

## **ABSTRACT**

### ***Intellectual Property Rights in Open Source***

Intellectual Property Rights (IP Rights) refers to the relatively new kind of property rights in the tangible creations of the intellect. Just like real landed property, where a rights holder may bar another from using / misusing his property; an IP Rights holder too may exclude another from using / misusing his property.

Usually IP Rights are granted by the Government under a statute; for e.g. Patent Act, Copyright Act, Trademark Act and Design Act. From a historical point of view, and like other worldly dogma, IPR too has evolved over a period of time, more so in the last 40 years, with the recognition of Geographical Indication Protection rights, Semiconductor Integrated Circuits Layout-Design Act, Data Protection rights etc.

In the last couple of centuries, the economy has evolved from Agrarian to Industrial via the Industrial Revolution to what is now formally known as the Knowledge Economy in the BT and IT era – the era of Biotechnology and Information Technology. It is here that friction between free availability and proprietorship of an idea or invention comes to fore; whether it be pharmaceuticals or software.

"Open Source" in the computing fraternity adheres to the viewpoint of software being distributed in source code form, not hidden in binary-only formats, and that others are free to use, modify and adapt this source code. Protection mechanisms under IP rights for authorship arise vis-a-vis proprietorship.

With an understanding of background of IP rights and its workings, it would be interesting to see how the world of absolute protection is balanced against the need for free flow of ideas in the Open Source context.