisory



**Dr. Pinaki Ghosh**  
Senior Advisor, Innovation and Intellectual Property Advisory



**Sumantra Mukherjee**  
Director, Innovation and Intellectual Property Advisory



# Foreword – NIPO- The Indian IPR Foundation

The continuous cycle of creation, innovation and commercialisation has significantly evolved intellectual property regime in India. India is a country with vast innovative potential. Thus, fostering and encouraging this potential is pivotal to India's economic growth. Incentivising innovators by acknowledging their right to remuneration has been a subject of increasing interest among the world's leading countries. In India, there are no uniform provisions regarding service patents and related inventor remuneration laws.

The National Intellectual Property Rights (IPR) Policy, approved in 2016 recognises the importance of intellectual property in promoting creativity, innovation, and entrepreneurship. The Policy aims to create an environment where creativity and innovation are encouraged in public and private sectors, R&D centers, industry, and academia, leading to generation of protectable IP that can be commercialised. Thus, standardised provisions on

inventor remuneration would further nurture the IP culture in India, guiding and enabling all creators and inventors to realise their potential for generating, protecting, and utilising IPRs which would contribute to wealth creation, employment opportunities and business development.

The inventor remuneration landscape is still developing in India. NIPO and KPMG in India through this study have identified International best practices on inventor remuneration from countries such as Germany, Japan and United Kingdom, which have developed and enacted these legislations. These best practices can be adapted to meet the requirements of the Indian IP framework which will encourage research and innovation in the country.

The Indian government has made significant progress in improving the R&D and intellectual property ecosystem in India. With significant steps showcasing that the developing Indian economy is best equipped for entrepreneurship and their IP rights, the Prime

Minister of India, in the 107th Indian Science Congress quoted, the goal is to "*patent, produce, and prosper.*"

Thus, a uniform set of incentive mechanisms for inventors can be crucial to improve both the quality and quantity of patents in India. India is a key contributor to the world economy as one of the leading giants in industrialisation and entrepreneurship. A conscious and consistent effort is required to achieve this objective of improved patenting.

NIPO and KPMG in India are privileged to present this report created for inventor remuneration in India which encompasses suggestions and contributions from key stakeholders of the Indian and international IP community.



Prof. TC James

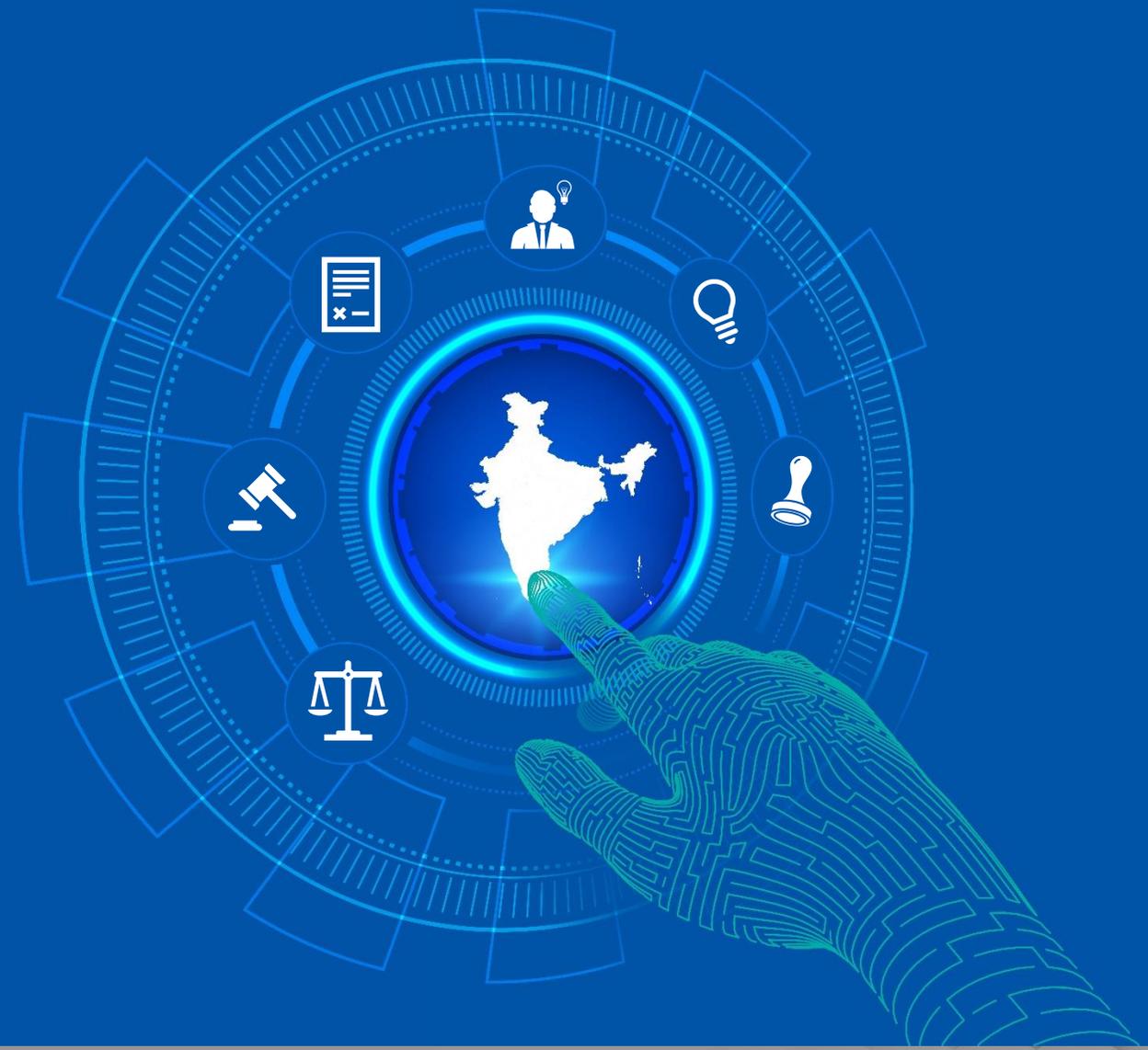
**President**

NIPO - The Indian IPR  
Foundation

# Table of contents

- [> Executive summary](#)
- [> Overview](#)
- [> A global perspective](#)
- [> People's opinion](#)
- [> Way forward](#)

