Intellectual Property Rights and The Digital World

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I. ABSTRACT

Intellectual property refers to the ownership of intangible. This includes ideas, designs, symbols, writings and creations. It also refers to digital media such as audio and video clips that can be downloaded online. Since intellectual property is intangible, if it is stolen, it may be difficult to recover. In the present scenario, IPR awareness is the key to technological innovation and in the emerging knowledge-based economy; the importance of IPR is likely to go further. The awareness among the creators of information and knowledge about IPR has become essential in the digital world because in the digital world it is becoming difficult to prove rights violation whenever they occur. In the present paper we are discussing of INTELLECTUAL PROPERTY RIGHTS (IPR) in the Digital World.

Keywords: Intellectual Property Rights (IPR), Digital World, Information and Communication Technology.

II. INTRODUCTION

The word intellect originates from the root “intellectus” in Latin which means the power of knowing as distinguished from the power to feel. Man has own capacity to acquire knowledge and increase his knowledge bank by his gathering knowledge throughout his life time. “IPR is general term covering patents, copyright, trademark, industrial designs, geographical indications, protection of layout design of integrated circuits and protection of undisclosed information (trade secrets). IPR’s refer to the legal ownership by a person or business of an invention/discovery attached to particular product or processes which protects the owner against unauthorized copying or imitation.”

III. WHAT IS INTELLECTUAL PROPERTY?

Intellectual property refers to the product of a person’s imagination and creativity and the rights of these people to control the use of their products. Intellectual property can be bought, sold, exchanged and licensed to other people or organization by the intellectual property holder. Intellectual property is insubstantial and is not linked to the tangible artistic, dramatic or musical work which may have resulted from it. Intellectual property is protected by intellectual property law. There are six major types of intellectual property law: copyright, patents,
designs, trademark, circuit layouts and new plant varieties; however, confidential information, the duty of fidelity, trade secrets, confidentially and moral rights are also included.

**Features of Intellectual Property** :

i. It is a form of intangible property.

ii. It’s existence distinct from the physical articles or goods which contain the rights.

iii. In some cases the rights are capable of existence and enforcement with no tangible form.

iv. The various rights might subsist in the same thing. For example, a document might be subject to patent, design rights and trademark. A pictorial trademark might also be subject to copyright.

**Why Intellectual Property Rights:**

The Intellectual Property Rights were basically documented and accepted all over the world due to some very significant reasons. Some of reasons for accepting these rights are:

i. To provide incentive to the individual for new creation.

ii. Providing the recognition to creators and inventors.

iii. Ensuring material reward for intellectual property.

iv. Ensuring the availability of genuine and original product.

**IV. Need of IPR**

i. Monetary profit is the most important, in most cases, the only motive behind man’s relentless toil, inventiveness and ingenuity.

ii. With the advent of technology one of issue is legal characterization of the invention.

iii. It is created to protect the rights of individual to enjoy their creations and invention.

iv. Created to insure protection against unfair trade practices.

v. To assure the world a flow of useful, informative and intellectual works.

vi. To encourage the continuing innovativeness and creativity of owners of IPR.
V. IPR IN INDIAN DIGITAL CONTEXT:

Deming Zhou while discussing Chinese copyright protection system has raised specific issues of IPR in digital context. These are also relevant in the Indian context. The advent of digital technology has greatly accelerated the dissemination and distribution of information with great speed and accuracy never seen before. It is much easier to disseminate literary, artistic and scientific work to a very large community of Internet users and users of electronic media. At same time poses some problems and issues for consideration. The major issues are:

- Is digitization to be considered as similar to reproduction, for example using Xerox machine?
- Is digitization a deductive activity such as translation from one language to another?
- Can transmission of digitized documents through Internet be considered as commercial distribution or public communication similar to broadcasting?
- What can be considered as “Fair Use” in the Internet world?
- What are the concerns of the library community?

VI. IPR DEVELOPMENTS IN INDIA

- 1947: Patents & Designs Act, 1911
- 1995: India joins WTO
- 1998: India joins Paris Convention/PCT
- 1999: Patent amendment provided EMR retrospectively from 1/1/95
- 2003: 2nd Amendment in Patents Act
- Term of Patent- 20 years after 18 months publication
- Patent Tribunal set up at Chennai
- 2005- Patents (Amendment) Act 2005
VII. HOW TO SECURE IPR

The legislative framework for securing IPR is as follows:

- Contract Act, 1872
- The Trade Marks Act, & (Amendment) 1999, 2002
- The Designs Act, 2000, 2008

Ways for Protection of Digital/ Intellectual Property:

Digital Rights Management (DRM) technologies (also known as Electronic Rights Management System) ensure copyright through identifying and protecting the content controlling access of the work, protecting the integrity of the work and ensuring payment for the access. DRM technologies prevent illegal users in accessing the content. Access is protected through the user ID and password, licensing agreements. Another way to protect digital content is through Technical Protection Measures (TPM). These technologies allow publishing companies in securing and protecting content such as music, text and video from unauthorized use. If an author wishes to collect fee for use of his or her work, then DRM technology can be used. The TPM & DRM technologies are increasingly employed to sell and distribute content over the Internet.

Cryptography:

Cryptography is the oldest mechanism employed to ensure security and privacy of information over network. This involves scrambling of the information to render it unreadable or not understandable language, which only the legitimate user can unscramble. However, cryptography protects the work during transmission or distribution only.

Digital Watermark Technology:

A digital watermark is a digital signal or pattern inserted into a digital document. It is similar to the electronic on-screen logo used by TV channels. A unique identifier is used to identify the work. The message might contain information regarding ownership, sender, recipient etc or information about copyright permission. The system consist of a watermark generator, embedder and a watermark detector decoder. The legal user can
remove these watermark with predetermined algorithm. The watermark technology is extensively used in protecting multimedia works.

**Digital Signature Technology:**

Digital signature includes identity of the sender and/or receiver, date, time, any unique code etc. This information can be added to digital product. This digitally marks and binds a software product for transferring to a specified customers. Digitally signed fingerprints guarantee document authenticity and prevent illegal copying.

**Electronic Marking:**

In this technique, the system automatically generates a unique mark that is tagged to each of the document copies. This technique is used to protect copyright as well as in electronic publishing where documents are printed, copied or fax.

**VIII. CONCLUSION**

A number of issues are associated with the usage of digital information i.e issue of single articles versus full issues of e-journals, user-friendliness, incompatible hardware and software, formatting, graphics, scholarly recognition and obsolescence. While it is important to protect the copyright of the publishers, it is equally important to protect interest of the user. In digital world it is difficult to draw a boundary line between what is permissible, to what extent and what is infringement. Small-scale violations which do not conflict with owner’s rights may be accepted as a part of fair use. In the context of digital information, it is difficult to judge, comprehend fair use, access and control the infringement of copyright law. It is almost impossible for a copyright owner to know which person used his/her work. In this context it is necessary to modify the copyright law. The copyright protection should be encouraging the creativity and not for creating hurdles in the use of information.