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(FROM AY 2017-18 TO AY 2021-22)

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One day National Conference On

"Intellectual Property Rights"

Mahatma Education Society's

PILLAI HOC COLLEGE OF ARTS, SCIENCE & COMMERCE

Pillai HOC College of Arts, Science & Commerce,

Pillai HOCL Educational Campus, Rasayani. Taluka -Khalapur,

Dist - Raigad - 410207

29 September 2018

Editorial

It gives us immense pleasure to present our conference proceeding with ISBN. The objective of the conference on "Intellectual Property Rights" was to raise awareness, enlighten and enrich the participants with knowledge and insights on the very contemporary and unclear topic on Intellectual Property Rights.

This meeting was also held to highlight the intellectual practices in writings, performing arts, films and theatres, art, Research, Technology and Innovations and so on, and how they are needed appropriate knowledge on when and how the works may violate the intellectual property rights.

This meeting was very fruitful in the context of clear understanding on IPR. An open discussion session was conducted during the conference in order to discuss all the aspects of Intellectual Property. A robust demonstration was conducted on how to file a patent and its legal aspects. We feel privileged to present the special edition of the proceedings of the conference conducted on 29th September 2018.

This book is a compendium of quality research papers providing a deep insight into the versatility of the climate change topic. We strongly believe that the scholarly research papers in this issue would be of immense help to students, researchers and academicians by providing broader and diverse views on IPR.

We are indeed honoured to convey our since gratitude to all the paper presenters, readers, reviewers, editors and all those who have contributed with their constant support and selfless efforts.

Best wishes

Dr. Lata Menon
Principal

Contents

Laws on IPR in India

* **Prof. Chandrabhan Singh**

Abstract:

IPR stands for Intellectual property rights. Intellectual property can be characterized as the property in ideas or their expression. It is an innovation of the mind, which safeguard the rights of individuals and businesses who have transformed their ideas into property by granting rights to the owners of those properties. Intellectual property can be classified into the following three categories:

1) Patents for inventions
2) Copyrights for literary works
3) Trademarks of symbol, logo, design.

In the year 1856 in India Patent Act was introduced which remained in force for more than 50 years which was later modified and revised and was called "The Indian Patents and Designs Act, 1911". A complete bill on patent rights was enacted after Independence in the year 1970 and was called "The Patents Act, 1970".

The Trademark Act 1940 was the first statute law on Trademarks in India. Prior to this Act Trademark was governed by common Law.Registering a Trademark was obtained by giving a declaration to ownership under the Indian Registration Act 1908. The above said enactment was amended by Trade Marks Amendment Act 1943.Thereafter the Act was amended by the Trade marks Amendment Act 1946.The Trademark Act 1940 was replaced by the Trade and Merchandise Act 1958. The Trade and Merchandise Act 1958 were brought into force on 25th November 1959. Later on few minor amendments were carried repealing and amending Act 1960.The Trade and Merchandise Act, 1958 was revised by a new Trademark Act 1999.

Keyword: Innovation, safeguard the rights, transformed ideas, Unique Identity, enacted, design, logo, symbol.

Introduction:

Intellectual property has increasingly assumed a vital role with the rapid pace of technological, scientific and medical innovation that we are witnessing today. Moreover, changes in the global economic environment have influenced the development of business models where intellectual property is a central element establishing value and potential growth. In India several new legislations for the protection of intellectual property rights (IPRs) have been passed to meet the international obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Intellectual property has therefore grown into one of the world's biggest and fastest-growing fields of law thereby necessitating the demand for IP professionals well versed in this area to deal with (IPRs) across the national and international borders.

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Meaning of Intellectual Property Rights: Intellectual property (IP) refers to the creations of the human mind like inventions, literary and artistic works, and symbols, names, images and designs used in commerce.

Intellectual property Rights is divided into two categories:

1) **Industrial property** - which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and Copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs.
2) **Rights** - related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs. Intellectual property rights protect the interests of creators by giving them property rights over their creations.

Laws related to Intellectual Property Rights

1) **Patent Act, 1970**

   After India became a signatory to the TRIPS agreement forming part of the Agreement establishing the World Trade Organization (WTO) for the purpose of reduction of distortions and impediments to international trade and promotion of effective and adequate protection of intellectual property rights, the Patents Act, 1970has been amended in the year 1995, 1999, 2002 and 2005 to meet its obligations under the TRIPS agreement. The Patents Act has been amended keeping in view the development of technological capability in India, coupled with the need for integrating the intellectual property system with international practices and intellectual property regimes. The amendments were also aimed at making the Act a modern, harmonized and user-friendly legislation to adequately protect national and public interests while simultaneously meeting India's international obligations under the TRIPS Agreement. Subsequently the rules under the Patent Act have also been amended and these became effective from May2003. These rules have been further amended by Patents (Amendment) Rules 2005 w.e.f 01.01.2005. Thus, the Patent Amendment Act, 2005 is now fully in force and operative.

2) Trade Mark Act, 1999

   The law of trademarks is also now modernized under the Trademarks Act of 1999. A trademark is a special symbol for distinguishing the goods offered for sale or otherwise put on the market by one trader from those of another. In India the trademarks have been protected for over four decades as per the provisions of the Trade and Merchandise Mark (TMM) Act of 1958. India became a party to

the WTO at its very inception. Oneof the agreements in that related to the Intellectual Property Rights (TRIPS). In December, 1998 India acceded to the Paris Convention. Meanwhile, the modernization of Trade and Merchandise Marks Act, 1958 had been taken up keeping in view the current developments in trading and commercial practices, increasing globalization of trade and industry, the need to encourage investment flows and transfer of technology, need for simplification of trademark management system and to give effect to important judicial decisions. To achieve these purposes, the Trademarks Bill was introduced in 1994.The Bill pointed towards the changes which were contemplated and were under consideration of the Government of India, but it lapsed in 1994. A comprehensive review was made of the existing laws in view of the developments in trading and commercial practices, and increasing globalization of trade and industry. The Trademarks Bill of 1999 was passed by Parliament that received the assent of the President on 30th December, 1999 as Trade Marks Act, 1999 thereby replacing the Trade and Merchandise Mark Act of 1958.

3) The Designs Act, 2000

The Designs Act of 1911 has been replaced by the Designs Act, 2000. In view of considerable progress made in the field of science and technology, a need was felt to provide more efficient legal system for the protection of industrial designs in order to ensure effective protection to registered designs, and to encourage design activity to promote the design element in an article of production. In this backdrop, the Designs Act,2000 has been enacted essentially to balance these interests and to ensure that the law does not unnecessarily extend protection beyond what is necessary to create the required incentive for design activity while removing impediments to the free use of available designs. The new Act complies with the requirements of TRIPS and hence is directly relevant for international trade.

4) The Geographical Indications of Goods (Registration and Protection) Act, 1999

Until recently, Geographical indications were not registrable in India and in the absence of statutory protection, Indian geographical indications had been misused by persons outside India to indicate goods not originating from the named locality in India. Patenting Turmeric, Neem and Basmati are the instances which drew a lot of attention towards this aspect of the Intellectual property. Mention should be made that under the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), there is no obligation for other countries to extend reciprocal protection unless a geographical indication is protected in the country of its origin. India did not have such a specific law governing geographical indications of goods which could adequately protect the interest of producers of such goods.

To cover up such situations it became necessary to have a comprehensive legislation for registration

and for providing adequate protection to geographical indications and accordingly the Parliament has passed legislation, namely, the Geographical indication of Goods (Registration and Protection) Act, 1999. The legislation is administered through the Geographical Indication Registry under the overall charge of the Controller General of Patents, Designs and Trade Marks.

5) Copyright Act, 1957

Copyright in India is governed by Copyright Act, 1957. This Act has been amended several times to keep pace with the changing times. As per this Act, copyright grants author's lifetime coverage plus 60 years after death. Copyright and related rights on cultural goods, products and services, arise from individual or collective creativity. All original intellectual creations expressed in a reproducible form will be connected as"works eligible for copyright protections". Copyright laws distinguish between different classes of works such as literary, artistic, musical works and sound recordings and cinematograph films. The work is protected irrespective of the quality thereof and also when it may have very little in common with accepted forms of literature or art. Copyright protection also includes novel rights which involve the right to claim authorship of a work, and the right to oppose changes to it that could harm the creator's reputation. The creator or the owner of the copyright in a work, can enforce his right administratively and in the courts by inspection of premises for evidence of production or possession of illegally made "pirated" goods related to protected works. The owner may obtain court orders to stop such activities, as well as seek damages for loss of financial rewards and recognition. A vital field which gets copyright protection is the computer industry. The Copyright Act, 1957 was amended in 1984 and computer programming was included with the definition of "literary work.' The new definition of"computer programme" introduced in 1994, means a set of instructions expressed in works, codes or in any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result. The greatest fear and challenges to the copyright industry is the piracy of works whether, books, musical works, films, television programmes or computer software or computer database. The special nature of infringement of copyrights in computer programmes has again been taken note of by the Copyright(Amendment) Act, 1994 by inserting a new section 63 B. The new section provides that any person who knowingly makes use on a computer of an infringed copy of a computer programme will be punishable with imprisonment for a term of not less than seven days, which may extend to three years and with a fine of not less than ` 50,000/- and which may extend to ` 2,00,000/-. The Copyright Act, 1957 amended in 2012 with the object of making certain changes for clarity, to remove operational difficulties and also to address certain newer issues that have emerged in the context of digital technologies and the Internet. Moreover, the main object to amendments the Act is that in the knowledge society in which we live today, it is imperative to encourage creativity for

promotion of culture of enterprise and innovation so that creative people realize their potential and it is necessary to keep pace with the challenges for a fast growing knowledge and modern society.

6) The Protection of Plant Varieties and Farmers' Rights Act, 2001

The concept of Plant Breeders' Rights arises from the need to provide incentives to plant breeders engaged in the creative work of research which sustains agricultural progress through returns on investments made in research and to persuade the researcher to share the benefits of his creativity with society. The issue of enacting a law relating to Plant Varieties Protection and Farmers' Rights in India assumed importance particularly in the wake of TRIPS agreement under WTO which seeks to promote effective protection of Intellectual Property Rights in all fields of technology. Article 27 of TRIPS Agreement defines patentable subject matter and requires member countries to provide for the protection of plant varieties whether by patenting or by an effective sui generis system or by any combination thereof. With a view to provide for the establishment of an Authority to give an effective system of protection of the rights of plant breeders and farmers, and to encourage the development of new varieties of plants and to give effect to the provisions of TRIPS Agreement, the Government enacted the Protection of Plant Varieties and Farmers' Right Act, 2001. This Act seeks to stimulate investment for research and development both in the public and private sectors for the development of new plant varieties by ensuring appropriate returns on such investments. It also seeks to facilitate the growth of the seed industry in the country through domestic and foreign investment to ensure the availability of high quality seeds and planting material to Indian farmers. It also recognizes the role of farmers as cultivators and conservers and the contribution of traditional, rural and tribal communities to the country's agro biodiversity by rewarding them for their contribution through benefit sharing and protecting the traditional rights of the farmers. The Act also provides for setting up of the Protection of Plant Varieties and Farmer's Rights Authority to promote and develop new varieties of plants and promote rights of the farmers and breeders.

7) The Semi Conductor Integrated Circuits Layout Design Act, 2000

Electronics and Information technology is one of the fastest growing sectors that has played a significant role in world economy. This is primarily due to the advancements in the field of electronics, computers and telecommunication. Microelectronics, which primarily refers to Integrated Circuits (ICs) ranging from, SmallScale Integration (SSI) to Very Large Scale Integration (VLSI) on a semiconductor chip - has rightly been recognized as a core, strategic technology world-over, especially for Information Technology (IT) based society. Design of integrated circuits requires considerable expertise and effort depending on the complexity. Therefore, protection of Intellectual Property Rights (IPR) embedded in the layout designs is of utmost importance to encourage

continued investments in R & D to result in technological advancements in the field of micro electronics.The practice of providing protection through the methods of Copyright, Patents did not appropriately accommodate the requirements of Intellectual Property Rights protection for the Layout-Designs of Integrated Circuits. This was because of the fact that in the context of Layout Designs, the concept of"originality" is of utmost significance, whether it is a "novelty or not". While the Patent Law requires that the idea should be original as well as novel, the copyright law is too general to accommodate the original ideas of scientific creation of Layout-Designs of Integrated Circuits. In view of the above, the necessity for providing protection for Layout-Designs of Integrated Circuits was felt to reward and encourage an adequate level of investment of human, financial and technological resources. The Majority of countries that attach significance to protection of Intellectual Property Rights in the Semiconductor Integrated Circuits provides for sui generis system of protection of Layout-Designs of Integrated Circuits, which is usually contained in a separate Act. Trade Related Intellectual Property Rights(TRIPS) Agreement under WTO contains provisions with regard to setting up of standards concerning availability, scope and use of Intellectual Property `Rights, Geographical Indications, Layout-Design of Integrated Circuits etc. Therefore, the Government enacted the Semiconductor Integrated Circuit Layout-Designs Act, 2000 providing for protection of Semiconductor Integrated Circuits Layout-Designs by process of registration, mechanism for distinguishing Layout-Designs which can be protected, rules to prohibit registration of Layout-Designs which are not original and/or which have been commercially exploited, period for protection, provisions with regard to infringement, payment of royalty for registered Layout -Design, provisions for dealing with willful infringement by way of punishment, appointing a Registrar for registering the Layout Designs and mechanism of Appellate Board.

National IPR Policy:

Foreign investor is not investing in India due to their infringement of patent and trademark. To remove the fear from their mind our government has declared National IPR Policy which will attract FDI and boost our Economy. The Union Cabinet has approved the National Intellectual Property Rights (IPR) Policy on 12th May, 2016 that shall lay the future roadmap for IPRs in India. The Policy recognizes the abundance of creative and innovative energies that flow in India, and the need to tap into and channelize these energies towards a better and brighter future for all.

The National IPR Policy is a vision document that encompasses and brings to a single platform all IPRs. It views IPRs holistically, taking into account all inter-linkages and thus aims to create and exploit synergies between all forms of intellectual property (IP), concerned statutes and agencies. It sets in place an institutional mechanism for implementation, monitoring and review. It aims to incorporate and adapt global best practices to the Indian scenario. This policy shall weave in the strengths of the

Government, research and development organizations, educational institutions, corporate entities including MSMEs, start-ups and other stakeholders in the creation of an innovation-conducive environment, which stimulates creativity and innovation across sectors, as also facilitates a stable, transparent and service-oriented IPR administration in the country.

The Policy recognizes that India has a well-established TRIPS-compliant legislative, administrative and judicial framework to safeguard IPRs, which meets its international obligations while utilizing the flexibilities provided in the international regime to address its developmental concerns. It reiterates India's commitment to the Doha Development Agenda and the TRIPS agreement.

While IPRs are becoming increasingly important in the global arena, there is a need to increase awareness on IPRs in India, be it regarding the IPRs owned by oneself or respect for others' IPRs. The importance of IPRs as a marketable financial asset and economic tool also needs to be recognised. For this, domestic IP filings, as also commercialization of patents granted, need to increase. Innovation and sub-optimal spending on R&D too are issues to be addressed.

Conclusion: In the end I only want to say that Intellectual property laws exist since ancient and in modern days it get lot of important because the purity only leaves in originality. There are various modifications and amendments made into Intellectual Property Laws so I only want to conclude with this statements that change is the only fundamental rule in our world Now a day's India's move towards new IPR regime to compete with other developed and developing countries and it will prepare ourselves for the global trade competition and It will create good mindset towards Economy and encourage the foreign investor also.

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Personality Right: A Legal Overview Of Its Registrability As Trademark

* **Laxmi Kodnani**

Personality right or image rights, used interchangeably, in terms of intellectual property is relatively new area of law and still at nascent stage. By using well- known brand, famous character, artistic work or other appealing element on products, products can be made more eye catching, glamorous, fun and attractive. Companies may launch a new product or associate an existing product with a personality, and it their reflected light the product appears more attractive.

An individual's personality is a means by which one individual recognizes other and identifies his place in the society. Through the creation of one's personality, an individual creates an expectation of himself in the eyes of others and the way in which he is expected to behave in the society. For instance, members of society will have different individual expectations from a sportsman, actor, a spiritual guru, a politician and an executive with regard to their contributions expected towards the society. Each of these personalities contributes differently to the society according to their individual talents. Such personality rights are also justified by the Hegelian meta- physical concept of property which says that "An individual's property is the extension of his personality" similarly an individual's contribution in society is also an extension of this personality. There is no doubt that in creating such personality, an individual has to put in a lot of efforts and conscious care. An individual's personality involves a great amount of emotional, dignitary and moral values attached to it. This personality might be very close to celebrities' heart [1]. The name and image of a celebrity is exclusively associated with him or her. The other persons intend to take advantage of the reputation of celebrity by parasitic means.

Celebrity is a person who is widely recognized in a given society and commands a high degree of public and media attention. Celebrities have a popular image in the society. Celebrity status in a democracy is normally a reward for success confirmed by public. For example, a sportsman or an artist for their skills; TV personality for its wit and politicians for their votes. Famous people who are in constant spotlight in

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public, be it actors, sports persons, singers are asked to lend their name for promoting a wide range of products and services. Celebrities in India are taking keen interest in protecting their name, initials, signatures, image, attributes, likeliness, skills, nicknames, voice etc. as Trademark. They have realized the influence of their personality and have turned it into commerce by engaging into product endorsement, marketing and advertising. This celebrity status not only makes them popular or famous but also confirms certain rights which can be exploited by them alone. The exclusivity of these rights assumes importance in the present world where the media is frequently invading the privacy of the celebrities and consequently infringing some of these rights [2]. The use of celebrities name and association captures the public's attention, sparks curiosity and creates interest in the products and services. The power of celebrities and their impact on commerce has changed with technological improvements[3]. An individual's personality is not merely a form of trading symbol, it carries with it elements of personal identification that cannot be exploited by others. It involves emotional and dignitary values associated with an individual - he may be a celebrity or a common man[4]. Celebrities are often eager to control the use of their 'personality' and especially their image. In ancient times Queens and Popes were asked endorse patent medicines[5]. The use of a celebrity in an advertisement may help to breathe life into a product. Intellectual property laws in India do not define the term 'celebrity'. Attributes like attractiveness, extraordinary lifestyle or special skills are few examples and specific common characteristics that are observed in celebrities generally. Celebrities have a huge influence on common man's life. People tend to buy such products marketed by celebrities as it increases the recall value of the product. For the endorsement by a celebrity or Association can have strong impact on influence on business turnover. In India, the most sought after celebrities are film actors. Personality Rights are closely associated with fame and reputation of celebrities and can have adverse effect on the goodwill of celebrity. Celebrities reputation, likeliness, image, nicknames kept by media are being used for advertising, marketing and endorsements, based on their characteristics and are also being protected. Such step is being taken not only for commercial utilization of their personalities but also to protect their brand and face value from misuse and deception, which would otherwise suggest an association of the celebrity with the goods or services. Certain attributes of personality like name, voice, image, nicknames and signatures have been registered as Trademark. Celebrities can receive Trademark protection for their name, if there name has acquired secondary meaning and it has become associated in the minds of the consumers with a particular source. Secondary meaning can be proven through factors like survey evidence, consumer testimony, exclusivity, manner of use and length of use. In India, an individual may apply for protection of the name, likeliness and nicknames, among other things, with the Indian trade marks registry in order to obtain statutory protection against misuse.

An object created by the labour and skill of an individual belongs to that individual and that the individual

alone has got the right to exploit the object created by him for any gainful purpose which he likes. Fame and popularity that a celebrity has created is his property since, and he enjoys economic and moral rights as he has put in enough hard work conscious efforts, time and skills to harvest such an image and popularity in society. Hence, the celebrity is at complete liberty to exploit his image for commercial benefits and prevent others from doing it. It would be unfair if someone else is allowed to exploit this fame or popularity for benefits which would accrue to him rather than the celebrity. The identity and personality of every person is a merchantable property and the right of determining how to commercially exploit it is solely vested in that individual. Many companies have tried using celebrity names and elements of personality without their consent to promote their products. Though celebrities enjoy protection from such unauthorized use and can invoke passing off action, it is advisable for celebrities to protect their personality/ image rights by getting registration under the Intellectual Property Law, most appropriate protection being registration as Trademark, as it is right perpetual in nature.. These attributes or components of ones' personality such as images, sound, initials, name, micknames, likeliness, attributes, skills, signature can be protected as Trademark. The basic function of Trademark is to indicate source of goods or service and to indicate quality of such goods or service. When components of ones' personality are used as Trademark, it indicates certain standard and quality of the good or service associated with that personality. Thus, the traditional or basic function of trademark has evolved. Trademarks now indicate standard or quality of goods/ services and are used for consumer recollection. Hence, components of personality are being sought and used as Trademark for controlling or owning the attributes of celebrity/ personality.

