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A Comparative Study on the Valuation of Intellectual Property in Iranian and U.S. Law

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A category of assets in both Iranian and U.S. law, which are typically intangible and not physically observable, is allocated to intellectual property. From copyright protection of literary and artistic works to vaccine formulas, as well as blueprints and trade secrets, various examples fall under this class of assets. This category is notably extensive, and because its primary characteristic lies in its origin from human intellectual activity, the rights of its holder can be easily violated in the absence of proper legal safeguards. Accurate valuation of intellectual property using standardized criteria is one manifestation of legal protection for intellectual property holders. In this study, conducted using a descriptive-analytical method and based on library sources, a comparative analysis was performed on the valuation of intellectual property under Iranian and U.S. legal systems. The findings indicate that the regulations in the field of intellectual property and its valuation in the United States largely conform to the standards of the World Intellectual Property Organization (WIPO). This conformity is identified as one of the significant reasons behind the success of leading publicly traded companies in the U.S. Accordingly, the gaps in the Iranian intellectual property legal framework are also highlighted through this comparative study. This underscores the urgent need for the Iranian legislature to establish robust legal provisions to support intellectual property holders—especially in light of the growing role of knowledge-based enterprises in the Iranian economy.

Keywords: *Valuation; Iranian Law; U.S. Law; Intellectual Property; Comparative Study.*

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1. Introduction

The Office of International Intellectual Property Enforcement (IPE) defines intellectual property as follows: "Intellectual property reflects a unique work derived from an individual's creativity. The scope of intellectual property in the world around us manifests in everything from miracle drugs to computer games, movies, and cars. The three main areas of intellectual property rights that innovators use to protect their ideas are trademarks, patents, and copyrights" (U. S. Department of State, 2025).

In U.S. intellectual property law, the domain of trademark protection refers to a word, phrase, design, or a combination thereof that identifies the goods or services of an originator, distinguishes them from those of others, and indicates the source of the goods or services. Patents cover technical inventions, such as chemical compounds like pharmaceuticals, mechanical processes like complex machinery, or designs for constructing machines that are novel, unique, and industrially applicable—each representing a type of property classified under intellectual property in U.S. property law. Created artistic, literary, or intellectual works—such as novels, music, films, software code, photographs, and paintings—that are original and exist in a tangible medium, such as paper, canvas, film, or digital format, fall under the scope of copyright in U.S. intellectual property law (United States Patent and Tradmark Office, 2025).

Many Iranian legal scholars refrain from offering a precise definition of intellectual property, instead limiting themselves to identifying examples of this asset category. However, what is common across all views is that rights in intellectual property arise from human intellectual activity and are not necessarily material in nature (Rejali, 2012).

In Imamiyyah jurisprudence and Iranian law, "property" refers to anything that can be exchanged. In other words, property is something lawful, reasonably attainable, and economically desirable among rational actors for use. Therefore, to be considered part of the asset category, a thing must have economic value or be commonly exchanged among people.

Among the Iranian Islamic scholars who recognized the value of intellectual property assets is Martyr Motahhari. He asks: "Is the value of writings, calligraphy, paintings, and inlay work dependent on the amount of effort spent on them? Or, if Saadi and Hafez sought to profit from the royalties of their books, would it be because of the amount of labor they invested or due to their originality and inspiration?" However, he further contends that intellectual property should not be considered the private property of individuals and that such assets belong to the public domain (Motahhari, 1989).

In economics, the economic value of a good is the utility or benefit that an individual or company assigns to it, often expressed as the maximum amount they are willing to pay. This value is subjective and indicates how much a person or company is willing to forgo to obtain a particular good, considering other possible uses of their resources (Griffiths & Lucas, 2016).

Now that we have entered the era of artificial intelligence, the valuation of intellectual property has become increasingly significant in strengthening innovation and ensuring fair practices. The demands of the current age require a balance between the benefits of AI and the need to protect the rights of creators and inventors. This involves establishing clear ownership and licensing agreements, managing data and privacy, and considering the ethical implications of AI development and use.

