



# LAWS ON INTELLECTUAL PROPERTY RIGHTS AND THEIR ENFORCEMENT

**R. P. Ramanathan**  
Advocate & IPR Attorney  
Coimbatore/Chennai/Bangalore



# **LAWS ON INTELLECTUAL PROPERTY RIGHTS AND THEIR ENFORCEMENT**



**First Edition**

**Author**

R. P. Ramanathan



**Title of the Book:** Laws on Intellectual Property Rights and their Enforcement

**First Edition - 2024**

**Copyright 2024 © R. P. Ramanathan, Advocate & IPR Attorney**

No part of this book may be reproduced or transmitted in any form by any means, electronic or mechanical, including photocopy, recording or any information storage and retrieval system, without permission in writing from the copyright owners.

### **Disclaimer**

The author is solely responsible for the contents published in this book. The publishers don't take any responsibility for the same in any manner. Errors, if any, are purely unintentional and readers are requested to communicate such errors to the editors or publishers to avoid discrepancies in future.

**E-ISBN: 978-93-5747-620-1**

**MRP Rs. 470/-**

### **Publisher, Printed at & Distribution by:**

Selfypage Developers Pvt Ltd.,  
Pushpagiri Complex,  
Beside SBI Housing Board,  
K.M. Road Chikkamagaluru, Karnataka.  
Tel.: +91-8861518868  
E-mail: info@iipbooks.com

**IMPRINT: I I P Iterative International Publishers**

### **For Sales Enquiries:**

Contact: +91- 8861511583  
E-mail: sales@iipbooks.com



**Prof. Dr. K. RAMASAMY**

Chancellor,

Karpagam University, Coimbatore;

Advisor, VIT University, Vellore

Former Vice-Chancellor,

Tamil Nadu Agricultural University, Coimbatore and

Member, Tamil Nadu State Planning Commission

Former Vice-Chancellor, Karpagam University, Coimbatore

Former Director, Centre for Plant Molecular Biology, TNAU, Coimbatore

## **Foreword**

India is an ancient country in the Universe and our country “Bharat” is available in all the four Chatur Yugas as per the Vedas and historical events took place.. There were so many Innovators such as Arya Bhatta, Varahi Mihira, in Arts, Literature, Science, Engineering and Technology and also so many Inventions were available in ancient India. But due to non availability of any system for documentation, these innovations were unable to be properly documented and were known only to the limited number of persons who practiced in the relevant subjects.

Our Traditional knowledge in Surgery and medical procedures, Indigenous, Siddha and Ayurvedic medicines and drugs using medicinal plants and herbs can be traced centuries ago before the Birth of Jesus Christ and this traditional knowledge also could not be recorded since they were kept as Trade Secrets by a very few families, hereditarily owned them and some of these innovations and findings got vanished due to efflux of time and proper non- documentation in the Society. For example, the medicinal aspects of Neem (Vembu) , Turmeric, Muringa and other herbs could be got recognitions in western countries, while they are our innovations on traditional knowledge.

After the Birth of Jesus Christ, the western world which ran on scientific notions and principles started documenting all and any such innovations and findings established on scientific terms of proof or evidence which were useful to the human society. These creations out of mind otherwise called as



**Prof. Dr. K. RAMASAMY**

Chancellor,

Karpagam University, Coimbatore;

Advisor, VIT University, Vellore

Former Vice-Chancellor,

Tamil Nadu Agricultural University, Coimbatore and

Member, Tamil Nadu State Planning Commission

Former Vice-Chancellor, Karpagam University, Coimbatore

Former Director, Centre for Plant Molecular Biology, TNAU, Coimbatore

“Intellectual Property” were documented in the concerned country of origin and the international character of such IP has been recognized through various International Conventions, the first of its kind being the Paris Convention for the Protection of Intellectual Property in 1967. India is a member of almost all such International Conventions and Treaties, which defined the scope and width of Intellectual Property Rights in different fields. The GATT and WTO .

Agreements including the TRIPS formulated the detailed guidelines, each and every country which became member needed to enact their own suitable laws to protect their Intellectual Property based on the above guidelines.

Various enactments on Intellectual Property were made during the rule of British starting from 1857 onwards and after Independence, our Governments continued to enact various laws to protect IP starting from the year 1958 by enacting the Trade and Merchandise Marks Act, 1958 which was repealed by the Trade Marks Act, 1999.

Mr R P.Ramanathan, who is a close friend of mine and also a B.Com degree holder, while working as Accounts Officer, in the Agricultural College and Research Institute, Madurai studied Law in Madurai Law College during 1997-2000 and obtained his degree of Bachelor of Law. During his period of service in various positions including the Senior Accounts Officer and Chief Administrative Officer in the Tamil Nadu Agricultural University, Coimbatore he was involved in Court cases connected with academic, education, administrative, labour and employment. He has also shown keen interests to know about the Laws on Patents and other IPs relating to Agricultural and



**Prof. Dr. K. RAMASAMY**

Chancellor,

Karpagam University, Coimbatore;

Advisor, VIT University, Vellore

Former Vice-Chancellor,

Tamil Nadu Agricultural University, Coimbatore and

Member, Tamil Nadu State Planning Commission

Former Vice-Chancellor, Karpagam University, Coimbatore

Former Director, Centre for Plant Molecular Biology, TNAU, Coimbatore  
Agricultural Engineering, based on which the University started filing applications for the inventions of the Faculty in various fields.