The definition of Trademark as per Article 15 (1) of TRIPS Agreement- 'Any sign, or any combination of signs, capable of distinguishing the goods or services of one undertaking from those of other undertakings, shall be capable of constituting a trademark. Such signs, in particular words including personal names, letters, numerals, figurative elements and combinations of colours as well as any combination of such signs, shall be eligible for registration as trademarks. Where signs are not inherently capable of distinguishing the relevant goods or services, Members may make registrability depend on distinctiveness acquired through use. Members may require, as a condition of registration, that signs be visually perceptible', is a broad definition and leaves scope for personality/ image and its elements to fall within its boundaries. Name, image, signature or other distinctive qualities of personality are potentially capable of being registered as trade marks.

The trademarked celebrity 'personality' or image can appear on merchandising products or be used to advertise or endorse products or services. The function of trademark has developed and evolved from distinguishing goods/ services by signifying its origin to indicating something about their quality and help

in consumer recollection. With respect to real persons, the rights attached to, inter alia, the name, likeliness, image, appearance or other attributes of personality of a real person are generally protected as “personality rights” or “publicity right” as the Trade Mark Act, 1999 does not recognize attributes of personality or personality, per se, as marks capable of being protected as Trademark, as there is no specific provision or legislation enacted. Hence , if someone uses the fame or likeliness of a celebrity to promote his goods or services it would be termed as unfair trade practice, misappropriation of intellectual property of the celebrity and act of passing off etc.

Trade marking celebrity image is one avenue available to celebrities who wish to pursue such control. Unauthorized use of voice, image, reputation, nicknames, attributes etc. would amount to identity theft and infringements of ones' privacy and publicity rights. Such exploitation of personality increasingly interferes with ones' life. Though, the scope of one of the Fundamental Rights i.e. Right to Life and Personal Liberty (Article 21) has been expanded and now recognises Publicity Rights and Privacy Rights as a Fundamental Right. It can be stated that no privacy can be claimed on information already in public domain. However, this does not defend the act of appropriating the fame, name and other elements of individuals' personality already in Public domain for other individuals' benefit or commercial exploitation without their authorization. Hence attempts have been made by celebrities Akshay Kumar Bhatia in protecting his personality identification mark/ nickname 'Khiladi' as trademark as now 'Khiladi' is associated with him and his work and exclusively identifies with his reputation, image, personality and his activities. Similarly, Amitabh Bachan sought protection for his voice as sound mark after alike voice was used for advertising a tobacco product without is authorization. Also, cricketer Sachinn Tendulkar has his initials 'SRT' trademarked to secure his reputation which he has earned after a lot of hard work and dedication. Now, no one can use his title Sachin Ramesh Tendulkar 'SRT' without his permission. Kajol, Ajay Devgan, Sunny Leone, Sanjeev Kaoor and Priyanka Chopra are few celebrities who have trademarked their names and images. Further, Divya Yoga mandir has made several applications to trademark Baba Ramdev, Swami Ramdev and Divya Yoga, seeking to stop these names being used by others on building material, education and training. Trademark may provide limited but perpetual ownership on 'Personality' in a broad sense. It is the need of hour to protect the interest of celebrities from such unfair trade practice. Presently, the celebrities in India are left with limited options for protection of their personality rights and the same can be opted only after invasion of their privacy and misuse of their economic or moral rights. Therefore, the Trade Mark Act of 1999 should mature by expanding the scope of protection of marks and should also recognize elements of personality like image, likeliness, attributes, reputation, skills, etc of celebrities which are subject to misuse for immoral or commercial purposes. Nations like UK, USA, Australia and Canada protect certain elements of personalities or their image either by allowing registration as Trademark or recognizing as privacy right

but no separate legislation or provision in existing Trademark law has been enacted by these nations for registration of personality and recognizing it as Trademark. UK utilizes as amalgam of Privacy Law, passing off and tort of false endorsement for protection. USA offers higher protection to celebrity than UK and Australia in form of Privacy and Publicity rights. Each country, independently from common agreements, is free to set its own rules and that intellectual property falls under national legislation. Bailiwick of Guernsey, one of the UK Channel Islands has recognized image rights and personality and allows its registration. It has enacted a dedicated law- The Image Rights (Bailiwick of Guernsey) Ordinance, 2012 which acts as paradigm and is a step forward in recognizing image and personality rights and protecting it as Intellectual Property. Section 3 of the Ordinance describes an Image as: (a) the name of a personnage or any other name by which a personnage is known, (b) the voice, signature, likeness, appearance, silhouette, feature, face, expressions (verbal or facial), gestures, mannerisms, and any other distinctive characteristic or personal attribute of a personnage, or (c) any photograph, illustration, image, picture, moving image or electronic or other representation ("picture") of a personage and of no other person, except to the extent that the other person is not identified or singled out in or in connection with the use of the picture. It provides for registration of personality and image and recognizes it as rights which can be assigned, transmitted and also protected from infringement. Thus it allows the proprietor of the right to commercially exploit their personal attributes.

It is the need of hour to amend the present Trademark legislation and recognize elements of personality capable of being registered as Trademark or enact a specific legislation recognizing personality as a new right and extend legal protection at par with other Intellectual Property.

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10 TRIPS Agreement

Impact of Intellectual Property Rights on Film Industry

***Mrs. Nisha Subhash Yadav**

Abstract:
Pioneering ideas are widely spread across all the fields. These ideas are needed to get rehabilitated into valuable, unique invention and also requisite to get a recognized. Hence the inclination of IRP has been involved which help to claim these research activities and finally get some advantage out of it. Variant of IPR are available and can be applied on the area of research (Interest). IPR also provide different level of fortification which an inventor can apply on his creative expressions. In this article we will be digging into Film Industry and discuses about the aspects of IPR involved to it.

Keyword: IPR in Film Industry, Impact of IPR, IPR in Entertainment, Role of IPR, IPR Impacts

Introduction

IPR is not new term for us, everyday we come across IPR in news headlines. IPR is spread across many variant sector depending on the need and requirement of it. Among these entire sector we are going to focus our discussion the Entertainment sector in which we will be narrowing our discussion on film industry. Now days the news about the infringement in film industry is rising vary rapidly. These infringement are done intentionally or non- intentionally by human.

According to a survey Bollywood is leading over Hollywood in terms or releasing the movies in a year. A film is an amalgamation of the efforts of a plenty of people involving the music director, the director of photography, the art director, stunt men, the choreographer, spot boys, the makeup artists and last but not the least, the Captain of the ship the director and the actors.

With the advent of the Internet, YouTube, Torrents and other such platforms, today's audience are exposed to latest technologies and film making styles from across the globe, thereby resulting in their expectations soaring to new heights. As a result, producers today are being forced to pump in huge amounts of money in order to produce a movie that meets expectations that are on par with global standards.

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It is important to recognize that given the intangible nature of films such as script, storyline etc, it is imperative to understand the legal frameworks by which the creators or producers of films can protect their work from being plagiarized. This Sector has witnessed consistent innovative technological trends and also increases in digitization and internet usage by the consumers and the content supplier. Here in this article we are going to focus on the impact or role of the IPR in entertainment sector.

I. WHAT IS IPR ?

The term intellectual property rights is not an isolated term it contain many things like Intellectual property, intellectual property laws, intellectual property rights etc. you can consider it as additional property to your day to day properties. Similar to your other properties (House, money, etc) your intellectual is also one of the important property. However as you are marking a money from your other property your intellectual can also help you earn money. Intellectual Property is basically an intangible creation of human intellectual. Using these we can gain an ownership over it. Human intellectual is not restricted to particular area, but it is widely spread over all sectors. Now these sectors can be music, entertainment, etc. the role of IPR has benefited almost all the sectors , it has help to gain some valuable benefit from it. Here in this paper we are going to discuses on the impact of IPR in entertainment sector. but before coming on the actual topic let us have a short discussion on the various definitions of intellectual property rights related terms such.

Intellectual property rights mainly consist of copyrights, patents and trademarks. Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his/her creation for a certain period of time.

http://www.wipo.int/about-ip/en

2.1 Types of intellectual property

a) Copyrights:

Copyright is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings. Copyright is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture and films, to computer programs, databases, advertisements, maps and technical drawings.

❑ **History of Copyrights**

Today almost every nation has a copyright law in place and is mostly standardized to some extent through international and regional agreements. But when we look back, we realize that the Copyright law has a very unique history. The real need of copyright law was felt only after the invention of printers and copiers. During the 15th and 16th Century, printing was invented and widely established in Europe. In 1518, the first copyright privilege was granted in England. It is believed that the evolution of Copyright law in India has been in three phases. The law of copyright was introduced in India only when the British East India Company was established in 1847. This Act had very different provisions in comparison to today's law. The term of the Copyright was life time of the author plus seven years after the death of the author. But in no case could the total term of copyright exceed a period of forty-two years. The government could grant a compulsory license to publish a book if the owner of copyright, upon the death of the author, refused to allow its publication. Registration of Copyright with the Home Office was mandatory for enforcement of rights under the Act. This was the first phase.

The second phase was in 1914, when the Indian legislature under the British Raj enacted the Copyright Act of 1914. It was almost similar to the United Kingdom Copyright Act of 1911. But the major change that was brought in this Act was criminal sanction for infringement. Number of times amendment were brought to this Act up till 1957. Subsequently, India saw the third phase of Copyright law in 1957.

https://www.bananaip.com/ip-news-center/history-of-copyright-law/

Patents

b) A patent is an exclusive right granted for an invention. Generally speaking, a patent provides the patent owner with the right to decide how - or whether - the invention can be used by others. In exchange for this right, the patent owner makes technical information about the invention publicly available in the published patent document.

History of Patents

History of Patents can be easily understood by the following table year wise

https://www.slideshare.net/devthedictator/patent-system-of-india

http://www.ipindia.nic.in/history-of-indian-patent-system.htm

History of Patent Acts in India

Year	Event
1856	Act for protection of inventions on the basis of British law of 1852
1859	Patent monopolies called exclusive privileges
1872	Patents and Designs Act
1883	Protection of Inventions Act 1888 Inventions and Designs Act 1911-1947 Modern patent era by Patents and Designs Act. First time an authority call Controller General of Patents appointed
1959	Justice Ayyangar's report
1967	Patent Act bill introduced in the Parliament
1970	The Patents Act passed by the parliament
1972	The Patents Act-1970 came into force on April 20, 1972
1994	Amendment by ordinance to include Exclusive Marketing Rights (EMR's)
1999	Amendment passed by the parliament. New patent amendment bill referred to select committee
2003- 2005	Patents Act 1970 with second amendment comes into force Patent Act 1970 (2005 Amendment) comes in to force from 1-1-2005

Trademarks

c) A trademark is a sign capable of distinguishing the goods or services of one enterprise from those of other enterprises. Trademarks date back to ancient times when artisans used to put their signature or "mark" on their products.

http://www.wipo.int/about-ip/en/

History of trademarks:

The law of trademark in India before 1940 was based on the common law principles of passing off and equity as followed in England before the enactment of the first Registration Act, 1875. The first statutory law related to trademark in India was the Trade Marks Act, 1940, the year 1958 was enacted which consolidated the provisions related to trademarks contained in other statutes like, the Indian Penal Code, Criminal Procedure Code . Though some aspects of the unregistered trade marks have been enacted into the 1999 Act, but they are primarily governed by the common law rules based on the principles evolved out of the judgments of the Courts. Where the law is ambiguous, the principles evolved and interpretation made by the Courts in England have been applied in India taking into consideration the context of the legal procedure, laws and realities of India.

Trademark defined under Section 2 (zb) of the Trade Marks Act, 1999 as, "trade mark means a mark

capable of being represented graphically and which is capable of distinguishing the goods or services of one person from those of others and may include shape of goods, their packaging and combination of colours." A mark can include a device, brand, heading, label, ticket, name, signature, word, letter, numeral, shape of goods, packaging or combination of colors or any such combinations.

2.2 Intellectual Property Examples:

Intellectual property is a very complicated idea, and covers a wide range of creations. The best way to understand the different types of intellectual property is by learning the different methods for registering this property. Essentially, anything that you create using your mind is intellectual property.

Intellectual property examples are in fields of following sectors:

- Art and Designs
- Literary works
- Music
- Symbols, images, and names used for businesses

1.3 Intellectual Property Protection

Entrepreneurs and business owners need to understand the basics of intellectual property (IP) law to best protect hard-earned creations and ideas from unfair competition. Intellectual property includes distinctive items that someone has created and ones that give the owner an economic benefit.

Since filing and refiling IP applications can get expensive, and waste time if done incorrectly, the owner must determine what to protect when it comes to IP. The owner must also decide which ideas fall under which specific protection option and file as quickly as possible to reduce chances of losing out on protection. This means that when published, your work cannot be altered, Mutilated, Distorted.

Protection of intellectual property examples are:

- Copyright
- Trademark
- Patent
- Trade Secrets

Other forms of intellectual property protections include:

- Industrial design rights: Protects an object's visual design used in the manufacturing of the object.
- Indigenous intellectual property: Provides indigenous peoples the right to defend the knowledge of their culture that could be considered intellectual property.

- Plant breeder's rights: Gives plant breeders the right to protect harvesting and propagation of a new plant species they have created.

https://www.upcounsel.com/intellectual-property-examples

II. BACKGROUND OF FILM INDUSTRY

Media and entertainment in terms of Film Industry sector is very vast i.e it is ranging from Hollywood to Bollywood to Tollywood etc. Here in this article we will mainly concentrate on the bollywood.

Bollywood is popularly known to be the “home-ground” for Masala, no pun intended, for the entertainment industry in India. Most of this “Masala” is based on a vicious cycle of gossip, disputes and patching-up. Disputes often highlight the dynamic environment of Bollywood, re-defining the Indian Entertainment scene. While most of these disputes may be non-legal, the year 2013 has brought out the Drama of Bollywood from behind the scenes to the big screen, especially the drama involving Intellectual Property squabbles.

We all know that the Copyright Act was amended in 2012 and it has brought with itself, a ripple to the functioning of the entertainment industry. 2013 has just carried on the trend and increased the intensity of these ripples, not just with the Copyright Act but with matters surrounding other IP issues too. Bollywood has become more aware of its IP rights and this is just the beginning.

If we have a look in the history we will come to know the relation between the IPR and Film industry in India. Adding to it we can see that Indian Film industry begin in the year 1913 whereas the IPR came in existence from the year 1624 but the first IPR policy was released in may 2016. The copyright law exist in 1957. From here we can see the year gap between the IPR and IPR. Hence we can say that prior to 1957 IPR was not much involved in any sector.

https://www.iipta.com/indian-cinemas-copyright-infringment/
https://www.darts-ip.com/

Comparing to many other sectors film industry are the one which is been targeted most.in film making it involves lots of things such as script, dialogue, venue, sound, music publicity, etc..in all these sub categories IPR can come into existence. Film industry are mostly tategeted by copyright and trademake type of law

3.1 Following are some of the historical cases related to film industry

1. Copycat – Band Baaja Baaraat – Jabardast case

Yash Raj Films gained the limelight once again, just before making history with Dhoom-3, when they successfully restrained producers of the Telugu movie "Jabardast" on grounds of copyright violation. YRF successfully gained an interim order in their favor from the Delhi High Court after convincing them that "Jabardast", the Telugu movie was nothing more than a blatant copy of the popular movie "Band Baaja Baaraat". While the makers of "Jabardast" planned to release a Tamil version of the movie, YRF also successfully restrained them from such a release claiming that they were due to release their own Tamil version of the popular romantic comedy. While the fate of the case is yet to be sealed, YRF rides high on its victory of the first battle.

2. **"Jai Ho" – Do song titles enjoy trademark protection?**

Sohail Khan's movie titled "Jai Ho" has landed itself in the middle of a legal controversy for trademark infringement. The title "Jai Ho" is also the title for the hugely popular song 'Jai Ho' that helped A.R. Rahman land an Oscar, also for which Mr. Rahman has trademark protection.

While the matter is rumored to be settled out of Court, the question as to whether song titles can obtain trademark protection based on the concept of "secondary meaning", remains unanswered. https://www.bananaip.com/ip-news-center/2013-bollywood-top-10-intellectual-property-blockbusters/

3. Partner

Let's consider the 2005 American hit Hitch. Alex 'Hitch' Hitchens is a professional "date doctor" who helps men woo women. While coaching one of his clients, Albert Brennaman, who is smitten by celebrity Allegra Cole, Hitch falls in love with gossip columnist Sara Melas. However, none of his methods to court her work. While pursuing his love interest, Hitch keeps his career a secret. After finding out the truth about Hitch's job, Sara publishes an exposé on him, resulting in the breakdown of the relationship between Albert and Allegra. In the end, Hitch salvages the relationship between Albert and Allegra, and resumes his relationship with Sara.

https://scroll.in/reel/873364/raabta-partner-kaante-how-bollywood-has-dealt-with-plagiarism-cases

4. BOLLYWOOD'S 'RAABTA' WITH COPYRIGHT INFRINGEMENT

The upcoming hindi film 'Raabta' was recently slapped with a copyright infringement suit by the

producers of the Telugu film 'Magadheera'. Both films involve lovers who find each other in a second life (reincarnation and all that). Other similarities include parallel visualization of the two different “births” or generational settings – with the previous one being a royal, medieval setting. And both films have a notable antagonist vying for the woman's affection

https://spicyip.com/2017/06/bollywoods-raabta-with-copyright-infringement.html

III. ROLE OF IPR

Protection of a film today can be broadly divided into two stages, Protection during the Pre -production stage and protection during the Post-Production stage. Pre-production comprises the work done in preparation for the film's production, including scripting, screenplay, hiring of cast and crew, shoot schedule, location hunting, rehearsals etc and this is where there is a need for a very strict set of laws and legal protection. Pre-production is considered as the foundation of the film. Once these are protected, the protection of the film becomes considerably easier.
http://www.legaleraonline.com/articles/copyrights-and-films-a-legal-view-point

It is said that even during the production of the film there are various aspects to a film which needs to be protected. The following aspects of a film can be protected under the Copyrights Act.

1. **Literary Work:** This includes any work which is expressed in printing or writing. With respect to a film, this will include the storyline, script, dialogues, lyrics, computer graphics, animations etc.
2. **Artistic work:** This includes a painting, sculpture, drawing or any such work which possesses artistic quality. In a film, this translates to a background set, costumes, structures built for the making of the film etc. If these costumes, sets, designs etc can be put in paper in the form of a written work or a drawing, these can be protected under the Act.
3. **Dramatic work:** These includes any recitation or choreographic work. With respect to a film, this refers to any dance movements, stunts, etc. Again, these when put into writing in a paper can be protected under the Act.
4. **Musical work:** This refers to work consisting of music including graphical notation of such works. With respect to a film, this translates to songs, background scores, sound recording, theme music etc.
5. **Sound recording:** This refers to the combination of the lyrics, song, music which is present in the cinematograph film. Each of the above mentioned aspects can be individually protected under the Copyrights Act. However, when they converge to form a Cinematographic film, the producer or the

production house will become the owner of the Cinematograph film and the Copyrights associated with the film. So, in this case, the production house or the producer need not protect each of the individual aspects. The fact that the Cinematographic film is protected would imply that each of the individual aspects is also protected. Hence, the lyricist or music director for instance, may not have a right over their contribution to the film unless otherwise specifically stated in the agreement made prior to the production stage. However, strangely it is recognized that the work of an actor/actress in a cinematograph is not protected under the Act.

Once the production of the film is complete, the post production protection will come into play. The protection of the film becomes absolutely necessary at this stage. Here, it is imperative to delve into some of the other aspects of what our current legal system offers with respect to film industry before proceeding to protection.

