



## Book Review

### A Research Agenda for Intellectual Property Law and Gender

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**Jessica C Lai and Kathy Bowrey (eds.),** *A Research Agenda for Intellectual Property Law and Gender*, Edward Elgar Publishing, 2024, [ISBN 978-1-0353-0176-8]

The OWomaniya! report, first released in India in 2021, provides a significant analytical window into gender representation across the country's entertainment sector. It consolidates empirical insights on women's participation both on-screen and behind the scenes, thereby contributing to a broader understanding of structural disparities within the industry.<sup>1</sup> The 2024 edition further underscores that women continue to be positioned at the margins of creative decision-making, remaining markedly underrepresented in key roles across the industry.<sup>2</sup> Their presence in roles such as direction, writing and cinematography remains limited. The report also notes that women occupy very few Head of Department positions, with the numbers especially low in theatrical films. To assess how women appear in stories, the report uses tools such as the Bechdel Test, which helps measure whether women on screen interact with each other and whether their conversations move beyond male characters. Although streaming content demonstrates incremental progress, with select indicators showing measurable improvement, these gains remain limited in scope. The broader industry landscape continues to reflect uneven and inconsistent patterns of women's participation. The report also highlighted that gender continues to shape who tells stories and shapes who holds authority in creative spaces.

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<sup>1</sup> **OrmaxMedia**, *OWomaniya!2024: Quantifying Gender Diversity in Indian Entertainment* (2024), <https://www.ormaxmedia.com/insights/stories/owomaniya-2024-quantifying-gender-diversity-in-indian-entertainment.html>

<sup>2</sup> Sahana Simha & M. P. Ram Mohan, *Addressing Gender Disparities in Creative Sectors Using Incentive Frameworks Under Copyright Law*, 47 Eur. Intell. Prop. Rev. 228 (2025).

In this context, the book titled *A Research Agenda for Intellectual Property Law and Gender*, edited by Dr Jessica C Lai and Dr Kathy Bowrey, makes a meaningful intervention in the evolving field of intellectual property studies. This book admits that feminist legal theory has influenced multiple areas of law, such as constitutional law, criminal law, labor law, etc. However, intellectual property law has largely resisted a sustained, gender-based critique. This book attempts to highlight the manner in which there is an absence of gender-focused analysis in discourses related to intellectual property. IP systems fundamentally rely on narratives about creativity and innovation, which are always influenced by existing power dynamics. The editors of this book have curated a collection of work from international scholars who have explored the crucial role gender plays in how knowledge is generated, acknowledged and shared.

*A Research Agenda for Intellectual Property Law and Gender* is part of the Edward Elgar Research Agenda series, which aims to shape the future of studies on intellectual property. The book pushes the field to scrutinise its current approaches and assumptions in addition to sending an agenda. It makes a powerful case that a more robust and welcoming intellectual property discourse is only possible when we highlight questions of gender, race, sexuality and identity. In this respect, the book does more than trace historical gaps in the field. It demands a shift in the way intellectual property law is theorised and taught.

This review evaluates the significance of this contribution for an Indian audience. India is a jurisdiction that encompasses a wide range of cultural diversity, deep social hierarchies and rapidly evolving creative and technological sectors. Intellectual property law in India is grappling with issues related to access, innovation, public interest and traditional knowledge. However, gender issues are seldom a primary focus in these conversations. The themes explored in this book provide a useful framework for reassessing Indian legal debates. In addition to that, the chapters highlight the importance of interrogating assumptions rooted in patent law, trademark law and copyright law. Scholars studying intellectual property in the Indian context can benefit from the varied methodological approaches adopted in the volume. Such approaches include empirical studies, historical research and theoretical critique.

The structure of this review follows the four parts of the volume. The respective part offers a distinct but interconnected set of insights. Collectively, they reveal how gender shapes not only the doctrinal structure of intellectual property law, but also the surrounding social, institutional and professional environments. These insights are vital for Indian scholars striving to build an intellectual property discourse rooted in social realities and lived experiences.

