Issues with the current IPR Regimes

What is the issue?

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- Trade deals are increasingly being used to ensure stronger patent protection and continued unfair profits for MNCs.
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- India must reopen the discussion on balancing the global intellectual property system.
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What are the problems with the current trade deals?

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- **Deals -** The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) was signed in 1995 with the backing of WTO.
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- For the first time, it embodied an international regulatory regime for Intellectual Property Rights (IPR) in 1995.
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- Many nations have since promoted excessive protection of private investor interests through bilateral trade agreements.
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- **Lobbying -** Corporate lobbies have continued to pressure both home governments & abroad for increased protection of IPRs.
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- Countires like US have also been using bilateral trade agreements to ensure that its companies have strong IP protections abroad.
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- These moves have often gone against the wider public interests.
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- **Evolving Designs -** While patent protection is getting stronger, the conditions for its grant are becoming greatly relaxed.
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- Consequently, with little show of original effort, patents can now be claimed on all possible inventions that are of relevance.

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- Therefore, a successful firm of today is not one with the greatest technological breakthroughs but one that has a large IP portfolio, and thrives on licensing revenues.
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What does the UNCTAD say?

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- The UN Conference on Trade and Development's recent “Trade and Development Report” calls for stronger measures to protect sectors against the undue domination of large companies.
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- It argues that high profits attributed to the present IP regime may be a sign of a sickness and calls for reforms.
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- The report also warns against trade deals that seek to protect the status quo and has identified patents as an instrument of unfair market power across markets.
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- It shows that patent reforms have led to significant increases in the rates of return to affiliate companies of foreign MNCs when compared to locally headquartered companies.
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What are the concerns for India?

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- For India, the fate of its pharmaceutical and software sectors swings in the balance as foreign companies in these sectors account for most of the transfer of profits across borders.
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- Guaranteeing a fair competition will be critical to ensure that we do not lose more ground to global companies abroad and at home.
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- Our high-tech sectors are already taking a beating as they presently operate in a volatile global environment.
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- Supporting IP standards that simply follow a ‘winner takes all’ ideology

without emphasis on technological advancement and competitive markets will be a regrettable mistake.
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How does the future look?

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- **Fair Stance -** India needs a clear and tough stance on intellectual property both in domestic policy and at the multilateral level.
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- Support for innovation has to be accompanied with instruments that guard local companies against the misuse of market power, coercive bargaining and aggressive acquisition strategies.
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- **WTO conference -** The WTO Ministerial Conference that is coming up in Argentina this December is expected to take up patents issues in a big way.
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- There are ongoing attempts by big businesses to push for new rules in areas such as e-commerce.
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- Other proposals being made will largely involve limiting the ability of governments to constrain corporate behaviour.
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- **India in WTO -** We need therefore to drop our pretence regarding IP and return to old-fashioned pragmatism.
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- This would clearly show that India recognises the fallacy of the current IP system and that it desires to broker a new global deal.
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- India should also take up the forgotten issues of the Doha Round.
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Source: The Hindu

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