After his retirement on superannuation, he got himself registered with the Bar Council of Tamil Nadu and Pondicerry in the year 2007. After undergoing a short practical training with the retired Officials in the Indian Patent Organisation and becoming a Trade Marks and Geographical Agent, he started his own practice in the domain of Intellectual Property Laws for the past more than 15 years.

After feeling the fact that there is acute need of a book on this topic duly incorporating all the amendments after 2012, he has taken great and earnest efforts in bringing this Book on “Laws on Intellectual Property Rights and their Enforcement” along with the case laws and judgments connected with the various laws which is the essential need of the hour in the current scenario of raising registrations and litigations on Patents, Designs, Trade Marks, Copyrights, Geographical Indications, Plant Varieties and farmers’ rights and Biological Diversity.

I consider his Book will be a readymade handbook which will be really helpful to the students of Arts, Management, Science, Engineering and technology including Start up Entrepreneurs and Institutions and Industries who intend to have a deep study on such laws protecting various kinds of Intellectual Property.

I feel very much proud, honoured and privileged to endorse this Book to all readers who wish to gain knowledge and first hand information on such laws on Intellectual Property.

**(K.RAMASAMY)**

Coimbatore 641 016

Dated: March 1, 2023



*Dedicated to my beloved parents  
without whom I would not have born & live in this  
world.*

*Late Shri Purushotham Ramachandra Karve- Father*

*Late Smt. Ammini Ammal, Mother*



## **R.P.Ramanathan**

Advocate & IPR Attorney,  
12/7, Sri Aravindar Annai Illam, Classic Garden,  
New Thillai Nagar, Coimbatore 641 041  
Email: rprama@gmail.com Mobile: 9994675721

# **Preface**

I hailed from a poor family of Rameswaram which is a landmark in the Ramayana Epic in Ramanathapuram District of Tamil Nadu. After finishing my school, I completed my Pre-University with distinctions in Raja Sethupathi Government Arts College, Ramanathapuram. Due to the financial impediments, I could not pursue my higher studies and was destined to join the Government Secondary Grade Teachers' Training Institute, Sivagangai. During this period of training, I got an appointment in the State Agriculture Department and discontinued my training to join the job as a Junior Assistant in Group IV Ministerial Services of the State Government.

The station in which I was working with the State Government Department of Agriculture, transferred to the Tamil Nadu Agricultural University, Coimbatore on 1st June, 1971 when the University was formed and my services were also transferred to the University from the Agriculture Department. I continued my studies in B.Com, through Distance Learning, B.L. in Government Law College, Madurai (Evening College) in 1999-2000 and PG Diploma in Business Administration of Annamalai University through Distance Learning, while in service. I rendered unblemished service of more than 37 years in the University and was promoted to various posts including the Senior Accounts Officer and Chief Administrative Officer and retired on superannuation as CAO during 2007.

During my service in TNAU, I was attending all the Court cases in Local Courts, Labour Court, and High Court in Chennai assisting the Government Advocates including the Advocate General of Tamil Nadu up to 1985. While I was serving as Accounts Officer in the Agricultural College & Research Institute, Madurai I attended the Court cases in Madurai Local Courts and Labour Court prior to obtaining my Law Degree.

My knowledge and expertise gained in the legal aspects, made me study Law. On my retirement on superannuation, I decided to practice Law. During my service in TNAU, I was exposed to various Intellectual Property Laws relating



**R.P.Ramanathan**

Advocate & IPR Attorney,  
12/7, Sri Aravindar Annai Illam, Classic Garden,  
New Thillai Nagar, Coimbatore 641 041  
Email: rprama@gmail.com Mobile: 9994675721

to Agriculture and this has motivated and inspired me to get my practice in this special area of Intellectual Property Rights since 2007. I got a special intensified training from a Retired Deputy Controller of Patents in Chennai for three months.

I am in the habit of regularly attending National, International Symposium/ Seminars/ Workshops since 2007 and in view of my vast experience gained over a period of time, making presentations and lectures on IPRs in educational institutions, start-ups companies to make the participants aware of the special nature of these laws.

During the conduct of such programs, one of the participants has uploaded my presentation video in you tube with my permission and this has further inspired me to keep the trend. Now, I find that during recent times for the past more than 10 to 15 years, IPRs are gaining importance in Industries and Trade and the Universities have come forward to include this subject either as Optional or include in the Course contents.