In the first chapter, Dr Kathy Bowrey takes a critical look at Barbie and the broader narrative of innovation that its manufacturer, Mattel, constructs. Dr Bowrey reveals how this corporate storytelling crafts a seamless and celebratory account of creativity. This curated narrative places the spotlight exclusively on a single, identifiable creator figure. This description frames innovation as the sole outcome of individual genius, ignoring the complex, collaborative process. Simultaneously, this narrative pushes aside the visible and invisible forms of labour that make production of cultural goods possible. Dr Bowrey points out that this encompasses the work done in design, factories, marketing and the contributions made by countless other workers involved in different stages of the creative and commercial process. She argues that the present intellectual property law backs up this limited view.

Dr Bowrey contends that a feminist approach to intellectual property needs to go beyond simply criticizing how gender is depicted in production of cultural goods. In its place, she insists that scholars must look closely at the conditions under which those products are created. She encourages scholars to examine the economic structures, labor hierarchies and institutional practices that shape cultural production. This broader materialist perspective allows a more grounded understanding of how gender operates within these industries. Her argument is especially important for Indian scholarship because the common discussion of intellectual property often presents an idealised, unrealistic picture of the “creator” or “inventor.”

In India, many kinds of creative and technological work depend on women’s labour. This includes handloom weavers and craft artisans. In the film and entertainment industries, women often work as background performers or support workers. In the digital sector, women contribute as content creators, editors and moderators. Yet intellectual property law rarely recognises these contributions. Dr Bowrey’s call for a materialist feminist lens thus offers a useful methodological tool for India. It opens space to examine how law might respond to structural conditions that routinely undervalue women’s work.

Dr Kara Swanson’s chapter expands on previous research into how race and gender overlap within the patent system of the United States. She argues that the patent archives contain significant “silences.”<sup>3</sup> These gaps exist not only because of the absence of women or Black inventors, but also the system makes it difficult for them to gain visibility. Swanson’s analysis demonstrates that numerous women inventors were effectively denied formal recognition, as structural sexism, racial hierarchies, and the

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<sup>3</sup> *Jessica C. Lai & Kathy Bowrey eds., A Research Agenda for Intellectual Property Law and Gender 65* (Edward Elgar Publ'g 2024).

legal constraints of the nineteenth-century patent system routinely enabled husbands, male relatives, lawyers, and agents to patent women's inventions in their own names. These dynamics rendered women's inventive labor largely invisible within the official patent record and contributed to the persistent gendered silences that shape historical understandings of technological innovation. These patterns depict how social norms and legal rules collaborated to restrict who could officially be recorded as an inventor. Dr Swanson insists that researchers must examine historical archives very carefully. They should never assume that an absence of records is neutral or accidental. Instead, scholars must interpret these gaps as direct evidence of historical discrimination and exclusion. Reading the archives critically allows one to understand exactly how power structure influences both the act of innovation and how it was officially documented.

This insight is clearly relevant to India.<sup>4</sup> While the gender gap in patent filings is widely acknowledged, the structural reasons behind it remain less explored.<sup>5</sup> These reasons include unequal access to research leadership roles, limited institutional support, rigid hierarchical cultures within laboratories and the general undervaluing of collaborative work typically done by women. Swanson's methodological approach offers a useful guide for Indian scholars. It invites a deeper examination of how gender shapes inventorship. It also draws attention to how contributions are recorded within research teams. Her framework helps in identifying the implicit bias in how patent credit is assigned. In India, persistent gender disparities in patenting are documented, with government data showing that women constitute a small fraction of inventors, particularly in STEM-intensive sectors.<sup>6</sup> Research further demonstrates that women's inventive contribution is constrained by institutional hierarchies, unequal access to research leadership, and the concentration of women in temporary or project-based research positions that seldom translate into inventorship claims.<sup>7</sup>

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<sup>4</sup> Obhan & Associates, *World IP Day: Some Data About Women Inventors in India* (Apr. 25, 2018), <https://www.obhanandassociates.com/blog/world-ip-day-some-data-about-women-inventors-in-india/#:~:text=Women%20inventors%20in%20India%20A,greater%20than%20what%20we%20found>

<sup>5</sup> TT Consultants, *Empowering Female Inventors: Addressing the Gender Disparity in Patent Filing* (June 25, 2024), <https://ttconsultants.com/empowering-female-inventors-addressing-the-gender-disparity-in-patent-filing/#:~:text=Recent%20statistics%20illustrate%20the%20extent,that%20a%20significant%20gap%20persists>

<sup>6</sup> **Namrata Gupta**, Women in STEM in India: Understanding Challenges Through a Social Constructionist Perspective, *Am. Behav. Scientist*, 2022, at 1.