 *Please click to directly refer / access respective sections*

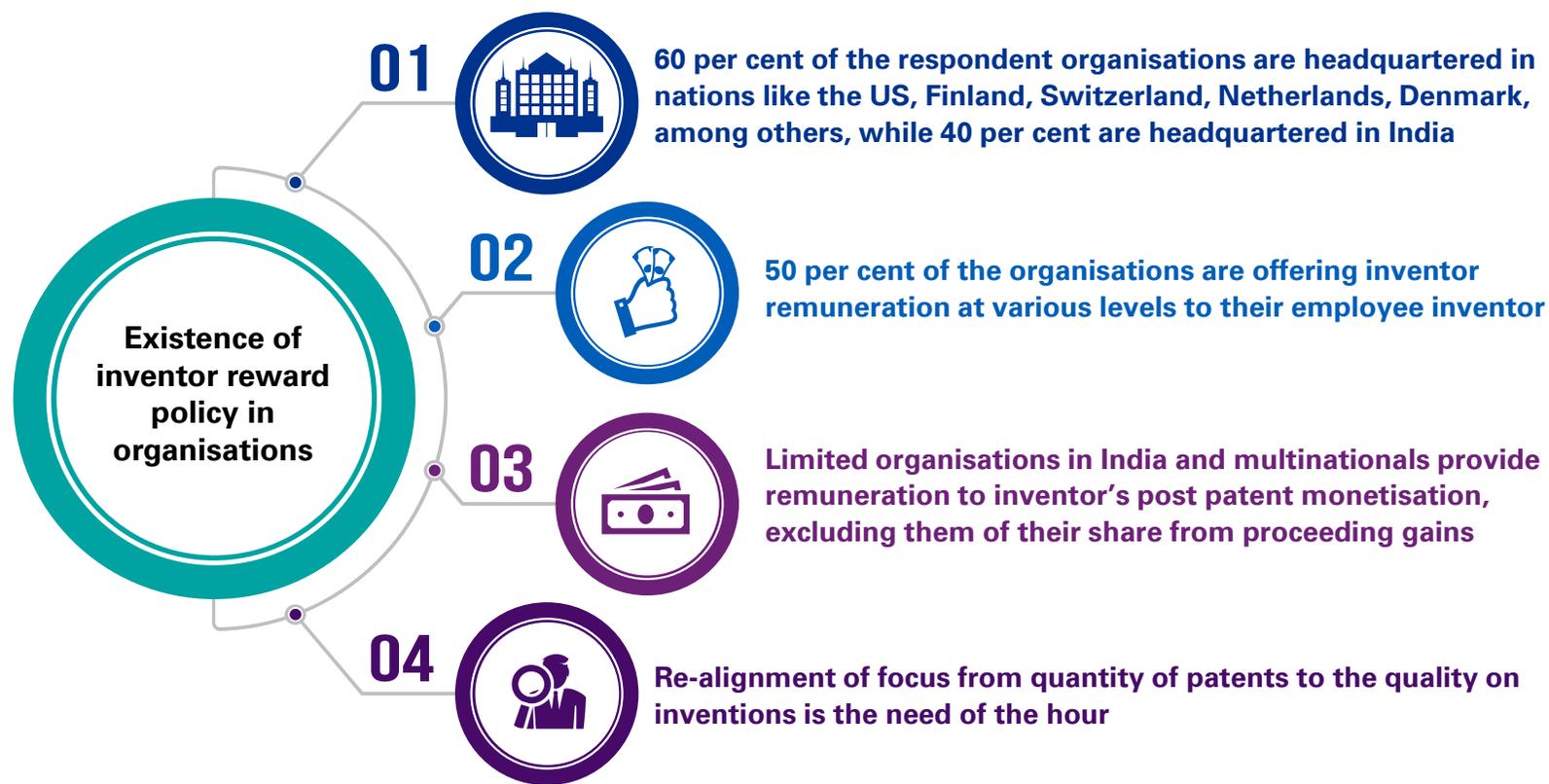


## Executive summary

Innovation drives economies and organisations in their path to create an evolved societal structure. Researchers, innovators, inventors, developers – howsoever we address them, are the backbone for the world to create value by innovating products, compounds, technologies and solutions. Therefore, our society needs to build a framework that will recognise and incentivize the efforts of researchers and inventors resulting in a knowledge and innovation-driven economy.

**The National IPR strategy**, as of late supported by the Union Cabinet, is a powerful step by the Government of India to spike imagination and encourage innovation. The theory for the national IPR strategy lies in the need to **make mindfulness about the significance of Intellectual Property Rights (IPR)** as an attractive monetary resource and financial tool. <sup>[1]</sup>

To comprehend the presence of inventor remuneration practices in associations across India, a study with the pool related to the inventor remuneration policies was sent to around 30+ organisations. Each company was asked to answer several questions regarding its employee invention compensation practices. The responses are summed up underneath.



1. National Intellectual Property Rights Policy, Government of India, May 2016



## Executive summary

2/2

### Key findings about organisations offering reward policy to their employees

- **50 per cent of the organisations** across various sectors **have inventor remuneration policies.** However, it does not encompass the lifecycle of the invention i.e., from cradle to grave
- **64 per cent of the organisations** have been **offering the reward policy for over 5 years**
- **32 per cent** have introduced the policy **in the past 1-5 years**
- **4 per cent of the respondents** have introduced a reward **policy in the last 1 year**
- An increasing trend towards offering **inventor remuneration opens room for policy creation.**



### Key findings about organisations NOT offering reward policy to their employees

- **Around 95 per cent of the respondents** lacking inventor incentives in their organisation feel that an **inventor reward strategy would help in inspiring the innovators in an organisation**
- **Around 78 per cent of the entire respondents** feel a law ought to be passed in India to **create an equitable compensation strategy by all organisations.**



It is therefore critical, especially now in times of slowdown, to implement an inventor remuneration law in India for the inventor employee, which will help in uplift the innovation ecosystem therefore, result in faster Gross Domestic Product (GDP) growth. The law should be simple to implement and easy to monitor and comply with by organisations and enforcement agencies. The focus should be around creating a law or framework that will not burden organisations as well as our judiciary system, such that the benefits to our innovation ecosystem outweigh the investments.





# Overview

1/6

## Understanding the Inventor Remuneration Law

The Indian Patents Act 1970 contains no specific clause/rule governing the remuneration of inventors in case of service inventions, which often originate from tasks performed by inventors during assigned work, utilising company resources. Therefore, if the amount and quality of patents generated in India are to rise, **an incentive mechanism for inventors is the need of the hour.**



Inventions are a product of human intellect. In simple words, 'Invention is something that has never been done before or the process of creating something that has never been made before.'

One approach to elevate innovation is to ensure the prime mover a restrictive right to that new product or procedure. Intellectual property rights incorporates patents, which provided the creator the restrictive legitimate right to make, use, or sell the creation for a defined period.

In case a company employee makes his/her invention during the term of his/her employment, it is called a service invention. <sup>[2]</sup>

Inventor remuneration is the consideration that an employer passes on to their employees when an employee inventor, invents something and such invention contributes to the economic benefit of the employer.

The existing remuneration program in various countries governs that the employer should provide economic benefits to inventors whose inventions are generating profits for the

organisation. The purpose of compensating inventors is to motivate genius and promote innovation.

The Indian patent system provides an incentive for Intellectual Property owners and applicants to disclose their inventions in return for exclusivity right for 20 years.

In case of service inventions that originate from an employer-employee relationship under a work contract, ownership rights are transferred from the employee to the employer (company). **Be that as it may, in many organisations – small scale or large scale – only 20 per cent of employees invent and file patent applications in dedicated engineering centers. On the contrary, only 1-2 per cent of employees in other organisations invest and file patent applications. While the organisation benefits from such intellectual property protection, the question that arises are employee inventors getting compensated adequately?** <sup>[3]</sup>

**In the past ten years, over 14 European nations and six Asian nations (Japan, China, Russia, Republic of Korea, etc.)**

**have introduced inventor remuneration laws or have made amendments to their existing remuneration laws. These countries have effectively arranged law/standards identifying with employee inventions.** <sup>[3]</sup>

Indian patent law offers little direction on dealing with employee innovations. India may need a similar thrust as other nations. With a developing economy and an advancing work environment, it is currently an ideal opportunity to solidify the situation on the ownership for inventions. The insertion of a provision that deems ownership of the patent to the employee will certainly motivate Indian inventors and boost the number - as well as the quality – of patent filings. <sup>[3]</sup>

2. Overview of employee inventions law, Bardehle Pagenberg, August 2018
3. Why India needs an Inventor remuneration law published by Balwant Rawat and Anshuman Awasthi, IAM media, June 2020

## Overview

### Why India needs Inventor Remuneration Law?

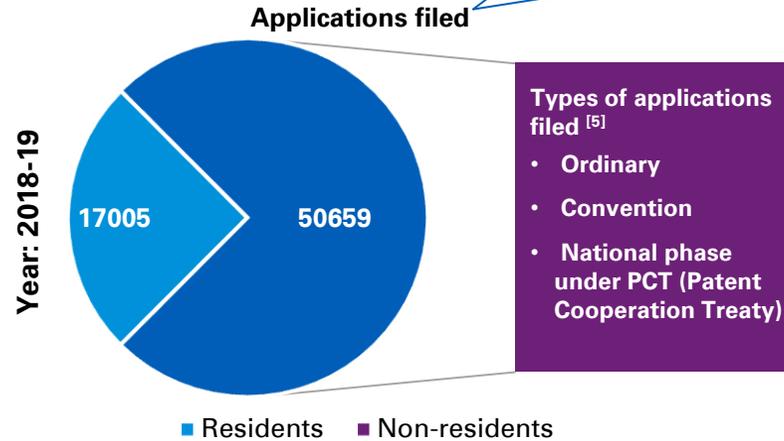
#### Challenges

- According to the latest IP India annual report 2019, the number of non-resident patent applications filed in **2018-19 was 50,659, showing an increase of 5.9 per cent** over the filing of 47,854 in 2017-18 <sup>[4]</sup>
- Among all other foreign countries, **the United States** has filed maximum number of patent applications accounting for **27 per cent of all applications between 2018-2019 in India** <sup>[5]</sup>
- Patent filing counts at the Indian patent office continue to be a matter of concern, as the number of filings has grown at a Compound Annual Growth Rate (CAGR) of a mere 3 per cent over the past decade.<sup>[6]</sup>



4. Annual report 2018-2019, The office of the controller general of patents, designs, trademarks and geographical indications, 2019  
 5. India lagging behind in homegrown innovation, Dazeinfo briefs, September 2020  
 6. Why India needs an Inventor remuneration law published by Balwant Rawat and Anshuman Awasthi, IAM media, June 2020

