



IPR AND LIS PROFESSIONAL IN DIGITAL CONTEXT

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Abstract: *Every human being is endowed with certain, but varying degrees of intellect. Each individual is uniquely gifted. The word intellect originates from the root 'intellectual' in Latin, which means the power of knowing as distinguished from the power to feel. Man has the capacity to acquire knowledge and increase his knowledge by gathering more and utilizing it as and when required throughout his lifetime. 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. The intellectual property is ownership of something intangible. Thus, we can say that object in intellectual property right is immaterial property. This new form of intellectual property has come to play a vital role in the lives of human beings. IPR, as its popularly known connotes the right to literary, artistic and scientific work; performances of performing artists; phonographs and broadcast; inventions in all fields of human endeavor; scientific discoveries; industrial designs etc. The paper has highlighted some ideas and problems relating to IPR. The concept of 'fair use' and 'not fair' are mentioned here. The role of LIS professional in balancing the copyright act is mentioned. It also reflects the development of copyright laws in India.*

Keywords: *Intellectual property, Patent, Trade mark, Copyright, Fair use, Geographical indication*

INTRODUCTION

In digital environment the libraries work culture is changing at significant level as the libraries are shifting from traditional print material to digitized documents. The entire library work document acquisition to service rendering has totally changed. Now documents are available in digital form in computers and can easily access through internet without time limit and physical boundaries with original quality level, which convert the traditional library to a digital library. The digital library seems to be working like as an information broker, which is creating competition feeling in the minds of publisher towards the libraries. The Intellectual property right can play a vital and significant role to avoid the clashes between libraries, publishers and knowledge creators, as libraries are working to provide the free access of knowledge to its patrons by using fair uses. In the era of digitization, this is the



right time to redefine the intellectual property right to make it more significant to provide the clear guard to the knowledge creator and libraries for providing the access of knowledge to its patrons for private and research purpose.

WHAT IS INTELLECTUAL PROPERTY RIGHT?

Intellectual property is the product of the human intellect including creativity concepts, inventions, industrial models, trademarks, songs, literature, symbols, names, brands etc. Intellectual Property Rights do not differ from other property rights. They allow their owner to completely benefit from his/her product which was initially an idea that developed and crystallized. They also entitle him/her to prevent others from using, dealing or tampering with his/her product without prior permission from him/her. He/she can in fact legally sue them and force them to stop and compensate for any damages.

WHY INTELLECTUAL PROPERTY RIGHTS?

The intellectual property rights were essentially recognized and accepted all over the world. Some reasons for accepting these rights are:

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

HISTORY OF INTELLECTUAL PROPERTY RIGHT

The IPR is not a new concept in academic world. The IPR practices has been started in North Italy during the Renaissance era and first patent was granted to Filippo Brunelleschi in the republic of Florenza in 1421 and granted three year monopoly for his invention about special hosting gear used on burgles. In 1474, Venice issued a law regulating patents protection that granted an exclusive right for the owner. The copyright dates back to 1440 when Johannes Gutenberg invented the printing press with replicable wooden or metal letter. In 19th century many countries feel the necessity of laying down the laws regulating IPR and two conventions related to IPR system has been signed during this are: Paris Convention for the protection of industrial Property in 1883 and Bern convention for protection of Literary and Artistic work in 1886. To protect IPR, Government of India took many initiatives to make rules and laws after independence and time to time made changes and amendment in these laws make more vast, exhaustive and sharp to protect the intellectual output of an