As a cinematographic film, there are certain rights that are associated with the owner of a Copyright:

1. **Reproduction Rights:** This right entitles the copyright owner the complete ownership over the film and no person shall make one or more copies of this work, including the sounds and sound recordings, without the permission of the copyright owner.
2. **Distribution and Rental rights:** This is the right enjoyed by the Copyright owner where-in he enjoys the exclusive right over the initial distribution of the copies of the work. Rental rights are a very recent addition to the bundle of rights for a cinematographic film. Rental rights refer to making available for the public or persons or establishment hiring the film, for a limited period of time the use of the film. However, the rental rights is a very restricted act and the final rights over the film still lies with the copyright owner. Hence, for instance, the persons hiring the film may have only limited broadcasting rights. To further sell or hire the film to others, they may have to get prior permission from the original copyright owner.
3. **Synchronization Rights:** This is the right to synchronize the performance of a sound recording in a specific way with visual images. Synchronization rights are important in the use of songs and sound recordings on TV shows, in movies, or other types of motion picture and video media.
4. **Derivative Works Rights:** The derivative works right is the right to take an original song or sound recording and make alterations to it. Such as a right to alter a song by writing new lyrics for it or alter a sound recording by mixing in additional instruments or incorporating it into a medley.
5. **Right to communicate the work to public or broadcasting rights:** This is a right enjoyed by the owner whereby he can sell or assign the cinematograph film to broadcasting or a cable network. This right can subsist with the broadcasting channel for a period of 25 years, unless otherwise specified in the

agreement, once the permit is given by the owner of the cinematograph film.

6. **Right to adaptation and translation:** It is an exclusive right to have the film adapted into another film or translated in any other language and re- release it.
7. **Display Rights:** This right refers to the right to display a song publicly. This is a right encountered less frequently than the others, but would become an issue if someone wanted to display a song in let's say some fashion program (e.g. put the lyrics for a song in their store window). There have been constant efforts from the government today towards regularizing the legal system with regard to the film industry. The Ministry of Information and Broadcasting ("MIB") is the governmental body that is involved in forming the rules and the regulations regarding films in India. The most important wing with regard to the film industry is the Central Board of Film Certification ("CBFC"), this facet of a certification of a film is covered under the Cinematograph Act, 1952. Any completed film which is to be exhibited has to obtain certification from CBFC.
   http://www.legaleraonline.com/articles/copyrights-and-films-a-legal-view-point

IV. BENEFITS OF IPR IN FILM INDUSTRY

The primary, well-known function of an IP right is to give its holder a competitive advantage in its commercial activities, by preventing unauthorized exploitation by thirds. IP rights have other, less frequently mentioned benefits, including :

1. **Providing guarantees regarding the quality and safety of products:**
   Many counterfeit products place our children's and citizens' safety or health at risk, for instance where vehicle spare parts or drugs are concerned. Enforcing IP rights in respect of such products guarantees at least that the products' origin is known and that the products are genuine, whereas counterfeit products often do not comply with the applicable safety standards. This is especially true for trade marks, but patent licensing contracts, for instance, may also include quality insurance clauses.
2. **Enabling indirect exploitation:**
   Where a company has protected its products (or processes, etc.) by IP rights, it can derive revenues not only from their direct exploitation (by that company), but also from their indirect exploitation by third parties, under licensing contracts. These additional indirect revenues sometimes exceed the profits resulting from the direct exploitation, especially as they do not require additional internal manufacturing capacities. Such an approach may therefore be particularly relevant for SMEs. It is also important for universities and public research centres, which usually do not have any direct exploitation activities.

3. **Cost-free mechanisms:**

   While certain procedures required for the registration of IP rights are considered to be expensive, in particular by SMEs, it should be noted that certain IP rights can be enjoyed without any formal procedure and without paying any official fees. This is in particular the case for copyright and for unregistered designs.

4. **Dissemination of technical information:**

   Even where a company (or university, etc.) does not intend to protect its own inventions, its staff (researchers, etc.) can still make use of patent information. Patents are the most prolific and up-to -date source of technological information, and contain detailed technical information which often cannot be found anywhere else: it is estimated that up to 80% of current technical knowledge can only be found in patent documents. Moreover, this information is rapidly 2 available, as most patent applications are published 18 months after the first filing. Searches in patent literature can be conducted by anyone by using for instance the free-of-charge esp@cenet patent database. It provides access to more than 60 million patent documents from all over the world, classified by technological areas on the basis of the sophisticated International Patent Classification. There are good reasons to search patent literature: – Avoid duplication of R&D efforts and spending (it is estimated that up to 30% of all expenditure in R&D is wasted on redeveloping existing inventions). – Find solutions to technical problems (especially as the majority of all patents – around 85% – are no longer in force, a vast number of inventions is thus available for free). – Gather business intelligence (as patents not only reveal technological information areas, but also make it possible, at a very early stage, to identify potential competitors, customers and partners; to monitor the innovation strategies of competitors; etc.).

5. **Facilitating technology transfer:**

   Patents often constitute a convenient means to not only protect but also describe in a very accurate way technologies which are the subject of technology transfer and similar agreements (licensing, assignment, etc.). This "technology packaging" / trade facilitation function justifies that patents have sometimes been considered as the "currency" of the knowledge-based economy. (To some extent, the same reasoning also applies to IP rights other than patents.)

6. **"Open source" relies on IPR:**

   Open source mechanisms are becoming popular in certain sectors such as software (cf. GPL licences, etc.). While the common perception is that such mechanisms are characterized by the absence of any IP protection, it is worth noting that a typical GPL (General Public) licence actually relies on IP rights as it is typically a copyright license which remains valid as long as certain conditions are complied with (e.g. freedoms received by the licensee must be passed on to subsequent users, even where the software is modified).

7. Collateral to obtain financing:

As intangible assets, IP rights often play an instrumental role for SMEs (including start-ups and spin -offs) trying to convince third parties to provide financing to them (equity investment, loan granting, etc.).

The Indian Supreme Court has said that the test regarding idea/expression and substantial part is to "see if the reader, spectator or viewer, after having read or seen both the works, is clearly of the opinion and gets an unmistakable impression that the subsequent work appears to be a copy of the original." The blog post ends with these optimistic words: "We're slowly reaching a stage where infringers will not be able to hide behind the term 'inspiration'".

V. LIMITATIONS

1. Temporal

2.225 Copyright does not continue indefinitely. The law provides for a period of time, a duration, during which the rights of the copyright owner exist.

2.226 The period or duration of copyright begins with the creation of the work. The period or duration continues until some time after the death of the author. The purpose of this provision in the law is to enable the author's successors to have economic benefits after the author's death. It also safeguards the investments made in the production and dissemination of works. 2.227 In countries which are party to the Berne Convention, and in many other countries, the duration of copyright provided for by national law is the life of the author and not less than fifty years after the death of the author. In recent years, a tendency has emerged towards lengthening the term of protection.

2. Geographic

2.228 The second limitation or exception to be examined is a geographical limitation. The owner of the copyright in a work is protected by the law of a country against acts restricted by copyright which are done in that country. For protection against such acts done in another country, he must refer to the law of that other country. If both countries are members of one of the international conventions on copyright, the practical problems arising from this geographical limitation are very much eased.

3. Permitted Use

2.229 Certain acts normally restricted by copyright may, in circumstances specified in the law, be done without the authorization of the copyright owner. Some examples of such exceptions are described as “fair use.” Such examples include reproduction of a work exclusively for the personal

and private use of the person who makes the reproduction; another example is the making of quotations from a protected work, provided that the source of the quotation, including the name of the author, is mentioned and that the extent of the quotation is compatible with fair practice.

4. Non-Material Works

2.230 In some countries, works are excluded from protection if they are not fixed in some material form. In some countries, the texts of laws and of decisions of courts and administrative bodies are excluded from copyright protection. It is to be noted that in some other countries such official texts are not excluded from copyright protection; the government is the owner of copyright in such works, and exercises those rights in accordance with the public interest.

5. Miscellaneous

2.231 In addition to exceptions based on the principle of "fair use" other exceptions are to be found in national laws and in the Berne Convention. For example, when the broadcasting of a work has been authorized, many national laws permit the broadcasting organization to make a temporary recording of the work for the purposes of broadcasting, even if no specific authorization of the act of recording has been given. The laws of some countries permit the broadcasting of protected works without authorization, provided that fair remuneration is paid to the owner of Chapter 2 - Fields of Intellectual Property Protection 51 copyright. This system, under which a right to remuneration can be substituted for the exclusive right to authorize a particular act, is frequently called a system of "compulsory licenses." Such licenses are called "compulsory" because they result from the operation of law and not from the exercise of the exclusive right of the copyright owner to authorize particular acts.

http://www.wipo.int/edocs/pubdocs/en/intproperty/489/wipo_pub_489.pdf

VI. CONCLUSION

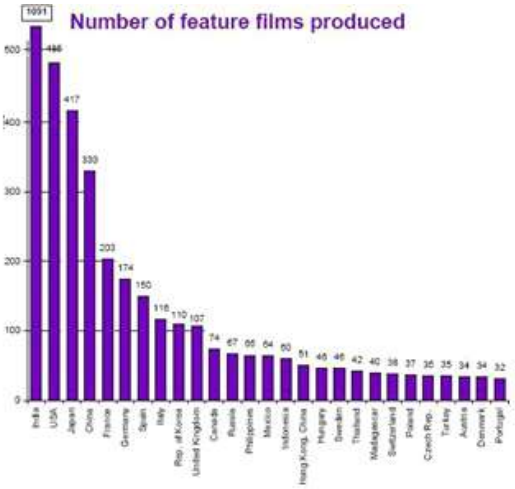
The whole system of copyright protection of a cinematograph film should involve an amalgamation of strong public education and awareness, besides strong sets of rules and regulations within the industry. Better implementation of laws with regard to infringement of copyright and strong awareness of the various frameworks of copyright protection would go a long way in preventing piracy and plagiarism.

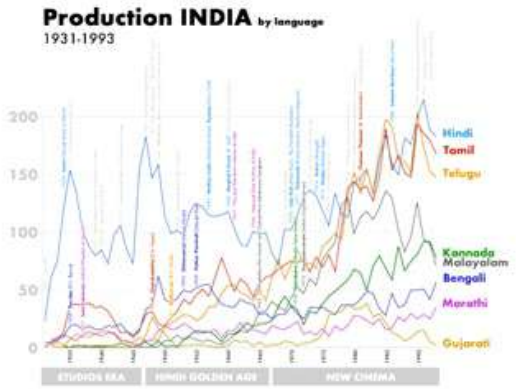
While there are a plethora of such new laws and frameworks that keep coming up to strengthen copyright protection of a cinematograph film or music, in parallel the film industry should also instil strict codes of rules and regulations within their own set of unions in order to ensure that the owner's works are not plagiarized. While the laws around cinematograph films can preserve the rights of the owners, it is

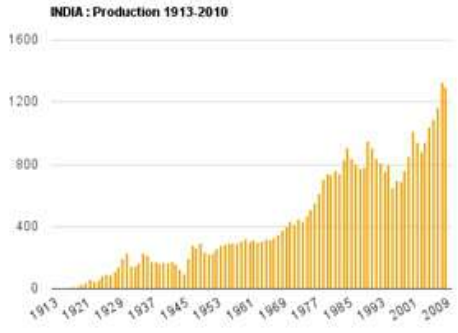
imperative that strong systems are put in place during the pre and post production work in order to ensure that plagiarism by people within the industry is reduced. While this is in progress, the film industry should also take measures to inform the public about the menace of piracy. They should educate people on how piracy is not just about an owner losing what is rightfully his, but also about the fact that piracy plays a very huge role in the growth of black economy and this information should reach the public across economic classes and town classes.

The whole system of copyright protection of a cinematograph film should involve an amalgamation of strong public education and awareness, besides strong sets of rules and regulations within the industry. Better implementation of laws with regard to infringement of copyright and strong awareness of the various frameworks of copyright protection would go a long way in preventing piracy and plagiarism.

VII.GRAPHS AND CHARTS







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Intellectual Property Rights for Innovative Entrepreneurship

* **Prof. Sweta Roy Choudhury**

Abstract:
Intellectual Property (IP) systems can be critical in helping new ventures transform their innovation potential and creativity into market value and competitiveness. Intellectual Property rights (IPR) allow innovative entrepreneurs to protect their inventions. They may also have multiple other functions, such as signaling current and prospective value to investors, competitors and partners, accessing knowledge markets and networks, and preventing rivals from patenting related inventions. However, IP systems can also create obstacles to the development of entrepreneurial ideas and hamper knowledge diffusion and innovation. Evidence at the firm level indicates a positive correlation between patenting and new ventures' growth, access to venture capital and survival. Data shows a huge upsurge in patent applications in the last decade, with a strong variation in the share of young patenting firms across countries. Effective IP systems can facilitate access to finance and the development of markets for technology, both of which help innovative entrepreneurship. Such systems also provide incentives to invest in R&D and innovation, and can encourage technology co-operation with firms, universities and PRIs. IP systems need to fully take into account the new roles played in the economy by patents and other types of IP, and in particular how they relate to innovation (e.g. the increasing use of patents in opportunistic litigation). IP systems also need to adapt and modify IPR in order to better match it with the characteristics of today's innovative world.

Keyword: Intellectual Property Right (IPR), Patents, Entrepreneurship, Innovation

Introduction

One of the most explosively popular applications in modern times, Napster, was shut down by a copyright infringement lawsuit in 2000. The founders of Napster thought they were safe from copyright infringement charges because the service itself never copied music files. But because its users shared copyrighted music without authorization from the copyright holders, the Supreme Court took down Napster a theory of "contributory copyright infringement."

1) The Cost of Creating Knowledge – Thinking is work. It is sometimes hard to compare thinking to other kinds of work at the end of the day, there are no holes dug, or products made, or rooms cleaned, but anyone who has worked over a particularly hard problem all day knows that it takes time and effort to create solutions to problems. Although we embody our solutions in code or in writing, the real effort is the cost of creation. The code we write is simply an artifact that allows us to share the products of our

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thinking. Once a person has paid the cost of creation, however, the economic cost of a second person using that knowledge moves down to essentially zero.

What is the IP System?

Even from these brief descriptions, it should be obvious that the term "intellectual property" encompasses a number of divergent and even contradictory bodies of law. Returning to the law and code analogy above, intellectual property isn't really analogous to just one program. Rather, it is more like four (or more) programs all possibly acting concurrently on the same source materials. The various IP "programs" all work differently and lead to different conclusions. It is more accurate, in fact, to speak of "copyright law" or "patent law" rather than a single overarching "IP law." It is only slightly tongue in cheek to say that there is an intellectual property "office suite" running on the "operating system" of U.S. law.

Literature Review

Intellectual Property (IP) is divided into two categories: Industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications; and Copyright, which includes literary and artistic works. Intellectual property rights (IPR) refer to the general term for the assignment of property rights on these assets. The rights allow the holder to exclude other agents from the commercial exploitation of their intellectual property for a predetermined period.

IPR is also designed to foster knowledge diffusion. The granting of such rights is conditional on disclosing the content of the invention, so individuals can freely access the existing stock of protected IP and use it as the basis or inspiration for new and original intellectual assets. However, applicants can act strategically and avoid disclosing relevant or complementary information, making the disclosure less effective.

(1) Effect of patents on the performance of new firms

Helmers and Rogers (2011) analyse a sample of high- and medium-tech start-ups in the UK in order to assess the effect of the decision to patent. They attempt to carefully isolate the patent effect from other factors, to conclude that patentees have higher asset growth than non-patentees at an annual rate between 8% and 27%. Balasubramanian and Sidavasan (2011) explore a dataset from the US census, matched with information on US patents for the manufacturing sector during the period 1975-1997. They find that firms that patent for the first time experience a significant increase in employment, capital, added value and output, as opposed to similar non-patentees. Measured by any metric, patent acquisition (or application) at the time of initial investment is largely irrelevant to the firm's subsequent progress through the venture capital cycle. Wagner and Cockburn (2010)

examine the effect of patenting on the survival prospects of 356 Internet-related firms that made an initial public offering on NASDAQ in the late 1990s (at the height of the tech bubble), to find that, conditional on other factors that determine a company's survival, patenting is positively associated with survival.

The IP system as an asset for Innovative Entrepreneurship

The acquisition and management of IPR are critical in helping firms transform their innovation potential and creativity into market value and competitiveness. This is particularly the case for new enterprises, as these rely heavily on exploiting intellectual capital in their business models.

Protecting an invention is only one of the many roles that IPR may play in innovative firms. Other functions that companies fulfill with IPR are:

- ⌘ Positioning in global markets, by opening up new commercial pathways or by segmenting existing markets.
- ⌘ Signaling current and prospective value to investors, competitors and partners.
- ⌘ Accessing knowledge markets and networks.
- ⌘ Defending themselves from patent infringement suits.
- ⌘ Blocking rivals from patenting related inventions.
- ⌘ Using patents in negotiations over technology rights.

(2) IP and firms entry

Cockburn and MacGarvie (2011) find that entry rates in the US software industry are smaller in markets where there are more patents, although firms that hold a patent are more likely to enter the market relative to firms that do not have a patent. This is consistent with previous evidence supplied by Bunch and Smiley (1992), who analyse survey data to find that patenting is one of the most common adopted strategies to deter the entry of rival firms.

IP Rights Promote Innovation & Prosperity

Artists, inventors, and organizations of all stripes are joining hands on Wednesday April 26 to celebrate the contributions that Intellectual Property Rights (IPRs) have made in driving limitless human innovation. According to the World Intellectual Property Organization (WIPO), “Innovation is a human force that knows no limits. It turns problems into progress. It pushes the boundaries of possibility, creating unprecedented new capabilities. World Intellectual Property Day 2017 celebrates that creative force.”

IP rights grow developed and developing economies. Countries with robust IP environments have a GDP per capita 21 times that of countries with the weakest regimes. Currently, IP-intensive industries employ over 30% of the workforces in the U.S. and EU and are responsible for producing 40% of their Gross Domestic Product. There is no reason all countries should not reap the same economic benefits, or contribute to the same task of discovery.

Today, more inventions are being developed than ever before, thanks to adoption of stronger IP regimes that allow innovators to pursue solutions to global challenges. In 2015, a record 2.9 million patents applications were filed, a third from China alone. More than just a product, every new invention provides positive follow-on effects including creating jobs, extending life, saving time, and increasing well-being. Even failed inventions yield useful lessons.

IP rights allow inventors, artists, and entrepreneurs to have their original works protected in the marketplace, incentivizing greater investments for greater rewards. Countries with strong IP rights have more full-time researchers, greater investments in R&D, more articles and books published, and greater rates of entrepreneurship.

Impact of IP System and Innovative Entrepreneurship in various Sectors

⌘ **R&D and other investment in innovations**

Effective IP systems help protect firms' intellectual assets and prevent other firms from using them. IP thus helps firms recoup their innovation investment and consequently provides an incentive for investing in innovation. Besides, effective IP systems facilitate access to knowledge markets, enabling firms to buy and sell intellectual assets (e.g. through licensing), which may encourage R&D investment.

⌘ **Technological co-operation between firms**

Effective IP systems are essential to technology collaborations, as they protect firms from involuntary knowledge leakage and reduce concerns related to the opportunistic behaviour of the partner.

⌘ **Interface with universities and public research institutes**

The IP system creates an incentive for researchers and universities to engage in patenting and commercialization activities. For instance, the adoption in many countries of legislative policies similar to the Bayh-Dole Act, which grants universities ownership over intellectual property, can encourage universities to patent and license academic inventions.

⌘ **Markets for technology**

Intellectual property rights and patents are critical to the operation of the technology market. Patents can facilitate the realization of market deals, especially when knowledge is codified and hence easily imitable, as in that case both the disclosure and protection of technology is possible.

⌘ **Access to finance for innovative entrepreneurship**

To the extent that IP assets can be important signals for potential funders, the role of the IP system is strongly interconnected with venture capital and business angel funding in particular. The development of markets where IP assets can be used as collateral strengthens its contributions to innovation.

What policies relate to the IP system and Innovative Entrepreneurship?

Patents and other types of IP are increasingly serving more functions than those for which they were initially designed. For instance, they have become the preferential way to obtain property entitlements on intangible assets in order to gain access to external finance. They are also more frequently used in opportunistic patent litigation or to block the entrance of competitors. Reforms of the IP system should fully take into account how these new roles played by patents affect the innovation economy.

For IP to support innovative entrepreneurs, the organization of IP systems has to provide them with legal quality. It is also critical innovative entrepreneurs can effectively access IP systems for their benefit. That requires also that enforcement costs are not forbiddingly high as well as the provision of suitable IP skills and training and relevant external advisory services for innovative entrepreneurs for IP matters. It also depends on market conditions for IP such as the development of markets for finance and IP.

Conclusion

To remain ahead of the competition, entrepreneurs/innovators should continue to evolve their product portfolio and maintain consistent quality of products and services. Thus, an effective IP system is the primary key to manage the knowledge assets for business. An effective use of intellectual property can prevent any business or industry to take advantage of the goodwill in the marketplace. Without protection of such ideas innovators can't reap benefits of their inventions and would focus less.