Maximum percentage of patent applications are filed by non-residents.<sup>[5]</sup>



- A resident filing refers to an application filed in the country by its own resident.
- Non-resident filing refers to the one filed by a foreign applicant. <sup>[5]</sup>

#### How can the law help in promoting local innovation?



It will encourage more research and development in the country

Inventors will get the right compensation, recognition and respect, which may lead to motivation and inspiration for other employees

Inventors will be looking for benefits and will also help in improving the quantity and quality of patent filings

## Overview

3/6

### India - On the path of innovation

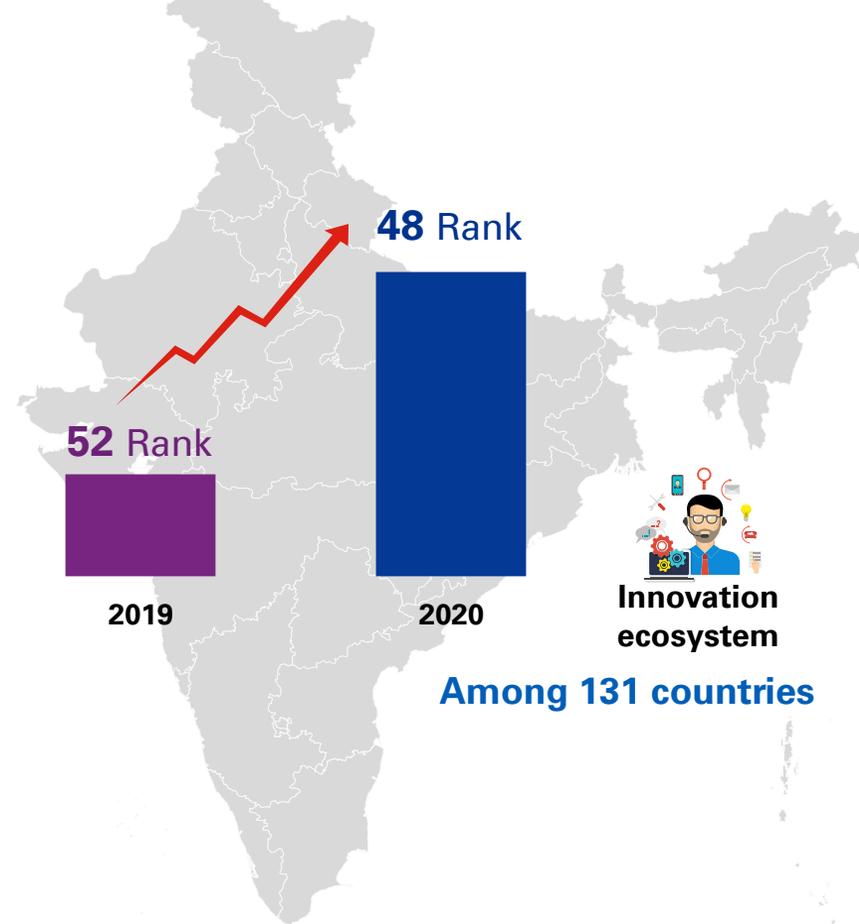
India is amongst the fastest-developing economies and has gained huge headway somewhat recently in building the advanced ecosystem.

With around **50,000 start-ups**, it is presently the third-biggest start-up hub, succeeding the United States of America (U.S.A) and the United Kingdom (U.K.) <sup>[7]</sup>

#### Facts

- India **beats the positioning in development economies ranking in Central and South Asia** <sup>[7]</sup>
- India has been perceived **for being innovation achievers for 10 consecutive years** <sup>[7]</sup>
- India is perceived **for sustaining its start-up networks.** <sup>[7]</sup>

Global innovation index 2020 <sup>[7]</sup>



Today there are more than 500 start-up incubators in the nation set up by the government organisations to sustain early-stage businesses and assemble the advanced ecosystem. The organisations collaborate with these start-up incubators to provide customised awards, delicate credits, and value-connected ventures to finance developments directly from the thought stage to the commercialisation channel.

These government awards are significant in supporting new companies during their foundation stage thus provide support in engrossing the innovation risk. <sup>[8]</sup>



7. Global innovation index 2020 report, Cornell University, September 2020  
 8. Chapter on financial innovation in India, Deepanwita Chattopadhyay, 2020

## Overview

4/6

### India - On the path of innovation

Promoting an innovation culture <sup>[9]</sup>

National Science and Technology Entrepreneurship Development Board (NSTEDB)



Biotechnology Industry Research Assistance Council (BIRAC)



Biotechnology Ignition Grant (BIG) scheme



Global Innovation Technology Alliance (GITA)



IP facilitation centers



National institution for transforming India, NITI Aayog



NIDHI-PRAYAS



Department for Promotion of Industry and Internal Trade (DPIIT)



Technology Development Board (TDB)



9. Chapter on financial innovation in India, Deepanwita Chattopadhyay, 2020



# Overview

5/6

## Innovation ecosystem by Government of India

### Innovation schemes



#### Start-ups Intellectual Property Protection (SIPP) (Started in 2016)

- The SIPP scheme **intends to advance mindfulness and adoption of intellectual property rights amongst start-ups**
- The plan is aimed to support and coach creative and emerging advances among start-ups and **help them in securing and commercialising by giving them admittance to quality IP services and assets.** <sup>[10]</sup>



#### Modernisation and Strengthening of Intellectual Property Office (MSIPO) (Started in 2008)

- The MSIPO scheme aims at supporting **the abilities of the intellectual property offices in India**
- To foster a lively protected intellectual property system in the country
- To foster present day framework for the Indian patent offices to work as an International Search Authority (ISA) and International Preliminary Examining Authority to meet the prerequisites for worldwide enrollment of trademarks. <sup>[11]</sup>



#### Technology and Innovation Support Centers (TISC) (Started in 2009)

- TICS scheme aims at designing mindfulness and **capacity building intellectual property rights**
- The scheme provides a search facility to inventors, conduct IP training program
- The scheme also includes **IP asset management, assistance in commercialisation and strengthening Technology Transfer Offices (TCO).** <sup>[12]</sup>

10. Scheme for facilitating Start-ups Intellectual Property Protection (SIPP), Vikaspedia, 2020

11. Brief on Modernisation and Strengthening of Intellectual Property Office (MSIPO), Government of India, 2020

12. Establishment of Technology and Innovation Support Centers (TISC), India EducationDiary, April 2020



# Overview

6/6

## Innovation ecosystem by Government of India

Some of the **Micro, Small and Medium Enterprise (MSMEs)** initiatives by the Government of India to promote innovation:

- **Scheme for building awareness on Intellectual Property Rights (IPR) for MSMEs, an NMCP scheme** - The NMCP scheme for MSMEs targets recognising IPR needs of an MSME industry and counsel to fortify the IP portfolio. The finances is accommodated for a patent, geographical indications, and trademark registration. <sup>[13]</sup>
  - **IP initiatives to drive 'Make in India'** - The Department of Industrial Policy and Planning (DIPP), Ministry of Commerce and Industry and Government of India, has figured a plan to foster IP to elevate innovation and to foster the culture of regard for advancements and innovativeness. <sup>[13]</sup>
- Few benefits provided under the scheme are as follows:
- **10 per cent rebate on online filing:** To empower online filing of IP applications, a 10 per cent refund on online filing of applications and documents have been provided; online filing has increased from under 30 per cent to more than 80 per cent in just a span of one year due to such a rebate <sup>[13]</sup>
  - **Fee concession for MSME:** To urge inventors to develop and seek protection for their inventions, a 50 per cent fee reduction has been accommodated for MSMEs. <sup>[13]</sup>

Remuneration law in India, if implemented well, can be one of the major drivers for Indian inventors to come out with disruptive innovations, thereby enhancing the quantity and more importantly, the quality of patent filings. This initiative will then help organisations to be more competitive in the global landscape, eventually improving their worldwide market positioning.