With regard to the issue of intellectual property valuation, only a limited number of studies have been conducted in Iranian academic literature, and most of these approach the issue from economic or management perspectives rather than from legal scholarship. Nevertheless, a few notable examples can be mentioned. In his Master's thesis titled *Valuation of Intellectual Assets*, Rejali (2012) discusses various methods for valuing intellectual assets (Rejali, 2012). In a 2023 article titled *Valuation of Intangible Assets in Iranian, Chinese, and South Korean Law*, Eslamitabar and colleagues conducted a comparative study on the valuation of intangible assets with reference to Chinese and South Korean regulations. They argue that the Iranian legal system has gaps in this area, although they did not explicitly identify intellectual property as a major category of intangible assets in their study (Eslamitabar et al., 2023).

Therefore, the present article appears to be innovative due to its comparative analysis with U.S. regulations concerning the valuation of intellectual property.

The findings of this study indicate that intellectual property and its valuation in the United States largely conform to the standards of the World Intellectual Property Organization (WIPO). This conformity is a significant factor contributing to the success of leading publicly traded companies in the U.S., especially in the era of artificial intelligence—an age in which intangible assets and knowledge-based enterprises have become the main drivers of economic activity. Moreover, this comparative study highlights the deficiencies in Iranian intellectual property law, underscoring the urgent need to develop comprehensive legal frameworks for protecting intellectual property holders—particularly in Iran, where knowledge-based companies are playing an increasingly vital role in the economy.

2. Materials and Methods

This article was written using a descriptive-analytical method based on library research sources.

3. History of Intellectual Property Valuation in the Legal Systems of Iran and the United States

The history of intellectual property (IP) valuation in the legal systems of Iran and the United States is closely tied to the enactment of laws and regulations designed to protect holders of this asset category. The characteristics of assets classified as intellectual property are such that identifying them as "property" is inherently difficult, and establishing suitable legal enforcement mechanisms to protect the rights of holders poses several challenges. These issues have led to the development of various legal provisions in both the Iranian and U.S. legal systems.

The history of intellectual property valuation in the U.S. legal system is rooted in the recognition that creators of literary and artistic works, as well as inventors, should be rewarded for their contributions to society. The clause concerning intellectual property in the U.S. Constitution emphasizes the promotion of science and the arts by granting exclusive rights to authors and inventors. Early IP laws, such as the Patent Act and Copyright Act of 1790, established the foundational legal framework for protecting intellectual works. Over time, the legal system revised its approach to IP and acknowledged the importance of balancing the rights of creators with the broader public interest (Joyce, 2009).

Article I, Section 8, Clause 8 of the U.S. Constitution empowers Congress to grant authors and inventors exclusive rights to their respective writings and discoveries to promote scientific and artistic advancement (Bracha, 2016).

In 1790, the first federal patent and copyright laws were enacted, granting authors the right to print, reprint, or publish their works for a term of 14 years, with the possibility of a 14-year extension. In 1909, Congress revised and codified the existing body of copyright law, notably extending the renewal period to 28 years. These amendments, along with subsequent reforms, governed U.S. copyright law for nearly 70 years. After World War II, the United States not only gained military and political dominance but also emerged as a global leader in core copyright-based industries such as publishing, film, recorded music, and later television, home video, and software.

Following U.S. accession to the Berne Convention in 1988, further legislative actions ensued, such as extending copyright protection to architectural works and limited recognition of moral rights for artists (especially the right of attribution and the right to prevent distortion or mutilation of their work) under the Visual Artists Rights Act of 1990. Additional developments included extending copyright protection to foreign authors previously excluded under NAFTA (1992) and the TRIPS Agreement (1994), and increasing the copyright term to the author's lifetime plus 70 years under the Copyright Term Extension Act (CTEA) of 1998 (Joyce, 2009).