Intellectual property rights are monopoly rights that grant their holders the temporary privilege for the exclusive exploitation of the income rights from cultural expressions and inventions. There must be good reasons for a society to grant such privileges to some of its individuals, and therefore the proponents of

these rights have provided three widely accepted justifications to defend the interwoven global intellectual property rights regime we have in place today

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Intellectual Property Rights – 'Concerned Issues And Protection'

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Abstract:
IPR is a general term covering patents, copyright, trademark, industrial designs, geographical indications, protection of layout design of integrated circuits and protection of undisclosed information (trade secrets). IPRs 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. World Intellectual Property Organization describe Intellectual Property as "The creations of the mind, inventions, literary and artistic works, and symbols, names, images, and designs used in commerce". It is documented in literature that Intellectual Property is any piece of work that is shaped by the skills and abilities of someone called the author. Fundamentally, Intellectual property is a term referring to a brand, invention, design or other kind of creation, which a person or business has legal rights over. Almost all businesses own some form of IP, which could be a business asset. According to the Lebanese law, an author can be a writer, designer, software developer, director, and producer. Intellectual property rights are the rights which an author holds to protect his/her own piece of work. Intellectual property can be either registered or unregistered. Unregistered IP allow the creator to automatically have legal rights over his creation. Unregistered forms of IP include copyright, unregistered design rights, common law trademarks and database rights, confidential information and trade secrets. With registered IP, person will have to apply to an authority, such as the Intellectual Property Office in the UK, to have rights recognised. If you do not do this, others are free to exploit your creations. Registered forms of IP include patents, registered trademarks and registered design rights.

Keyword: Intellectual property, Patent, Copyright, Trademarks

Objectives:

1. To analyse the requirement of intellectual property rights.
2. To analyse what are the Intellectual Property owners' protection issues.
3. To analyse various protection of IPR based on different protection acts

Introduction:

Requirement of Intellectual Property rights: The protection of intellectual property rights is an essential component of financial policy for any country. Only such protection can stimulate research, creativity and technological innovations by giving freedom to individual inventors and companies to gain the benefits of their creative efforts. It is a very important issue to plan to protect the intellectual property rights. The

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major needs are to prevent plagiarism, prevent other using it, prevent using it for financial issues, fulfil obligation to funding agency, support income generation strategy

Need of IPR:

1. Monetary profit is the most important, in most cases, the only motive behind man's relentless toil, inventiveness and ingenuity.
2. With the advent of biotechnology one of issue is legal characterization of the new invention.
3. It is created to protect the rights of individual to enjoy their creations and invention.
4. Created to insure protection against unfair trade practices.
5. To assure the world a flow of useful, informative and intellectual works.
6. To encourage the continuing innovativeness and creativity of owners of IP

India has been a member of the World Trade Organisation (WTO) since 1995. This requires member nations to establish intellectual property (IP) laws whose effect is in line with minimum standards. Consequently, there should be few major variances between India's laws and developed countries. Though, it is good to register copyright of creative work as doing so may help to prove ownership if there are criminal proceedings against infringer. In most cases though, registration is not needed to maintain a copyright violation claim in India. Registration is made, in person or via a representative, with the Copyright Office. Internet piracy of films, music, books and software is an issue in India. India's Patents Act of 1970 and 2003 Patent Rules set out the law concerning patents.

IPR developments in INDIA:

- 1947: Patents & Designs Act, 1911
- 1995: India joins WTO
- 1998: India joins Paris Convention/PCT
- 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
- 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

How to secure IPR:

The legislative framework for securing IPR is as follows:

- Contract Act, 1872

- The Trade Marks Act, & (Amendment) 1999, 2002
- Copyright Act, 1957 & (Amendment) 1994, 1999
- 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

II) Types of IPR

I) Copyright

Exclusive privilege to authors to reproduce, distributes, perform, or display their creative works. The requirements in copy right are it must be an original work and expressed in tangible medium. The rights to owner are Making copies of the work, distributing the copies, Display the work publicly, make "derivative work", Making modifications, other new uses of a work, or translating to another media. Copyright includes literary, artistic works, computer programs, Musical works

Main features of Copyright Act of 1957

- Creation of a Copyright Office and a Copyright Board to facilitate registration of Copyright and to settle certain kinds of disputes arising under the Act and for compulsory licensing of Copyright.
- Definition of various categories of work in which copyright subsists and the scope of the rights conferred on the author under the Act.
- Provisions to determine the first ownership of copyright in various categories of works.
- Term of copyright for different categories of works.
- Provisions relating to assignment of ownership and licensing of copyright including compulsory licensing in certain circumstances.
- Provisions relating to performing rights of or by societies.
- Broadcasting rights.
- International Copyright.
- Definition of infringement of Copyright.
- Exception to the exclusive right conferred on the author or acts, which do not constitute infringement.
- Author's special rights.
- Civil and criminal remedies against infringement.
- Remedies against groundless threat of legal proceedings.

ii) Trade and Service Marks

A trade mark is a sign used in connection with marketing of goods or services. Appear on container or wrapper also in which they are sold. A service mark identifies and distinguishes source of service rather than a product.

Category of Trade Marks:

Classified and protected according to their level of distinctiveness.

1. Arbitrary or fanciful marks (most distinctive) not related to goods (e.g. Apple for computers) Fanciful marks coined or invented names (e.g. Kodak film). Highest level of protection.
2. Descriptive marks (medium distinctiveness) describe function or use, purpose of the goods (e.g. Video Buyer's Guide) only trademark protection.
3. Generic Marks (least distinctive) are common name for product or service (e.g. COLA). Not protected under trademark law Marks turn generic unless used properly e.g. ASPIRIN, CELLOPHANE.

Features of Indian trademark Act:

- ⌘ Definition of trademark to include registration of shape of goods, packaging and combination of colours. "Trade Mark" shall now include services as well. All 42 international classifications of goods shall now be applicable in India as well and it would be possible to register trademark in respect of service categories.
- ⌘ No provision for smell and sound marks.
- ⌘ Single application for same mark for multiple classes.
- ⌘ Use of foreign trademarks in India is permissible except in cases, which involves direct royalty payments in foreign currency. The permission of the Reserve Bank of India is not required for use of the foreign trademark, which does not directly involve payment of royalty to the owner of that foreign trademark. Proprietors of foreign trademark, who register their trademarks in India must use it in relation to the goods in India either directly or through a local collaboration in India. Non-user of such trademark in India may result in cancellation of the trademark.
- ⌘ The use of hybrid trademarks is permitted in India. Such foreign trademarks registered in the country of its origin are registered jointly with the Trade Mark Registry in India along with the trademark of Indian party.
- ⌘ The period of registration is 10 years, permitting filing of multi-class applications, registration of collective marks and trademarks for service.

iii) Industrial Design

Industrial Design is ornamental or aesthetic aspect of a useful article of industry.The aspect that gives special appearance to a product of industry.

The right to exclusive use of the design:

- ⌘ When a design is registered, the registered proprietor of the design shall, subject to the provisions of the Act of 2000, have the copyright in the design during ten years from the date of registration.
- ⌘ If, before the expiration of the said ten years application for the extension of the period of copyright is made to the Controller in the prescribed manner, the Controller shall, on payment of the prescribed fee, extend the period of copyright for a second period of five years from the expiration of the original period of ten years.

Right to protect the design from piracy:

- ⌘ Infringement of a copyright in a design is termed as Piracy of Design. Any person responsible for infringing the monopoly of the proprietor of a registered design is guilty of piracy and is liable to a fine of a sum not exceeding twenty-five thousand rupees.
- ⌘ The registered proprietor is also granted the right to bring a suit for recovery of damages or for injunction against the reputation of such piracy provided that the total sum recoverable in respect of any one design shall not exceed fifty thousand rupees. The above right is laid down in section 22(2) of the Designs Act, 2000.

iv) Patents

A patent describes an invention for which the inventor claims the exclusive right to make, use and sell an invention for a specific period. Invention is a new solution to "technical" problem. (product, process and new use)

Patentable Subjects:

The things which can be patented are machines, Articles of Manufacture, Compositions of Matter, designs, Processes – Method of purifying a protein or nucleic acid; method of screening for useful drugs; business methods.

Non-patentable Subjects:

Laws of Nature, discovery, mathematical method or scientific theory,Naturally occurring compounds (i.e., as they exist in nature), Abstract ideas, Mere presentation of information, Technology already known, A literary, dramatic, musical or artistic work or any other aesthetic creation. A scheme, rule or method for performing any mental act, playing a game or a program for a computer.

A patent has 3 basic parts:

- A grant
- A description ("specification") telling how to make the invention,
- Claims (in words, what is protected)

Types of Patents:

- Utility Patents: machines, Compositions of matter, processes, And Biotech patents.
- Design patents: ornamental design, layout of an article, style of a chair.
- Plant patents: asexually reproducing plants. Sexually reproducing plants are covered under the PVP Act.

A Patent Specification includes four main components:

- Background (technical field of the invention)
- Drawings (showing the invention)
- Detailed Description (enables readers to make and use the invention)
- Claims, define the limits of coverage.
- Provisional Patent Application must meet written description requirements.
- The application must fully describe how to make and use the invention and the best mode to carry out the invention.
- Term of protection – Twenty years counted from filing date.

Requirements for patentability:

- Useful and Novel
- Not Obvious failure to meet any of these criteria will prevent a patent from being issued.

Use of patents:

- Rights of the Patent Owner can make, use or sell the patented invention and prevent others to do so.
- Owner can License the rights to someone else can make, use or sell the patented invention and prevent others to do so (ownership does not change).
- Owner can assign the rights of invention to someone else (Ownership changes)

Rights:

- Granted within geographical territory of country where filed
- Rights are for the period of Grant

⌘ Rights can be revoked if shown that grant was not correct
⌘ Patents to be kept alive by paying fees

Foreign Patents:

⌘ Patent have a territorial effect. An Indian patent is enforceable only in the India, its territories, and possessions.
⌘ There is no "World Patent" to give protection worldwide.
⌘ Patents must be obtained in individual countries or territories. Each country has its own patent laws.
⌘ Prosecution done with the aid of a Foreign Associate.

The Patent Co-operation Treaty (PCT) provides preliminary examination of international application prior to entering the patent process for individual countries.

Why Protection for plants is required in India?

⌘ To promote/ protect investment by providing appropriate returns.
⌘ To encourage need based appropriate research
⌘ To enable Indian plant breeders to get their varieties protected in other countries on reciprocity.
⌘ To facilitate market access for export of seed to countries
⌘ To ensure researcher's access to foreign germplasm in future.

V) i) Benefits of IPR:

⌘ It encourages and safe guard intellectual and artistic creation.
⌘ It encourages investment in research and development efforts.
⌘ It provides the consumers with the result of creations and invention.
⌘ It enables the dissemination of new ideas and technologies quickly and widely.

ii) Problems from IPR:

⌘ IPR has encouraged monopolies; many take over's have been motivated by access to an IPR.
⌘ It may adversely affect biological diversity and ecological balance.
⌘ Adversely affect the livelihood of the poor in developing countries.

iii) Monitoring and tackling the IPR aspects of inventions.

⌘ Enhances cost.
⌘ Demands time, attention & effort and,
⌘ May act as a disincentive for R & D efforts.

iv) Neglected issue of implementations

⌘ Insufficiency of the regulations.

⌘ The lack of awareness of and respect for IPRs and access regulations.

⌘ The efficient application/control of these regulations.

v) Issues to think about:

⌘ The key challenge is to sensitize the enforcement officials and the Judiciary to take up IP matters

⌘ Since the IPR provides exclusive rights over assets, it is a major challenge for the country to balance the interests of the innovators and the interests of the society at large.

⌘ IPR lacks effective enforcement, for which least priority given to adjudication of IP matters

vi) Developing Country's Concerns Typical Concerns

⌘ Will IPR stops us from using our own traditional knowledge?

⌘ Will our lives be governed by trans-nationals?

⌘ What will happen to local workmen?

⌘ Will there be piracy of National Biodiversity

⌘ Will local initiatives be negatively impacted and stunt local development?

Recommendations:

⌘ Formulation of Comprehensive IPR Policies for various sectors and Academic Institutions

⌘ Training of Personnel to manage IPR

⌘ Providing Access and training to use Patent information databases

⌘ Creation of a consortium of IPR professionals to offer professional services for IPR work

Conclusion:

To summarize, the concept of 'Intellectual Property' includes the creative and literary outputs of human such as novels, music, motion pictures and industrial designs that are used for commercial purposes. Intellectual property consists of original creations but the same creations are divided into two main categories. First is creations being used for industrial purposes, and second is creations that are copyrighted material. Industrial Property also covers patents or inventions, trademarks, industrial designs and geographical indications of source. Patents are rights that are granted exclusively for inventions pertaining to a product or a process.

Successful implementation of the TRIPs agreement has a number of pre-requisites. The important ones

being legal, administrative and institutional reforms, appropriate research investment, and first-rate science and technology capability. Provided the IPR protection is adequate and effective (worldwide), the TRIPs accord can promote innovation, transfer of technology, foreign direct investment, use of genetic resources and environmental protection.

⌘ To maximize opportunities, DCs must foster and reward entrepreneurship and evolve a regulatory environment conducive to technological innovation.

· At the international level, in the WTO, India must lobby for establishing a linkage between the Convention on Biological Diversity (CBD) and TRIPs, stating that it is the CBD which must have primacy over the TRIPs and not the other way around.

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Laws On IPR In India

* **Prof: Kalavati Upadhyay** ** **Disha Choitaliya**

Intellectual Property

The division of property as movable and immovable, if it is tangible, was known in Roman law and has been adopted by modern Civil Codes. This kind of classification is also provided under art.1226 of the Civil Code. However, "as a result of the industrial revolution and the rapid development made in the fields of science, technology and culture, new kinds of property came into existence".New rights and properties like patents, copyright and industrial designs, which came to be known as intellectual property rights (IPRs) received attention due to their unique characteristics.

Intellectual propertyis so broad that it has many aspects. It stands for groupings of rights which individually constitute distinct rights. However, its conception differs from time and it to time. It is subject to various influences. The change in information technology, market reality (globalization) and generality have affected the contents of intellectual property. For instance, in olden days-because of religion creation of life, say plants or animals were not protected. Thus, defining IP is difficult as its conception changes. It is diverse, challenging and has application in own day today life.

IP is a section of law which protects creations of the mind, and deals with intellectual creations. Is it a workable definition? It is also commonly said that one cannot patent or copyright ideas.

Intellectual property, as a concept, "was originally designed to cover ownership of literary and artistic works, inventions (patents) and trademarks". What is protected in intellectual property is the form of the work, the invention, the relationship between a symbol and a business. However, the concept of intellectual property now covers patents, trademarks, literary and artistic works, designs and models, trade names, neighboring rights, plant production rights, topographies of semi conductor products,

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databases, when protected by a sui generis right, unfair competition, geographical indications, trade secrets, etc.

Those types of intellectual property have been characterized as “pieces of information which can be incorporated in tangible objects at the same time in an unlimited number of copies at different time and at different locations anywhere in the world”. In other words, intellectual property rights are intangible in nature, different from the objects they are embodied in. The property right is not in those copies but in the information which creates in them.

In today's world, the international dimension of intellectual property is of ever increasing importance for three compelling reasons. First, the composition of world trade is changing. Currently, commerce in intellectual property has become an even greater component of trade between nations. The value of information products has been enhanced greatly by the new technologies of the semi-conductor chip, computer software and biotechnology. Second, the world commerce has become even more interdependent, establishing a need for international cooperation. No longer can a single country impose its economic will on the rest of the world. Accordingly, countries have recognized this interdependence and have called for a broadening of international agreements/arrangements involving intellectual property. Third, new reprographic and information storage technologies permit unauthorized copying to take place faster and more efficiently than ever, undermining the creator's work. There is a general feeling in the developed countries that much of this sort of copying takes place in the third world due to the relaxation of legal standards. All these factors have prompted the international community as a whole to accord due recognition to intellectual property and intellectual property regime.

Thus, the above reasons widen the scope of intellectual property rights. Among the bundles of intellectual property rights, copyright that deals with the protection of literary, artistic and scientific works is one.

Objective:
To study the concept, scope and nature of intellectual property rights
To study the characteristic of IPR
To study the various IPR laws relating to IPR
To study the need for protection of IPR

Scope of Intellectual Property Rights

Intellectual property rights include copyright, patent, trademark, geographic indication of origin,

industrial design, trade secrets, database protection laws, publicity rights laws, laws for the protection of plant varieties, laws for the protection of semi-conductor chips (which store information for later retrieval), etc.

There is a conventional mode of classification of intellectual property as industrial property and copyrights. Industrial properties include inventions (patent), property interest on minor invention (Utility model certificate) and commercial interests (Trade Marks, trade names, geographical indications, and industrial design), plant breeder rights, biodiversity, etc.

Patents

A patent is a type of intellectual property right which allows the holder of the right to exclusively make use of and sale an invention when one develops an invention. Invention is a new process, machine, manufacture, composition of matter. It is not an obvious derivation of the prior art (It should involve an inventive step). A person who has got a patent right has an exclusive right. The exclusive right is a true monopoly but its grant involves an administrative process.

Copyright

It is an intellectual property which does not essentially grant an exclusive right over an idea but the expressions of ideas which makes if different from patent law. Patent is related with invention - technical solution to technical problems. Copyright is a field which has gone with artistic, literary creativity-creativity in scientific works, audio-visual works, musical works, software and others. There are neighboring rights. These are different from copyright but related with it – performers in a theatre, dancers, actors, broadcasters, producers of sound recorders, etc. It protects not ideas but expressions of ideas as opposed to patent.

Copyright protects original expression of ideas, the ways the works are done; the language used, etc. It applies for all copyrightable works. Copyright lasts for a longer period of time. The practice is life of author plus 50 years after his/her life. Administrative procedures are not required, unlike patent laws, in most laws but in America depositing the work was necessary and was certified thereon but now it is abolished.

Industrial Design Law

Some call this design right (European) and some call it patentable design, industrial design (WIPO and other international organization). A design is a kind of intellectual property which gives an exclusive right to a person who has created a novel appearance of a product. It deals with appearance: how they look

like. Appearance is important because consumers are interested in the outer appearance of a product. It is exclusively concerned with appearance, not quality.

The principles which have been utilized in developing industrial design law are from experiences of patent and copyright laws. It shares copyright laws because the design is artistic. It shares patent law because there are scientific considerations. Design law subsists in a work upon registration and communication. It makes them close to patent law since they are also founded in patent law. Duration is most of the time 20 years like the patent law trademark Rights law.

Trademarks Rights Law

It is a regime of the law giving protection to graphic representation to words or logos or depending on the jurisdiction question such as sound or smells which are distinctive in nature and serve as source identification. There is also a recent phenomenon which is representing goods in their smell and sound. It is to be found on the goods associated with them. It enables the customer to identify the goods from others. They serve as a source identifier. Trademarks perform communication function. Once there is a valid representation, it gives the mark owner an exclusive right. It begins with registration and publication of the mark. But there are exceptions which serve what trademarks registered serve which are not registered. It means they deserve protection even though they are not registered. They exist forever so long as the good with which they are associated continue to be sold. But they require renewal.

Right of Publicity

It protects the right to use one's own name or likeness for commercial purposes.

Geographic Indication

It is indications on products of the geographic origin of the goods. It indicates the general source. The indication relates to the quality or reputation or other characteristics of the good. For example, “made in Ethiopia” is not influenced by the geographical Indication. Geographical indications are sometimes called appellations of origin. For example, “Shenolega”, “Shampagne” (name of a region in France) are geographical indications.

Trade Secrets

It gives the owner of commercial information that provides a competitive edge the right to keep others from using such information if the information was improperly disclosed to or acquired by a competitor and the owner of the information took reasonable precautions to keep it secret. It protects confidential secrets of some commercial value. The holder of the secret wants this information to be protected; some

protect the holder from an unauthorized disclosure of the information. A tort law, unfair competition or contract law can protect such information which is secret /confidential information/. The holder (owner) has to do his/her best to keep the information secret. Trade secrets exist without registration as it is to make the information public, for example, the formula of Coca Cola. Information that are protected in trade secrets can be patentable if they are novel and non obvious. But it is, most of the time, not to make the secret public. However, their full-fledged IP rights are contestable.

Nature of Intellectual Property

Intellectual properties have their own peculiar features. These features of intellectual properties may serve to identify intellectual properties from other types of properties. Thus, we will discuss them in brief.