13. Schemes of Government to reimburse the cost of patents, Oriigin IP Solutions LLP, May 2020





## A global perspective

1/2

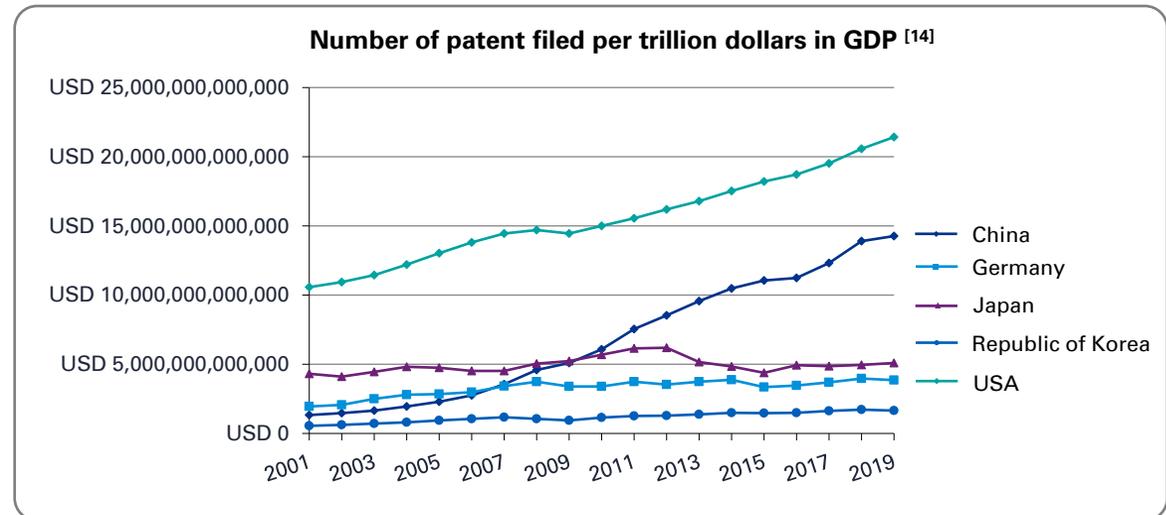
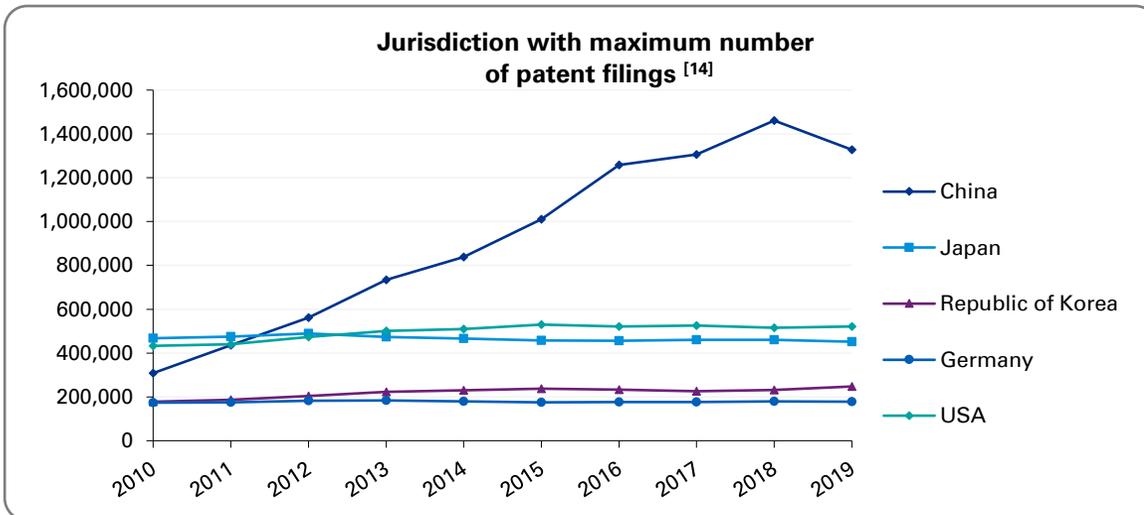
### Global patent filings and growth rate

- The top five countries that have maximum patent filings are the USA, China, Japan, Germany and The Republic of Korea <sup>[14]</sup>
- These leading nations are investing and promoting their intellectual property protection culture well and extensively over the years. A strong relationship between higher patent filings and economic growth can be witnessed, also illustrated in the trends below <sup>[14]</sup>

- Despite the COVID-19 pandemic, the contribution in the inventions grew by 4 per cent in 2020 and reached **2,75,900** PCT applications. China filed the maximum number of patent applications, trailed by the USA, Japan, the Republic of Korea and Germany. <sup>[14]</sup>

Overall interest for IP rights, which help trailblazers and enterprises take their plans to the market, has truly and extensively followed worldwide monetary

execution. Be that as it may, development over the previous decade in the utilisation of **WIPO's global IP services, most eminently the PCT, has exceeded worldwide GDP growth and India needs to catch up with the rest of the growing economies on IP protection with higher patent filings.** <sup>[15]</sup>



14. Innovation perseveres: International Patent Filings, WIPO, March 2021

15. The relationship between annual patent filings and GDP, Legal Business World, April 2019

# A global perspective

2/2

## Nations with Inventor Remuneration Laws

## Compensation

Understanding the laws applicable in different nations can provide useful lessons in smooth functioning, if these laws are to be implemented in India in the future. Countries, such as **Japan has amended the laws over the years. Germany has a detailed, well-calculated remuneration system.** Countries, such as **Sri Lanka, Vietnam, Malaysia, Austria, Denmark, Finland, France, Hungary, Italy and the United Kingdom** have provisions for inventor remuneration law.

In countries such as **Romania, Belgium, the Netherlands and India**, inventor remuneration may or may not be enforced by law, but is in a nascent stage with increased awareness, as some companies have started to follow it as a best practice.

### Countries with developed inventor remuneration law

#### Germany

*German Employee Invention Act 1957*

- Contract between employee and employer
- According to guidelines by law

$$V=A * E * M$$

where *V*= amount of remuneration, *A* = share factor, *E* = value of the invention, *M* = percentage of each inventor's share (only applicable to multiple inventors).<sup>[16]</sup>

#### China

*Article 16 of the PRC (The People's Republic of China) Patent Law*

"An entity owning or holding the patent right shall award to the inventor or creator of a service invention-creation a reward and, upon the exploitation of the patented invention-creation, shall award to the inventor or creator a reward at the time that the employer licenses an employee-created patent to a third party."<sup>[17]</sup>

#### The Republic of Korea

*Korean Invention Promotion Act*

Article 11 of the Korean Invention Promotion Act provides a provision for the implementation of employee's invention compensation system and supportive policies.

The South Korean government has established and enforced supportive policies for the implementation of employees' invention compensation system.<sup>[18]</sup>

#### Japan

*Japanese Patent Act (Article 35)*

Known to be 'Inventions by employees'

- Provides the right to receive a reasonable amount of money and other economic benefits (paid holiday etc.) to the employee inventors in Japan. <sup>[19]</sup>

16. German law on inventions made by employees' remuneration, Prinz & Partner, November 2017

17. Reward and remuneration standards for employee inventors in China, Mondaq, October 2019

18. Invention promotion act 2016, Government of Korea, October 2017

19. Japanese Patent Act 1959, Government of Japan



# People's opinion

1/8

## Brief outline of the survey

In the previous chapter, we saw how India is promoting the path of innovation and its importance for the development of the country. Further, nations with inventor remuneration laws are ahead in research and development and a positive co-relationship was observed between higher patent filings and higher GDP growth rate. Therefore, it may be useful to summarise that if India also wants to advance in development, then such laws' implementation may be useful.

The questions which come first are:

- How to start?
- Where to start?
- Do companies already provide inventors remuneration?
- Will companies find this law encouraging for their employees?
- What do employees think about this law?

**In view of the above questions, NIPO- The Indian IPR Foundation and KPMG in India** have taken the first step to build a better understanding of the existing ecosystem through discussion with relevant stakeholders, spread awareness amongst the community, and explore the possible implementation scenarios of the leading practices in the Indian context.

Do you foresee any challenges (operational or otherwise) in having this law promulgated? And why?



At what point of invention's journey is the reward distributed?



How is inventor contribution determined?



### Industry

- Industrial manufacturing
- Technology and ITeS
- Financial services
- Automotive
- Pharmaceutical and healthcare
- Telecom
- Industry associations
- Academia and research organisation



150+ respondents



Is there an inventor reward policy in your organisation?



India and foreign based organisations



Since how long is this policy present in your current organisation?



In your opinion, does an inventor reward policy motivate the inventors?