<sup>7</sup> **Namrata Gupta**, *Gender and STEM: The Indian Context* (Routledge, Taylor & Francis 2025).

In the third chapter, Dr Eden Sarid introduces queer theory to intellectual property law. He argues that queer theory helps question legal categories that appear fixed and natural. It encourages readers to look at the law with more flexibility. The author uses examples such as drag performance and slash fan fiction. He also refers to anonymous and collective creative practices. These forms of expression do not follow the usual model of a single author or a single owner. They rely on sharing, reuse and transformation. They show that many cultural practices do not fit comfortably within conventional intellectual property rules.

The chapter also has relevance to Indian scholars. India has a wide range of informal creative traditions. Many of these involve collaboration and community-based artistic work. They include folk theatre, shared musical practices and street performance. They also include digital remix culture and content created within online communities. These practices often fall outside formal law because they do not match the individual-centred idea of creativity. Dr Sarid's work encourages Indian researchers to study these forms more closely. It offers a broad and flexible theoretical lens for future scholarship in India. Queer theory also shows that informal and community-based creative practices in India, including drag performance, queer visual art, and online fan cultures, remain largely outside the scope of formal intellectual property protection.<sup>8</sup> This exclusion arises from doctrinal preferences for fixed authorship, individual ownership, and forms of creativity that are already validated by established cultural or commercial institutions.

Dr Jessica Lai opens Part II with a rigorous examination of the legal construct of the 'inventor,' analysing how this figure is shaped by doctrinal assumptions, historical context, and the normative frameworks that underpin patent law. She argues that patent law constructs the inventor as a rational and independent individual. The law treats this person as exceptional and self-made. Dr Lai highlights that this figure is often imagined as male, even when the law does not say so directly. She then asks whether artificial intelligence can challenge this traditional idea. To make her point clearer, she uses Donna Haraway's idea of the cyborg. This metaphor helps her discuss mixed or shared forms of inventorship. It also helps her question the assumption that invention always comes from a single human mind.

The chapter has clear relevance for India. Debates on artificial intelligence and patent law are now gaining attention in India. Dr Lai's analysis shows that these debates must also address deeper social ideas about who counts as an inventor. In India, public discussions on innovation often celebrate

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<sup>8</sup> Srija Sanyal & Abhik Maiti, *A Discordant Harmony: A Critical Evaluation of the Queer Theory from an Indian Perspective*, 5 Int'l J. Asian Hist., Culture & Tradition 15 (2018).

individual male entrepreneurs. This narrow focus obscures the many individuals, especially women, whose contributions to technological work go largely unrecognised. A feminist perspective helps reveal these overlooked patterns of labour and the institutional practices that shape how credit is assigned.

The next chapter by Dr Jordana Goodman presents detailed findings from academic laboratories in the United States. She studies how research teams actually work. She shows that scientific projects depend on many people, not only on the lead researcher. Dr Goodman documents how gender shapes the way credit is shared within these teams. She finds that women often contribute significant work but receive less recognition. Their names appear later on patent applications. In some cases, their contributions do not appear at all.

Dr Goodman argues that patent law does not reflect the collaborative nature of scientific research. The law continues to imagine invention as an individual act. This view does not match the reality of modern laboratories. She also explains how power imbalances within research groups affect credit. Senior male scientists have more influence over how contributions are described. Implicit bias also plays a role. Many colleagues assume that men are more likely to be the main inventors, even when women have done the same or greater work.