1. **Territorial**

   Any intellectual property issued should be resolved by national laws. Why is it an issue? Because intellectual property rights have one characteristic which other national rights do not have. In ownership of intellectual property of immovable properties, issues of cross borders are not probable. But in intellectual properties, it is common. A film made in Hollywood can be seen in other countries. The market is not only the local one but also international. If a design in China is imitated by another person in France which law would be applicable?

2. **Giving an exclusive right to the owner**

   It means others, who are not owners, are prohibited from using the right. Most intellectual property rights cannot be implemented in practice as soon as the owner got exclusive rights. Most of them need to be tested by some public laws. The creator or author of an intellectual property enjoys rights inherent in his work to the exclusion of anybody else.

3. **Assignable**

   Since they are rights, they can obviously be assigned (licensed). It is possible to put a dichotomy between intellectual property rights and the material object in which the work is embodied. Intellectual property can be bought, sold, or licensed or hired or attached.

4. **Independence**

   Different intellectual property rights subsist in the same kind of object. Most intellectual property rights are likely to be embodied in objects.

5. **Subject to Public Policy**

   They are vulnerable to the deep embodiment of public policy. Intellectual property attempts to preserve and find adequate reconciliation between two competing interests. On the one hand, the intellectual property rights holders require adequate remuneration and on the other hand, consumers try to consume works without much inconvenience. Is limitation unique for intellectual property?

6. **Divisible (Fragmentation)**

   Several persons may have legally protected interests evolved from a single original work without affecting the interest of other right holders on that same item. Because of the nature of indivisibility, intellectual property is an inexhaustible resource. This nature of intellectual property derives from intellectual property's territorial nature. For example, an inventor who registered his invention in Ethiopia can use the patent himself in Ethiopia and License it in Germany and assign it in France. Also, copyright is made up of different rights. Those rights may be divided into different persons: publishers, adaptors, translators, etc.

Legal Issues and the Internet

There are many issues and questions regarding laws and the internet. Because the internet is still fairly new, there are many unanswered questions and precedence that have yet to be set. But I'd like to clear up some common questions that I'm often asked.

What You Need to Know About Copyrights

Copyright laws protect original works, but not ideas or facts. The Copyright Act of 1976 grants exclusive rights to the copyright holder. A copyright protects original works such as: literary works, musical works, dramatic works, pantomimes & choreographed works, pictorial, graphic, and sculptural works, motion pictures and other audiovisual works, sound recordings, architectural works, compilations (databases for example), written words on a website, and software programs on a website. The copyright holder has exclusive rights such as reproduction, derivative works (being allowed to alter it), distribution, performance, display, audio & video transmission.

Copyright is automatically created on original works. You do not need to file to create a copyright. But it may be a good idea to file a copyright to establish a public record of it and if you ever want to pursue an infringement suit, it will need to have been filed. You can visit copyright.gov/forms to download a copyright form. A common-law copyright is created automatically on publication, so registration is not

required to use the © symbol. The proper way to state that something is copyrighted is to use the © symbol, the copyright or abbreviated version (Copr.), the year of first publication, and the name of the copyright owner. For example: © Copyright 2007 Off the Page Creations.

Copyrights that were created after January 1, 1978 have protection during the life of the author plus 70 years. In the case of more than one author, the period of protection is the term of 70 years after the death of the last surviving member. In a case of 'Work-Made-For-Hire', the protection term is 95 years from first publication or 120 years from the year of creation (whichever comes first). Once copyrights expire they become part of the public domain and are free to use by anyone. But don't assume just because something doesn't have a copyright symbol, that it is free to use.

In a 'Work-Made-For-Hire' the person that hires someone to create (design a logo for example) something for them, the person hiring is the person who holds the copyright, not the designer or author. If the work was prepared by an employee within his job duties as requested by his/her boss and not for a customer, the employer holds the copyright because the employee was hired to do it for the employer and it was part of his/her job duties.

An odd variation to the 'Work-Made-For-Hire' rule is websites (including the 'look & feel', the software, scripts, graphics & the text). If someone hires a web designer to create their website, the website designer holds the copyright, unless it is specified otherwise in the contract. Most companies state that the hiring party holds the contract (as we state in our contract), but it's a good idea to verify who will hold copyright to the website before signing anything.

Fair Use

'Fair Use' allows limited use of a copyrighted work. Some examples of what are considered 'fair use' are: teaching, criticism, comment, news reporting, and research. Only a court can decide if a copyrighted works use was considered 'fair use'.

What You Can't Do

- ⌘ Copy pictures to use on your brochure or website that you found on the internet (even if you put up the copyright line of who holds the copyright, this is considered infringement)
- ⌘ Purchase a license to use a photo on your brochure, then continue to use it on your website, flyers, and postcards unless it is stated in the license
- ⌘ Copy text out of a book or off from a website and use it verbatim

⌘ Put music on your website without permission
⌘ Post an article without permission, even if it's about you
⌘ Use an image by linking to it rather than copying it (This is still copyright infringement)

What You Should Do

⌘ Purchase photos to use that are 'copyright free' and follow the license for the uses
⌘ Or get permission from the copyright holder to use photos
⌘ Purchase 'copyright free' music and follow the license for the uses
⌘ Get permission to use articles from the writer & publisher
· You should ask permission to link to someone's website

Copyright infringers may face civil liability and also criminal liability for felony copyright infringement if it is willful, and for financial gain, or by reproducing and distributing a large amount.

Domain Name Issues

Typosquatting - where a person registers a domain name similar to a real domain name, but with a typo, in hopes that web surfers reach it by accident. These sites are usually filled with paid advertising links that generate revenue for the typosquatter, not to mention the web surfer has been tricked into believing he is on the correct site. This diverts traffic away from the intended site. Sometimes they are routed to a competitors site or a pornographic site.

Cybersquatting - is when someone registers a domain name, in bad faith, violating the rights of the trademark owner. They usually intend to extort payment from the trademark owner, and they keep the names to sell later to the highest bidder.

Pagejacking is when the offender copies part of an existing website, and then puts it up on a different website to make it look like the original. Pagejacking is used in phishing schemes, where the fake page gathers account numbers, passwords, and personal information from the unsuspecting user.

The Uniform Domain Name Dispute Resolution Policy (UDRP) is a cost-effective and faster alternative to a lawsuit, when there is a domain name dispute that needs to be resolved. This was set up by the Internet Corporation for Assigned Names and Numbers (ICANN), the group responsible for domain name registration.

SPAM - and how to avoid it

Spam is accounted for around 80% of all U.S. email. 20% of U.S. residents actually buy products from spammers, and this makes it worthwhile for them to continue to harass us with unsolicited emails. There are no laws to prohibit spamming, but there are laws to regulate spam. There are also laws that prevent email harvesting (programs that read through websites looking for email address to add to their database). Many states require opt-in or opt-out options in the email. There are laws that prohibit false headings and laws against spammers that identify their message as coming from someone else. Trademark and unfair competition laws have been used against a spammer whos message reads that it is coming from someone else, and in one case a man was sentenced to 3 years in prison and $16 million in fines. Unfortunately it is very difficult to enforce the statewide spam laws because a sender really has no way of knowing all the states he is sending his spam to by the list of email addresses he has.

There are some things you can do to limit the spam you are getting.

- ⌘ Do Not Reply to Spam! Most times it just confirms they have reached a valid email address and they'll continue to send junk to you.
- ⌘ Do not post your email address on your website - use a form that doesn't display the email, or turn the email address into an image rather then displayed as text.
- ⌘ Use a different email address if you must use one in news groups or forums
- ⌘ Read Terms of Use and Privacy Statements. Don't randomly give out your email address unless you know how it will be used.
- ⌘ Use a spam filter
- ⌘ Never, ever buy from a spammer - this encourages them

Cyber Crimes

Email Spoofing is changing the email header so it looks like its coming from someone else. This is sadly easy to do. This is also used to try to trick people into giving out personal information. This is illegal under the **CAN-SPAM Act.**

Phishing is a scam where an official-looking email is sent to an unsuspecting user to try to trick them out of their username, password, or other information. They are usually directed to click onto a link that goes to a fake (spoofed) version of a real organizations website. This is called Pagejacking. The address bar can even be altered so it appears to be the official website. If you ever get an email requesting that you verify information by clicking on a link, you should instead GO DIRECTLY TO THEIR WEBSITE WITHOUT CLICKING ON THE LINK, to verify it. Lately phishing is even occurring in instant message programs that appear to be coming from a friends IM signature. Always be cautious in this situation.

Vishing is short for 'Voice phishing' and is the latest scam. It may start with an email or it may start with a phone call. These calls can be very believable because often the caller already has your credit card number and just needs you to verify the 3 digit security code on the back of your card. Or it could be an automated system asking you to type in your credit card or account number to verify who you are, which sounds realistic enough.

Keystroke Phishing is when a Trojan program is unknowingly downloaded onto your computer that tracks the keystrokes you enter into the computer, and sends it back to the scammer, who hopes to get a username and password from it.

Identity Theft is where a person gathers your personal information and poses as you to get credit, merchandise, services, or to use the identity to commit other crimes. They obtain this personal information by phishing, database cracking, or survey. Survey is seemingly innocent questions about mother's maiden name, children and pet names, and birth dates that can give access to a surprising amount of passwords and usernames. Once a phisher has your credit card number it can be sold to someone who then creates a credit card to use on an ATM machine. Identity theft is spreading on the internet, but surprisingly it is still safer to give out your credit card number on the internet then to give it to an unknown salesperson or waiter. 97% of all identity theft crimes are caused from offline instances, not online. For instance, two places that identity thieves get your information from are your mailbox, and your trash can.

Protect Yourself from Identity Theft

- ⌘ Cross-shed documents
- ⌘ Review your credit report twice a year
- ⌘ Be aware of billing cycles and put vacation holds on mail
- ⌘ Never reveal your Social Security number unless absolutely necessary
- ⌘ Don't carry seldom used credit cards or unnecessary id's
- ⌘ Be aware that identity stealers are not always strangers
- ⌘ Don't give out personal information over the phone, mail or posts on the internet
- ⌘ Take out the hard drive from a computer and destroy it before discarding. Even if deleted, personal information can still be recovered from a computer's hard drive

For more information on identity theft: www.justice.gov

Federal Statutes

Securities Fraud is where someone uses the internet message boards to hype up a stock to drive up the market so he can then sell and make money. It's called the 'Pump and Dump' scheme and is illegal under federal and state laws.

The Fair Housing Act states that you can not discriminate on the basis of race, gender, family status, religion, and national origin. Now that there are many internet postings for rentals by third parties, the question is being raised if the same rules apply to internet postings and who should be held responsible. The safe harbor provisions of §230 have protected these types of websites from libel or copyright infringement liability provided they remove offending posts when they are notified of the posts. The few times it has been brought up, it was settled out of court and it was agreed to comply with the Fair Housing Act Policy and remove the offending posts.

The USA PATRIOT Act was enacted in response to the September 11th attack in 2001. This act allows electronic messages to be intercepted if it is believed to be of terrorist or criminal activity. It also allows for the retrieval of Internet Service Providers information without going through a court order.

Online Gambling is prohibited or regulated in most states. Many gambling websites originate outside of the country though, and are impossible to shut down. The big worry with online gambling is that minors have access and it enables the pathological gamblers. To try to control this spreading problem, the Unlawful Internet Gambling Enforcement Act was signed into law and makes it illegal for credit card companies, online payment systems, and banks to process payment to online gambling companies. There have also been instances where online casinos and gambling websites owners have been caught in the U.S. and charged with racketeering and mail fraud.

Free Speech and the Internet

The first amendment to the U.S. Constitution guarantees the right to free speech. But there are instances when that can provoke a lawsuit. The four main causes of action against speech on the internet is:
Defamation: "A published intentional false communication that injures a person or company's reputation”

Breach of Contract: If an employee signs a confidentiality agreement and then posts information about products, sales, management, other employees, or rumors, than he may have breached his confidence and trust to the company and be held in Breach of Contract.

Tortious Interference with Business: To file tortious interference there must be an existing contract or business relationship, intentional interference between the company and the business relationship, an effect caused by the action, and damage as a result to the action

Securities Fraud: Attempts to manipulate the price of stock by giving false information or talking it up, so that the stock price goes up, and then selling it (Pump and Dump Schemes), is illegal

Children and the Internet

The Child Online Protection Act (COPA) makes it a crime to publish "any communication for commercial purposes that includes sexual material that is harmful to minors, without restricting access to such material by minors."

Online Harrassment

When a harasser uses the internet to cause substantial emotional distress to his or her victim, this is considered Online Harrassment. It can take the form of email, chat rooms, instant messaging, newsgroup posts, or message board posts. The largest amount of online harrassment occurs by teenagers who often do not yet understand the impact of their actions and are not yet able to control their emotions.

Online harassment is a crime in some states. If you are harrassed online, you should archive the conversation and report them to the ISP and local law enforcement.

Blogs

When writing in a blog or posting to a message board, keep in mind that you can not write things about people that are not true. You can write something bad about a person, but you can't write something that is untrue and may affect his or her reputation. Truth is a defense to a charge of libel (written) or slander (spoken), if it can be proven true.

Blogs can feel like a personal diary, but one should keep in mind when writing in it, that it's not just a way to vent feelings. The world can read it. There have been many instances of employees getting fired because the boss didn't like being embarrassed in the blog, even if it is on the employees personal computer in their own time. Courts weigh freedom of speech with the right to protect the company's public image. Companies should add blogging policies to clarify this to employees on hiring and avoid the confusion.

Hate Speech

Hate speech is protected under the first amendment in the U.S. except when hate speech crosses into threats and intimidation, racial slurs, or racial hostility. Hate speech is prohibited in most other countries. Unfortunately the U.S. has become a safe harbor for hate group websites. Civil lawsuits are a powerful remedy that can financially cripple a hate group organization.

Communism and the Internet

Web speech under Communism is difficult to control. Communist China government has 11 agencies overseeing Internet use. They have taken actions to block certain keyword searches and websites, they keep records of users and the web pages they visit. There is video cameras and high tech software in the internet cafés and bars to prevent customers from viewing the 'forbidden' sites. A user must enter an id number in order to use an internet cafe computer. A blogger is required to sign up under his or her real name, although they can write under a pseudonym. Examples of banned websites are: a pornographic site, a superstitious site, or websites that criticize government or the Communist Party. Dozens of people have been sent to prison for posting or downloading from such sites.

Copyright

A bundle of intangible rights granted by statute to the author or originator of certain literary or artistic productions, whereby, for a limited period, the exclusive privilege is given to that person (or to any party to whom he or she transfers ownership) to make copies of the same for publication and sale.

A copyright is a legal device that gives the creator of a literary, artistic, musical, or other creative work the sole right to publish and sell that work. Copyright owners have the right to control the reproduction of their work, including the right to receive payment for that reproduction. An author may grant or sell those rights to others, including publishers or recording companies. Violation of a copyright is called infringement.

Copyright is distinct from other forms of creator protection such as Patents, which give inventors exclusive rights over use of their inventions, and Trademarks, which are legally protected words or symbols or certain other distinguishing features that represent products or services. Similarly, whereas a patent protects the application of an idea, and a trademark protects a device that indicates the provider of particular services or goods, copyright protects the expression of an idea. Whereas the operative notion in patents is novelty, so that a patent represents some invention that is new and has never been made before, the basic concept behind copyright is originality, so that a copyright represents something

that has originated from a particular author and not from another. Copyrights, patents, and trademarks are all examples of what is known in the law as Intellectual Property.

As the media on which artistic and intellectual works are recorded have changed with time, copyright protection has been extended from the printing of text to many other means of recording original expressions. Besides books, stories, periodicals, poems, and other printed literary works, copyright may protect computer programs; musical compositions; song lyrics; dramas; dramatico-musical compositions; pictorial, graphic, and sculptural works; architectural works; written directions for pantomimes and choreographic works; motion pictures and other audiovisual works; and sound recordings.

Copyright Law in Action: Basic Books v. Kinko's Graphics Corp.

Copyright cases typically involve disputes between competing private interests: an author against someone who has copied the author's work without permission. However, the outcome of such cases often has significant repercussions for the general public as well. One such case with significant public effect was Basic Books v. Kinko's Graphics Corp., 758 F. Supp. 1522 (S.D.N.Y. 1991), which dealt with the question of whether photocopy stores may sell copied excerpts of books to college students without authorization from the books' publishers. The decision in the case ultimately affected the price that the public must pay for access to copyrighted information.

Many college and university students purchase photocopied materials from copy stores in association with courses they are taking. Usually consisting of chapters or sections taken from different books or journals, these photocopied materials enable students to read from a wide variety of sources without having to purchase a large number of books. By the late 1980s, book publishers realized they were losing sales owing to such photocopying. As a result, several publishers, including Basic Books, Inc., filed a lawsuit in federal court against one of the largest photocopy firms in the United States—Kinko's Graphics Corporation, a company that in 1989 had more than two hundred locations and annual sales of $54 million.

At issue in the case was the question of who may profit from the reproduction of an author's work, particularly with regard to the practice that Kinko's called anthologizing, which is the copying of book excerpts into course "packets" sold to college students. The publishers, the plaintiffs in the case, maintained that Kinko's violated the Copyright Act of 1976 (17 U.S.C.A. § 101 et seq.), by failing to secure permission to reprint the excerpts included in course packets and, in turn, pay the necessary fees

involved, part of which would be passed on to the authors of the books. Kinko's claimed that its sale of the excerpts was an example of the kind of fair use that is allowed by the Copyright Act.

Citing the commercial interests involved—namely, the fact that Kinko's made a significant amount of money from the sale of course packets, and that packet sales competed with book sales—the court found that Kinko's was guilty of copyright infringement. It ordered the company to pay $500,000 in damages to the publishers and issued an order forbidding it to prepare anthologies without securing permission from and prepaying fees to the appropriate publishers.

Basic Books was a victory for the publishers and authors of books that are excerpted for course anthologies. As for Kinko's, it now has to pay fees to publishers, but it is able to pass on those costs to customers in the form of higher prices. Does this mean that students are the losers in this case? In the short run, yes, because they will pay more for their course materials. But in the long run, students and the rest of society may derive more benefit, even if it is indirect, from a system that rewards authors for their intellectual labor.

Many features of the 1976 act make U.S. copyright law conform more to international copyright standards, particularly with regard to the duration of copyright protection and to the formalities of copyright deposit, registration, and notice. These changes have been greatly influenced by the most important international copyright treaty, the Berne Convention for the Protection of Literary and Artistic Works (828 U.N.T.S. 221, S. Treaty Doc. No. 99-27). In 1988, the United States passed the Berne Convention Implementation Act (102 Stat. 2853), which made the nation an official member of the treaty as of 1989. Section 2(a) of this act holds that provisions of the treaty are not legally binding in the United States without domestic legislation that specifically implements them.U.S. copyright law has continued to evolve toward greater conformity with international copyright standards. In the 1990s, for example, the Berne Convention added 20 years to the minimum standard for copyright duration, changing it to the length of the author's life plus 70 years. U.S. copyright law followed suit in 1998, with the passage of the Sonny Bono Copyright Term Extension Act.

Copyrightable Works

The 1976 Copyright Act provides that copyright protection "subsists … in original works of authorship fixed in any tangible medium of expression, now known or later developed" (17 U.S.C.A. § 102(a)). Thus, virtually any form of fixed recording is protected, no matter how new the technology.

Originality is the most important quality needed by a work in order for it to receive copyright protection. Originality is not dependent on the work's meeting any standard of aesthetic or artistic quality. Thus, a work need not be fine art to be copyrightable.

Works That Are Not Copyrightable

Copyright protects the expression of an idea or vision, not the idea itself. In legal terminology, this concept is called the idea-expression dichotomy, and it has been an important feature of legal reasoning related to copyright. Ideas, procedures, processes, systems, methods of operation, concepts, principles, and discoveries are not within the scope of copyright protection. Other works that are not copyrightable are words and short phrases, including slogans; blank forms for recording information (such as bank checks); and works containing no original authorship (such as standard calendars or simple phone listings).

Some works are not copyrightable because they are not fixed in a tangible medium. These include unrecorded dance choreography, and unrecorded speeches, lectures, and other vocal performances. Although typefaces are tangible, they traditionally have been regarded as lying outside of copyright protection. A dramatic character is not copyrightable.