## People's opinion

2/8

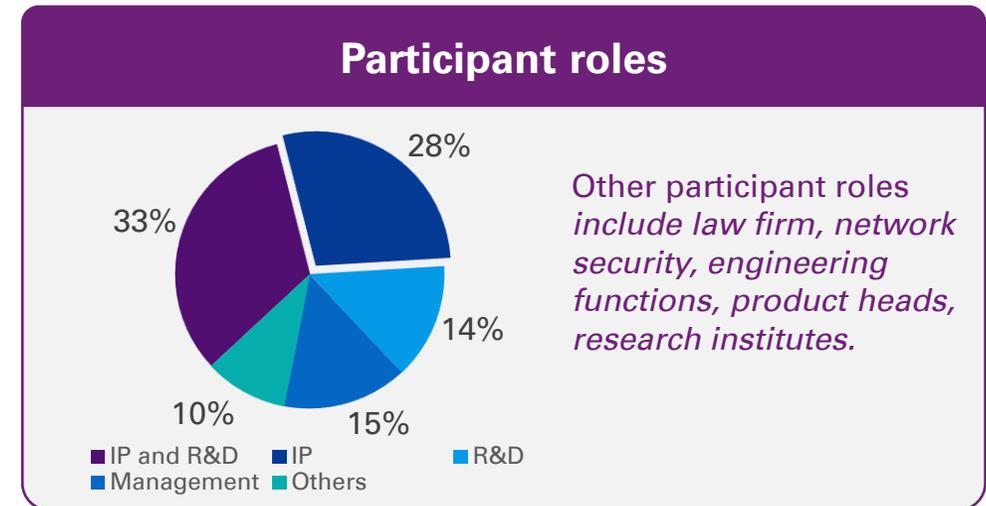
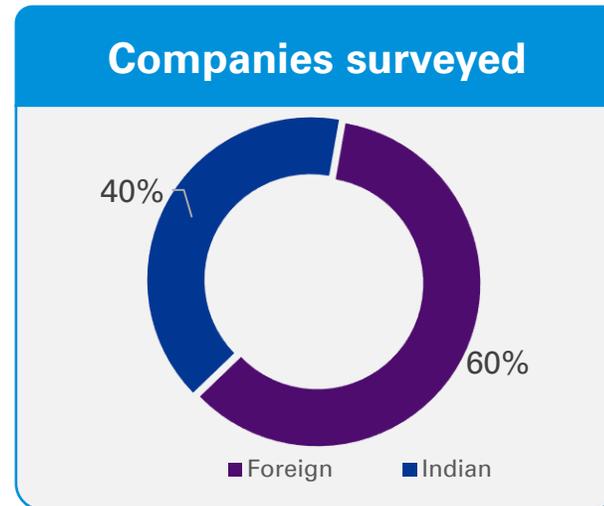
### Inventor reward policy

#### 1. Is there an inventor reward policy in your organisation?

- The respondents of the survey were from various backgrounds, **33 per cent from IP and R&D** combined, followed by **28 per cent of them working in the IP sector exclusively**. A small fraction of **15 percent** are from the **management sector**. **60 per cent of the organisations** surveyed were headquartered **outside India**
- There was an **equal divide for the response of the question**, as **50 per cent of the employees** have an inventor remuneration program in their organisation; however, **50 per cent of the respondents'** organisations do not have such a program.