Over time, the concept of intellectual property evolved from specific privileges to a universal right over intangible objects, securing its place in the modern legal system. Intellectual property today is regarded as a complex field encompassing copyright, patents, trademarks, and trade secrets—all aimed at regulating the valuation and management of intangible assets. U.S. intellectual property law continues to evolve in response to challenges in digital media, biotechnology, and cyberspace regulation (Bracha, 2016).

Accordingly, other U.S. federal statutes have been enacted to protect various types of intellectual property assets. These include the Patent Act, which outlines rules for protecting inventions and grants inventors exclusive rights for a limited time; the Trademark Act (Lanham Act), which protects trademarks including words, symbols, designs, or other identifiers used to distinguish and identify the source of goods or services; the Defend Trade Secrets Act (DTSA), which safeguards valuable confidential business information and provides legal remedies against misappropriation; and the Semiconductor Chip Protection Act, which protects layout designs of semiconductor chips, among others (Joyce, 2009).

Determining the monetary value of intellectual assets is a critical issue in the U.S. economic and legal system, particularly for transactions such as sales, licensing, and commercial arrangements. In U.S. law, the value of an IP asset primarily derives from the right of the owner to prevent competitors from using it. For an intellectual property asset to have measurable value, it must generate a quantifiable economic benefit for its owner or licensee and increase the value of related assets. This value may result from direct exploitation—such as incorporating the IP into a product—or from licensing or selling the asset to a third party, or through strategic advantages like creating barriers to entry or reducing substitution threats (WIPO, 2023).

In Iran, the earliest legislative recognition of intellectual property and the enforcement mechanisms associated

with it dates back to the Law on Registration of Trademarks and Patents, enacted in 1931. This law was repealed in 2007 with the adoption of the Law on the Registration of Inventions, Industrial Designs, and Trademarks, which replaced all previous provisions (Saleh Ahmadi, 2024). In 2024, the Industrial Property Protection Law was enacted, and Article 149 of that law formally repealed the 2007 legislation. Through this law, the Iranian legislature aimed to support intellectual property rights in the domains of inventions, industrial designs, trade secrets, and trademarks and trade names.
Iran also has a legislative history concerning the other domain of intellectual property—namely, artistic and literary IP. The Law on the Protection of Authors, Composers, and Artists' Rights, which forms the backbone of copyright law in Iran, was enacted to protect both the moral and economic rights of creators. This law comprises 33 articles and 3 notes. After approval by the Iranian Senate on November 24, 1969, it was ratified by the National Consultative Assembly on January 1, 1970. It was later amended in alignment with the TRIPS Agreement, specifically to extend the duration of protection from 30 to 50 years. Additionally, the Law on the Translation and Reproduction of Books, Periodicals, and Audio Works, enacted in 1973, protects works not covered under the previous law.
Currently, a Draft Bill on Comprehensive Protection of Literary and Artistic Intellectual Property and Related Rights has been submitted by the Ministry of Culture and Islamic Guidance to the Iranian government. If adopted, it will replace the existing copyright laws in Iran (Seyedin & Karachani, 2024).
In April 2024, the Legal Studies Office of the Iranian Parliament's Research Center published a report critiquing the draft bill. Among other issues, the authors highlighted the absence of specific provisions in key sectors governed by the bill, including cinema, literature, publishing, software, and cyberspace (Shakouri Garkani, 2024).
Furthermore, the Law on the Protection of Rights of Creators of Computer Software, enacted in 2000, was designed to protect the material and moral rights of developers of computer software and works first registered in Iran. The law contains 17 articles and 1 note. Its executive bylaw was adopted in 2004, with amendments added in 2010. Articles 62 to 66 of the Electronic Commerce Law of 2003 also introduced provisions for the first time in Iranian legislative history to protect holders of intellectual property rights, including trade secrets.