Holders of a Copyright

A copyright is initially owned by the author or authors of the work, except in the case of a "work for hire." A work for hire can arise in two situations: (1) where an employee creates a work within the scope of his or her employment, in which case the employer owns the copyright to the work upon its creation; (2) where two parties enter a written agreement designating the creation as a work for hire and the work falls within one of nine specific categories of work designated by copyright law. If the work does not fit one of the specified categories, it will not be a work for hire even if the parties have called it one. In such a case, the author or authors retain the copyright, and transfer must be accomplished through a written assignment of copyright. Where there is a valid work for hire, the employer who owns the copyright has the same rights as any copyright holder, including the right to initiate an action for copyright infringement.

The ownership of a copyright, or the ownership of any of the five exclusive rights afforded by a copyright (discussed later in this article), can be transferred to another and is regarded as Personal Property upon the death of the copyright holder. Copyright ownership and ownership of the material object in which the copyrighted work is embodied are two entirely separate legal entities. Furthermore, transfer of an object

and transfer of the copyright to that object are separate, independent transactions, neither of which, by itself, has any effect on the other. Therefore, transfer of a material object, such as an original manuscript, photograph negative, or master tape recording, does not transfer the copyright to that work. Likewise, transfer of the copyright to a work does not require transfer of the original copy of the work.

Exclusive Rights

Copyright affords an author a number of exclusive rights: (1) the exclusive right to reproduce, or copy, the work; (2) the exclusive right to prepare new works that derive from the copyrighted work; (3) the exclusive right to distribute the work to the public by sale or other arrangement; (4) the exclusive right to perform the work publicly; and (5) the exclusive right to display the work publicly. The first two rights, involving reproduction and derivation, are infringed whether violated in public or in private, or whether violated for profit or not. The last three rights are infringed only when violated publicly, that is, before a "substantial number of persons" outside of family and friends (17 U.S.C.A. § 101).

All of the exclusive rights afforded by copyright may have significant economic value. For example, derivative works, which may include translations, dramatizations, films, recordings, and abridgments, can offer substantial rewards to the author. An author may sell, license, or transfer one or all of the exclusive rights.

Duration of Ownership

Under the original provisions of the Copyright Act of 1976, copyright protection of an authored work extended through the life of the author and to fifty years after the author's death. However, in a major piece of legislation, Congress extended copyright terms in 1998 in the Sonny Bono Copyright Term Extension Act, Pub. L. No. 105-298, 112 Stat. 2827 (17 U.S.C.A. §§ 101 et seq.). Title I defines the terms of the copyright extension, while Title II provides a "music licensing exemption for food service or drinking establishments." This portion of the law is also known as the Fairness in Music Licensing Act of 1998.

The duration of copyright law under the 1998 act was extended for all copyrighted materials. Works created on January 1, 1978, or after are protected from the time the work was "fixed in a tangible medium of expression." The term is for life of the creator plus 70 years. If the creator is a corporation, then the term is 95 years from publication or 120 years from the date of creation, whichever is shorter.

Works published between 1923 and 1963 are protected, if they were published with notice, for 28 years and can be renewed for 67 years. If not renewed, they will fall into the public domain. Materials that were

published during this period without notice entered the public domain upon publication.

Items published between 1964 and 1977 are protected if they were published with notice. They are protected for 28 years, and the copyright has been automatically extended for 67 years. Works created before January 1, 1978, but not published, are protected for the life of the creator plus 70 years or until December 31, 2002, whichever is later. Materials created before January 1, 1978, but published between then and December 31, 2002, are protected for the life of the creator plus 70 years or until December 31, 2002, whichever is later.

Libraries, archives, museums, and scholars expressed concerns about the 20-year extension. Items created in 1923 would have passed into the public domain on January 1, 1999, if the law had not been changed. At the beginning of 2000, works created in 1924 would have fallen under the public domain. The act's opponents argued that original scholarly research would be hampered by the extension.

In answer to those concerns, a special clause was included in the Copyright Term Extension Act for libraries, archives, and nonprofit educational institutions. Such institutions are permitted to "reproduce, distribute, display, or perform in facsimile or digital form" a copy of any copyrighted, published work during the last 20 years of its term "for purposes of preservation, scholarship, or research." However, the work must not be used in such a manner if it "can be obtained at a reasonable price."

The changes in the duration of copyrights were made partly to keep pace with the evolution of European copyright laws. In 1995, Europe extended its copyright protection to life of the creator plus 70 years, but in the United States it remained the life of the creator plus 50 years.

Copyright Infringement

Copyright infringement involves any violation of the exclusive rights of the copyright owner. It may be unintentional or intentional. When unintentional, it is called innocent infringement. An example of innocent infringement occurred when former Beatle George Harrison created his song "My Sweet Lord." Harrison was found to have unconsciously copied the tune of another song, "He's So Fine," by the Chiffons, and thus was liable for infringement (Bright Tunes Music Corp. v. Harrisongs Music, 420 F. Supp. 177 [S.D.N.Y. 1976]). Vicarious or related infringement refers to those who profit indirectly from the infringement of copyright, as in the case of a theater owner who profits from booking a band that illegally performs copyrighted works.

Since evidence of direct copying or Plagiarism of an authored work is difficult to obtain, infringement of copyright is usually established through Circumstantial Evidence. Such evidence typically must show a substantial similarity between the original and the copy, as well as prove that the copier had access to the original. This means that where two works are similar or identical, there is nevertheless no infringement if each work was produced through the original and independent work of its creator. An infringer is not relieved of liability by crediting the source or the creator of the infringed work. Although infringement does not require that even a large portion of the work be similar, it does require that a substantial part be similar. It is irrelevant if the copied work is an improvement of the original work.

The Copyright Act of 1976 recognizes a copyright not only in a publisher's collective work, but also a separate copyright for each author's contribution to the work. With the growth in the use of electronic databases and disk to store data, some freelance authors began to object to their articles being sold to companies that produced these databases and disks. The Supreme Court, in New York Times v. Tasini, 533 U.S. 483, 121 S. Ct. 2381, 150 L. Ed. 2d 500 (2001), held that the Act protects the copyrights of the writers, rejecting an argument by the publishers that the conversion of the original works to an electronic format constituted a "revision" of the collective work, which would have been permissible under the Copyright Act.

produce such recordings without permission and without paying royalties—has become increasingly common. This fact led to the passage of the Piracy and Counterfeiting Amendments Act of 1982 (18 U.S.C.A. § 2318), which allows punishment of up to $250,000 in fines or five years in prison for pirating 1,000 phonorecords or 65 films within 180 days. The fraudulent use or removal of copyright notices is also a punishable offense.

Fair Use

Fair use is a judicial doctrine that refers to a use of copyrighted material that does not infringe or violate the exclusive rights of the copyright holder. Fair use is an important and well established limitation on the exclusive right of copyright owners. Examples of fair use include the making of braille copies or audio recordings of books for use by blind people, and the making of video recordings of broadcast television programs or films by individuals for certain private, noncommercial use.

Examples of fair use typically involve, according to the Copyright Act of 1976, the reproduction of authored works for the purpose of "criticism, comment, news reporting, teaching …, scholarship, or research" (17 U.S.C.A. § 107). The same act also establishes a four-part test to determine fair use

according to the following factors: (1) the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes; (2) the nature of the copyrighted work; (3) the amount and substantiality of the portion used in relation to the copyrighted work as a whole; and (4) the effect of the use upon the potential market for, or value of, the copyrighted work (17 U.S.C.A. § 107).

It is usually considered fair use of an authored work to take small quotations or excerpts and to include them in another work, as when quotations are taken from a book and inserted into a book review. However, courts have found that such quotation is not fair use when material is taken from unpublished sources, as happened in the 1985 case Harper & Row v. Nation Enterprises, 471 U.S. 539, 105 S. Ct. 2218, 85 L. Ed. 2d 588.

The Harper case involved publication by The Nation magazine of quotations from Gerald R. Ford's unpublished memoir, A Time to Heal. Harper & Row, publisher of the memoir, sued The Nation, claiming that the magazine's actions had caused it to lose a lucrative contract with Time Magazine to publish excerpts from the memoir. The Court ruled in favor of Harper, citing the economic value of first publication to the copyright holder as an important factor in its decision. It found that The Nation had infringed Ford's copyright by becoming the first publisher of his original expression, thereby inflicting economic losses on Ford. It rejected The Nation's argument that it was simply reporting news. Lower courts have subsequently applied the Court's reasoning to other cases involving quotations from unpublished works. In Salinger v. Random House, 811 F.2d 90 (2d Cir. 1987), a federal appeals court blocked publication of a book that used extensive quotations from unpublished letters of the author J. D. Salinger. The court ruled that the author retained copyright ownership of the "expressive content" of the letters, even when the letters themselves were deposited in university library collections.

Parody often constitutes fair use of copyrighted material. In cases involving parodies of copyrighted works, courts typically assess the purpose and intent involved in taking material from the original expression, and whether or not the author of the parody has borrowed a reasonable amount of material in producing the parody. For example, in the 1994 case of Campbell v. Acuff-Rose Music, 501 U.S. 569, 114 S. Ct. 1164, 127 L. Ed. 2d 500—which involved a parody by the rap group 2 Live Crew of the Roy Orbison song "Pretty Woman"—the U.S. Supreme Court ruled that a parody could be fair use under copyright law even if it is created for commercial purposes.

Copyright Registration, Deposit, and Notice

Registration of copyright involves recording the existence of an authored work and the identity of its author with the U.S. Copyright Office, which is a part of the Library of Congress. Deposit involves placing the work in its recorded, physical form with the same office. Notice, or notification, involves placing on an authored work the © or the word Copyright or the abbreviation Copr., along with the year of first publication and the name of the owner of the copyright.

Many of the major copyright acts in U.S. history have required that works be registered and deposited with a U.S. district court or with the U.S. Copyright Office, in order to be legally enforceable. Over time, however, deposit, registration, and notice of copyright have increasingly become formalities. Under the Copyright Act of 1976, authors automatically receive federal copyright protection when they fix their work in a tangible medium. Even if a copyright is not registered and an authored work is not deposited, the author maintains exclusive rights to the work.

Nevertheless, registration and deposit may have significant legal consequences. Most importantly, owners of copyright cannot sue for copyright infringement until they have registered the copyright (17 U.S.C.A. § § 411, 412). Deposit is not a requirement for copyright protection, but federal law requires that two copies of a published work be deposited within three months of publication. Failure to deposit a copy after it has been demanded by the U.S. Copyright Office is an offense punishable by a fine. Registration of copyright requires the deposit of at least one copy of a work and two copies of a published work. The U.S. Copyright Office has the power to vary these requirements.

Copyright notice serves a number of functions. A lack of copyright notice has traditionally informed users that a particular work is in the public domain, whereas the presence of a notice has warned users that a work is copyrighted and identifies the date and year of the work. Despite these traditions, copyright notice is optional for works distributed after October 31, 1988. Under prior law, an omission of copyright notice resulted in a loss of copyright protection.

Digital Millennium Copyright Act

Copyright laws have had to evolve in order to protect the interests of owners of copyrights from infringement through transfer of digital copies of protected works. Internet users may employ a myriad of methods to transmit digital files, and much of the information contained in these files consists of copyrighted works. Given the sheer number of Internet users—estimated by some at more than 500 million in 2002—and trillions of pages on the World Wide Web, protection of electronic publications and media is a global concern.

In 1998, then-President William Jefferson Clinton signed the Digital Millennium Copyright Act (DMCA), Pub. L. No. 105-304, 112 Stat. 2860 (17 U.S.C.A. §§ 101 et seq.) into law following a 99-0 vote in the U.S. Senate. This legislation was the focus of intense Lobbying efforts on the part of a wide range of interest groups. These groups included Telecommunications companies and online service providers; consumer-electronics manufacturers, library, museum, and university groups; and the publishing, recording, film, and software industries. The primary goal of this legislation was to adapt U.S. copyright laws for the digital age.

Passage of the DMCA was also required for the United States to keep pace with changes in international copyright treaties. In December 1996, the World Intellectual Property Organization (WIPO), an agency of the United Nations, negotiated the Copyright Treaty and the Performances and Phonograms Treaty at a meeting in Geneva, Switzerland. WIPO is responsible for the advancement and safeguarding of intellectual property throughout the world, and it has 170 member countries.

The treaties, ratified in 2002, provide increased protection for copyrighted materials in the digital world. By signing, each country agrees to put into place laws, based on their own legal system, in order to enforce the treaties. The DMCA serves that purpose for the United States.

The DMCA consists of five main sections: WIPO Treaties Implementation, Online Copyright Infringement Liability Limitation, Computer Maintenance or Repair Copyright Exemption, Miscellaneous Provisions, and Protection of Certain Original Designs. Title I, WIPO Treaties Implementation, contains an "anti-circumvention" provision, making it illegal to "manufacture, import, offer to the public, provide, or otherwise traffic any technology, product, service, device, component, or part thereof," for the primary purpose of "circumventing a technological measure that effectively controls access to" a copyrighted work. Thus, technologies that are designed to protect digital material are safeguarded.

Moreover, this provision makes the act of circumventing a "technological measure that effectively controls access to a work protected" by copyright illegal. Every three years, the librarian of Congress, the register of copyrights, and the assistant secretary for communications and information of the Commerce Department must determine whether people with legitimate noninfringing uses of copyrighted materials are being unfavorably affected by the law. The law does state that fair use is not affected, but this nevertheless has been a controversial provision. Libraries, museums, and scholars were concerned about digital materials only being available on a pay-per-use basis. An exemption was included for nonprofit libraries, archives, and educational institutions allowing them to circumvent technical

protection measures for the purpose of determining whether or not to purchase the copyrighted work. Title I of the DMCA contains another addition to U.S. copyright law required by the WIPO treaties. This section prohibits the deletion or alteration of information associated with copyrighted material. Organizations will benefit from this provision because it will help protect information and images on their web sites. Furthermore, it prohibits the distribution of false copyright-management information. The DMCA provides for civil and criminal enforcement. However, archives, schools, nonprofit libraries, and public broadcasting stations are exempt from criminal prosecution.

The DCMA also limits the liability for copyright infringement by providing safe harbors for online service providers. The definition of an online service provider is generous. Other organizations may qualify for protection, which could be useful if they provide Internet access, have a company bulletin board or inhouseE-Mail system, or chat rooms. Prior to the passage of the DMCA, online service providers could have been liable if infringing materials were posted on their sites, even if they were unaware of the problem. The DMCA explains the responsibilities of copyright owners and service providers. Under specific conditions, online service providers are exempt from having to pay monetary damages as long as they are not benefiting financially from infringing activity and as long as they remove the material promptly from the Internet.

Limitations have also been set on exclusive rights for computer programs. A provision allows users to copy programs that are needed in order to maintain and repair a machine. Any such copies must be destroyed as soon as the machine is repaired, however.

One significant exemption for libraries and archives was included in Title IV of the DMCA. Up to three copies may be made of a copyrighted work without the permission of the copyright owner for research use in other libraries or archives through interlibrary loan. The word "facsimile" has been struck from the former copyright law, thus allowing for digital formats. Libraries and archives can now loan digital copies of works to other libraries and archives by electronic means. Copies for preservation and security purposes are also permitted when the existing format in which the material is stored becomes outdated, or if the work is lost, stolen, damaged, or deteriorating.

Title IV also established guidelines for licensing and ROYALTIES in regard to copyrighted music transmitted over the Internet and in other digital forms. Transmissions are not subject to licensing if transmitted with encoded copyright information and with permission from the copyright owner of the sound recording.

No Electronic Theft Act

The concerns surrounding the protection of the copyrights of electronic data extend to computer software. In 1997, Congress approved the No Electronic Theft (NET) Act, Pub. L. No. 105-147, 111 Stat. 2678, which substantially enhanced existing federal copyright law. Aimed primarily at the rampant theft of computer software, it allows the prosecution of anyone who violates the copyright of materials worth more than $1,000 in a six-month period by copying, distributing, or receiving software.

Congress passed the law in November 1997 after the software and entertainment industries strongly lobbied for it, claiming losses amounting to $2 billion in 1996 in the United States alone. In particular, the law closed a narrow loophole in existing federal law, which made criminal prosecution for copyright violation only possible if the violation resulted in financial gain. Under the NET Act, individuals face fines and jail sentences even if they do not profit financially from the violation. The law was enacted over protests by scientists who feared that it would hinder their research.

Lobbyists pointed to what became known as the "LaMaccia loophole." This term refers to an unforeseen weakness in federal law that was exposed by the failed federal prosecution of computer hacker David LaMacchia in 1994 (United States v. LaMacchia, 871 F. Supp. 535 [D. Mass. 1994]). LaMacchia, then a 21-year-old student at the Massachusetts Institute of Technology, had used an electronic bulletin board to freely distribute countless commercial software programs. Although he was indicted for wire Fraud under 18 U.S.C.A. § 1343 for allegedly causing software companies losses of more than $1 million, the case was dismissed. U.S. District Court Judge Richard Stearns ruled that criminal sanctions did not apply because LaMacchia had not profited from his actions.

According to the software industry, the decision paved the way for piracy of material through web pages and other commonly used Internet sites. Software manufacturers were not only concerned about deliberate piracy by computer hackers; they also wanted to stop the casual lending and copying of computer software between consumers and within offices as well. Joining them in this effort were the music and film industries, which have increasingly become partners of software companies in the production of multimedia CD-ROMs. Additionally, the music industry viewed with alarm the widespread distribution of commercial recordings by fans, which became popular over the Internet in 1997 with the development of new software technology for digitally copying songs.

The NET Act was designed to close the LaMacchia loophole. Swiftly passed by the House and subsequently approved by the Senate, the act accomplished this by amending two key parts of federal

copyright law: Titles 17 and 18 of the United States Code. These laws previously defined copyright violation strictly in terms of financial gain. The NET Act broadened them to include the reproduction or distribution of one or more copies of copyrighted works and considers financial gain simply to be the possession of copyrighted work. It defines a misdemeanor violation as occurring when the value of the copied material exceeds $1,000 over a 180-day period; a felony occurs if the value exceeds $2,500. Penalties range from a one-year jail sentence and up to $100,000 in fines for first-time offenders, to five years' imprisonment, and up to $250,000 in fines for repeat offenders.

How Copyright Affects Your Web Content

At We Do Web Content, we get a lot of questions from website owners about copyright laws and how/when they apply to their web content. Below we'll go over some of the most common copyright issues that apply to web content which will hopefully help you understand who owns the rights to your web content as well as what constitues plagiarism and other copyright offenses.

Copyright Notification

It was widely believed that in order for a piece of content to fall under copyright law, it had to include a copyright symbol on the page, most commonly in the familiar form of the C in the circle: ©. That is no longer the case. The United States, along with most of the other major countries follow the Berne copyright convention which states that any content published after March 1, 1989 is automatically copyrighted regardless of whether or not the copyright symbol appears in the text. That means any published content, even if it only appears on a website, blog, or even an email, is protected by law.

If you try to pass off other people's content as your own, especially for financial gain, they can sue you under copyright law. Likewise, if someone copies a piece of web content you published on your website and re-publishes it on their website without your expressed permission, they are violating your copyright on that web content and you can ask them to take it down or sue them if they do not comply.

Public Domain

The public domain refers to content (books, movies, etc.) that literally belongs to the public, so anyone can freely copy and distribute it without penalty. Content can only find itself in the public domain if:

1. It was published before 1923 (typically not very useful for current web content).
2. The author expressly gave the content to the public domain by writing explicit instructions that literally gives the work to the public domain.
3. It was published and copyrighted before 1989 and the copyright expired (once again, this would only

apply to certain works published between 1923 and 1989 and dependent on the publishing date and when the author died).

Fair Use

The right of fair use allows you as an individual to comment, parody, report, and publish content that refers to other people's content. For example, if you were writing an article on for your website that was commenting on a CNN news story about Coca-Cola, your mention of Coca-Cola and CNN, would be considered fair use as long as you didn't literally copy and paste the text from the CNN article onto your website or claim to be Coca-Cola.

Fair use also allows for short quotes (always with citations and credit!) from another work to enhance your own as long as your usage does not in any way diminish the commerical value of the copyrighted content. For example, if you were writing a book review and used a short, cited quote from the text, that would normally be fine. If however, you quote the ending scene of the book, you would be ruining the dramatic climax and harming the commercial value of the original content, which might get you sued.

Copyright Violations are Crimes

If you violate the copyright laws on other people's content you could face criminal charges, or most likely civil charges through a lawsuit. Civil court means a judge or jury looks at the evidence and decides whose story is more credible. Criminal rights like “innocent until proven guilty” do not apply. Remember OJ Simpson? A criminal court found him not guilty of murder but a civil trial still found him responsible for those murders he apparently didn't commit and ordered him to pay millions of dollars to the victims' families.