### Organisations

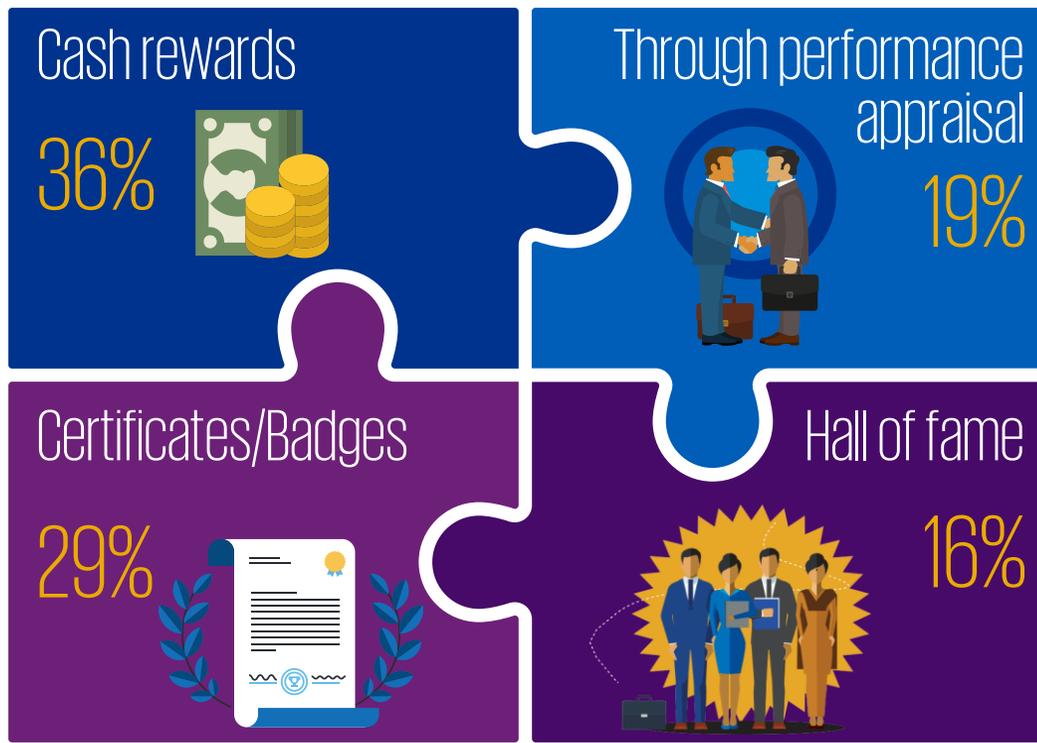


Source: KPMG in India's need for inventor remuneration law in India survey 2021

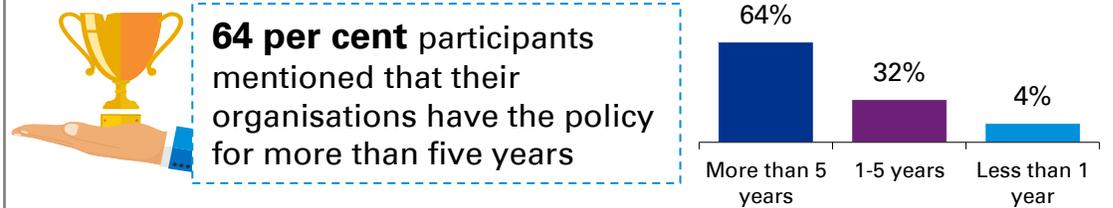
 People's opinion

**Inventor reward policy**

**2. Various forms of rewards (in case of organisations providing rewards as a part of inventor reward policy)**



**3. For how long has this policy been present in your current organisation?**



Source: KPMG in India's need for inventor remuneration law in India survey 2021

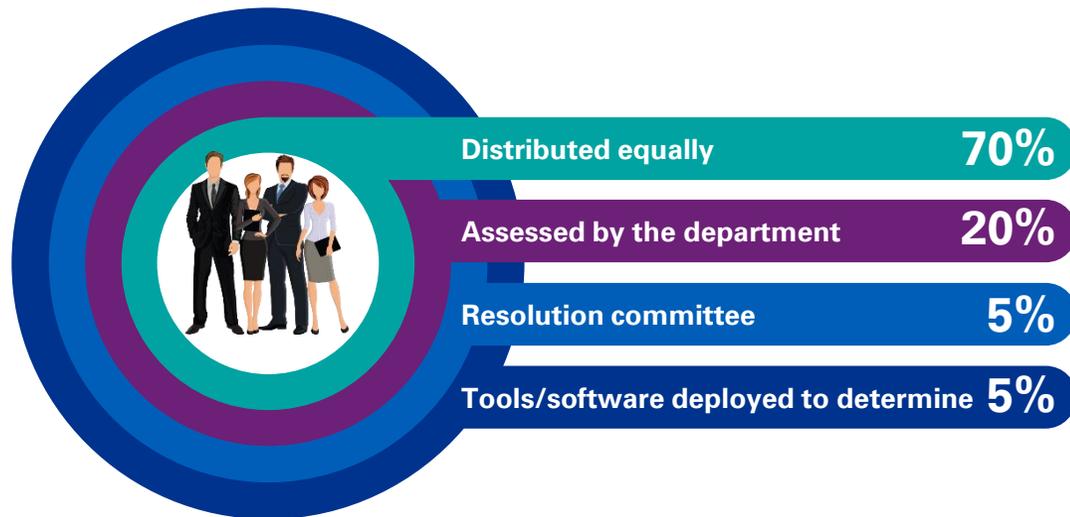


# People's opinion

4/8

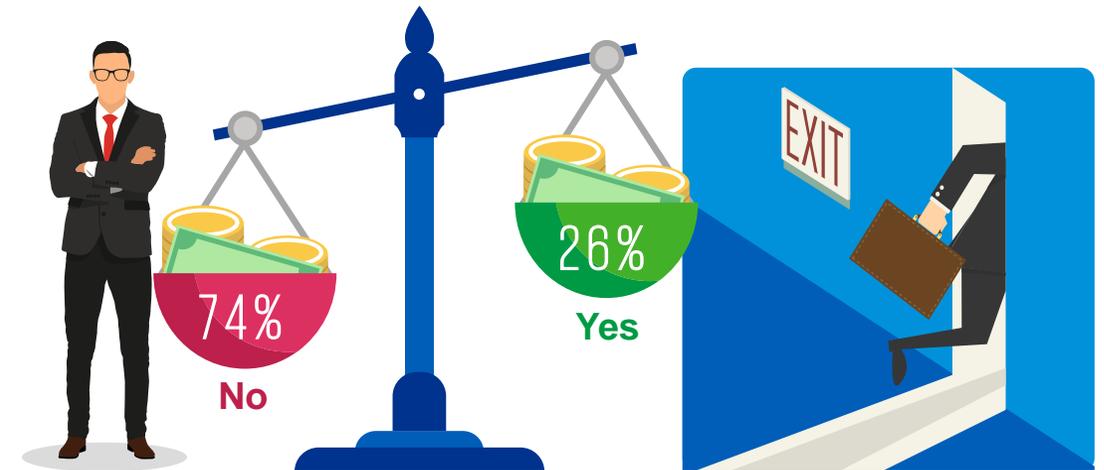
## Inventor reward policy

4. In case of multiple inventors, how are their contributions determined for reward? (applies to only cash reward or other form of payouts)



5. In case an employee has left the organisation, will he/she continue to receive these benefits? (cash rewards or other form of payouts)

74 per cent of the organisations surveyed do not prefer to offer the rewards after the inventor leaves the organisation, however, 26 per cent of them continue to offer the benefits.



Source: KPMG in India's need for inventor remuneration law in India survey 2021

# People's opinion

5/8

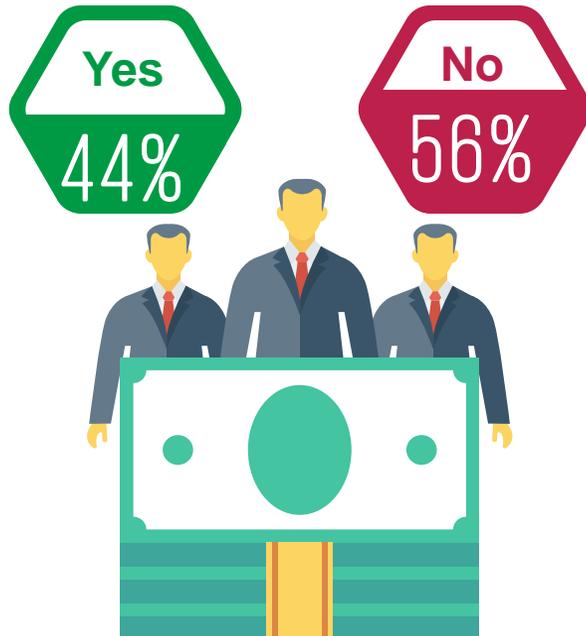
## Inventor reward policy



### Reward stories

We asked our participants if they have received any invention awards?

**44 percent of participants** said "Yes" and shared their comments with us.



### Experiences of people who have received such awards in the past:

I have filed more than fifteen unique patents and have a total of seven patents granted. Got rewarded without any delay during patent filing till it gets granted. But with the current company, the IP team is too slow to proceed with the novel ideas. I have two patents filed in the last two year yet haven't received the prize amount. This demotivates somebody who wants to think out of the box and get more and more appreciation.

I was the inventor of various patents and invention disclosures while I was associated with a large US software firm. **I was given great monetary rewards in return for publishing** these inventions (the accepted ones). This was **motivating and encouraged me to dive deeper every time and produce more innovative ideas.**

The reward is too nominal as compared to the global standards

**Always encouraging** and certainly a tangible recognition within the organisation

Award in **form of certificate, cash voucher**

**Proud moment**



Source: KPMG in India's need for inventor remuneration law in India survey 2021



# People's opinion

6/8

## Inventor reward policy

### 6. In your opinion, does an inventor reward policy motivate the inventors?

95 per cent of the respondents feel that an inventor remuneration program in an organisation would motivate the employees, as they feel it would be a great encouragement for employees, would help the employees in constructive thinking and boost an innovative environment within the organisation.

**Yes**  
95%



**No**  
5%

- New Ideas
- Constructive thinking
- Talent Acknowledgment
- Boost Passion
- Recognition
- Encourage**
- Boost innovation
- Confidence
- Increase creativity
- Increase productivity
- Ownership

### 7. Considering there are laws in countries related to compensation of inventor's post monetisation, would you recommend that such a law be promulgated in India as well?



Source: KPMG in India's need for inventor remuneration law in India survey 2021



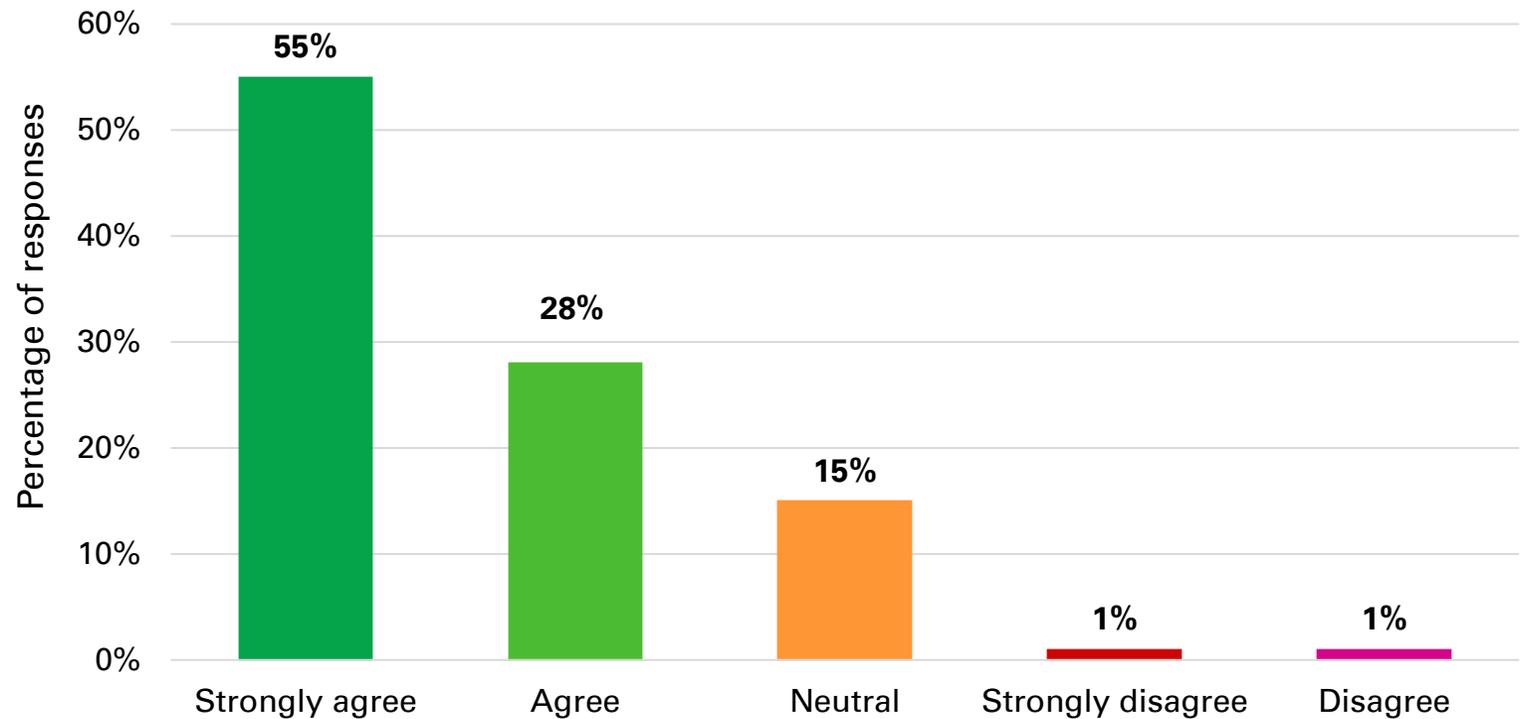
# People's opinion

7/8

## Inventor reward policy

### 8. In your view, will such a law help improve innovation quality leading to better monetisation for organisations?

83 per cent of the respondents believe that law for inventor remuneration in organisations will not only be beneficial to the employees, but also help in increasing the number of patents being monetised or implemented in the country. It will also help in shifting the organisations focus from quantity of patents to better quality of patents.