The final chapter in this part, authored by Dr Jessica Lai and Dr Janine Williams, examines the role of gendered imagery in trademark practice. The authors demonstrate that many marks draw on restricted ideas of masculinity and femininity, and in doing so often reproduce familiar stereotypes that shape consumer perception. They contend that these representational choices warrant closer examination, particularly where branding communicates sexist or exclusionary messages that constrain how individuals engage with products in the marketplace. The chapter also draws attention to the potential of more inclusive and androgynous forms of branding, which encourage a wider range of consumer identities and resist fixed gender roles. Overall, the authors show that trademark law does not operate in isolation and that understandings of gender continue to influence how branding functions within its broader social context.

Dr Carys Craig opens Part III with a strong methodological critique. She accepts that empirical studies are useful. They reveal gender gaps in copyright industries. But she warns that a constant demand for empirical proof can limit feminist inquiry. It can force scholars to justify their concerns within a system that has already marginalised them. Dr Craig argues that this narrow focus may prevent a fuller understanding of how copyright operates. She calls for a reimagining of copyright based on relational and inclusive values. This means seeing creativity as something shaped by communities and

shared culture, not just by individual authors. Her argument is important for Indian scholarship. Copyright debates in India often revolves around economic rights and doctrinal rules. Dr Craig calls for a shift toward more fundamental questions about the purpose and normative foundations of copyright. Such an approach offers particular value in the Indian context, where debates on access, cultural participation and distributive fairness within creative industries require sustained engagement with the underlying goals that copyright is meant to serve.

Dr Jessica Lake's chapter examines how the law in the United States has treated images of women. She shows that courts, for many years, favoured male photographers over female subjects. Women often had little control over how their images were used. Lake links this history to modern issues such as revenge pornography and deepfake images. She notes that the core harm remains the same. Women lose control, and the law struggles to protect them. Dr Lake argues that copyright law adds to this problem. It protects the creator of the image, even when the image harms the person shown in it. The harm suffered by women receives far less attention. To address this, she proposes that consent should be central to copyright protection. If an image is created or shared without consent, it should not receive legal support.

The final chapter in Part III by Dr Metka Potocnik looks at misogyny in the music industry in the United Kingdom. She shows that women performers often face unequal power and unfair treatment. Potocnik argues that current performers' rights do not protect them. The rights exist on paper but fail in practice. They do not stop exploitation by producers or record labels.

Potocnik calls for stronger protection. She proposes inalienable rights that cannot be given away in contracts. She also suggests a review of rights in sound recordings. She believes the present system favours corporate interests over the interests of performers. Dr Potocnik's analysis invites Indian scholars to ask whether the Copyright Amendment Act 2012 reforms pertaining to performers' rights are executed in real life. It also shows the need for a feminist engagement with performers' rights. Such a view can reveal how gender shapes control, visibility and fair treatment in Indian creative industries.

The chapter by Dr Jessica Lai, Dr Ronelle Geldenhuys and Dr Maryam Khajeh Tabari reports findings from practitioners in Australia and New Zealand. The authors initially anticipated that women in patent practice would encounter the highest levels of bias, given patent law's close association with science and engineering, where women remain significantly underrepresented. Their data, however, reveal a different pattern: women working in copyright practice reported greater experiences of bias. The authors situate this result within the institutional context of galleries, libraries, archives and museums, sectors that employ many women and

are often regarded as feminized professional environments. Despite this demographic composition, women practitioners in these settings continue to encounter significant forms of professional marginalization, including greater questioning of their expertise and a persistent undervaluation of their work.

The final chapter by Dr Paul R Gugliuzza and Dr Rachel Rebouche studies gender representation in patent appeals before the United States Court of Appeals for the Federal Circuit. They find that women appear in oral arguments only in very small numbers. Women appear more often when they represent the government. This shows that public offices provide more steady opportunities than private firms. The authors identify several reasons why this gap persists. Case allocations within firms often favour senior male lawyers, and clients tend to rely on familiar counsel, reinforcing existing patterns. Courts seldom intervene in these dynamics, which means that women receive fewer opportunities to appear in significant patent matters. Dr Gugliuzza and Dr Rebouche propose a set of practical measures to address this imbalance, including encouraging clients to request diverse representation, inviting junior and diverse lawyers to present portions of oral arguments, and prompting firms to take greater care in allocating advocacy roles. These suggestions have clear relevance for India, where women remain underrepresented in high-stakes intellectual property litigation.<sup>9</sup> The chapter demonstrates that relatively modest institutional reforms can expand visibility and create more meaningful opportunities for women practitioners.

