



SIGNIFICANCE OF INTELLECTUAL PROPERTY RIGHTS AND COPYRIGHT

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ABSTRACT

India has an ancient and great tradition of knowledge benefaction. It is considered as the best and topmost benefaction. India has an intellectual heritage in the fields of literature, research, intellectual skills in software designing and also in missile technology. At the initial stage the concept of intellectual property rights was not rooted very easily in India. But when the news of Basmati Rice and turmeric patent spread people started to think about the intellectual property rights. At that time different ideologies came in to existence like there has been a lot of controversy on the role of intellectual property rights. Some said copyright is a kind of protectionism it will lead to monopoly which may be obstacle in public interest and specific needs of the country. The present paper aims to focus on the importance of intellectual property rights and infringement of copyright as a violation of intellectual property rights. The intellectual property rights are territorial rights by which owner can sell, buy or license his intellectual property similar to physical property.

INTRODUCTION

Intellectual Property Rights are expected to encourage innovation of the inventor, creation of the creator, intelligence of the intelligent person. The patents act, 1970 is a landmark in the industrial development of India. "IPR is a general term covering patents, copyright, trademark, industrial designs, geographical indications, protections of layout design of integrated circuits and protection of undisclosed information (trade secrets). IPR's referred to the legal ownership by a person or business of an invention/discovery attached to particular product or process which protects the owner against unauthorised copying or imitation."

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Intellectual Property Right is a collective term includes patents, copyrights, trademarks, registered design, Geographical Indications. The Copyright Act, 1957 supported by the copyright Rules, 1958 is the governing law for Copyright Protection in India. Substantial amendments were carried out to the copyright act in early 2012. According to Indian law registration is not a prerequisite for acquiring copyright in a work. A copyright in a work is created when the work is created and given a material form, provided it is original. In case of infringement and Criminal proceedings registration is necessary it is of tremendous help. Copyright notice is not necessary under the Indian law to claim protection.

There are six major intellectual properties and laws to protect them. There is copyright used for literature, Music, Drama, Dance, Drawing, Sculpture. Trademark is given to the symbol of any product, sign, logo, slogans used for the products like food products, cloths etc.

Patent is given to the invention. It may be a product or process for something. For example medicines, new mobiles and cars. For the production which is newly invented for that patent is given. Geographical Indicator, layouts, circuit, industrial designs are also the examples of intellectual property rights. Intellectual property is not like the physical property. It has to be registered at different levels like national, international and also at different places.

Every nation has its own intellectual property rights laws. It is not considerable that on the same product every nation will give patent. If India is giving patent for one product not necessary every nation should give patent for the same product. Time period for the patents may differ from nation to nation. Intellectual property rights are territorial because it influences the economy of nation.

There are two types of laws, civil and common law. European countries called this right as author's rights where common law nations called is copyrights. Means nations preferring civil law consider that is the right of writer where nations following common law considers it is the right of publisher.

One more intellectual property right was passed to protect the intelligence and creativity of an artist. Artist should not be derived from their rights of art and that is copyright. In copyright there are again two types of rights, one is economic right and other is moral right. In Britain for the first time in 1710 law of copyright was passed as 'Statute of Anne'. This law gave the right to author, he should have the right to produce the copies of his /her books as per his/her wish.

Copyright protection is valid for duration of 60 years. If it is literary, dramatic, musical and artistic works the 60 year period is counted from the year following the death of the author. According to this law 60 years were given to the copyright. After this different laws were

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passed in different countries. In 1886 Bern convention was passed which was an International Convention. Copyright is different from other intellectual property because main focus is not on trade but on right of the artists. Every artist could get the copyright whose artwork is his own intellectual invention. One main difference is there in copyright and other I.P.Rights is that to get other intellectual properties registration is must and needed but author could get automatic copyright of his own creation. We see generally © symbol of copyright on the front page containing publishers information. But in future to avoid the plagiarism it is better to register copyright. In India copyright exist for 60 years for literacy, dramatic, musical and artistic works lifetime of the author and thereafter. Photographs, Recordings, Cinema, Serials, and Videos also have the copyright of 60 years.