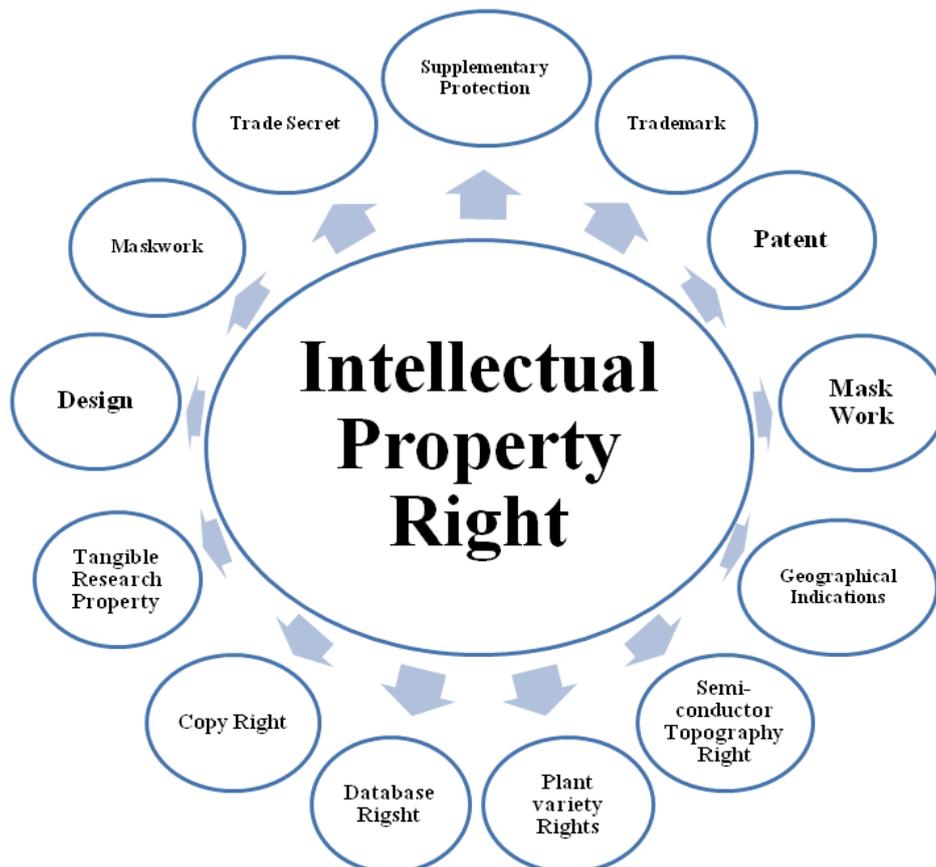


individual with changing dimension of time and technology. The legislative frameworks to protect IPR can be summarized as:

- Contract Act, 1872
- The Trade Marks Act, & (Amendment) 1999, 2002
- Copyright Act, 1957 & (Amendment) 1994, 1999, 2012
- The Patents Act, 1970 & (Amendment) 2005, 2006
- The Designs Act, 2000, 2008
- Plant Breeder Right, 2001
- Geographical Indications of Goods (Registration and Protection) Act, 1999, 2002

TYPE OF INTELLECTUAL PROPERTY RIGHT

Types of intellectual property are:



Patent: A patent is an inclusive right granted by a country to the owner of an invention to make, use, manufacture and marked the invention, provided the invention satisfies certain conditions stipulated in the laws.

Trademark: A trademark is a recognizable sign, design or expression which distinguishes product or services from the similar product or services of the traders.



Design: It is a process of design applied to products that are to be manufactured through technique of mass production.

Copyright: It provides legal rights exclusively given for a definite period to the creators of an intellectual work e.g. literary works, artistic works, musical works, films, computer programmes.

Trade Secret: 'A trade secret is a formula, practice, process, design, instrument, pattern, commercial method, or compilation of information which is not generally known or reasonably ascertainable by others, and by which a business can obtain an economic advantage over competitors or customers'.

Supplementary Protection Certificate: 'Supplementary protection certificate' is an intellectual property right that extends the duration of certain rights associated with a patent. It enters into force after expiry of a patent upon which it is based. This type of right is available for various regulated, biologically active agents, namely human or veterinary medicaments and plant protection products.

Semi-conductor Topographic Rights: A semi-conductor product is the final or intermediate form of an incorporated circuit in a chip.

The rights granted by this legal title are similar to those for patents, trademarks, industrial designs, copyright and neighbouring rights. The owner has an exclusive right of exploitation as well as the right to prevent third parties from reproducing or selling of the protected topography.

Plant Variety Rights: 'Plant variety rights' are rights granted to the breeder of a new variety of plant that give the breeder exclusive control over the propagating material and harvested material of a new variety for a number of years.

Geographical Indications: A geographical indication is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin.

Mask Work: 'Mask works' are defined as a series of related images, however fixed or encoded, having or representing the predetermined three dimensional pattern of metallic, insulating or semi-conductor material.

Tangible Research Property: Tangible research property includes all tangible items produced in the course of research or other projects supported by the universities or external



sponsors. TPR includes, but is not limited, biological materials, engineering drawings, computer software, integrated circuit chip, etc.