Source: KPMG in India's need for inventor remuneration law in India survey 2021

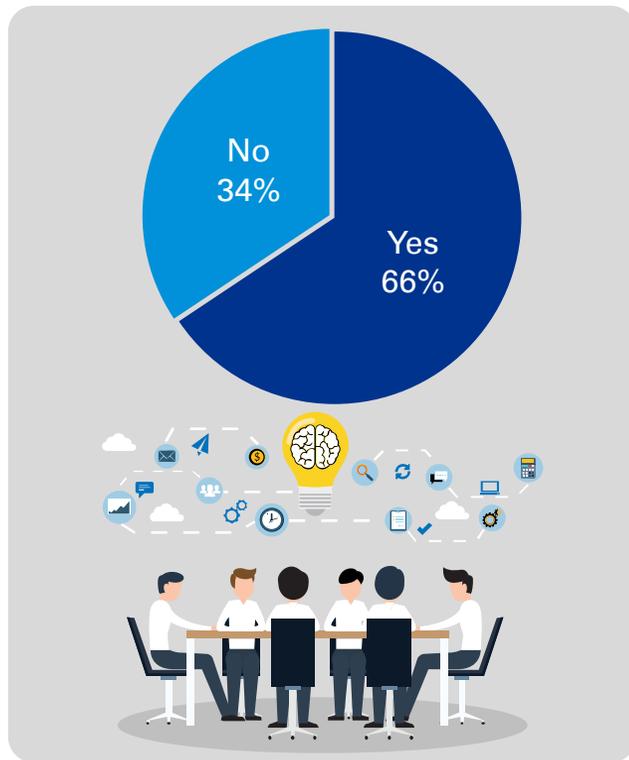


# People's opinion

8/8

## Inventor reward policy

### 9. Do you foresee any challenges (operational or otherwise) in having this law promulgated? If yes, please mention the challenges.

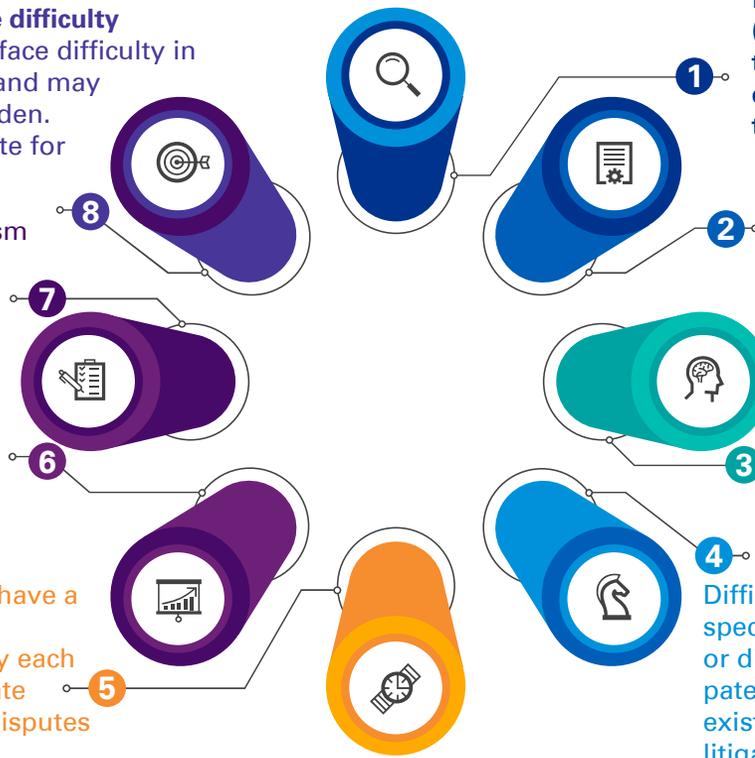


**SMEs and MSMEs will have difficulty dealing with it.** They might face difficulty in deciding the internal setup and may add to their compliance burden. There should be some respite for these organisations.

There should be a mechanism to compensate an **erstwhile employee**, considering that his/her invention can get monetised post his/her leaving the organisation

**Deciding the amount of remuneration** for the inventor employee can be a challenge

Organisations may need to have a **proper recording system** to ascertain the contribution by each inventor and then remunerate them accordingly to avoid disputes



Law formation can be a timely process (**committee must be set up to ensure that all dimensions are adequately covered and simplified for organisations to implement and monitor**)

**Enforcement** mechanisms would have to be laid out clearly. The law should have provisions to prevent abuse, either by the employer or by the employee

Clear guidelines need to be there on what constitutes monetisation of products or services, how to determine contribution, when to pay and the likes

Difficult to articulate revenue from a specific patent (it is difficult to articulate or differentiate revenue from a specific patent when it is made as a feature in the existing products. There can be lot of litigation arising from this aspect)

Source: KPMG in India's need for inventor remuneration law in India survey 2021



# Way forward



India, one of the fastest digitising countries in the world, is gearing up to leverage the benefits of a smart, technologically advanced and digitally-enabled economy.

Several countries in the world have specific laws dealing with service inventions, for instance, the laws in China and Germany. However, **India does not specifically have service invention related laws and other intellectual property rights** created by employees and employers; and employees therefore must rely on the general contract laws for the creation, administration and adjudication of service inventions.

In India, as in most different purviews, the compensation alone is viewed as adequate pay. Notwithstanding, **employers in India are progressively incorporating some type of remuneration for the employees.**

**With the world-third largest startup ecosystem in India**, apart from multinational conglomerates and MSMEs, appreciating employee inventors in start-ups is the need of the hour. This will further promote and bolster innovation among the upcoming generation to help in the country's growth.

We observed that countries with developed inventor remuneration policies are likely to see a **greater number of patents being filed than countries like**

**India where the inventor remuneration is at the discretion of the organisation.**

The issues regarding employee inventions and standardised inventor remuneration are significant for an organisation. **The employee inventor is ought to get a sensible compensation for their developments and the businesses should anticipate the economic outcomes of the invention, which is absent in the current framework.** But besides the fact that inventor remuneration is the need of the hour, it is also inferred that certain challenges are required to be addressed before enforcing inventor reward policy by law.

The major challenges, specific to India, a very less percentage of the skilled labour is aware of the subject of IP. Therefore, experts from various organisations are required to ensure a regulated implementation of the remuneration law. Further, law making process can be time-consuming activity in a nation like India, therefore, it requires regular impetus and support from various organisations working towards promotion of IPR across the country.

In conclusion, it can be inferred that **inventor remuneration is a positive step towards motivating the inventors and encouraging them to work on their invention with a better sense of financial security.**

## About KPMG in India

KPMG entities in India are professional services firm(s). These Indian member firms are affiliated with KPMG International Limited. KPMG was established in India in August 1993. Our professionals leverage the global network of firms, and are conversant with local laws, regulations, markets and competition. KPMG has offices across India in Ahmedabad, Bengaluru, Chandigarh, Chennai, Gurugram, Hyderabad, Jaipur, Kochi, Kolkata, Mumbai, Noida, Pune, Vadodara and Vijayawada. KPMG entities in India offer services to national and international clients in India across sectors. We strive to provide rapid, performance-based, industry-focused and technology-enabled services, which reflect a shared knowledge of global and local industries and our experience of the Indian business environment.

KPMG in India's Intellectual Property (IP) Advisory practice endeavours to provide strategic IP advice that addresses our clients' strategic priorities and business processes. We offer clear, and informed

advice across a wide range of issues around developing an IP strategy, IP protection and due diligence. We bring a core team of 30+ IP experts ranging from PhDs, engineers, Masters in Business Administration, Chartered Accountants, Certified Patent Valuation analysts working in evaluating and monetising the IP assets that have worked with numerous global technology leaders from various sectors such as global telecom and electronics, automobile, financial sectors, educational institutions, etc.

We follow a four-level review that helps us in our aim to deliver the best work quality to our clients. A first-level peer review is followed by the Engagement Manager review, followed by Engagement Quality Control review, followed by the Engagement Partner review. We follow a deadline-driven culture and our deliverables are customised at each client's requirement to fulfil their objectives.

