

Intellectual Property Rights: In Digital Environment

Dr. S. K. Pandey

University Librarian, Central Library Kumaun University, Nainital

ABSTRACT

The Paper intends to study in detail the issues relating to the emergence of digital technology, the importance of copyright in the digital environment, security aspects of IPRs, legal issues related to protection of literary resources and the challenges of managing IPRs in a digital environment. Through this study the creator intend to describe and discuss the main issues related to Intellectual Property Right (IPR) and its effects on users as well as creator intellectuality.

1. INTRODUCTION

“Intellectual property right refers to the creation of human intellect. It is the legal expression of privileges granted by the state for the use of one’s creation. Intellectual property is inherently intangible. It relates to item of knowledge and to the information which can eventually be incorporated or embodied in a limitless number of tangible items all over the world¹.” “Inventions and innovations are creations of the human mind or intellect and that is why it is treated as Intellectual property. The efforts preceding the invention/innovation/creation necessitate investment in material, manpower, finance and other resources. As a result of which legal provisions have been made to protect Intellectual Property Right (IPR). Each country provides such rights to citizens².” “Like the other forms of property, intellectual property is also an asset, which can also be bought, sold, exchanged or gratuitously given away. The most striking deference between intellectual property and other forms of property is that, it is intangible, that is cannot be defined or identified by its own physical parameters. Therefore, intellectual property must be expressed in some discernible way for enabling it to be protected³.”

2. COPYRIGHT

“Copyright stands for the legal right exclusively given for a definite period of time to the originator (authors or creators) of intellectual work such as a publication, or an artistic or literary work for sale or any other use. Copyright provides the creators (like writers, poets, composers, etc.) of literary or artistic works, the right of ownership for their work, and legal protection against unlawful reproduction of such works. Although copyright is generally understood as a right or license to free copying of an existing work, in reality it is not so; infact it is a legal right to prevent others from copying. By

providing protection, copyright law assures and encourages the authors in pursuit of artistic, scientific or literary work. The law also recognizes their right to the benefits accrued by usage of their creative work by others. This obviates an agreement between the author and the publisher (or users)¹.”

3. OBJECTIVES OF THE STUDY

- Emergence of Digital Technology and IPR.
- Importance of Copyright in Digital environment.
- Security aspects of IPRs in Digital environment.
- Legal issues related to protection of digital resources.
- Challenges of managing IPRs in digital environment.

4. IPR IN DIGITAL 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 the same time poses some problems and issues for consideration which make the study significant in the present digital environment. The major issues are as follows-

- 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?
- Is the principle of exhaustion of the distribution right still effective in the digital age?
- Can we consider a database as a special collected work that should be protected by the copyright law or it can be considered as a special work requiring specific legislation for its protection?
- What can be considered as “Faire use” in the Internet environment?
- What are the concerns of the library community?
- In the digital context if access could be technologically restricted by the copyright owner, how could the public exercise fair use with regard to those works?

- Whether libraries should be prevented from employing digital technology to preserve work by making three copies—an archival copy, a master copy and a use copy?
- Whether Internet Service Providers (including libraries and educational institutions) should be liable for copyright infringement merely because they facilitated the transmission of digital data (Zeroes and Ones) that translated into another party's copyrighted work?⁵

5.FAIR USE

“The application of the conceptual doctrine of ‘fair use’ has attracted incessant debate. The Framework of ‘fair use’ is volatile and takes shape according to the time and place of application of the doctrine and subject matter to which it is applied. The doctrine is created by judiciary, based upon the principle of equitable and natural justice and to impress upon the owner of the copyright that he has a responsibility towards the society. It is complementary to the concept of ‘compulsory licensing’, which is granted by statute. However, there are certain limitations to the use of the doctrine and owns to prove the justification of using doctrine is assigned to the user¹”.

6.INFORMATION TECHNOLOGY ACT-2000

“The Parliament of India has passed the Information Technology Act-2000 which provides the legal infrastructure for e-commerce in India. This act has received the assent from the President of India and has become the law of the land in India. It is the first Cyber Law of the country.