This book offers an important contribution to the study of intellectual property and gender. It draws from history, feminist writing, queer scholarship and empirical work in a way that feels thoughtful and complete. This mix shows clearly that intellectual property is not neutral. It is shaped by social hierarchies and by ideas about who creates and who deserves protection. The book is also helpful for Indian scholarship. It gives tools to examine gendered ideas of authorship, inventorship and branding. It provides empirical methods that Indian researchers can use in laboratories, universities and creative sectors. It highlights issues that matter deeply in India, such as deepfake images, non-consensual photographs, gendered marketing and the recognition of women's labour. It also encourages cross-disciplinary work, which India needs because research on intellectual property is often doctrinal.

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<sup>9</sup> Nupur Thapliyal, Addressing Biases, Stereotypes Which Hold Women Back in Intellectual Property Field Will Help Create Robust Ecosystem for Society: Justice Hima Kohli, *LiveLaw* (Apr. 26, 2023), <https://www.livelaw.in/high-court-delhi-high-court/justice-hima-kohli-addressing-biases-stereotypes-women-intellectual-property-ecosystem-227282>

The editors of this book acknowledge that most contributors have written from Western contexts. The Indian context, shaped by caste, class and a large informal workforce, differs in important ways from the settings examined in the volume. These gaps affect how gendered experiences of intellectual property are understood. Furthermore, the analysis in this edited book narrows the range of perspectives represented. As a result, insights from the Global South receive less sustained attention than they might warrant. A comparison with Metka Potocnik's "*A Feminist Reconstruction of Intellectual Property Laws in Music*"<sup>10</sup> adds depth. Dr Potocnik also challenges the idea that intellectual property law is gender neutral. She uses the lived experience of women and gender diverse people in the music industry. She shows how performers face discrimination, unfair contracts and limited control. Her work focuses on one sector and offers concrete reforms for performers rights. By contrast, *A Research Agenda for Intellectual Property Law and Gender* provides a broader map of the field and covers patents, trademarks, copyright and practice. Both books reveal how gender shapes access, recognition and power.

While the volume makes a valuable contribution to setting a forward-looking research agenda on gender and intellectual property, it also raises several points that warrant critical reflection. Although the authors begin with the expectation that women in patent practice would encounter the greatest degree of tech-related bias, their empirical findings reveal that women working in copyright practice report the highest incidence of such bias, a result they attribute to the institutional cultures of galleries, libraries, archives and museums, despite these sectors being numerically dominated by women.<sup>11</sup> This outcome challenges the assumption that feminised workplaces automatically mitigate gender-based barriers. The chapter on "Women in intellectual property: are law and technology a 'double whammy'?" documents the issue of women's professional competence, with participants describing persistent credibility gaps, the need to "prove" themselves, and a pattern of clients and colleagues presuming inferior technical understanding.<sup>12</sup> It appears that the analysis depicts simplistic assumptions rather than proving the initial hypothesis, that is, women in patents face the "double whammy" of tech and law. However, *A Research Agenda for Intellectual Property Law and Gender* remains a timely and forward-looking work. It opens space for critical thought. It offers tools for new research. This book envisions a fairer, more inclusive, and socially grounded intellectual property system for India.

<sup>10</sup> Metka Potocnik, *A Feminist Reconstruction of Intellectual Property Laws in Music* (Edward Elgar Publg. 2025).

<sup>11</sup> **Jessica C. Lai & Kathy Bowrey eds.**, *A Research Agenda for Intellectual Property Law and Gender* 10 (Edward Elgar Publ'g 2024).

<sup>12</sup> Ibid at 291