I also find that there is no publication available with updated rules of the IPR Laws and this has paved my way to write and publish this Book on Laws on IPRs to benefit the students, Faculty members, start-ups and the entrepreneurs in various Industries and Trade in specific and the Public at large. I am extremely thankful to the Heads of various Institutions for their advice to me in writing this Book.

**R.P. Ramanathan, Advocate & IPR Attorney**

# **About the Book**

Intellectual Properties are those creations out of mind, that is to say, one's intellect, the rights of whom can be protected by Law once they become tangible. There are various Acts and Rules governing the protection of Intellectual Property Rights in India. The said Acts and Rules are modified from time to time to suit the modern trends in innovations and industrial needs.

## **The main objectives of the book are:**

1. To create awareness on IPRs and their significance among researchers, creators, academicians, investors, business people, and even to common people;
2. To make readers know about the need of IPR laws, their history and contribution to the growth of the country & individuals;
3. To make readers understand about the functioning of international IPR organisations and country level laws & governing bodies (India), their future plans and present opportunities in it for creators/ inventors ;
4. To provide awareness to readers about the Government Schemes and benefits provided to the Inventors for their inventions;
5. To educate the legal aspects and to provide awareness on IPR crimes, infringements and Legal actions need to protect their intellectual properties in India;
6. To depict the classification of intellectual properties and the laws based on it;
7. To explain the readers about benefits in monetizing their intellectual property rights;
8. To educate the readers about the procedures for registration and use with IPO organisations in India ;
9. To highlight the boundaries of IP domain wise in Indian law;
10. To enrich the impact of knowledge on IPR among readers by providing case studies and famous legal arguments on specific areas of Intellectual Property Rights.
11. To create awareness on new innovations and protection of IP rights of the owners from infringers.
12. There is no comprehensive book with latest amendments available to benefit the stakeholders' viz. Faculty members, Students, entrepreneurs and the public interested in knowing the latest laws. Hence there is an acute need to enlighten and identify the areas of Intellectual Properties which can be used by organisations for an effective IP Strategy Planning and implementation and this is the cause to write this Book.



**R.P.Ramanathan**  
Advocate & IPR Attorney,  
12/7, Sri Aravindar Annai Illam, Classic Garden,  
New Thillai Nagar, Coimbatore 641 041  
Email: rprama@gmail.com Mobile:9994675721

## **Acknowledgments**

First of all, I wish to express my sincere thanks to Late Sri S.Sundaram, Former Law Officer, Late Dr. C.Ramasami, Former Registrar and Dr.S.Purushothaman, Former Dean, Agricultural College & Research Institute, Madurai, also Former Registrar, Tamil Nadu Agricultural University, Late.Dr. P. Rengasamy, Former Dean, Agricultural College & Research Institute, Madurai, who were instrumental and enabled me to join the Law Degree Course in Evening College of Madurai Law College during 1997 to 1999 which has ultimately resulted in gaining the knowledge in the basic Laws of the Land and International Laws.

I am indebted and grateful to Late.Dr S. Jayaraj, Former Vice Chancellor, Tamil Nadu Agricultural University, Coimbatore who served as a External Expert Member in Geographical Indications Registry at the Indian Patent Office, Chennai who inspired and given testimonials and validation certificates to me to get myself registered as IPR Attorney/ Agent with the Trade Marks and Geographical Indications Registries in Mumbai and Chennai IPOs.

I also express my sincere thanks and gratitude to Dr. K. Ramasamy, Former Vice Chancellor, Tamil Nadu Agricultural University, Coimbatore and Former Vice Chancellor, Karpagam University, Coimbatore for his continued support to me by constantly giving me opportunities for Guest Lectures in this subject which enriched strengthening my knowledge and expertise in the IPR Laws which in turn resulted in bringing this book.

Also, I am indebted and thankful to Late Dr.Y.B.Morachan, Former Registrar, Tamil Nadu Agricultural University, Coimbatore, who gave me an opportunity to associate with himself for re-writing a Chapter on Cost Accounting in Agriculture in his latest edition of Text Book on Agronomy and gave me advice about writing of books on such topics not only for updating my knowledge and expertise but also to serve the Society.

I do hereby express my gratitude and thanks to Dr.T.S.Raveendran, Former Director, Plant Breeding & Genetics, Tamil Nadu Agricultural University, Coimbatore who was the motivation and strength behind me to start my second



**R.P.Ramanathan**

Advocate & IPR Attorney,  
12/7, Sri Aravindar Annai Illam, Classic Garden,  
New Thillai Nagar, Coimbatore 641 041  
Email: rprama@gmail.com Mobile: 9994675721

innings after my retirement in 2007 for starting my profession on Intellectual Property Rights. I express my sincere thanks to Sri B.Arunagirinathan, Former Chief Administrative Officer, Tamil Nadu Agricultural University, and Coimbatore who had given me the opportunity of associating me as Co-Author in writing 7 Code Books and 2 Articles on Administrative Reforms.