Database Rights: Data base right is granted to a person, who funds, select and arranges the content into a database.

So, any research, innovations or inventions leading to a product, process, design, methods, literary and artistic work etc. which may result in financial gains are registered under intellectual property rights acts.

IPR & LIS PROFESSIONAL

In the beginning of 18th century the England Queen Anne had accepted the demand of the publishers to protect their right against the piracy due to the advancement in printing technology. In 1710 the formal copyright act was passed in England after that United States also enacted its copyright act in 1790 and France in 1793. To protect the right of the creator of knowledge several international bodies were established and still working to implement the copyright act firmly to protect the right in signatory countries. For example Berne Convention in 1886, the copyright convention 1952 and the Berne and Paris conventions in 1971. The World Intellectual Property Organisation (WIPO) established in 1967. The United Nation Educational Scientific and Cultural organization (UNESCO) and the World Trade Organisation (WTO) are now jointly charged with administrating the Trade- Related Aspect of the Intellectual Property Rights (TRIPS).

The copyright act of India 1957 was implemented in 1958, the copyright act has been amended six times from its enforcement, i.e. in 1983, 1984, 1992, 1994, 1999 and 2012. The Copyright (Amendment) Act, 2012 is the most substantial. The main reasons for amendments to the Copyright Act, 1957 include to bring the Act in conformity with the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT); to protect the Music and Film Industry and address its concerns; to address the concerns of the physically disabled and to protect the interests of the author of any work; Incidental changes; to remove operational facilities; and enforcement of rights. Some of the important amendments to the Copyright Act in 2012 are extension of copyright protection in the digital environment such as penalties for circumvention of technological protection measures and rights to management information, and liability of internet service provider and introduction of statutory licenses for cover versions and broadcasting organizations; ensuring right to receive royalties for authors, and music composers, exclusive economic



and moral rights to performers, equal membership rights in copyright societies for authors and other right owners and exception of copyrights for physically disabled to access any works. The Copyright Rules, 2013 was notified on 14 March, 2013.

INTELLECTUAL PROPERTY IN DIGITAL CONTEXT

Now India is going to be a digital India, libraries are front line warrior in this mission without understanding the copyright and its fair uses this will make digitization process of libraries and its services more conflicting. In digital environment the libraries are changing in all dimensions, from its physical shape to virtual and the service provided by the libraries are also getting different with the revolution of digitization where in ancient time the library was a place where documents were stored. Due to the availability of multiple copies patron can take it out from the library premises. The digital technology now breaks the barrier of space and time. It allows the access of multiple copies of work to multiple users who may be accessing from all around the world without the time restriction through the World Wide Web.

Transforming from building boundaries to internet portal, the library also face some copy right issues. The transformation is begun with first stage that the automation of cataloguing through computer. The second stage is when library collections are digitized, and in third stage when these digitized documents are uploaded on internet to access from globalised world. The conflict of copyright act is to take place in second and third stage. Copyright is a bunch of rights it includes the right of replica, issue of copies, communication to the public, alteration, and translation. These are transferable rights. All these effected while a work processed through digitization. The digitization of the collection by a library covers under the right of reproduction and adaptation. Reproduction includes the storing of a work in any medium by electronic means and adaptation includes rearrangement or alteration in work. During the digitization all these process occurs which come under the right of adaptation and alteration. When these digitized work uploaded on website than again the copyright acts part of communication to public violated. Hence in this digital environment copyright act applies more and the user should be well aware about the legal aspects of the law and now the user is ethically more responsible for its action.

CONCLUSION

The protection of intellectual property right is a critical issue in the digital context. Due to the technological explosion the libraries are touching the new horizons to provide the



information to its patron under the doctrine of fair use. But the conflict situations are arising as the Intellectual property right is not matching with changing scenario. The digital libraries and database providers are securing the digital documents by defining digital right management to implement and protect the intellectual property. In digital libraries the users have more freedom with digital resources which impose more responsibility of individual user by the law as well as ethically. In ever changing global digital environment in which we live, it is necessary for libraries to make balance between fair use of knowledge and the right of copyright so the profit margin of knowledge creator and publisher got secure for this purpose the IPR awareness programme should be the important part of libraries. In current scenario, the main concern of digital libraries in relation to the use of digital contents, are the legal issues, i.e. copyright, contract/license terms of the subscribed digital materials.

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