
Intellectual Property Rights In Digital Environment With Specific Reference To Copyright In India

Abstract:

Intellectual property refers to the ownership of intangible goods and includes ideas, designs, symbols, writings and creations. It 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. Since it is an era of globalisation and liberalisation everything is being changed to digital form. In this era digital information can be easily copied at minimum cost and this natural physical limitation to unauthorized copying is removed. It is therefore time to reconsider the principle of the copyright model.

The purpose of copyright law is to balance the rights of copyright holders and users and is applicable in the digital era also. As more and more information becomes available in digital format libraries must ensure that public can enjoy the same access rights as with printed information. This research paper deals with scope and coverage of various concepts of copyright of original data and copyright issues associated with digital and electronic information and protection of digital rights in India.

Keywords:

Intellectual Property, Digital Era, Liberalisation, Copyright, Fair use.

Introduction:

Etymologically the word intellect is derived from latin term "intellectus" which means the power of knowing as distinguished from the power to feel. Man has own capacity to acquire and increase his knowledge bank by studying and gathering knowledge throughout his life time. An intellectual product is a person's brain child that is his original idea, creative thought, forming a special kind of property called as intellectual property. The intellectual property is ownership of an intangible asset gathered by ones own knowledge

The intellectual property that is copyright is a right granted by law with an intention to protect the original creative work which may be in a literary, artistic, educational, or musical form.

Concept of Intellectual Property

Intellectual property is any unique product of the mind and human intellect. It refers to the creation of mind that is invention, literary, artistic works, designs, symbols, names and images used in the business world.

Intellectual property includes trademarks, copyright, industrial designs, geographical indicators, patents etc.

Features of Intellectual Property:

1. It is a form of intangible property.
2. It gives statutory expression to economic and moral rights of the creator and public access to those creations.
3. it promotes and encourages fair trading contributing to economic and social developments.

Categories of Intellectual Property rights :

The four main types of the intellectual property rights are

1. Patents
2. Trademarks
3. Trade secrets
4. Copyrights

- PATENTS-

Patents protect inventive ideas and processes that is things new, useful and non obvious. It also protects newly engineered plants species and strains as well. Patent right granted by law prevent others from commercially benefitting by an patented invention.

- TRADEMARKS-

Trademark is a sign that individualizes the goods or services of a business and distinguishes it from that of the competitors. To get law protection a trademark must be distinctive, and not deceptive, immoral and illegal.

- TRADE SECRET-

Trade secret includes proprietary procedures, systems, formulas, devices, confidential information and strategies. It acts as competitive advantages for the business and enterprises.

- COPY RIGHT –

Copyrights do not protect the ideas, it protects the manner in which ideas are expressed that is original work of authorship. It includes written works, music, artistic works, programming software, architectural drawings etc. Copyright protection with certain exceptions allows the owner of the copyright to control reproduction, adaptations, new versioning, performance and distribution of the works. A copyright gives exclusive rights to reproduce, publish, or sell an original work of authorship.

Copyright laws grant authors, artists and the creators protection for their literary or artistic works and gives a copyright holder the exclusive right to control reproduction or adaptation of such work for a certain time duration that is life of the author plus several decades.

- Features of copyright laws:

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1. It protects creators of the original material from unauthorized use and duplication.
 2. To get protection under copyright laws, the work should be in tangible form.

Works included under copy rights:

The copy right includes:

- Artistic work: (a) It means a sculpture, drawing or painting.
 - (b) An engraving or photograph
 - (c) A work of architecture
 - (d) Any other work of artistic craftsmanship.
- Literary work: It includes computer programmes, tables and compilations including computer databases, programming software, books, magazines etc.
- Musical work: It means a work consisting of music and graphical notation of any musical work.
- Dramatic work: It includes any piece of recitation, choreographic work or entertainment in dumb show, entertainment story or script etc.
- Cinematography film: It means any work of visual recording, sound recording, scripts or story.

Copyrights and Digital Rights:

Section 106 of the Copyright Act of 1976 gives exclusive and monopoly rights to the author regarding making of copies, creating derivative works, displaying, performing, and distributing work publicly. The digital era implicates exclusive rights of the authors very easily. As soon as the person saves a work to the computer, the right to make copies is invoked. Downloading, uploading, digitizing, scanning, file transfer etc all involve the right to make duplicate copies of the original data. Material is easily passed and copied everytime; it is posted, performed through a digital network transmission, temporary RAM or displayed on a bulletin board, website or online class. In the digital age the issue of privacy is an important subject where unauthorized data sharing, data integration, unethical data utilization and unauthorized public disclosure are the major areas of concern.