The IP Advisory team provides a wide range of IPR strategy, technology transfer, IP valuation, IP Due Diligence, technology scouting, patent portfolio assessment and monetisation, and open-source software (OSS) compliance services that can help its clients respond to immediate needs, as well as establish the strategies for the longer term.



## About NIPO - The Indian IPR foundation

NIPO- The Indian IPR Foundation is the first and the oldest techno-legal IPR initiative in India established in 2001. It is a Permanent Observer with the World Intellectual Property Organisation (WIPO), United Nations.

NIPO's mandate includes developing policy initiatives in the area of IP; harnessing intellectual property assets and knowledge to generate economic wealth; help and assist individuals and organisations in capacity building and work as a platform for development, promotion, protection, compliance and enforcement of intellectual property and knowledge including through collaborations with national and international organisations.



### MISSION AND OBJECTIVES

- Catalyzes awareness about the rights of intellectual property (IP) owners and regulates through by-laws or otherwise the professional practice, etiquette, conduct and discipline of the Members, arranges social activities for Members of the Organisation and promotes knowledge of intellectual and industrial property law. The Organisation promotes and protects intellectual property rights in India for which regular awareness campaigns and capacity building programs with various national and international organisations are conducted.
- carries out Research and Development activities for development and protection of IPRs. Encourages innovation of IPRs by interacting and keeping pace with international best practices and engages in activities in conjunction with other bodies or associations within the limits of the Association's objects.
- NIPO helps governments establish new international rules in the areas of IP protection and assists in implementing the rules and enforcement of laws pertaining to IPR.
- Promotes development of infrastructural facilities for registration of intellectual property by facilitating the improvement of legal, institutional and administrative framework.
- Aids, assists and facilitates owners of intellectual property and fosters ties of mutual friendship and understanding among those who are practicing in the field of intellectual and industrial property law and through such ties promotes the protection and development of intellectual and industrial property in India. Provides customised corporate services such as legal consultancy in intellectual property rights (IPR) and in related areas, such as anti-dumping, anti-competition, IP audits and anti-trust laws and respond to questions affecting intellectual and industrial property law and/or the interest of the Association.

## Acknowledgements

**We would like to express our gratitude to team NIPO for collaborating with us as Project Partner for this study and providing their support and guidance.**

### Special thanks to authors from KPMG in India

Sumantra Mukherjee

Priyanka Gupta

Pranav Gupta

Deepika Dang

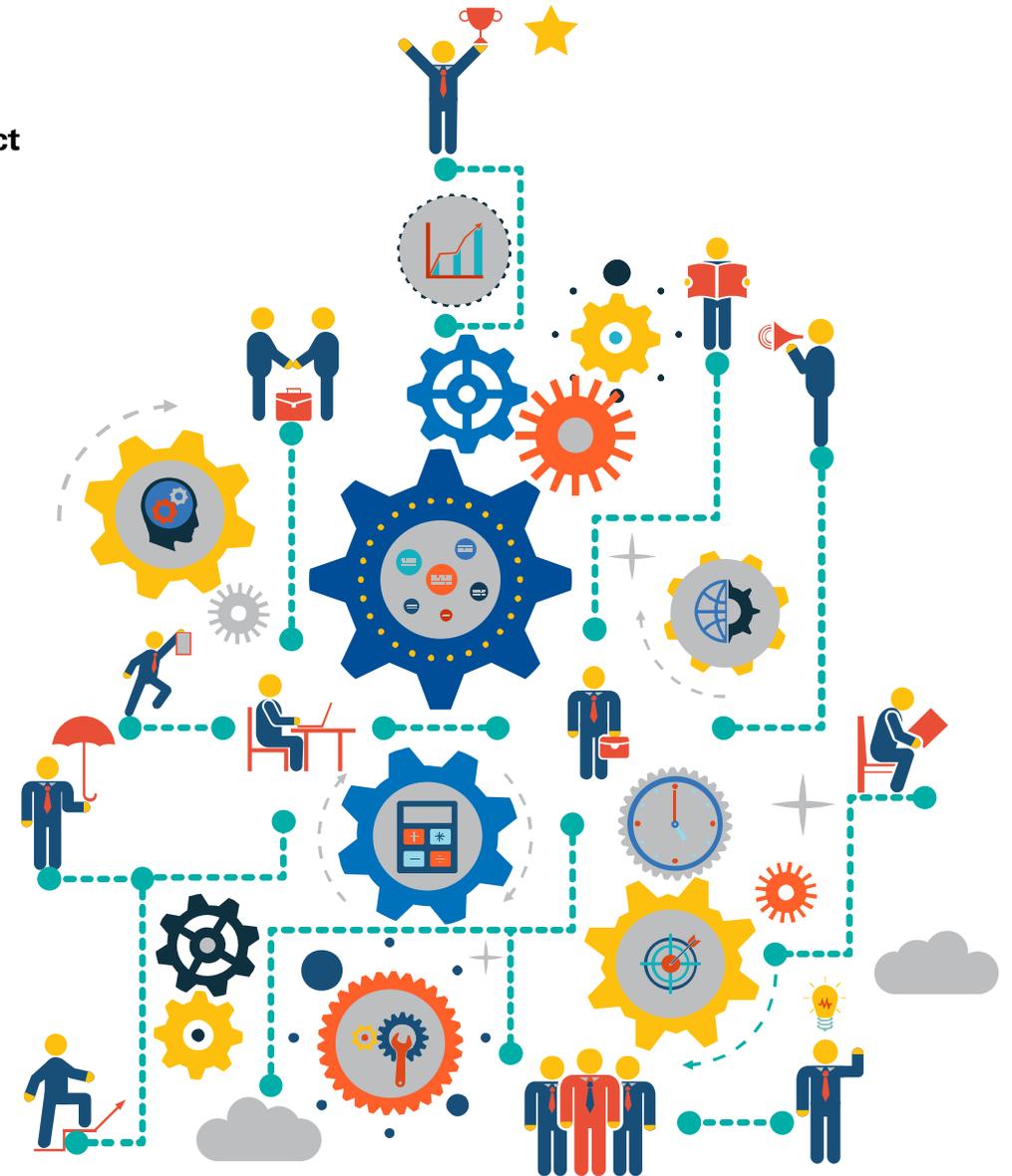
### Markets, design and compliance

Sneha Rohekar

Nisha Fernandes

Rasesh Gajjar

Igor Pinto





# KPMG *josh* IT SHOWS

IN OUR ABILITY TO TRIUMPH OVER ANYTHING  
IN OUR SPIRIT OF UNDYING ENTHUSIASM  
OUR DRIVE TO ACHIEVE THE EXTRAORDINARY  
UNMOVED BY FEAR OR CONSTRAINT  
WE'RE DRIVEN BY JOSH AND IT SHOWS



# KPMG in India contacts

**Vijay Chawla**  
**Partner and Head**  
Risk Advisory  
E: vschawla@kpmg.com

**Jagvinder S. Brar**  
**Partner and Head of Investigations**  
Risk Advisory  
E: jsbrar@kpmg.com

**Ritesh Tiwari**  
**Partner**  
Advisory  
E: riteshtiwari@kpmg.com

**Dr. Pinaki Ghosh**  
**Senior Advisor**  
Innovation and Intellectual  
Property Advisory  
E: pinakighosh@kpmg.com

**Sumantra Mukherjee**  
**Director**  
Innovation and Intellectual  
Property Advisory  
E: sumantram@kpmg.com

# NIPO contacts

**Prof. TC James**  
**President**  
NIPO The Indian IPR Foundation  
E: tcjames@nipo.in

**Amreen Taneja**  
**Programme Officer**  
NIPO The Indian IPR Foundation  
E: amreen.taneja@nipo.in

**Pradhyumn Rao**  
**Senior Consultant**  
NIPO The Indian IPR Foundation  
E: pradhyumn@nipo.in

[home.kpmg/in](https://home.kpmg/in)



Follow us on:  
[home.kpmg/in/socialmedia](https://home.kpmg/in/socialmedia)



The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. The views and opinions expressed herein are those of the quoted third parties/survey respondents and do not necessarily represent the views and opinions of KPMG in India.

The views and opinions expressed herein are those of the quoted third party and do not necessarily represent the views and opinions of KPMG in India.

KPMG Assurance and Consulting Services LLP, Lodha Excelus, Apollo Mills Compound, NM Joshi Marg, Mahalaxmi, Mumbai - 400 011 Phone: +91 22 3989 6000.

© 2021 KPMG Assurance and Consulting Services LLP, an Indian Limited Liability Partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organization.

This document is for e-communication only. (011\_THL0821\_RG)