7.CYBER LAW

Cyber Law is a term which refers to all the legal and regulatory aspects of Internet and the World Wide Web. Anything that concerns with or related to or emanating from any legal aspects or issues concerning any activity of netizens and others, on Internet in cyber space comes within the ambit of cyber law⁵”.

8.IPR VIOLATION IN THE NAME OF CREATIVITY

“Intellectual property rights provide the foundation upon which innovation is shared, creativity encouraged and consumer trust reinforced. But the digital world poses a new challenge — how to manage the balance when the consumer is the creator, when the marginal cost of copying is zero, when enforcement of existing law is extremely difficult, and when “free” access to information and content is considered by many to be a right. If take an example from a famous TV show Lost Series 5 was the most pirated show in 2010, with over 2 million downloads in the first week and reports of over 100 000 people

sharing a single “torrent” (metadata file for peer-to-peer sharing). Within 20 minutes of the broadcast of the final episode of Lost, a subtitled version in Portuguese reportedly appeared on a pirate website. Endemic copyright infringement facilitated by broadband infrastructure is increasingly drawing the telecommunications and Internet communities into the debate on intellectual property rights. The film, music, publishing and television industries are putting pressure on Internet carriers and service providers to play a more active role in addressing both commercial copyright infringement and infringement by consumers. But in the same way as a Library professional it is a high time for as to consider the matter.

Telecommunication regulators are increasingly being looked to as the authority to implement rules that protect copyright, while at the same time protecting consumer interests and encouraging investment and service innovation within the digital economy, so cant we do the same thing while talking on intellectual literary works?⁴”

9.IPR ISSUES IN SOCIAL NETWORKING SITES

“Social networking sites are widely used for publishing and sharing user-generated content. The opportunity for users to post copyrighted material — whether inadvertently or intentionally — is significant. For example, there are now 750 million Facebook users, one billion tweets are sent per week via Twitter, more than 48 hours of video are uploaded every minute on YouTube, Flickr hosts more than 5 billion images, and in July 2011 the Apple App store announced that 15 billion applications had been downloaded since the opening of the store in 2008. Under pressure from the creative industries, Google implemented a number of policies in December 2010 to help dissuade people from searching for illegal copyright material. MySpace has introduced a “take down stay down” service that not only removes improperly posted video or audio content, but also marks it with a digital “fingerprint”. This prevents the user from simply reposting the content under a different user name. YouTube operates a similar content identification system, which not only filters content, but also offers rights holders the opportunity to monetize their content⁶”.

10.FINDINGS & SUGGESTION

The study tells us that in the present digital environment the way of violating copyright has changed. Traditionally we found that in the past people copies intellectual work directly to earn money by not letting the creator know about it. But in the present time, scenario has changed and now it is kind of a business to earn money in the name of sharing information. The violator shares the intellectual work in the name of sharing the information for the benefit of the society. But in response of that the violator

get hits or likes on their social networking sites or blog post which increases his/her social importance and popularity in the society. For me it is a kind of violation of copyright because nobody has any right to be popular with the help of someone else creativity.

11.CONCLUSION

It is important to develop effective strategies to protect IP. Protecting IP can be a great help to others to avoid scams and fake or copied literature, although many of the legal principles governing IPR have evolved over centuries. Different IP rights vary in the protective they provide and it is necessary to fully protect once creation. The various policies: negotiating bodies, IP and other policy topics, raising awareness, security across multiple platform and protection at network system, password regulation protect, authentication of users & limits to their access. However it is said that it will become harder to enforce rights. New IP databases, legal resources are to be developed for reward to the innovation, effort & skills as well as for user's beneficiary policy. The IP recognises the changes in its own external environment this place new demands in the organization. It needs to have the services to help to protect their intellectual property in today's environment. Today's digital environment it is required to make some special IPR to protect craters intellectual woks.

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