4. Methods of Intellectual Property Valuation in Iran and the United States

The value of intellectual property assets is derived from a wide range of parameters such as utility, market share, entry barriers, legal protection, profitability, industry and economic factors, growth projections, remaining economic life, and emerging technologies—all of which are considered in the valuation process (WIPO, 2023).
Various methods have been introduced globally for intellectual property (IP) valuation. Some of these are general economic valuation methods used for determining the economic value of different products, while others are specifically tailored for different types of intellectual property assets.
Traditional general methods for IP valuation include the cost-based method, the market-based method, and the income-based method. One widely accepted approach is the Discounted Cash Flow (DCF) method, as outlined in WIPO's Guide No. 11. This method estimates the present value of future cash flows generated by intellectual property, considering the time value of money and associated risks. The DCF method is commonly used to determine royalty rates, assess the value of IP for tax purposes, and support other income-based valuation techniques (WIPO, 2023).
In both Iranian and U.S. legal systems, experts apply specific regulations and guidelines for intellectual property valuation.
Although Iran is a signatory to the Convention Establishing the World Intellectual Property Organization (WIPO), it has not yet acceded to the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). As a result, it does not fully follow the global IP valuation standards established by WIPO. Nevertheless, there are two critical legal instruments in Iran concerning the valuation of IP assets. The first is the Bylaw on the Valuation of Intangible Assets in Investment Projects, approved by the Cabinet in 2017. Clause (p) of Article 4 of this bylaw recognizes all forms of intellectual property as subject to valuation under this regulation. Clause (b) of the same article stipulates that "the valuation of intangible assets must not conflict with mandatory accounting standards and

must, depending on the type, nature, and purpose of the valuation, be conducted using one or a combination of scientific and accepted valuation methods, including cost-based, market-based, and income-based approaches."

The most important accounting standard addressing the valuation of intangible assets—including, for the purpose of this article, intellectual property—is Accounting Standard No. 17: Intangible Assets, published by the Iranian Audit Organization. The preface to the amended version of this standard (approved on July 21, 2007) states: "(1) Accounting Standard No. 17, entitled 'Intangible Assets', approved by the General Assembly of the Audit Organization, replaces the previous Standard No. 17 and Standard No. 7 on accounting for research and development expenses…" Among the key amendments were: "(4) In the previous standard, an intangible asset was defined as a non-monetary asset without physical substance that met the following criteria: a) held by a business unit for use in the production or supply of goods or services, rental to others, or administrative purposes, and b) acquired for use over more than one financial period. These two criteria were removed in the new standard. (5) The previous standard assumed that all intangible assets had a finite useful life and that the useful life could not exceed twenty years. This rebuttable presumption was removed in the new standard, which instead classifies intangible assets into those with finite and indefinite useful lives. Intangibles with indefinite useful lives are not amortized."

Based on the above bylaw and Accounting Standard No. 17, intellectual property is among the intangible assets eligible for valuation. In Iran, legal scholars have primarily focused on patents, trademarks, copyrights, and reproduction rights. Recently, however, the growing influence of knowledge-based companies and the increase in litigation involving such assets have attracted more detailed legal attention to individual categories of intellectual property.

For example, Supreme Court Ruling No. 9109970907900376 from Branch 19 held that exclusive rights to exploit software are contingent upon registration with either the Supreme Informatics Council of the Ministry of Culture and Islamic Guidance or the Companies Registration Office, as applicable (Saleh Ahmadi, 2024).

One of the main challenges in applying traditional valuation methods to different categories of IP arises when no clear benchmarks exist for valuation. For literary and artistic works, the key to protection lies in determining the personal contribution of the creator. Thus, a "work" is not only something never seen before but also includes works derived from prior creations—e.g., a photograph of a painting or a sculpture adaptation would receive similar protection as the original works.