Don't steal content and you won't get sued. It's that simple.

How Copyright Laws Affect Your Website

Copyright laws are intended to help authors control the content they created. This means protecting it against people who want to use it for their own purposes, and allowing the author to decide how, where, and when they publish what they have created. If you have created a piece of content and want to allow someone else to repost it, that's fine, you just need to give them your written permission.

If you want to publish something that has been written by someone else, all you need to do is get their written permission. If they are not the author they cannot give you permission so getting the OK from a third party still means you are violating copyright laws.

Web Content and Plagiarism

Some of the same principles of copyright law overlap into issues of plagiarism. Unless you have a contract with a writer that proves they are willing to ghost write content for you (meaning writing without getting credit), you cannot publish someone else's content under your own name, that is stealing. Likewise, if you quote someone in an article, paraphrase a news story, or copy any more than 5 consecutive words from a text without citing the source, you are committing plagiarism.

The best way to protect yourself is to always write ORIGINAL web content for your website and cite all of your sources. Search engines penalize duplicate content anyway, so reposting an article or blog that already appears online will actually hurt your website's search engine rankings, not help it.

Having search engine optimized copy makes it easy for search engines to find your Web pages. If your website doesn't have the top search engine ranking on Google, We Do Web Content can help boost your web marketing goals. We Do Web Content takes pride in producing high-quality and affordable SEO web copy that is clean, consistent, and formatted for Internet marketing. We get excited when your website's search engine rankings climbs and YOU ARE FOUND. Get started today – 1-888-521-3880.

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If you try to pass off other people's content as your own, especially for financial gain, they can sue you under copyright law. Likewise, if someone copies a piece of web content you published on your website and re-publishes it on their website without your expressed permission, they are violating your copyright

on that web content and you can ask them to take it down or sue them if they do not comply.

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Conculsion

IPR laws confers on the original creator of intellectual property exclusive rights and enabling man to commercially exploit his creation for fixed period. The IPR so created in turn promotes economic growth and development . its is powerful tool of economic growth inspiriting creativity and innovation generating revenue , promoting investment enchanting culture.

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Importance of IPR and its Impact on Education

* **Priyanka Sorte** ** **Ms. Darshana Wajekar** *** **Ms. Sreelakshmi Nair**

Abstract: Intellectual property rights (IPR) have been defined as ideas, inventions, and creative expressions based on which there is a public willingness to bestow the status of property. IPR provide certain exclusive rights to the inventors or creators of that property, in order to enable them to reap commercial benefits from their creative efforts or reputation. Piracy and illegal copying is the most serious concern of intellectual property protection. IPR is prerequisite for better identification, planning, commercialization, rendering, and thereby protection of invention or creativity. Each industry should evolve its own IPR policies, management style, strategies, and so on depending on its area of specialty. To advance the cause of the rights and wrongs of the laws that promote and protect intellectual property at the national and international levels, education in intellectual property is required and must be advocated. We must make individuals, industries, and governments aware of the concept of intellectual property, and only then can they take positions on the issue in order to effect change. The Government of India has been working relentlessly to streamline IP processes and modernization of IP offices through steps such as comprehensive e-filing facilities made available for patents and trademarks, auto-allotment of patent applications to ensure uniformity and utilization of the specialized expertise of all examiners and controllers and by auto generation of trademark certificates.

Keyword: Intellectual property, Education, Government

Introduction

Intellectual property (IP) knowledge is important not only for law students learning how to inform others about the value and management of IP, but for individuals studying business, engineering and technology. The Intellectual Property Awareness Network's (IPAN's) recent study of university IP policy, perception and practice suggests students want to develop a better understanding of intellectual property, IP rights and their university's policies. The importance of intellectual property (IP) in today's world cannot be overstated and, indeed, it is receiving a great deal of attention worldwide.

In education, IP is most commonly mentioned in relation to the plagiarism of work. However, this narrow focus fails to advertise the link between IP and commercial success (or failure).Start-ups often employ student software developers or graphic designers – companies get low-cost labour and students can benefit from working on real industry projects. Before they begin work, organisations often ask interns to sign non-disclosure/confidentiality agreements as it is unlikely students will create IP during

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their internship. However, if interns do develop IP and legal ownership is not transferred, ideas are potentially their own and the company cannot profit from them.

Academic and business leaders have long argued that countries need a larger, more technologically-savvy workforce to maximise economic growth. Universities should consider the importance of teaching IP in the curriculum when preparing graduates to be productive citizens of the innovation economy. Given the importance of IP in today's global economy, IP ownership and management needs to be given more emphasis in future university graduate programmes..

II. NEEDS FOR IPR

Every creation requires time, energy and effort. The time involved varies greatly between projects. It may vary from a few minutes to a few years. In addition, any creative work also requires certain amount of real capital and of course the education or knowledge. All these things add up to a huge investment on the part of any creative professional. Thus, it is necessary to recognize and respect the intellectual creations of a creator. Although many of the legal principles, governing intellectual property rights, have evolved over centuries, it was not until the 19th century that the term intellectual property began to be used. It was in the late 20th century that it became common in the most part of the world. The World Intellectual Property Organization(WIPO) was established, in 1967, as an agency of the United Nations. Since then the the term really began to be used in the United States. There is an extensive international system for defining, protecting, and enforcing intellectual property rights, comprising both multilateral treaty schemes and international organizations such as Trade-Related Aspects of Intellectual Property Rights (TRIPs), World Intellectual Property Organization (WIPO), World Customs Organization (WCO), United Nations Commission on International Trade Law (UNCITRAL), World Trade Organization (WTO) and European Union (EU).

Importance Of IPR

A. Positive Impact

IPRs play very important role in the progress and development of the society. IPRs not only provide incentive to the creator of his creation but also lead to a healthy competition among creators which ultimately leads to the progress of the society. Some of the positive impacts of IPR are:

- ⌘ IPRs are important for free flow for energy for enhancing invention and research. IPRs provide incentive to the individuals for new creations. IPRs provide due recognition to the creators and inventors. These laws provide them both the means and incentive to create newer works, products and services
- ⌘ Intellectual Property Rights enhance innovation and creativity by protecting the rights of inventors

and artists. Since the filing of patents requires the disclosure of information that would enable others to replicate the inventor's discovery, others can use and build upon this shared knowledge to create newer and/or better products. IPRs ensure material reward for intellectual property.

- ⌘ IPRs ensure the availability of the genuine and original products. Intellectual Property rights, such as patent and copyrights, are an important means used by firms to help protect their investments in innovation (Shankar Narayanan, 2010).
- ⌘ IPRs may be helpful in the solution to global challenges like in the field of alternate sources of energy, new products to the farmers and development of low cost drugs for poor people.
- ⌘ IPRs are necessary to stimulate economic growth. Protection of intellectual property rights is essential in maintaining economic growth. They encourage fair trading which would contribute to economic and social development. Effective enforcement of intellectual property rights is critical to sustaining economic growth across all industries and globally.

B. **Negative Impact**

Though the purpose of IPRs is to enhance innovation and creativity by protecting the rights of creators and leading to the growth and advancement of human beings but do IPRs actually play a constructive role in the progress and development of society and mankind or it is a form of intellectual protectionism or a form of a temporary monopoly enforced by the state, is an issue of great concern. They are considered to benefitting concentrated i.e. IPRs confer authority over resources to a few. The few gain power over the goals of many. The objective of IPRs is to protect the public interest but, in fact, the public interest is harmed. Pharmaceutical product prices form substantial portion of health care costs and strong intellectual property protection is one of the major reasons for high health care costs (Agatha, 2013). For example, patent of life saving drugs had allowed the countries to charge higher than the marginal cost of the production in the name of cost of research and development. This has led to an increase in the cost of drugs and they are not affordable by the poor sections of the society. When there is control by some particular group, IPRs actually discourage invention. Patent of the ideas may prevent the owner of a property to utilize it according to his wishes. In order to serve the purpose IPRs must focus on the needs of the poor and developing countries but in reality intellectual properties tend to be governed by economic goals preventing the progress of poor. Thus, IPRs are considered as intellectual protectionism, intellectual monopoly or government-granted monopoly by which the public interest is harmed and progress is stopped.

Government Initiative For Ipr Protection

To protect intellectual property rights (IPRs), government is looking at engaging the education sector to help deepen awareness on the important aspect, a senior official said today. "Government is taking IP education and awareness programme right to schools and universities," controller- general of patents, design & trademarks, department of industrial & policy promotion, OP Gupta told an event on IPR organised by the industry lobby CII here. Gupta said government has asked National Council of Educational Research & Training to include IP in the syllabus.

Some of the recent initiative for IPR protection taken by the government are: National IPR Policy , Strengthening of Institutional Mechanism, Clearing Backlog/ Reducing Pendency, Increase in Filings, Business Process Re-engineering, Augmentation of Human Resources, Creating IPR Awareness, IPRs in School Syllabus ,IPR Enforcement Toolkit for Police, Police Training Programs, Sensitization Programs for Judiciary, Combating Online Piracy, Technology and Innovation Support Centers (TISCs), State Engagements, Global Innovation Index (GII), Promotion of Geographical Indications, Social Media Campaign, IPRs for Start-Ups and MSMEs , Dynamic Utility Facilities available on Website of O/o CGPDTM, IPR Trends, International Search Authority & International Preliminary Examining Authority, Madrid Protocol

The Niti Aayog has also identified schools which will be housing "IP tinkering labs" to help students learn about intellectual property, he added. Gupta also said the time taken for granting trademarks and patents to domestic companies has "come down considerably" to encourage companies to file more patents and protect their innovations." Meanwhile, Maharashtra principal secretary for skill development & entrepreneurship Aseem Gupta said the economy can take off well with better IPR protection.

"The question is how do small and medium enterprises get resources for getting IP protection? We need to impart knowledge, handhold them especially startups," he said, adding signing non - disclosure agreements is important for startups. Gupta also said Maharashtra would like to partner with the industry lobby grouping for IP facilitation.

Conclusion

The basic objective of the IPRs is to help in meeting the challenges in the development such as reducing poverty, stimulating economic growth, improving the health status, improving access to education and contributing the overall sustainable development. But the question is whether we have been able to accomplish our objectives completely or not. Intellectual property rights are one of the most important

aspects of the creative world. The rights ensure incentive to invention, competition, recognition and financial support. IPRs must be given due credits. If we give due credits to IPRs, they will help in the sustainable development of mankind. It is clear a deeper understanding of the laws associated with IP is essential in the education community. While some may disagree with the laws or pursue their rights through enforcement, no one can afford to ignore the issues surrounding copyright and intellectual content.

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General Awareness About Intellectual Property Rights In India

* **Prof. Pooja Dipak Patel**

Abstract:
Intellectual property means a category of property that includes intangible creations of the human intellect, and primarily encompasses copyrights, patents, and trademarks. It also includes other types of rights, such as trade secrets, publicity rights, moral rights, and rights against unfair competition. The Main Purpose Of Intellectual Property Rights Or law is to encourage the creation of a large variety of intellectual goods. If General Awareness About IPR In India Increase it enhance creativity , Innovation, competitiveness And Economic Growth In India. For Increase Awareness About Intellectual Property Rights in India Government Launched Scheme or Project it is name is " IPR Awareness – Creative India , Innovative India"
This paper analyses the relation between capacity development and its positive influence on employee performance.

Keyword: Benefits Of Intellectual Property Rights To Nation , Awareness About IPR Among Indian Population , Government Efforts for Improving Awareness Among Population , IPR Awareness Scheme " Creative India , Innovative India "

Introduction

Intellectual property rights are the rights given to persons over the creations of their minds. They usually give the creator an exclusive right over the use of his or her creation for a certain period of time. It covers everything from original plays and novels to inventions and company identification marks. The purpose of intellectual property laws are to encourage new technologies, artistic expressions and inventions while promoting economic growth.

Meaning Of Intellectual Property Rights

Intellectual property rights refers to the general term for the assignment of property rights through patents, copyrights and trademarks. These property rights allow the holder to exercise a monopoly on the use of the item for a specified period.

Objective

My Basic Objective Behind Making This Research Paper is to Know the Awareness about IPR Among Indian Population , And To Know the Benefits Of IPR To The Nation , And If Any Circumstance people of

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our country is not aware with IPR what efforts or measure should take to improve the awareness that I want to know .This Research Paper Help The Todays Youth Generation and Our Nation Also Because Once the Youth Know the Importance And Benefits Of Intellectual Property Rights They Start Efforts towards it which is enhance Creativity , Innovation , Competitiveness And Economic Growth In India.

Benefits Of Intellectual Property Rights

Intellectual Property Rights help in providing exclusive rights to creator or inventor thereby induces them to distribute and share information and data instead of keeping it confidential.

It provides legal protection and offers them incentive of their work. Rights granted under the intellectual property act helps in socio and economic development. India has defined the establishment of statutory, administrative and judicial framework for protecting the intellectual property rights in the Indian territory, whether they connotes with the copyright, patent, trademark, industrial designs or with other parts. The Main Purpose Of Intellectual Property Law is to encourage the creation of large variety of Intellectual goods. IPR give Economic Incentives For Their Creation , Because it allows people to profits from the Information and Intellectual goods they create. IPR Enhance Creativity , Innovation , Competitiveness and economic growth in India .

Awareness About Intellectual Property Rights Among Indian Population

Awareness About Intellectual Property Rights Among Indian population is today increase as compared to past decade. But still people in remote area are not aware with IPR .Efforts Needed for improving awareness among remote area.

IPR Awareness Scheme

The Government Of India Has Launched Scheme On 1st April,2017 For Improving Awareness among Indian population About Intellectual Property Rights it is name is " IPR Awareness – Creative India , Innovative India ". The Scheme For IPR Awareness aim to conduct 400 IPR Awareness Workshop / Seminar in Academic Institution And The industry Including MSMES And Startups for increase awareness among people. And they also passed various law and policy for protection of rights of IPR

Findings

Awareness About Intellectual property rights in India is Increase as compared to past decade but there are also few potion of people they are not aware with IPR Rights and Their Policy and their benefits .

Conclusion

Lastly I Conclude That IPR Refers to Intellectual property (IP) is a category of property that includes intangible creations of the human intellect, and primarily encompasses copyrights, patents, and trademarks. It also includes other types of rights, such as trade secrets, publicity rights, moral rights, and rights against unfair competition. Government And Corporate Sector as well as Educational Institution they put efforts towards IPR Awareness but still there are Peoples in india they still not aware with IPR.we Should Put Efforts For Them.

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IPR in media and Film Industry

* Prof. **Jitendra B Gupta**

Abstract:

The Indian media and entertainment industry has developed by leaps and bounds in terms of content generation, number of outlets and employment of advance technology. IP rights are a major safeguard against any kind of infringement of the originality and the creativity of the makers, providing recognition to the talents of the creators and ensuring the dissemination of original and genuine work among the masses. In starting years the Indian media industry was criticized by foreign media of developed country like England, Germany. The media and entertainment industry is playing vital role in Indiana economy and is estimated to grow at a CAGR of14.3% to touch Rs 2.26 trillion by 2020 (IBEF Report April, 2017).

The Indian media and entertainment industry often faces many legal challenges; violation of IP rights, cyber laws, copyright and trademark laws are the prominent amongst them. There are also lot allegations on Indian media industry about infringement of copyright put by foreign media but after all criticism still India is surviving in a very decent manner and Indian media industry is one of the fastest growing media of world. India is the 14th largest entertainment and media market in the world with industry revenues contributing about 1% of its GDP. India has the potential to achieve path-breaking growth over the next few years; possibly to reach a size of USD 100 billion. In the recent years, several Bollywood and Tollywood films have successively broken previous records on box office collections, which have perhaps also attracted both multinational

Keyword: entertainment, employment, content, infringement, originality and the creativity, dissemination, genuine works, prominent.

Introduction: The Indian media and entertainment industry has developed by leaps and bounds in terms of content generation, number of outlets and employment of advance technology. However, when we talk of content generation and its delivery how much are the contents original and how much can we be sure that the principles and regulations of the Intellectual Property Rights (IPR) have been adhered to in its making. IP rights is a major safeguard against any kind of infringement of the originality and the creativity of the makers, providing recognition to the talents of the creators and ensuring the dissemination of original and genuine work among the masses Along with the success stories of healthy growth and expansion ofthe Indian media and entertainment industry. The Indian media and entertainment industry often faces many legal challenges; violation of IP rights, cyber laws, copyright and trademark laws are the prominent amongst them. The Indian film and media industry has achieved exponential growth in the last decades. However, it also quite often gets engulfed in some major legal issues like piracy and copyright violations. Traditional methods of redressal need to be substituted by the

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very latest methods like Online Dispute Resolution and Alternative Dispute Resolution.Along with the growth of film industry, another noticeable trendhas been the rising importance ofinternet and social media as analternate media platform. This growth has also seen an increase in violation of IP rights, infringement of copyright and disputes overownership of contentdespite the existence of the Digital Millennium Copyright Act since 1998. Even though we have a strong judicial system as our backbone, the legal framework needs improvement and modification. Legal concerns and issues of the Indian media andentertainment industry are too diverse and various forms of violationof IP rights often remain a major point of debate and discussion.Intellectual Property Rights (IPRs), Cyber laws and IPRs laws like copyright, trademark etc. The industry must keep in mind mandates like "cyber due diligence" and other provisions of Information Technology Act, 2000.A majority of disputes in the industry pertainsto Intellectual Property Rights (IPRs) and its violation. Such violationsare the negative aspect of the functioning of the Indian media industryand further add to its dysfunction.As part of the Asian entertainment industry, India has many instruments to solve these disputes like

1) Alternative Dispute Resolution(ADR)
2) Online Dispute Resolution (ODR).

Organizations like the U.N. have a subsidiary body called the World Intellectual Property Organization (WIPO). But the saddest part is that we don't prefer these methods ordevices to resolve our issues; rather what we choose are the traditional methods. Instead of ADR and ODR, what we prefer is the slow and old conventional methods. IPR and its importance in media and entertainment It is essential to know the importance of IPR laws. The Indian entertainment industry has shown tremendous growth; it is expeted 2017 to grow even more in coming years.

Objectives of the study

1. To develop an understanding about the various areas of infringement of IPRs in Indian entertainment industry.
2. To develop a critical overview of how the violation of IPRs is adversely affecting the basic characteristic of entertainment industry, its creativity.
3. To develop an insight into various issues and challenges of IPR violations on the basis of few cases.

Research methodology

The study presents a deeper insight into various issues and challenges concerning IP rights in the Indian

media and entertainment industry. To make a detail critical study of the issue, the paperprimarily employs Secondary Data Analysis method and presents apicture of the present scenario and the widely discussed mattersand issues related to the field and how it is assuming the shape of abig problem in the Indian media and entertainment industry.As part of theSecondary Data Analysis, this paper employsCase Study Method for presenting some of the most befitting caseswhich amply demonstrate the seriousness of the issue and the variousways it is posing a big challenge to the Indianentertainment industry

Theoretical framework of Media under Constitution of India

The fourth pillar of democracy is expected to play a key role in the formulation of thoughts, opinion and ideas amongst the public by being an objective disseminator of facts and news of greatimportance. The Social Responsibility Theory is very important. It points out the social responsibilities and obligations of media. The theory stresses the fact that media should strive for achieving excellence in its deliberations and professionalism should not be sacrificed at any cost. The theory therefore aims at safeguarding theinterests of journalism and journalistic ethics, thus improving thestandard of journalism. The theory describes the important role and functions of media towards informing and educating people,enlightening the people about their rights and duties, strongly advocating social causes and criticizing unjust government decisions and policies. However, the present scenario tells us that the Indian media and entertainment industry is getting engulfed in all sorts ofcontroversies and cases of unethical conduct.

IP rights violation in the entertainment industry

No doubt, Bollywood as an industry has touched new horizons of success. The success story of Indian cinema undoubtedly revolvesaround Bollywood movies generating revenue in crores, followed by South Indian movies and some other regional movies as well.The growth in many ways has been a 360 degree development, covering all dimensions of film making. The present era has also witnessed a remarkable development in terms of movie script based on some hard social realities,thus acting as the true mirror of society. Avery good illustration of this fact is the making of some legendry and thought provoking movies like Love, Sex and Dhoka, Gangs of Wasseypur, Swades, Ankho Dekhi, D-Day, Talaash, Lunch Box, Ugly, I am Kalaam, Khosla ka Ghosala, Children of War etc. which have won great national and international accolades and have been successfulin keeping the viewers glued to the screen.These movies created space for quality content, gave a new line of thinking for the talented movie makers and provided quality entertainment to those sections of the audiences who are interested in watching “out of the box”,real life-based inspiring movies.It is actually the contribution of such movies which has held the banner of the Indian entertainment industry high adding to boththe name and the fame of Indian cinema. The names of movies like Sarabjit, Queen, Dangal and Bombay Talkies have been able to create an imprint in the

minds of cine goers. Along with the remarkable growth of Indian cinema have come issues that have proved to be athreat to these newly opened and widely appreciated new genres ofthoughts and ideas. Issues like piracy, copyright etcare still castingan evil shadow on the path of the success and popularity of cinema although laws have become stringent. Fortunately, new rules and regulations have been formulated and various organizations have emerged to keep the originality element of Indian cinema intact.

