



## *Protecting Intellectual Property While Producing Overseas*

### EXPANSION VS EXPOSURE

#### **IP RIGHTS ARE TERRITORIAL**

*India Registration ≠ Global Protection*

*Protection usually exists only in the country where rights are filed, recognized or enforceable.*

One of the most common legal **mistakes** in overseas manufacturing is **filing IP rights only where products are sold and not where they are manufactured or sourced**. Before production begins, businesses should identify and protect commercially valuable IP, including patents, trademarks, designs, technical drawings, molds, software, packaging, and manufacturing know-how, before disclosure to suppliers or factories.

# INTERNATIONAL IP FRAMEWORKS



## PROTECTION MODEL

### Paris Convention

Gives priority rights. Once IP is filed in one member country, the owner gets a limited period to file in other countries while retaining the original filing date.

### Patent Cooperation Treaty

Allows businesses to file a single international patent application before entering individual countries later.

### Madrid System

Enables trademark protection across multiple countries through one centralized application.

### Hague System

Allows international registration of industrial designs such as product shape, packaging, and appearance.

### TRIPS Agreement

Sets minimum global standards for IP protection, trade secret protection, enforcement, and anti-counterfeiting obligations among WTO member states.

#### Category

#### Stages of IP Protection

Patents

Filed before disclosure

Trademarks

Filed in manufacturing

Designs

Protected before factory exposure

Trade Secrets

Controlled through confidentiality systems

# A MANUFACTURING AGREEMENT SHOULD ANSWER THESE QUESTIONS

## Who owns the IP?

The agreement should clearly confirm ownership of all existing and newly developed intellectual property.

## Can the factory replicate the product?

Reverse engineering and unauthorized reproduction should be expressly prohibited.

## Who owns the molds and tooling?

Ownership, access, storage, and return of tooling should be contractually defined.

## Can work be passed to another factory?

Subcontracting should require prior written approval to prevent uncontrolled disclosure.

## What happens to confidential material after production ends?

The agreement should require the return or destruction of drawings, files, prototypes, and technical information.

## How is compliance verified?

Audit rights allow inspections of facilities, records, and manufacturing processes.



## DIGITAL LEAK

Digital IP leakage can arise from shared cloud folders, unsecured file transfers, weak access controls, and credential sharing. In India, such incidents may trigger implications under the Information Technology Act, 2000 (including Sections 43A, 72, 72A, and 75) and, where personal data is involved, the Digital Personal Data Protection Act, 2023.