The following literary and artistic works are covered under copyrights:

Literary works like novels, poems, reference books, newspapers, plays, fiction books, pamphlets, magazine, and journals. For this there is a need that literacy art should be in written form, subject of the art, language used, originality in the presentation are important for getting the copyright. Photographic works like portraits, landscape, and fashion or event photography. Motion pictures includes cinematography such as film, drama, documentary, newsreels, cartoons, video clips, DVDs. Computer programmes, software's and their related databases, technical drawings.

Musical works as songs, instrumental music, choruses, solos, bands or orchestras. In this field graphical notion is important not the words, dialogues or lyrics. So anyone can sing a song sung by the singer, can give different music. This right gives the right to work in public or communicate it to the public to make any translation or adaption of the work. Artistic works such as paintings, drawings, sculpture, architecture, advertisements, layouts ex.M.F.Husseins Art.

Copyright owner have the exclusive rights to sell or give or hire or offer for sale or hire a copy regardless of whether such copy has been sold.

India is the member of 'Berne Convention' Berne Convention for the protection of Literacy and Artistic works, Paris Act of July 25th, 1971, as amended on September 28, 1979. was completed at Paris on may 4, 1896 revised at various nations. In 1872, at the capital of Austria Vienna there was an international exhibition of various nations' inventions but due to fear of infringement many institutes shows inability to present their intentions and creations. This result in the convention of Paris in 1883 later in 1886, copyright law was passed in the convention at Bern. At last in 1995 TRIPS Agreement was done. One hundred and fifty four nations have signed in and make IPR laws more accordable and compatible.



India has the history of 150 years for the copyrights. In 1847 first law of copyright was passed during the regime of east India Company. It was given to the author's lifetime and 7 years after the death of the author. After that in 1914 copyright law was passed in India and some articles about reprint, translation were introduced. In 1994 some corrections were made like time period of copyright was increased as 60 years.

According to this order any work first published in any country which is a member of any of the above conventions is granted the same treatment as if it was first published in India. Section 52 of the copyright act provides for remedies in case of infringement of copyright, which is considered a civil as well as criminal offence.

Berne Convention for the protection of Literacy and Artistic works:

The Berne convention for the protection of Literacy and works, usually known as the Berne Convention, is an international agreement governing copyright which was first accepted in Berne , Switzerland in 1886. The convention requires signatory member countries to recognise copyrighted literary or artistic works in same way that its national copyrights are recognized

Moral Rights: Section '57' of the copyright act grants an author "special Rights" which exist independently of the author's copyrights. According to moral rights. The author has the right to claim authorship of the work and claim for any distortion or modification.

According to amendment the right against distortion is available even after the expiry of the term of copyright. There are rights related to copyright performer's right.

Rights Conferred: The owner of a computer programme has to authorize third parties issuing copies to public, perform, and communicate it to public, to make translation or adaptation of the work to sell or give on commercial, rental of offer sale or for commercial rental provision. Any violation of these rights amounts to an infringement. There are three remedies – administrative, civil and criminal against copyright infringement. This include detainment of the things by custom authorities, chapter 12 of the copyright act 1957 provides remedy (include injunctions, damages and account of profits) criminal under chapter 13 of the statutes and the remedies provided against copyright infringement imprisonment up to three years including 200,000 rupees fine.

Aforetime it was said that knowledge cannot be stolen, there is no tax, not automatic distribution in the family, cannot be passed anyone, company or society. But in the present world it has become basic need to protect the knowledge means creation and invention. This creation and invention is the personal intellectual property. Throughout the world intellectual

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property is a legal concept. It is related to Invention and creation of the mind. Intellectual property is the result of the person's imagination and creativity. Intellectual property rights control the use of people's product means intellectuality. It can be bought, sold or licensed. Intellectual property rights have become the need of time in the world of globalization to protect the intellectual property.

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