I express my sincere thanks to the Management, Director, Corporate & Industry Relations, and Dr. R.Krishnan, and staff, Amrita Centre for Entrepreneurship, Amrita University, Coimbatore who stood behind me and continued to support me for participation in their EDP/ FDP and other programmes on IPR awareness.

Also, my thanks are due to Dr. S.Venkatesh, Principal, Imayam College of Arts & Science, Thuraiyur, Trichy, Dr.Mrs.Thennarasi, School of Management, Sri Krishna College of Technology, Coimbatore, Dr.Suresh Babu, Head of the Department of ECE, and Dr.M.Jayakumar, Principal, King The Christ College of Engineering, Karamadai, Coimbatore who informed about the need for Book in the area of Intellectual Property Rights due to non availability of any updated book on this subject and inspired me to write this Book.

I acknowledge with thanks the valuable services of Mr Arjun Karthik Bala, Mr. Muruganatham, of Metayage IP Strategy Consulting, Bangalore/ Coimbatore, Mr. V S. Natarajan, Retired Joint Registrar of Trademarks & GI, Chennai and Dr. Suresh Babu, Head of the Department of ECE, King The Christ College of Engineering, Karamadai, Coimbatore for having assisted me in editing and adding their inputs in bringing this Book to this level.

I also express my sincere thanks to Dr. K. Ramasamy, Former Member, TN State Planning Commission, Former Vice-Chancellor of Tamil Nadu Agricultural University, Karpagam University, Coimbatore and present Chancellor, Karpagam University, Coimbatore and Advisor, VIT, Vellore for his valued foreword for this book.

Also, my sincere thanks are due to my wife, Mrs. K. S. Vanaja, my son, Dr Madhan Kumar Ramanathan and family members who stood behind me in writing this book. My sincere thanks are due to my beloved Mr. R. Balachandar,



**R.P.Ramanathan**

Advocate & IPR Attorney,  
12/7, Sri Aravindar Annai Illam, Classic Garden,  
New Thillai Nagar, Coimbatore 641 041  
Email: rprama@gmail.com Mobile: 9994675721

a close family friend for his continued support in encouraging me to bring out this work.

Last, but not the least, I am indebted to the Managements, Heads of various Institutions who always appreciated my presentations and gave valuable feedback which in turn improved the contents of my presentations.

**R.P.RAMANATHAN, Advocate & IPR Attorney**

# Contents

<b>Chapter No.</b>	<b>Chapter Name</b>	<b>Page No.</b>
<b>Chapter 1</b>	<b>Preamble – Introduction</b>	<b>1-4</b>
1.1	What is Intellectual Property?	1
1.2	What are Intellectual Property Rights?	2
1.3	What are the Advantages?	3
<b>Chapter 2</b>	<b>International Origin &amp; History of IPRS</b>	<b>5-16</b>
2.1	Introduction	5
2.2	The Rome Convention, 1961	5
2.3	The Paris Convention, 1967	6
2.4	The Berne Convention, 1971	6
2.5	The Treaty on Intellectual Property, May 26, 1989	7
2.6	Geneva Convention	7
2.7	GATT and WTO Agreements including TRIPS Agreement	7
2.8	Convention Establishing World Intellectual Property Organization (WIPO)	11
2.9	The World Intellectual Property Report 2011- The Changing Face of Innovation	11
2.10	Patent Cooperation Treaty (PCT)	11
2.11	Budapest Treaty	12
2.12	Madrid Protocol for International Trade Marks Registration	12
2.13	International History of Trade Secrets	12
2.14	International History of Geographical Indications	13
2.15	Origin of Law on Protection of Plant Varieties: "UPOV Convention"	14
2.16	The Convention on Biological Diversity (CBD) 1992	15
<b>Chapter 3</b>	<b>Patents</b>	<b>17-82</b>
3.1	Origin and History	17
3.2	Additions	18

3.3	Definitions	20
3.4	Types of Patent Application	21
3.5	Kinds of Patents	21
3.6	Patentability Criteria	23
3.7	Prior to any of the Publications	23
3.8	Contents of Patent Document	24
3.9	Filing Process	24
3.10	Filing in National Patent Offices	25
3.11	Patent Cooperation Treaty (PCT)	25
3.12	Processing of PCT Applications	26
3.13	Advantages of PCT Filing	27
3.14	Inventions not Patentable	27
3.15	Procedure for the Grant of Patent	29
3.16	Filing of an Application	29
3.17	Residents not to Apply for Patents outside India without Prior Permission	31
3.18	Publication in the Patent Journal	31
3.19	Patent Examination	32
3.20	Pre-grant Opposition	32
3.21	Acceptance and Notification	33
3.22	Patent Grant	33
3.23	Post-grant Opposition	33
3.24	Patentee's Rights	34
3.25	Rights of Co-Owners of Patents	35
3.26	Term of Patent & Renewal	35
3.27	Patent Workability & Compulsory License	36
3.28	Revocation	36
3.29	Certain Acts not to be considered as Infringement	36
3.30	Inventions on AI and Patent	37
3.31	When AI is the Inventor - who gets the Patent?	38
3.32	Replacement of Organs-3D Bio Printing	39
3.33	Patentability and Inventor Ship of Digital Health Invention	40
3.34	Patent Marking Under Indian Law	41
3.35	Consequences of Failing to Mark the Product	42
3.36	Strategies for Marking Software Products	42
3.37	Patent Disputes	43
3.38	Some Important Judgments on Patents in India	44

