

# **International Journal for Multidisciplinary Research**

Plagiarism & Intellectual Property Rights in Digital Age (PIPRDA-2023)

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# Intellectual Property Rights: The New Challenges in Digital Environment

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### **Introduction**

The word intellect originates from the root "intellectus" in Latin which means the power of knowing as distinguished from the power to feel. Intellectual property rights are the rights given to persons over the creations of their minds. They generally give the creator an exclusive right over the use of his/ her creation for a certain period of time. It's veritably well settled that IP play a vital part in the ultramodern frugality. Intellectual Property (IP) deals with any introductory construction of mortal intelligence similar as cultural, erudite, specialized or scientific constructions. Intellectual Property Rights (IPR) refers to the legal rights granted to the innovator or manufacturer to cover their invention or manufacture product. These legal rights confer an exclusive right on the innovator/ manufacturer or its driver who makes full use of it's his invention/ product for a limited period of time.

### **Historical background Intellectual Property Rights**

Intellectual Property Rights have been far back recognized in the 15th century when patents were granted for invention in Venice. Through International Law, modern initiatives were taken to protect IP with the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886). Today there are more than 25 international treaties on IP administered by WIPO (World Intellectual Property Organization).IP rights are also safeguarded by Article S27 of the Universal Declaration of Human Rights.The perusal of the statutory provisions and scope of various laws reveals that they are valid for digital IP; and have also been revised under TRIPS agreements.

### Features of Intellectual Property Rights:-

- 1) Intellectual Property Rights gives right not only to Property Rights but also duties.
- 2) Intellectual property laws are mainly territorial and apply only within the relevant competence.
- 3) Intellectual property is derived from common law, ans it is covered under specific laws.
- 4) It's a form of invisible and intangible property.
- 5) It's actuality distinct from the physical papers or goods which contain the rights.

### Types of Intellectual Property Rights in India

Indian law recognizes 4 (four) major types of intellectual property rights, which will be are as followed:-

### 1) Trademarks:

Trademarks are any phrases, symbols, logos, slogans, product packaging, or designs that distinguish the origin of goods or services. For example, the logo and the brand name of "Coca-Cola" are owned by the Coca-Cola Company.

#### 2) Copyrights:

Copyright is a person's legal right to commercially exploit their original, tangible creative work, and it prevents others from duplicating or reproducing it without permission.

### 3) Patent:

Patent is a legal document that is granted to an inventor by the patent office to protect the subject matter seeking protection.



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### 4) Design:

Design protection guarantees one the exclusive right to use a design, including making and selling in the market, importing, exporting or using the product in which the protected design is incorporated.

### **Need of Intellectual Property Rights**

- 1) Enhances market value: Intellectual property rights can help in increasing market share. This will ultimately helps in raising profits.
- 2) Enhances export opportunities: A business can also tap into the franchising agreements with overseas companies or export patented products.
- 3) Market your products and services: Getting intellectual property rights can help your business' image.
- **4)** Access or raise Capital: Through sale, licensing, or by using IPRs as collateral for debt financing, an individual can monetize for debt financing.

### Legislative framework for securing Intellectual Property Rights

- 1. Contract Act, 1872
- 2. The Trade Marks Act, & (Amendment)1999,2002 3. The Patents Act, 1970 & (Amendment) 2005,2006
- 3. Copyright Act, 1957 & (Amendment) 1994, 1999, 2012 5. The Designs Act, 2000, 2008

### **Intellectual Property Rights Developments in India**

- 1. 1947: Patents & Designs Act, 1911
- 2. 2.1995: India joins WTO
- 3. 1998: India joins Paris Convention/PCT
- 4. 1999: Patent amendment provided EMR retrospectively from 1/1/95
- 5. 2003: 2nd Amendment in Patents Act
- 6. Term of Patent- 20 years after 18 months publication
- 7. Patent Tribunal set up at Chennai
- 8. 2005- Patents (Amendment) Act 2005
- 9. 1999-2005:Plant Varieties and Farmers'Rights Act & Biodiversity Act, Designs, TM/Copyright Acts updated GI Registry set up at Chennai. IP Acts TRIPS Compliant.

### Challenges of Intellectual Property Rights in a digital world:

As noted above, advancements in technology can facilitate piracy, counterfeiting and other IP infringements. At the same time, as digital consumers, we are faced with the phenomena of user-created content online, mashups and access to digital culture. So how can we be best prepared to respond to the challenges of digital transformation from an IP perspective. In present context there are so many challenges of privacy and the emergence of disruptive technologies. Infringements of IP rights occur when someone manufactures, sells or distributes protected items without the right holder's authorization. In the modern and digital age, the issue of privacy is particularly important. Unauthorized data sharing, integration, utilization and public disclosure are the biggest areas of concern. Technology and the global expansion of the Internet development have made it easier to obtain information about products, including high-tech goods, like pharmaceuticals, computer chips, software etc.

The internet's anonymity and lack of borders create an ideal environment for IP infringement. This is particularly true of the Darknet, a network that can be accessed through special software or communication protocols, which has become a hotbed for shady activity. Infringements are committed by cross-border criminal groups, which use the internet for organization, distribution, customer care and online payment, thus making it extraordinarily difficult for rights owners to enforce their rights by turning to courts of law and initiating civil proceedings against in fringers. The digital environment also presents legislative challenges in terms of IP enforcement, which have not yet been tackled in any global agreements. Infringements carried out over the internet pose very specific obstacles to effective enforcement such as the identification of the infringer, liability of service providers, enforcement of IP rights, the treatment of



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online rights protected abroad, and the question of court jurisdiction.

### **Conclusion:**

In today's digital world, the dizzying number of opportunities to distribute goods provides new and ever increasing challenges. The international IP legal framework provides consistent and flexible protection for owners of both traditional products and digital content. However, neither legal frameworks nor regulatory intervention will ever keep pace with the speed of technological advancement or with the pirates who seek to circumvent that technology. When planning your digital transformation, it is important to bear in mind that IP protection is essential to encourage innovation and to preserve the diversity of creation, and to build such protective measures into your strategy. However, since the very concept of protecting intellectual property has come under attack in the sharing economy, policymakers and industry players alike should also think about new and innovative ways of remunerating creators in a way that discourages the infringement of rights.

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