

## Comparative Study of Abuse of Rights Doctrine in Intellectual Property in Iranian and American Law

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### Abstract

Intellectual Property Rights were born to provide maximum and exclusive protection of rights of the creator of intellectual work, but in practice the holder of these rights gains an advantage over others. This is one of the main arguments of the opponents of granting exclusive rights to IP owners, saying monopoly can lead to abuse. This superiority will be desirable as far as protection of the rights of the holder is concerned. But in order to prevent the holder from abusing his rights vis-a-vis the buyer or consumer of intellectual property, a clear theoretical position and appropriate practical tools must be in place so that the rights granted to protect the creator of the intellectual property are not abused against the public interest. This study intends to gather examples of abuse of rights in the field of intellectual property and then infer the function of the doctrine of abuse of rights in these cases. For this purpose, the cases in which the intellectual right holder finds himself in a dominant position or the possibility of abusing his rights based on laws, are examined in two categories of literary and artistic property rights and industrial property rights. Western legal systems, specifically American laws, have been reviewed, and the necessity and possibility of applying this theory to domestic law has been discussed.

**Keywords:** Intellectual property Rights; Abuse of Rights; La-Zarar Rule; Abuse of Rights Doctrine; Unclean Hands Doctrine.

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