<b>Chapter 4</b>	<b>Industrial Design Act, 2000</b>	<b>83-100</b>
4.1	Origin and History	83
4.2	Salient Features	84
4.3	Definitions	85
4.4	Objectives	86
4.5	Criteria for a Valid Design	86
4.6	Procedure of Registration	86
4.7	Filing of Application	86
4.8	Examination	87
4.9	Publication in Design Journal	87
4.10	Grant of Registration	87
4.11	Not Register-Able	87
4.12	Duration of Registration of a Design	88
4.13	Rights Granted to the Owner	88
4.14	Design Piracy & Infringement	88
4.15	Offences & Penalty	89
4.16	No Infringement	89
4.17	Some Landmark Judgments on Designs	89
4.18	Overlap in Designs and Copyrights	92
4.19	Novelty of design/ Mere Changes in Placement of the Plaintiffs' and the Defendants' Products be Perceived as Sufficient to Alter the Shape of Such Products so as to Acquire Novelty	94
4.20	Meaning of Expression "New or Original" Appearing in Section 4	94
4.21	Novelty in Application of Design gave it Originality	95
4.22	Suit for Infringement of Design must be Held to be the same as a Suit for Infringement of Copyright in the Design	95
4.23	Artistic Work Excluded from Protection under Designs Act	95
4.24	Prior Registration in Foreign Jurisdictions should be Considered as 'Prior Disclosure'	96
4.25	Novelty and Originality in Design/ Dimensions in Design Application	97
4.26	Invalidity of Registration due to Prior Publication	97
4.27	Design Infringement- Invalidity or Prior Publication is not Defence.	98
4.28	Rights of a Reseller/Re-Cycler of Old Beer	98

	Bottles	
4.29	Novelty of Design/ Design has been Previously Registered in for One Class of Articles and Proprietor wants to Register it for some other Articles in the Same Class	99
<b>Chapter 5</b>	<b>Semiconductor Integrated Circuit Layout- Designs Act, 2000</b>	<b>101-110</b>
5.1	Origin & History	101
5.2	Salient Features	102
5.3	Definitions	103
5.4	Criteria for Registration of Layout-Design	103
5.5	Process of Registration	103
5.6	Examination	104
5.7	Advertisement of Application	104
5.8	Opposition to Registration	104
5.9	Grant of Registration	105
5.10	Jointly Owned Layout Design	105
5.11	Duration of Registration	105
5.12	Not Register Able	105
5.13	Rights Granted to the Owner	106
5.14	Infringement	106
5.15	Offences & Penalty	106
5.16	Penalty for Falsely Representing a Layout-Design as Registered	106
5.17	Penalty for Improperly Describing a Place of Business as Connected with the Semiconductor Integrated Circuits Layout-Design Registry	107
5.18	Penalty for Falsification of Entries in the Register	107
5.19	Forfeiture of Goods	107
5.20	No Infringement	108
5.21	Important Case Laws	109
<b>Chapter 6</b>	<b>Copyright</b>	<b>111-141</b>
6.1	Origin & History	111
6.2	Definitions	113
6.3	Bundle of Rights	116
6.4	Owner of a Copyrighted Work	117
6.5	Process of Registration	117

6.6	Term of Copyright	120
6.7	International Protection	120
6.8	Infringement of Copyright	120
6.9	Doctrine of Fair Use (Exceptions to Infringement)	121
6.10	Computer Software Piracy	123
6.11	Piracy in Sound Recording Industry	123
6.12	Piracy in Cinematographic Films	124
6.13	Plagiarism	125
6.14	Self-Plagiarism	126
6.15	Types of Self-Plagiarism	126
6.16	Idea-Expression Dichotomy	126
6.17	Ownership in a Copyrighted Work made by an Employee	127
6.18	Transfer of Rights	128
6.19	Licensing	128
6.20	Compulsory Licences	129
6.21	A Copyright Society	129
6.22	Copyright Landmark Cases	129
<b>Chapter 7</b>	<b>Trademark</b>	<b>142-196</b>
7.1	Origin & History	142
7.2	Salient Features	143
7.3	Definitions	143
7.4	Types of Marks	144
7.5	Generic Marks	150
7.6	Suggestive Mark	150
7.7	Descriptive Mark	150
7.8	Arbitrary Mark	150
7.9	Fanciful Mark	150
7.10	Colour Trademark	151
7.11	Sound Trademarks	151
7.12	Shape Trademarks	151
7.13	Smell Trademarks	152
7.14	Not Register Able	152
7.15	Necessity for Trademarks Registration	154
7.16	Advantages of Trademark Registration	154
7.17	Trademark Rights can be Established Even without Registration	156
7.18	Process of Registration	157
7.19	Madrid Protocol: (International Registration)	159

