



INTELLECTUAL PROPERTY RIGHTS (IPR): COPYRIGHT

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ABSTRACT

Intellectual property (IP) has emerged as a key driver in knowledge economy. The socio-economic development of a country depends to a large extent on the creativity of her people and creative works can't be encouraged without effective administration of copyright laws. This paper gives an overview of intellectual property rights (IPR), Types of IPR and brief introduction to Copyright.

Keywords: IP, IPR, Copyrights, infringement, Industrial Property

INTRODUCTION

Human mind has the capacity to acquire knowledge and increase his knowledge bank by gathering more and utilizing it as and when required throughout his life time. An intellectual makes his living by selling the product intellect, which is nothing but the brain child of his original idea, creative thought, which forms a special kind of property known as intellectual property. Intellectual property is an intangible property or asset, which applies to any product of the human intellect that has commercial value. Intellectual property refers to the product of a human's imagination and creativity. Intellectual property can be bought, sold, exchanged and licensed to other people or organisations by the intellectual property holder.

Intellectual Property Rights:

IPR can be defined as the right held by a person over the creation of his mind, for a particular period of time in a given jurisdiction. Under IP laws owners are granted certain exclusive rights to variety of intangible assets often for a limited period of time.

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“The exclusive right granted by State, to prevent others from using, manufacturing, distributing - inventions, processes, applications, new and original designs, trademarks, new plant varieties, data bases and artistic and literary works”. Such a person is known as ‘rights owner ‘or ‘rights holder’.

Intellectual property laws confer a bundle of exclusive rights in relation to the particular form or manner in which ideas or information are expressed or manifested. The term "intellectual property" denotes the specific legal rights which authors, inventors and other IP holders may hold and exercise, and not the intellectual work itself.

Objectives of IPR

- IPR Awareness, Outreach and Promotion
- Legal and Legislative Framework
- Administration and Management
- Commercialization of IPRs
- Enforcement and Adjudication
- Human Capital Development

Why Intellectual Property Rights?

The Intellectual property rights were essentially recognized and accepted all over the world due to some very important reasons. Some of the reasons for accepting these rights are:

- To provide incentive to the individual for new creation.
- Provide due recognition to the creators and inventors.
- Ensuring material reward for intellectual property
- Ensuring the availability of the genuine and original products.

Classifications of IPR

On the basis of type of invention and creation of human mind and their applications the intellectual property rights are classified as follows:

- Industrial Property
- Intellectual Property Rights

Industrial Property describes physical matter that is the product of an idea or concept for commercial purposes. Industrial Properties are:



- i) Trademarks, Trade names and Service marks
- ii) Geographical Indications
- iii) Industrial Designs
- iv) Patents
- v) Layout Designs of Integrated Circuits
- vi) Undisclosed Information

Copyright protects rights related to creation of human mind in the fields of literature, scientific, music, art and audio-visual works etc. The basic rights of ownership of intellectual property are known as “intellectual property rights” (IPR), which are primarily derived from legislation concerning patents, designs, copyrights and trademarks.

Copyrights and Related Rights:

It is a negative right which prevents the appropriation of the fruits of man’s work, labor or skill by another person. Copyright is an exclusive legal right to reproduce an original work of authorship fixed in any tangible medium of expression, to prepare derivative works based on original work, and to perform or display the work in the case of dramatic, music, choreographic and sculptural works. Copyright prevents copying of only the expression. Eg: Bhagwat Geeta, Pathanjali Yoga sutras, Narada Neeti, Vatsayana Kamasutras etc. Thus copyright encourage such type of activities. The following literary and artistic works are covered under copyrights:

Literary and scientific works: novels, poems reference works, newspapers, plays, books, pamphlet, magazine, journals, etc.

Musical work: songs, instrument musical, choruses, solos, bands, orchestras, etc

Artistic works: such as painting, drawings, sculpture, architecture, advertisements, etc.

Photographic work: portraits, landscape, fashion or event photography, etc

Motion pictures: it includes the cinematography works such as film, drama, documentary, newsreels, theatrical exhibition, television broadcasting, cartoons, video tape, DVDs, etc

Computer programmes: computer programmes, softwares and their related databases, Maps and technical drawings

Copyright Duration:

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In India copyrights exist for 60 years for literary, dramatic, musical and artistic works after the death of creator. In case of photograph, film, sound recording copyright term is 60 years from the beginning of calendar year next following year in which it is published or released. Besides these, author also gets moral rights for its creations.

What Rights does Copyright Provide?

A copyright grants protection to the creator and his representatives for the works and prevents such works from being copied or reproduced without his/ their consent. The creator of a work can prohibit or authorize anyone to:

- reproduce the work in any form, such as print, sound, video, etc;
- use the work for a public performance, such as a play or a musical work;
- make copies/recordings of the work, such as via compact discs, cassettes, etc..;
- broadcast it in various forms; or
- translate the same to other languages

Owners of copyrights

The following are the owners of the copyrights:

- **In musical sound recordings:** lyricist, composer, singer, musician and the person or company who produced the sound recording
- **In works by journalists during their employment:** in the absence of any agreement to the contrary, the proprietor
- **In works produced for valuable consideration at the instance of another person:** in the absence of any agreement to the contrary, the person at whose instance the work is produced

Exceptions to the use Copyright

In order to protect the interests of users, some exemptions have been prescribed in respect of specific uses of works enjoying copyright. Some of the exemptions are the uses of the work:

- for the purpose of research or private study,
- for criticism or review,
- for reporting current events,
- in connection with judicial proceeding,



- performance by an amateur club or society if the performance is given to a non-paying audience, and
- the making of sound recordings of literary, dramatic or musical works under certain conditions.
- for the purpose of education and religious ceremonies

Things excluded from copyright protection

- Ideas
- Useful Articles
- Inventions, Methods, Formulas, Devices and Processes
- Facts
- Names, Titles or Short Phrases
- Typefaces
- Recipes
- Works lacking originality (e.g. The phone book)
- The Public Domain
- Expired Copyright
- Forfeited Copyright
- Dedicated Works.

Copyright Infringements

Some of the commonly known acts involving infringement of copyright:

- Making infringing copies for sale or hire or selling or letting them for hire;
- Permitting any place for the performance of works in public where such performance constitutes infringement of copyright;
- Distributing infringing copies for the purpose of trade or to such an extent so as to affect prejudicially the interest of the owner of copyright ;
- Public exhibition of infringing copies by way of trade; and
- Importation of infringing copies into India.

Copyright registration procedure:

There are various criteria for securing copyright protection for a work. Firstly, the work must be original and secondly, the work must be fixed or presented in tangible form such as writing, recording, film or photography, etc. It is to be noted that, Copyright does not protect



the underlying idea but only the expression of that particular idea is protected under copyright.

Acquisition of copyright is does not require formal registration in India. However, it is advisable to obtain a certificate of registration of the copyright. The certificate and the entries made therein can serve as evidence in a court of law if a dispute relating to the ownership of copyright arises.

The application process for copyright is as follows:

- File the application with complete details and copies of the work.
- Upon submitting the application, examination of the work takes place and objections, if any, are raised.
- A response regarding objection has to be filed within 30 days.
- The certificate is issued by the copyright office after the objections, if any, are removed to the satisfaction of the Copyright Registry.

CONCLUSION

The IPR is basic necessity to be a part of local as well as global competitive trade as without dissemination of IPR knowledge and implementation, creating the innovative environment is really impossible. It is essential for policy makers to include IPR in basic educational system and promote IPR registration by encouraging the innovators and creators. India is having all the resources in terms of available raw material, cheap labor, innovative and creative dedicated manpower.

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