

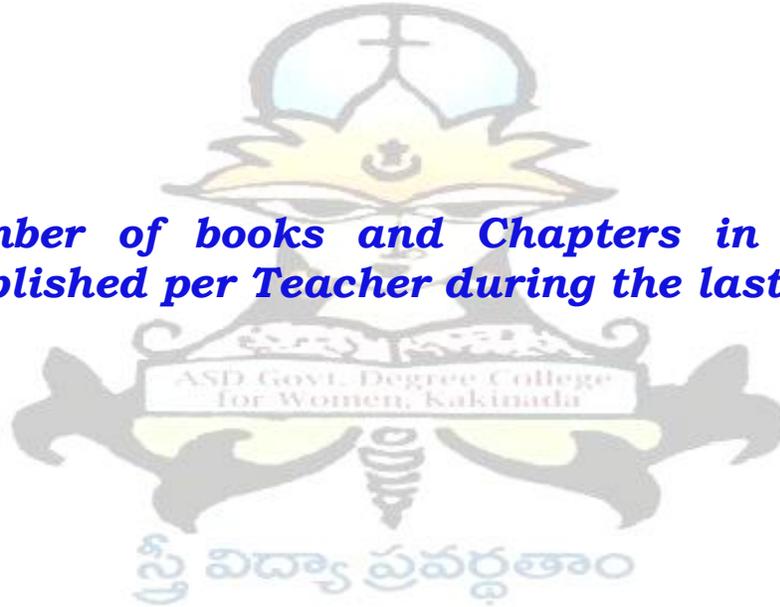


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**NUMBER OF BOOKS AND CHAPTERS PER  
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### 3.4.4 Books and Edited Chapters 2018-2019

<b>Sl. No.</b>	<b>Name of the Teacher</b>	<b>Title of the Book published</b>	<b>Title of the Chapter published</b>	<b>Name of the Publisher</b>
1	Dr. V. Anantha Lakshmi	Intellectual property Rights challenges & Issues in India	Intellectual property Rights in India	PND Publishers Vijayawada
2	K.N.B. Kumari	Intellectual property Rights challenges & Issues in India	Intellectual property Rights: Indian Scenario	PND Publishers Vijayawada
3	R.R.D. Sirisha	Intellectual property Rights challenges & Issues in India	Intellectual property Rights Licensing in India	PND Publishers Vijayawada



# **Intellectual property rights – challenges and issues in India**

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First Edition: 2019

Copyright: Dr. J. PANDU RANGARAO

## **PUBLISHED BY**

P.R. Government College (A)

NAAC Re-accredited with “A” Grade (with 3.17 CGPA)

Department of Commerce

KAKINADA. E.G. Dist., A.P. - 533001

[www.prgc.ac.in](http://www.prgc.ac.in), 0884-2379480

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**INTELLECTUAL PROPERTY RIGHTS IN INDIA****\*DR V ANATHA LAKSHMI**IQAC Co-ordinator, Head Dept of Mathematics,  
P.R. Govt College (A) Kakinada**\*\*ATHILI ANNAPURNA, Asst Prof**  
P.R. Govt College (A) Kakinada**INTRODUCTION:**

Intellectual property Right (IPR) is a term used for various legal entitlements which attach to certain types of information, ideas, or acquisition, registration or enforcement of IP rights must be pursued or obtained separately in each territory of interest.

Intellectual property rights (IPR) can be defined as the rights given to people over the creation of their minds. They usually give the creator an exclusive other intangibles in their expressed form. The holder of this legal entitlement is generally entitled to exercise various exclusive rights in relation to the subject matter of the Intellectual Property. The term intellectual property reflects the idea that this subject matter is the product of the mind or the intellect, and that Intellectual Property rights may be protected at law in the same way as any other form of property. Intellectual property laws vary from jurisdiction to jurisdiction, such that the right over the use of his/her creations for a certain period of time.

**What is Intellectual Property?**

Intellectual property is an intangible creation of the human mind, usually expressed or translated into a tangible form that is assigned certain rights of property. Examples of intellectual property include an author's copyright on a book or article, a distinctive logo design representing a soft drink company and its products, unique design elements of a web site, or a patent on the process to manufacture chewing gum.

**Categories of Intellectual Property**

One can broadly classify the various forms of IPRs into two categories:

IPRs that stimulate inventive and creative activities (patents, utility models, industrial designs, copyright, plant breeders' rights and layout designs for integrated circuits) and

IPRs that offer information to consumers (trademarks and geographical indications).