7.20	Trademarks of Gaming	159
7.21	Trademarks Rectification & Cancellation	160
7.22	Generic Trademarks VS. Generic Terms	162
7.23	Trademark Genericide	163
7.24	Genericide Prevention	163
7.25	Relevant Case Laws	165
7.26	Nice Classification Introduces Specific Descriptions for Virtual Goods and Services (Non-Fungible Tokens and Crypto-Assets)	166
7.27	Domain Names	167
7.28	Domain Names Disputes	167
7.29	Cyber Squatting	167
7.30	Abolition of IPAB and Consequences	168
7.31	Some Landmark Judgments	168
7.32	Intellectual Property Rights ("IPR") and E- commerce	179
7.33	E-commerce Platforms Case Laws	179
7.34	Protection of Domain Names as Trademarks	188
7.35	Descriptive Words as Domain Names	190
7.36	'In' Dispute Resolution Policy	190
7.37	Protection of Unregistered Personal Names	191
7.38	Internationalised Domain Names	192
7.39	Overlap in Trade Marks Act and Information Technology Act	192
7.40	Trade Dress	194
7.41	Identical Names Dispute	195
<b>Chapter 8</b>	<b>Trade Secrets</b>	<b>197-207</b>
8.1	Origin & History	197
8.2	Definitions	197
8.3	Industrial Espionage	198
8.4	Misappropriation	198
8.5	Data Breach	199
8.6	The "Quality of Confidence"	200
8.7	Rights of the Owner	200
8.8	Maintenance of Secrecy through the Indian Contract Act	200
8.9	Some Important Case Laws	201

<b>Chapter 9</b>	<b>Geographical Indications</b>	<b>208-219</b>
9.1	Origin and History	208
9.2	Salient Features	209
9.3	Definitions	209
9.4	Protection of GIs	210
9.5	Process of Registration	210
9.6	Duration of Protection	213
9.7	Renewal	213
9.8	Additional Protection to Notified Goods	213
9.9	Divisional Application	213
9.10	Appeals	213
9.11	Rights of the Owner(s)	213
9.12	Infringement Criteria	214
9.13	Remedies	214
9.14	No Infringement	214
9.15	Non Register Able	214
9.16	Maintainability in Case of Unregistered GIS	215
9.17	Overlap between Geographical Indication and Certification Mark Under Trademark Law	215
9.18	Grant of GI Tag after many Efforts	216
9.19	The Case of Navara Rice – Tamil Nadu vs. Kerala	217
9.20	The Famous Kolhapuri Chappals	218
9.21	Tirupathi Laddu – The Savoury from Andhra	218
9.22	International Disputes	219
<b>Chapter 10</b>	<b>Protection of Plant Varieties and Farmer’s Rights</b>	<b>220-248</b>
10.1	Origin and History	220
10.2	Objectives	221
10.3	Salient Features	222
10.4	Functions of the Authority	222
10.5	Eligibility for Filing an Application	222
10.6	Definitions	223
10.7	Criteria Essential	227
10.8	Not Register Able	228
10.9	Researcher’s/ Plant Breeder’s Rights	229
10.10	Farmer’s Rights	230
10.11	Types of Applications	232

10.12	Registration Fee	233
10.13	Annual Fee	233
10.14	Renewal Fee	233
10.15	Application Filing	234
10.16	Deposit of Seeds	235
10.17	Duration of Protection	235
10.18	Acts of Infringement	236
10.19	Penalty	236
10.20	Species that can be Protected	237
10.21	Grant of Compulsory Licence in Certain Circumstances	237
10.22	Protection of Rights	237
10.23	Case Laws	241
<b>Chapter 11</b>	<b>Biological Diversity</b>	<b>249-261</b>
11.1	Origin and History	249
11.2	Salient Features	251
11.3	Definitions	251
11.4	Certain Persons Not to Undertake Biodiversity Related Activities without Approval of the National Biodiversity Authority	252
11.5	Application for Intellectual Property Rights not to be made without the Approval of the National Biodiversity Authority	253
11.6	Procedure for Seeking Approval	253
11.7	No Offence	254
11.8	Appeal	254
11.9	Penalties	254
11.10	Major Biodiversity Projects	255
11.11	Ambiguities in Regulatory Provisions	256
11.12	Constitutional Validity of the 2014 Guidelines	256
11.13	Absence of Mechanism to Deal with Biodiversity Offences	257
11.14	Landmark Judgments	258
<b>Chapter 12</b>	<b>Allied Laws - Cyber &amp; Information Technology, Competition Law</b>	<b>262-327</b>
12.1	Introduction	262
12.2	Cyber Laws	262

