

**Countertrade** - India has an unofficial policy that encourages countertrade, though it has never been a critical factor in conducting business in India.

### **3. Intellectual Property Protection**

In 1994, India ratified the Uruguay Round of multilateral trade negotiations which provides, for the first time in a trade agreement, comprehensive protection for intellectual property. As a result, exporters and investors have more secure access to and should have greater confidence to enter the Indian market. The major intellectual property issues facing companies operating in India are:

**Copyrights** - Indian copyright law offers strong protection, but the Constitution gives enforcement responsibility to the state governments. Piracy of copyrighted materials is a significant problem. India amended its Copyright Act in 1984 to provide stronger remedies against piracy and to protect computer software. While the government has made significant steps to improve copyright protection, there is a notable lack of resources devoted to its enforcement.

**Patents** - India is not a member of the International Union for the Protection of Intellectual Property. Protection of patents in India is governed by the India Patent Act. Product patents are granted for all inventions except where the invention is intended or capable of being used as a food, medicine, or drug, or is a substance prepared or produced by chemical processes. Process patents relating to food, drugs, pharmaceuticals and chemicals give the patent holder only the right to the process patented. Therefore Indian firms are able to manufacture various products without 'infringing' upon the patent law. Where available, product patents take four years to be granted and expire 14 years from the date of filing.

**Compulsory Licensing** - Patent law provides that a patented product must be produced in India within three years or the government may give the licence for the technology to an Indian producer for a fixed royalty to the government. Stringent compulsory licensing provisions have the potential to render patent protection virtually meaningless.

**Royalty Payments** - Indian policy guidelines normally limit royalty payments, including patent licensing payments, to 5 percent of the selling price for domestic sales and 8 percent for export sales. Under the Canada-India Double Taxation Agreement, royalties and lump sum payments are taxed at a rate of 20 percent of the gross sum.

**Trademarks** - With economic reform, international brand names are now permitted to be used in India. A bill to amend the Trade and Merchandise Marks Act has been introduced in Parliament that would protect foreign trademarks.