IPRs in both categories seek to address certain failures of private markets to provide for an efficient allocation of resources

IP is divided into two categories for ease of understanding: Industrial Property



## Copyright

Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs

- Intellectual property shall include the right relating to:
- Literary, artistic and scientific works;
- Performance of performing artists;
- Inventions in all fields of human Endeavour;
- Scientific discoveries;
- Industrial designs;
- Trademarks, service marks and etc;
- Protection against unfair competition.
- IPR as Instruments of Development
- Key drivers of economic performance in R&D based growth models

Intellectual property policies do affect the extent and nature of investments undertaken by multinational enterprises. At the same time, relative to other factors determining foreign investment decisions, IPRs seem to be of relatively minor importance.

### Duration of Intellectual Property Rights in a nutshell

Term of every patent will be 20 years from the date of filing of patent application, irrespective of whether it is filed with provisional or complete specification. Date of patent is the date on which the application for patent is filed.

Term of every trademark registration is 10 years from the date of making of the application which is deemed to be the date of registration.

Copyright generally lasts for a period of sixty years.

The registration of a geographical indication is valid for a period of 10 years.

The duration of registration of Chip Layout Design is for a period of 10 years counted from the date of filing an application for registration or from the date of first commercial exploitation anywhere in India or in any convention country or country specified by Government of India whichever is earlier.

The duration of protection of registered varieties is different for different crops namely 18 years for trees and vines, 15 years for other crops and extant varieties.

## Global Intellectual Property Trends

With over 3 million applications filed per year, trademark protection is the most sought after form of IP worldwide with growth rates of a similar magnitude as those for patents.

In 2009, one quarter of all trademark applications were filed at the China Trademark Office. When combined with the shares held by India, the Republic of Korea and Japan, these four offices located in Asia accounted for 37 percent of total trademark applications. India showed the highest

**INTELLECTUAL PROPERTY RIGHTS: INDIAN SCENARIO**

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**INTRODUCTION**

Intellectual property (IP) has emerged as a key driver in knowledge economy. In the present scenario, IPR awareness is the key to technological innovations and in the emerging knowledge-based economy; the awareness among the creators of information and knowledge about IPR has become essential in the digital environment because in the digital environment it is becoming difficult to prove rights violation whenever they occur. This paper gives an overview of intellectual property rights (IPR) issues & challenges in digital environment and the paper deals with the copyright law as well as the role of librarians in the protection of copyright literature. Study also focused on patrons need towards understanding IPR laws in using library services without infringement.

Intellectual property rights are provided as a protection and incentive to the creators, whose creativity could otherwise be freely used by others. The society expects the creators to make their work available in the market where this work can be bought and sold. But while the society wishes to encourage creativity, it does not want to help the grooming of harmful market power. And for this reason, certain limits are built in the rights granted to the creator, in terms of time and space, by the state. Rights are granted for fixed period of time and protect only the fixation of creativity in material form.

**INTELLECTURAL PROPERTY RIGHTS – LOOKING BACK**

Prior to General Agreement on Tariffs and Trade (GATT), intellectual property rights were not subject to formal international trade negotiations. Rather, intellectual properties were subject only to international conventions like Berne and Rome conventions concerning Copyrights. These conventions required 'national treatment', i.e. treat foreigners the same as nationals. As a result if the member nation opted to provide limited protection to the creators, then no greater protection was available to foreigners.

**INTELLECTUAL PROPERTY RIGHTS – THE DAYS AHEAD**

Following the emergence of strong global and national intellectual property regimes the subject of intellectual property rights and their protection has become a central issue in economic development, scientific and technological development, protection of traditional knowledge and scientific and economic co – operation between industrialized and developing countries. IPR as an issue has become important because of the emergence of corporates' as dominant institutions. Today's world is a 'World of Opportunities and Threats' (WTO); wherein the knowledge dimension has acquired a new role in wealth creation. In this era of contemporary knowledge,

the corporates' wish to establish their rights on this resource to ensure a proper 'Return on Investments / Invention / Innovation'. Where on one side these corporates' play a dominant role in discovering new knowledge, on the other side, these corporates' try to appropriate the knowledge of nations and communities. With the advent of globalization and a borderless world, nations have been weakened and corporates' have emerged as states in themselves. This has made attempts of piracy of people's knowledge easier. "How are we going to ensure that our Intellectual property is protected at an offshore location?" is a question often asked in board meetings of companies that are planning their offshore initiatives in India. The importance of IP exponentially increases in companies that are planning to execute some of their core projects offshore and in companies that need to provide access to classified company data to the offshore location for BPO/Call center initiatives. It is important for companies to understand IP rights in India and the best practices that can be followed to protect the IP. Intellectual Property will no longer be seen as distinct or self contained domain, but rather as an important and effective policy instrument that would be relevant to a wider range of socio - economic, technological and political concerns. Moreover, as technological advancements have become a requirement for sustained growth in the future, a new emphasis is emerging on research and development. It is for this reason that intellectual property and its protection have gained greater importance. Intellectual Property has now been recognized as an important tool for technical, industrial and economic development.