Valuation of postmodern paintings is particularly challenging because these artworks lack fixed rules or unified styles and, due to their individualized nature, are fundamentally different from traditional or modern paintings. Some Iranian legal scholars argue that in such cases, the subjective interpretation of the artist, accessed through hermeneutics, should serve as the primary criterion for economic valuation (Najjarzadeh & Taghipour, 2024). In contrast, in industrial sectors, management experts believe productivity and efficiency are more appropriate benchmarks for economic valuation (Nazari, 2020).

A review of the Bylaw on the Valuation of Intangible Assets in Investment Projects, Accounting Standard No. 17, and relevant court rulings reveals that in Iranian law, reliance on expert valuation is the default approach. However, there is ambiguity and silence in many cases regarding which specific valuation method an expert should use for assessing IP value (Rafiealavy & Mahjoob, 2022).

In contrast, the U.S. legal system faces fewer challenges in this domain. First, the United States has a long-standing tradition of recognizing IP rights in its legal framework. Second, it is an active member of WIPO and adheres to TRIPS guidelines (Bracha, 2016). Additionally, it follows international standards such as the International Valuation Standards Council (IVSC) (Smith & Richey, 2013), the Uniform Standards of Professional Appraisal Practice (USPAP) (Fishman et al., 2013), the Generally Accepted Accounting Principles (GAAP) of the U.S. Securities and Exchange Commission, the International Financial Reporting Standards (IFRS) (Posner, 2010), and the standards issued by the Financial Accounting Standards Board (FASB) (Khan & Sokoloff, 2001).

In addition to DCF, which is the minimum WIPO-accepted valuation method, other advanced techniques based on the above standards include the Monte Carlo

Method, the Royalty Rate Method, the Loss of Profit Calculation Method, and the Decision Tree Analysis Method. All of these approaches adhere to the minimum requirements of the DCF framework (Sharma & Kumar, 2021).

5. Conclusion

Assets within the realm of intellectual property are considered a type of intangible asset. In an era where artificial intelligence is becoming increasingly accessible to users, the valuation of intellectual property assets—particularly software code—has acquired significant importance. Today, not only for engagement in global trade but also to maintain the country's strategic position as an emerging power, special attention must be paid to the management of intangible assets, and specifically, intellectual property. Through precise and transparent valuation of intellectual property, the theft of these intangible assets can be prevented. Furthermore, an efficient intellectual property management and ownership system serves as a mechanism for enhancing financing in the knowledge-based economy, creating a secure environment for the growth of innovative companies and the realization of a knowledge-driven economy.

The United States, as a country with a long-standing history of recognizing and valuing intellectual property, not only follows the harmonized regulations of the World Trade Organization and the World Intellectual Property Organization as the principal standards in IP valuation, but is also a member of various other international standardization bodies. It adheres to multiple and diverse regulations for the accurate valuation of intellectual property. Accordingly, due to the extensive range of IP types and subcategories in the U.S., valuation criteria are implemented more transparently and with greater ease. By accurately valuing intellectual property, the rights of IP holders can be protected through tax exemptions on revenues derived from the use of such assets—an approach that could prove highly effective in a country like Iran, where knowledge-based companies have begun playing a substantial role in the national economy.

Moreover, accurate valuation of intellectual property facilitates the choice between litigation and arbitration for resolving financial disputes involving such assets, thereby providing IP holders with more accessible legal recourse when their rights are infringed. Therefore, in order to promote greater transparency and precision in intellectual property valuation, Iranian legislators should, first, adopt the TRIPS provisions; second, incorporate a range of valuation standards that yield the most accurate and clear outcomes based on the specific asset; and finally, pursue membership in relevant international treaties to safeguard the rights of Iranian IP holders on the global stage.

Authors' Contributions

Authors contributed equally to this article.

Declaration

In order to correct and improve the academic writing of our paper, we have used the language model ChatGPT.

Transparency Statement

Data are available for research purposes upon reasonable request to the corresponding author.

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Declaration of Interest

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Ethical Considerations

In this research, ethical standards including obtaining informed consent, ensuring privacy and confidentiality were observed.

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