12.3	Information Technology Act, 2000; Information Technology (Amendment) Act, 2006 and 2008	262
12.4	Acts Required Protecting Against Such Crimes	268
12.5	Digital Millennium Copyright Act (DMCA)	270
12.6	The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021	270
12.7	Enforcement of Data Protection	273
12.8	Period of Limitation for Retention of Records	274
12.9	Right to Access Personal Information	274
12.10	Right to Request Deletion of Data	274
12.11	Requirement of Consent	274
12.12	Providing Information about Data Collection	274
12.13	Data Security and Breach: Specific Security Obligations to be Complied with	275
12.14	Notifications in the Event of a Breach	275
12.15	Electronic Marketing and Internet Use	276
12.16	Rules Governing the use of Cookies	278
12.17	Data Transfer and Third Parties- Cross- Border Data Transfer Rules	278
12.18	Restrictions on the Geographic Transfer of Data	279
12.19	Penalties and Compensation for Breach	280
12.20	Cyber Security Legislation, Regulation and Enforcement	280
12.21	Insurance for Cyber Security Breaches	282
12.22	Companies Need Not Report Any Cyber Security Incident Publicly	282
12.23	Offences and Penalties	282
12.24	Some Important Cases	284
12.25	Revocation by the Supreme Court	286
12.26	Section 69 and Mandatory Decryption	286
12.27	Section 69A and Banning of Mobile Apps	287
12.28	Online Speech and Intermediary Liability	287
12.29	The Competition Act, 2002	288
12.30	The Indian Competition Law	289
12.31	National Competition Policy	289
12.32	Definitions	290
12.33	The Competition Commission of India (CCI)	290

12.34	Anti-Competitive Agreements	291
12.35	Abuse of Dominant Position	292
12.36	Combinations	292
12.37	Review of Orders of Commission	292
12.38	Appeal	293
12.39	Offences & Penalty	293
12.40	Landmark Judgments in Competition Law	293
12.41	Investigation of E-Commerce Platforms	295
12.42	Apex Court's Judgment in a 'Penalty on Tyre manufacturers' and 'Jurisdiction of CCI over Lotteries'- Penalty on Tyre Manufacturers	296
12.43	Consumer Protection Laws	298
12.44	Law of Contracts: Indian Contract Act, 1872	311
12.45	The Acceptance should be absolute and unqualified	316
12.46	Competency of Persons to Contract	317
12.47	Acts Vitiating a Contract	317
12.48	Case Laws on Contract	319
12.49	The Sale of Goods Act of 1930	322
12.50	The Agriculture Produce Act of 1937	323
12.51	Seed Act, 1966 and Subsequent Laws	323
12.52	The Drug, and Cosmetic Act, 1940	324
<b>Chapter 13</b>	<b>Management of IPRS Including Valuation Methods</b>	<b>328-335</b>
13.1	Introduction	328
13.2	IP Strategy towards Reducing Risk of IP Infringement	328
13.3	Steps taken to Protect IP Assets	328
13.4	Facing Infringement Litigation	329
13.5	Measuring IPRs	329
13.6	Securing IPRs	329
13.7	Managing and Protecting a Brand in the Age of Social Media	330
13.8	Brand Development: a Sweet Treat	330
13.9	Marking Brand Territory	331
13.10	Monetisation of IPRs	332
13.11	Exploiting IPRs	333
13.12	Valuation of the IP Assets	334
13.13	Methods of Valuation of Patents	334

<b>Chapter 14</b>	<b>Leveraging of IPRS</b>	<b>336-345</b>
14.1	Introduction	336
14.2	Strategies to Leverage IPs	336
14.3	Knowing about Availability of Prior Art	337
14.4	File for Patents as Early as Possible	338
14.5	Identifying Existing or Potential Intellectual Property Assets	338
14.6	To Convert Innovative Ideas into Profit- Making Assets	339
14.7	Technology Investments and Acquisitions	339
14.8	Conducting of Patent Portfolio Mining	340
14.9	IP Valuation	341
14.10	Benefits of Leveraging Intellectual Property Rights	341
14.11	The Biggest Issue Inventors Face	344
14.12	Patent will not Monetize itself	345
<b>Chapter 15</b>	<b>Challenges in Infringement</b>	<b>346-361</b>
15.1	Introduction	346
15.2	IPR Protection in Agriculture	346
15.3	Tips to Protect Intellectual Property before it is Stolen or Repurposed	347
15.4	Opt for Strong Nondisclosure Agreements	348
15.5	Create Strong Access Credentials	348
15.6	Challenges Faced: Patent Infringement	348
15.7	Internet/Technology	351
15.8	Protection of a Pattern Mark	351
15.9	Enforcement of IP Violations	352
15.10	Prevention of Ever Greening Patents	353
15.11	Protection of Product Patents	353
15.12	Protecting Traditional Knowledge	353
15.13	Compulsory Licensing & Drug Price Control Order	353
15.14	Backlog and Time for Final Decision	354
15.15	Appointing Subject Matter Experts	354
15.16	Positive Developments	354
15.17	Summing Up	355
15.18	Fighting Infringers on the Social Front	356
15.19	Anti-Social Media	356