### SIGNIFICANCE OF INTELLECTUAL PROPERTY RIGHTS

The main purpose of intellectual property law is to give protection, encourage the research innovation and rewarded for their original work. Without IPR, creators and inventors would derive no benefit/ gain from new ideas from their work, and the investment made in that works would never be compensate. It can be valuable because it represents ownership and an exclusive right to use, manufacture, reproduce, or promote a unique creation or idea. Like other forms of property, Intellectual Property is also an asset which can be owned, sold, and exchanged. The importance of intellectual property was first recognized in the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886). Both treaties are administered by the World Intellectual Property Organization (WIPO). IPRs have assumed significant importance since the signing of the Agreement on Trade Related Intellectual Property Rights (TRIPS) under World Trade Organization (WTO). India has been a World Trade Organization (WTO) member since 1995.

### COPY RIGHT:

Copyright protects the labour, skill and judgment of someone's author, artist or some other creator, expender in the creation of original piece of work. It provides legal rights exclusively given for a definite period to the creators of an intellectual work e.g. literary works (anything in writing) artistic works (drawing, maps, plans, etc.) musical works, films, sounds, recordings, computer programs for sale or any other use. Copyright protection begins when works are actually created in the tangible form. Copyright was designed for three basic reasons that are to reward creators for their original works; to encourage availability of the works to the public; and to facilitate access and use of copyrighted works by the public in certain circumstances. India has a very strong and comprehensive copyright law based on Indian copyright act 1957, which was amended in 1984, 1992, 1994 and 1999. The copyright has its origin from Indian copyright act 1847 enacted during East India Company. Further the copyright

**INTELLECTUAL PROPERTY RIGHTS LICENSING IN INDIA****\*R.R SIRISHA REDDY,**Asst Prof in Commerce,  
ASD College for (W) KKD**Introduction:**

Intellectual property (IP) is a category of property that includes intangible creations of the human intellect. Intellectual property encompasses two types of rights; industrial property rights (trademarks, patents, designations of origin, industrial designs and models) and copyright. It was not until the 19th century that the term "intellectual property" began to be used, and not until the late 20th century that it became commonplace in the majority of the world.

Intellectual property rights include patents, copyright, industrial design rights, trademarks, plant variety rights, trade dress, geographical indications,<sup>[30]</sup> and in some jurisdictions trade secrets. There are also more specialized or derived varieties of sui generis exclusive rights, such as circuit design rights (called mask work rights in the US) and supplementary protection certificates for pharmaceutical products (after expiry of a patent protecting them) and database rights (in European law). The term "industrial property" is sometimes used to refer to a large subset of intellectual property rights including patents, trademarks, industrial designs, utility models, service marks, trade names, and geographical indications. The main purpose of intellectual property law is to encourage the creation of a large variety of intellectual goods. To achieve this, the law gives people and businesses property rights to the information and intellectual goods they create – usually for a limited period of time.

**Hypothesis:**

There is a great need to limit the existing provisions related to the statutory licensing, this indirectly cause the misbalance between the rights of Copyright owners and broadcasters.

**Research Methodology:**

The researcher has adopted analytical method of research in proceeding with the project. Copyright is the exclusive right which is given by the government to the owner of the original work. It's a legal concept, and given normally for a limited period. The purpose of giving such kind of rights to the creator is basically to compensate for their in return of their intellectual wealth. Copyright is given to the expression of an idea or information. Laws and applicable rules related to the Copyright under the India has been governed under the Copyright Act, 1957.

**Need For Licensing:** The owner of the work may grant any interest in his copyrighted work to some other person though the way of licensing. It should be duly signed by the owner or by his authorized agent. Licensing allows copyright holders to choose the rights a licensee may exploit without passing title. A copyright owner can choose to grant a license for one or all exclusive rights or grant more limited licenses based on geographic territories or other criteria. Each license can enumerate an array of terms, conditions, limitations, and royalty arrangements as agreed upon in a licensing contract. Licenses, therefore, can produce significant financial income for copyright owners Non voluntary licenses are necessary in India for public interest. If the owner of the copyright holder denies to republish or if he denies to communicate the same to

the public without any reasonable grounds then the complaint can be made against the same in public interest.