Statutory Requirements of Copyright Protection:

Section 102(s) of the Act sets out certain requirements which a work must meet to qualify to obtain copyright protection –

1. The work must be an original work of author.
2. The work must be in a tangible form of expression.

Subject Matter Of Copyright Protection:

Section 102 of the Copyright Act of 1976 provides 8 categories of subject matter that fall under Copyright protection –

1. Literary works.
2. Musical works

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3. Dramatic works.
 4. Pantomimes and Choreographic works.
 5. Pictorial, Graphic, and Sculptural works
 6. Motion pictures and Audio visual works.
 7. Sound recordings.
 8. Architectural works.

Copyright ownership:

The exclusive rights in copyright are initially given to the owner of the copyrighted work. But Section 201 of the Act provides 4 types for copyright ownership –

1. Author.
2. Joint Ownership.
3. Collective works.
4. Works made for Hire.

Special Challenges relating to copyright of the Digital Age in India

Everything in cyberspace is composed of bits, viewable on a general purpose computer, and are capable of being copied. Images, music, video, and text in digital form are perfectly reproducible. To keep pace with the global requirement of harmonization, the Copyright Act, 1957 brought the copyright laws in India to deal with the problem of copyright with the developments in the information technology industry, in the field of satellite broadcasting or computer software or digital technology.

The awareness of Intellectual Property Laws is very low among the enforcement authorities in India, and most of the IP litigation is confined to metropolitan cities. The copyright registration certificate should be obtained by registering for copyright because certificate is only accepted as a proof of ownership in a Court of law and Police authorities, and acted upon smoothly by them.

The copyright law in India not only provides for civil remedies that is permanent injunction, delivery of the infringing material for destruction and cost of the legal proceedings, damages or accounts of profits etc. but also makes infringement of copyright, a cognizable offence punishable with for a term which shall not be less than six months but which may extend to three years with a fine which shall not be less than INR 50,000 but may extend to INR 2,00,000. For the second and subsequent offences, there are provisions for enhanced fine and punishment under the Copyright Act.

Ways for Protection of Digital Intellectual Property:

Digital Rights Management

Digital Rights Management (DRM) technologies (also known as Electronic Rights Management Systems) ensure copyright and prevent illegal users in accessing the content as the access is protected through user ID and password, licensing agreements etc.

Technical Protection Measures

Technical Protection Measures (TPM) allow publishing companies in securing and protecting content such as music, text and video from unauthorized use. Both these technologies are increasingly employed to sell and distribute content over the Internet.

Cryptography:

The oldest mechanism employed to ensure security and privacy of information over networks is termed as cryptography. It involves scrambling of information in unreadable or not understandable language, which can only be unscrambled by the legitimate user only.

Digital Watermark Technology:

It is a digital signal inserted into a digital document similar to the electronic on-screen logo used by TV channels. This system consists of a watermark generator, embedder and a watermark detector decoder. Its user can remove the watermarks with a predetermined algorithm. The watermarking 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. Digitally signed fingerprints guarantee document authenticity and prevent illegal copying.

Electronic Marking:

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

Digital Millennium Copyright Act

The Digital Millennium Copyright Act, a 1998 amendment to the Copyright Act criminalizes production and dissemination of technology, devices, or services intended to circumvent DRM that controls access to copyrighted works. It also limits liability for the Internet Service Providers and provides safe harbours from liability for conduit activities, system caching, hyperlinks, directories, and location tools and stored material on an ISP system. This Act also prohibits the circumvention of technological copyright protection measures and protecting the integrity of copyright management information.

Conclusion:

In digital environment it is difficult to draw a boundary line between what is permissible, to what extent and what is infringement. Various issues are associated with the era of digital information like issue of single articles versus full issues of e-journals, incompatible hardware and software, formatting user-friendliness, graphics, obsolescence and scholarly recognition. Not only is it important to protect the copyright of the publishers, but also it is equally important to protect interest of the libraries and the user. 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. The copyright protection should be encouraging the creativity and not for creating hurdles in the use of information.

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