15.20	Despite Landmark Judgment, Issues of Regulation Remain in India's Biodiversity Regime	359
15.21	Subsidies & IPR Issues	360
<b>Chapter 16</b>	<b>Enforcement of IPRS and Legal Claims</b>	<b>362-423</b>
16.1	Introduction	362
16.2	Challenges in the Protection and the Enforcement of Patents	363
16.3	Literal Infringement	365
16.4	Contributory Infringement	367
16.5	Doctrine of Equivalents	367
16.6	Claim Amendments	367
16.7	Maintainability of Divisional Applications	369
16.8	Defences	370
16.9	Computer Related Inventions	370
16.10	Patentability of Derivatives of Pharmaceutical Substances	371
16.11	Patentability in the Life Sciences/ Biotechnology Sector	371
16.12	Backlog and Time for Final Decision	371
16.13	Subject Matter Experts	371
16.14	Positive Developments	372
16.15	Enforcement of Designs	372
16.16	Passing Off	373
16.17	Enforcement Time Frame	373
16.18	Ownership of Copyright in Work for Hire	374
16.19	Joint Ownership	374
16.20	Recent Cases	375
16.21	Overall Same Aesthetic Look and Effect	376
16.22	Invalidity or Prior Publication as a Defence	376
16.23	Recovery of Damages	376
16.24	Trade Marks Enforcement	379
16.25	Recent Cases on Pharmaceutical Marks	385
16.26	Timeframe for Infringement Actions	391
16.27	Defences Available to Infringers	392
16.28	Appeal Procedure for Infringement Decisions	392
16.29	Punitive Damages	392
16.30	Legacy Rights	393
16.31	Laches	394
16.32	Public Domain	394

16.33	Abandonment of Trademark Applications	395
16.34	Similarity of Marks	395
16.35	Prevention is Better than Cure- Enforcement of Trade Secrets in India	396
16.36	No Mini Trial in Temporary Injunction Application	396
16.37	Remedies Available to Owners of Infringed Marks	398
16.38	Enforcement of Copyrights	401
16.39	Constitutional Validity of Section 64	403
16.40	Technological Protections	404
16.41	Portents	404
16.42	Copyright and Confidential Information	405
16.43	Copyright and Publicity	407
16.44	Privacy under the Copyright Act	410
16.45	Public/Publish	410
16.46	Private	410
16.47	Delivery up of Infringing Material	414
16.48	Intellectual Property Protection for Games	414
16.49	Enforcement of other Intellectual Property Rights	415
16.50	Digital Data Protection	415
16.51	Cyber Threat Detection and Reporting	416
16.52	Reporting under the Information Technology Act	418
16.53	Limitation of Time for Reporting	419
16.54	Certificate of Contested Validity and Other Reliefs	420
16.55	Appellate Review/ Hierarchy of Courts	420
16.56	Alternatives to Litigation	421
<b>Chapter 17</b>	<b>Conclusion</b>	<b>424-427</b>
17.1	In a Nutshell: IPR Violations and Remedies	424
17.2	Protecting Business Idea without a Patent	424
17.3	Dos and Don'ts to be followed	425
17.4	Government Assistance	427
<b>Chapter 18</b>	<b>List of Case Laws</b>	<b>428-438</b>
<b>Chapter 19</b>	<b>Reference</b>	<b>439-440</b>

## ABOUT THIS BOOK

Intellectual Properties are those creations out of mind, one's intellect, the rights of which are protected by various laws once they become tangible. The Government of India have enacted various Acts and Rules governing the protection of different kinds of Intellectual Property Rights in India which are modified from time to time to suit the modern trends in innovations and industrial needs.

There is no comprehensive book with latest amendments available to benefit the stake holders' viz. Faculty members, Students, entrepreneurs and public interested in knowing the latest laws and this Book will throw a light on various legal aspects and guide them to frame an effective IP Strategy Planning and implementation.

## ABOUT THE AUTHOR



**R.P. Ramanathan**, Registered Advocate with the Bar Council of Tamil Nadu & Pondicherry, Life Member of the Coimbatore Bar Association and IPR Attorney with Indian Patent Organization in 2007. Practicing Advocate and IPR Attorney at Coimbatore, Chennai and Bangalore for more than 15 years. Earlier was serving in Tamil Nadu Agricultural University, Coimbatore for more than 37 years in various capacities and retired as Chief Administrative Officer in the cadre of Joint Director (Administration). Got a Bachelor's Degree in Commerce Bachelor's Degree in Law and Post Graduate Diploma in Business Administration. Have deep insights on various case laws on all Intellectual Property Rights in India and World Internet laws. As a resource person conducting awareness programs on IPR Laws in Colleges, Universities and Industrial Forums etc. and making presentations on IPRs and related issues in various National and International Seminars/ Workshops.



Selfpage Developers Pvt Ltd

E-ISBN: 978-93-5747-620-1



9 789357 476201

MRP Rs.470/-