In voluntary licensing, the problem which arises is regarding to the unreasonable terms and conditions set by the owner of the copyright work or the copyright societies. This pulls the attention of the courts towards the compulsory and statutory licensing. For the hassle free work or for the reduction in the litigation and negotiation the concept of non- voluntarily license has been introduced. Earlier it was just compulsory licensing now it is extended to the statutory licensing as well. Distinguishing Compulsory Licensing From Statutory Licensing

Compulsory licenses provide for the right to use a copyrighted work if certain procedures are followed and a statutorily defined fee is paid. There is no specific difference as such between statutory licensing and compulsory licensing. In many jurisdictions both the terms are used interchangeably. However the Indian copyright law tries to make a distinction between the two in the sense that under compulsory licensing the rate of royalty is left to be negotiated by the parties but in statutory licensing the rate of royalty is decided by the Copyright Board. In this form of statutory licensing permission is not required before using someone else's intellectual property, provided that a fee is paid. Licence is created by statute and not the copyright owner nor the user.

### Statutory Licensing In India:

Section 31C deals with the statutory licensing to make cover versions and rules 23 -28 of the Copyright Rules, 2013 talks about the procedure which need to be followed to get the license. The recording can only be made after the expiration of the year after the publication of the copyrighted original work and for the person should need to disclose his intention to produce the same in a prescribed manner, copies are supposed to be provided and the royalty which is fixed.

It gives the right to the broadcasters. If any institution or organization wants to broadcast a work which might include sound recording can do the same but for that they are required to give the prior notice to the owner and need to pay royalty in advance which is fixed according to the copyright board. The announcement of the performers or authors name shall be done during the broadcasting. Records and book of account need to be maintained and shall be presented to the Article 9(2) of the Berne Convention it talks about the exclusive right granted to the authors for the reproduction of their work in any form. And also gives the authority to the legislation of the member country to provide reproduction in special case and provide equitable remuneration without doing any injustice to the author.

It can be exercised only in the country recommended by them. Further the legislation in the member country are to prescribe the conditions under which sound recording rights to be exercised. India has given the formal consent to the Berne Appendix and act according to the provisions relating to the another problem which has been faced by the Community Radio Rules stations in India is that there are different kinds of broadcasters are active but neither in Copyright Amendment Act,2012 nor in Copyrights Rules the distinction is mentioned. Which is becoming very crucial in present situation. There are basically two kinds of stations - Corporate owned FM radio stations and Community radio stations. Both work differently. No express distinction has been made between the commercial radio broadcasters and the community radio broadcasters. They both have different functions and motive behind broadcasting. Corporate owned station or commercial radio are basically profit oriented and the business is depends upon the paid programs and advertisement. Whereas the community radio stations are different in both

way. If we look around the other countries in the world, the laws and provisions are way more specific and cover a variety of situation.

- A distinction should be made between the Community Radio broadcaster and the commercial broadcaster. The community broadcaster should be allowed to broadcast the copyrighted work without any payment of royalty, or if there is need to impose any fees, the same should be the nominal.
- It affects the competition, to keep the competition in market, licensing should not be very liberal.

#### CONCLUSION:

Copyright only protects the expression of an idea. Anyone can create a similar work only the exact copying is not allowed. The idea or expression should be different. Copyright is intellectual property and should be protected like the real or personal property. If the copyright owners have the exclusive right over the work they have done the why there is a need to intervene the govt. who didn't even know the exact value or hard work done over the work. What can the owners are suppose to do if the copying of their work is beyond their control, although facilitated by the government itself. When the rate is fixed by the government there will be more chance to get the political influence over it and Because of the less reimbursement there is less inventiveness regarding with the new work and if the rate if fixed by the government then it takes another law to change it.

When the market rate comes out higher then what is expected, it can frustrate both the users and owner and to escape this situation negotiation is the best solution. Another area which is need to take concern is the rates. Government uses normally the national rates not area based. and if there rates are on fault then it would result in either overcompensation or under compensation which will definitely hit any of the parties. There is a need to limit the principle lays down regarding to the statutory licensing and also need to protect the exclusive rights of the owner. The mandatory licensing should be an exception rather than making it a rule.it should not use to exploit the owner itself. There is a need to maintain the balance. The market game should be fair.

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