Final words

Strong cultural influence affects the Swedish Film industry, as film is a cultural expression. The director has a prominent position due to his/her work efforts and is one of the most important team members. At the same time the producer is also a key person in the film making process but is not entitled to copyright, even if he/she has influence and works closely with the director in the creative process. We think it is unfair that a person, such as the producer would not be entitled copyright according to 1§ CA solely due to his/her title. The legislation in the CA defines the author in film production to be the director, which was stated in the directive 93/98/EEG. In other words, to be entitled copyright, you must have the right title on your business card. The final cut is a director's right and the producer will have a hard time convincing the industry or legislators that final cut should be assigned to the producer. Some people are afraid that this change of owner will make the industry prioritize economical aspects more over cultural aspects. These issues are in practice often solved by the industry itself. At the moment this is providing satisfactory solutions for the corporate actors, however, we would like to express a word of warning. The Swedish industry is small with few involved companies and agreements between the parties are characterized by homogeneity and simplicity Such agreements work as long as the industry interactions are limited to a national arena. When, on the other hand, international agreements are to be concluded, these are more extensive and detailed. In these situations it is almost a requirement to use an advisor to look after the company's interests. The lack of such legal assistance is, or is about to become, a problem for the production companies in Sweden. In order to deal with these challenges, it is necessary for production companies to structure their businesses around the principles of deriving optimal value from their property. Having a structured library of agreements is necessary for control of the copyright. If the Swedish film industry does not learn how to capture intellectual properties and exploit their full value, it will be hard to survive in the international arena. One solution would be to use companies such as All Together Now in order to secure rights and handle administrative matters. Another solution would be to take on an additional staff member who is with the project from beginning to end, and who would have the necessary legal skills and ability to manage creative work. This is

necessary in order to operate in different fields because it is too expensive to employ in-house legal staff.

Conclusion

The critical analysis of facts related to the violation of IP rights by the Indian entertainment industry and the few cases cited make it clear that time has come to give a serious thought to the issue of maintaining and safeguarding the element of originality and creativity in the Indian media and entertainment industry. It is important to make optimum use of devices that help fight the cases of violation and safeguard Intellectual Property Rights. It is also been seen that lack of knowledge about IP rights is also an issue, which needs attention. There is a need to know more about IPR laws as it protects a wide spectrum of intellectual properties. All those who belong to the industry must safeguard the originality and creativity of content, raise awareness about the IP laws, discern the various forms of infringement and the modifications incorporated in the law and their implications if the industry is to remain healthy.

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"Intellectual Property Rights"- General Awareness about IPR in India

* **Ms. Poonam Gupta**

Abstract:
With the advent of the knowledge and information technology era, intellectual capital has gained substantial importance. Consequently, Intellectual Property ("IP") and rights attached thereto have become precious commodities and are being fiercely protected. In recent years, especially during the last decade, the world has witnessed an increasing number of cross-border transactions. Companies are carrying on business in several countries and selling their goods and services to entities in multiple locations across the world. Since intellectual property rights ("IPRs") are country-specific, it is imperative, in a global economy, to ascertain and analyze the nature of protection afforded to IPRs in each jurisdiction. This paper analyzes and deals with the IP law regime in India and the protections provided thereunder. There are well-established statutory, administrative, and judicial frameworks for safeguarding IPRs in India. entertainment companies and Indian conglomerates to invest in Bollywood films

Keyword: Intellectual Property Rights, Copyrights, Trademarks, Patents, Trade Related Aspects of Intellectual Property Rights (TRIPS)

Introduction:

Intellectual Property is a creation of intellect i.e the human mind. It protects what a human mind creates. It could be a research logo, invention, drawing or painting, musical compositions etc. all being the products invented from human mind. Intellectual Property Laws Provides the Owner of such Rights to exclusively use his intellectual property at his desire and also prevents others from using it without the owner's permission. There are well-established statutory, administrative, and judicial frameworks for safeguarding IPRs in India. It becomes pertinent to mention here that India has complied with its obligations under the Agreement on Trade Related Intellectual Property Rights ("TRIPS") by enacting the necessary statutes and amending the existing statues. Well-known international trademarks have been afforded protection in India in the past by the Indian courts despite the fact that these trade marks were not registered in India. Computer databases and software programs have been protected under the copyright laws in India and pursuant to this; software companies have successfully curtailed piracy through judicial intervention.

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0bjectives

1. To Understand Copyright, Patent, Trademark, Geographical indication
2. Laws relating to Copyright,Patent, Trademark, Geograhical indication.

1.2 Legislation

1. Trade Marks Act, 1999
2. The Copyright Act, 1957
3. The Patent Act, 1970 has been amended by the Amendment Acts of 1999 and 2002 and 2005.
4. The Designs Act of 1911 has been completely replaced by the Designs Act of 2000.
5. The Geographical Indications of Goods (Registration and protection) Act, 1999

1.3 Copyright

Copyright is the subject matter for national legislations. Subject matter of protection, term of protection, whether registration is mandatory or not, the rights associated with copyright and term of copyright are some of the main subjects addressed by these legislations. The key international instrument governing copyright issues is the Berne Convention for the Protection of Literary and Artistic Works, 1886. Additionally, some other important international instruments include the WIPO Copyright Treaty, 1996 and the WIPO Performers and Phonograms Treaty, 1996.

1.4 Patents

Patents are a set of exclusive rights granted by a sovereign state to an inventor. These rights are granted for a limited period of time, usually about twenty years. The granting of these rights is in return for public disclosure of the invention. Criteria for Patentability Patents protect inventions. These inventions could be either products or processes. All inventions are required to meet the criteria for patentability.

1.5 Trademark

A trademark is a recognizable symbol, sign, expression, design or the like which is used to identify and differentiate one product or service emanating from a particular source against one emanating from another source. The association of a trademark with an entity may take many forms, and could be visible on packaging, labels, advertisements, all company merchandise, etc.

Legal Aspects of Trademarks

The holder of a trademark has the benefit of rights associated with trademarks and these rights can be enforced when an action for trademark infringement is brought. It must be noted that for this, the trademark has to be registered. In cases of unregistered trademarks, remedy may have to be sort elsewhere. about the origin or quality of a product or service. The rationale of trademark law is also one of consumer protection, since it prevents the public from being misled

Trade Dress

When we talk about trade dress, we refer to the visual appearance of a product. This could be its packaging. In the case of architecture, it could be the design of a building. The principle is akin to that of trademarks, in that the source or origin of the product has to be communicated to the consumers.

Trade Secrets

When we speak of trade secrets, we speak for instance, of Coca Cola's secret recipe to manufacture their popular beverage. Trade secrets, therefore, basically refer to information, be it a formula, a program, a method, a pattern, a process or anything of the like. The rationale of keeping the same a 'secret' is to have a competitive economic advantage over one's competitors in one's trade.

Geographical Indicators

What do Champagne, Darjeeling Tea, Columbian Coffee or Swiss Cheese/Watches/Cuckoo Clocks/Chocolates have in common? They are all examples of geographical indications. A geographical indication (GI) is a sign that is used on goods and denotes the geographical origin of the said good. The qualities of that product, or the reputation and characteristics that it enjoys are attributable to the place of origin of the product ,and are represented by the GI. A GI will, more often than not, include the name of the place of the origin of the goods. Recognition of GIs is a matter of national law. In international law, the Paris Convention for the Protection of Industrial Property, 1883; the Lisbon Agreement for the Protection of Appellations of Origin and their International Registration, 1958 most notably deal with GIs.

2. Landmark Case Law on IPR

Coca-Cola Co. Vs. Bisleri International Pvt. Ltd.

[Manu/DE/2698/2009]

Facts of the Case

Bisleri International Pvt. Ltd (Defendant) is an Indian beverages company, best known for bottled water. It sold and assigned the trademark 'MAAZA' including the right to formulate, intellectual property right and goodwill attached to the mark for India to Coca-Cola.

In the year 2008, the defendant filed an application for registration of trademark 'Maaza' in Turkey, and then started exporting the mango flavoured fruit drink with the mark 'Maaza'.

Coca-Cola Co. (Plaintiff) filed a petition for permanent injunction and damages for passing-off and infringement of trademark.

Issue:

Issue before the hon'ble Delhi High Court was, whether exporting a product with the mark is considered as infringement in the exporting country.

Arguments:

It was argued on behalf of the Plaintiff that as the mark 'Maaza' with regard to Indian market was assigned to Coca-Cola, any manufacture of the product with such mark whether for sale in India or for the purpose of export would be considered as infringement.

The Defendants argued that as the product is sold in Turkey and not in India, Plaintiff's rights are not being infringed. It was further argued as the mark 'Maaza' was registered by the Defendant worldwide, can sell products with that mark anywhere on earth.

Decision:

It was held that exporting of goods from a country is considered as sale within the country from where the goods are exported and the same amounts to infringement of trademark. As the Defendant were manufacturing and exporting the product with the mark 'Maaza' from India, Delhi High Court had jurisdiction to entertain the matter. Court granted an interim injunction against Defendant from using the mark in India as well as for export market.

Novartis v. Union of India

[CIVIL APPEAL Nos. 2706-2716 OF 2013 (ARISING OUT OF SLP(C) Nos. 20539-20549 OF 2009]

IPR Law- Rejection of a patent for a Drug which was not 'inventive' or had an superior 'efficacy'- Novartis filled an application to patent one of its drugs called 'Gleevec' by covering it under the word invention mentioned in Section 3 of the Patents Act, 1970. The Supreme Court rejected their application after a 7 year long battle by giving the following reasons: Firstly there was no invention of a new drug, as a mere

discovery of an existing drug would not amount to invention. Secondly Supreme Court upheld the view that under Indian Patent Act for grant of pharmaceutical patents apart from proving the traditional tests of novelty, inventive step and application, there is a new test of enhanced therapeutic efficacy for claims that cover incremental changes to existing drugs which also Novartis's drug did not qualify. This became a landmark judgment because the court looked beyond the technicalities and into the fact that the attempt of such companies to 'evergreen' their patents and making them inaccessible at nominal rates.

Conclusion:

The Laws on IPR sometimes proves inadequate to meet the growing requirements and thus it is advised this laws should be timely amended and this amended laws should be brought in force so that it will meet the requirement and problems relating to IP could be controlled

Safeguarding Traditional Farming in the Era of IPR and GMOs

* **Ms. Remya Madan Gopal**

Abstract:
The term intellectual property or 'IP' refers to unique and value-adding creations of the human intellect resulting from human genius, creativity and inventiveness. Agricultural inputs have traditionally been safeguarded from private appropriation and investment because of the natural ability of seeds to propagate themselves. Genetically modified crops or 'GMO' have been introduced in many countries and are resulting in crops with huge yields and excellent resistance to pests. In the case of agriculture, seed companies may try to make farmers dependent on purchased seed instead of relying on replanting a portion of their own crop. These problems arise in both developed as well as developing countries but risks for abuses are much greater in developing countries. The current laws of the patent system makes it difficult for developing countries to provide protections for genetic material also makes it difficult for them to prevent multinationals from obtaining patents on this traditional knowledge and genetic material in their own countries. This review briefly touches upon this sensitive issue and discusses ways to deal with it.

Keyword: Intellectual property, IPR, agriculture, genetically modified crops.

Introduction:

The term 'IP' refers to unique and value-adding creations of the human intellect resulting from human genius, creativity and inventiveness. An IP right is based on the relevant national law encompassing that particular type of intellectual property right. Such a legal right comes into existence only when the requirements of the relevant IP law are met and, if required, it is granted or registered after following the prescribed procedure under that law. It has enabled and made it possible to harness the commercial value of the outputs of human inventiveness and creativity.1

IPR and Agriculture:

Currently people are able to enjoy the benefits of seeds and traditional medicines developed over many generations without incurring any costs. In the case of agriculture, seed companies may try to make farmers dependent on purchased seed instead of relying on replanting a portion of their own crop. These problems arise in both developed as well as developing countries but risks for abuses are much greater in developing countries.2 With the wrong set of legal framework for IPR, matters can become serious. For

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example, in some countries farmers using their own seeds which have been contaminated with the genetically modified seed can be sued. The current laws of the patent system makes it difficult for developing countries to provide protection for genetic material also makes it difficult for them to prevent multinationals from obtaining patents on this traditional knowledge and genetic material in their own countries. (for example in the case of the patenting of Indian Basmati rice in Texas.3 Although these have not yet prevented use of traditional knowledge, the fact that the system allows for such provisions suggests a weakness.

Safeguards for Research Developments in Agriculture:

Ownership of patents over various agricultural products like seeds, plants and their underlying gene sequences and varieties, is complicated by a web of IPR that governs the development, ownership and control of plant genetic resources (PGR) and biotechnological tools used in the agricultural process by institutions, organisations and international and domestic instruments. A single plant may be the subject of a large number of different types of IPR, each with a different owner, but those rights may also be subject to different rules managed by different institutions. Overlapping sets of rules for PGR ownership and use are managed by the World Trade Organisation (WTO), the FAO, the Convention on Biological Diversity (CBD) and the International Union on the Protection of New Varieties of Plants (UPOV), among other institutions.4

The natural feature of seeds to self-reproduce or propagate made it especially difficult for private investment and ownership in the field. But surprisingly, the initial private ownership of plant germplasm did not arise legally but due to technological lacunae. Hybrid corn, developed in the 1920s by public sector research, gave very high yields than natural corn varieties, but the seeds had serious reductions in yield when they were saved and replanted by farmers3.This forced farmers to buy new seeds for every harvest. This paved the way for the entry of the private sector into agricultural research to this development.

The recognition of IPR in plant materials began with the Plant Patents Act (1930) in the US, and spread quickly to Europe and other advanced countries. At the international level, plant IPR is regulated under the UPOV and TRIPS. The UPOV provides two alternative sets of rules for the protection of plant breeders' rights (PBR), one created in 1978 and a second, stricter version in 1991. A plant variety is eligible for protection under these rules if it is new, distinct from other varieties, and meets certain uniformity 5.

Globally, plant patents and PBR are being granted in greater numbers each year. However, the number of applicants is decreasing. A study indicates, for example, that 85% of transgenic corn patents and 70% of other transgenic plant patents in the US are owned by the top three seed firms, Monsanto, Syngenta and DuPont. Monsanto and BASF together own almost 50% of patents over stress-tolerant corn, soybeans, cotton and canola.

Protecting Farmers' Rights and Traditional Knowledge:

The trend towards greater protection for plant-related IPR, and the commercialisation and consolidation of agriculture that has followed, have significant food security implications. Increasing IPR protection has led to higher seed prices, threatening the economic independence of farmers putting them at increasing risk of bad debts in the face of already unstable incomes. The increasing control of agriculture by a small number of companies raises prices and restricts traditional farming practices without compensating for generations of protection and care by farmers for the biological resources on which the inventions are based. However, plant-related IPR generally make these activities unlawful. Farmers who cultivate protected seeds are regarded as licensees of that intellectual property, and can be found to infringe the underlying IPR even inadvertently.6

The importance of biodiversity to food security and sustainable development is well established. A diverse biological gene pool increases the resilience of crops to disease and natural disasters, and their adaptability to a changing climate. For a plant variety to be eligible for protection under the UPOV 1978 or 1991 rules, it must be 'uniform' in terms of reproduction or propagation, and 'stable' such that its characteristics persist after repeated reproduction or propagation (UPOV 1978 Article 6; UPOV 1991 Articles 6-9). These requirements discourage genetic diversity. Commercialised global agriculture is also increasingly focused on a small number of profitable crops: currently, only 15 crops provide 90% of the world's food energy intake, with three (rice, corn and wheat) accounting for two-thirds of this.7 But variety and biodiversity are global public goods like global knowledge. IPRs promote the advancement of global knowledge, but under current rules, at the expense of genetic diversity.

The Price of Innovation

In order to protect features that are going offpatent with those for which protection is still in effect, 'stacking' multiple protected traits within one plant variety is being practised by private companies. In 2003, ten US universities, together with several foundations and public research institutes, published an article in Science expressing concerns regarding the impact of this system on their research activities. And to illustrate the complexity arising from fragmented IPR ownership, the authors cited the example of 'Golden Rice', a strain of rice genetically enhanced with vitamin A to address the prevalence in developing countries of vitamin A deficiency, the leading cause of preventable blindness in children and a major cause of morbidity and mortality. The presence of more than 40 patents and contractual obligations on Golden Rice has limited follow-on research, in spite of a series of waivers to enable use in developing countries and for certain types of humanitarian research. Since the private sector focuses on large-scale cash crops such as corn and soybeans, this leaves the development of the subsistence and speciality crops most important to the developing world to a shrinking public sector.8 The current framework has eroded public research in several ways. As the license fees and transaction costs needed to clear rights for

follow-on research increase, the resource-constrained public sector can be priced out of certain areas of innovation. Additionally, there is increasing pressure on universities to patent their own research and license it to the private sector for commercialisation.9 This can limit the independence of public sector research, impede some avenues of investigation, lead to reductions in public funding, induce more secrecy in the research process, and constrain the open diffusion of research findings.

Conclusion:

IPR is definitely an essential socio-legal aspect of our society which protects the commercial, scientific and artistic values of a given invention, idea or creative work.But the present IPR laws have lacunae when applied to the field of agriculture and it is paramount that farmers' rights are protected and traditional ways of agriculture are not adversely affected. Technological innovation in this field should not be commercialised and it would be better if they remain in the public sector.

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Ipr And International Trading

* **Ms. Sonika G Gupta**

Abstract:
There Have Been Extraordinary Changes In Intellectual Property (Commonly Referred As IP) Law And Policy Over The Last 20 Years Many As The Result Of Their Intersection With International Trade And The Numerous International Trade Agreements Brought Into Force During This Period. The Paper Concludes The Intellectual Property Rights Will Remain A Part Of International Trade Agreement In The Future But That Global Activity In This Area Will Likely Be Characterized By Varying Standards And Improved Enforcement, Reflecting Evolution In Social , Cultural, And Political Attitudes And Deeper Understanding Of The Relationship Among Innovation, Creation And The Wider More Efficient Distribution Of The Intellectual Property.

Keyword: Intersection, Agreements, Global Activity, Varying Standards, Enforcement , Innovation , Creation.

Introduction

Intellectual Property Rights Are Extremely Important In Today's World. The Completion Of The Most Recent Round Of Gatt Negotiation Is Significant For Many Reasons ,Not Least Because " Trips" (Trade Related Intellectual Property Rights) Such As Patents, Copyrights , Trademark , Trade Secrets Have Been Accepted As An Area To Which Internationally Recognized Rules And Disciplines Apply. Protection And Enforcement Of These Rights Are Critical To Many Global Industries , Including Research Based Pharmaceuticals Whose Livelihood And Ability To Contribute To The World Depend Upon Innovation. Intellectual Property Rights (Ipr) Traditionally Have Been Matters Of National Concern. Individual Nation States Have Developed Ipr Regimes Reflecting Their Domestic Needs And Priorities .Over Time, Intellectual Property Protection And Enforcement Have Come To The Forefront As A Key International Trade Issues. Many Of The Rapid And Unprecedented Changes In Intellectual Property Law And Policy Over The Past Two Decades Are Due To Their Intersection With International Trade And The Numerous International Trade Agreements Negotiated And Brought Into Force During This Period. The Increased Activity With Respect To International Trade Agreements Is Partly The Result Of The Explosion In Cross-Border Exchanges Of Goods, Services, Capital And Knowledge.

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Literature Survey:

In Economic Theory The Restriction Free Movement Of Goods , Services , Technology , Ideas And People. In Short , Free Or Open Trade Is Considered Optimal. Imposing Intellectual Property Standards Or Other Domestic Regulations Such As Health And Safety Standards , To The Extent That They Reduce The Volume Of Trade And To Be , In Essence Anti –Competitive. Good Policy Development In Complex Areas, In Particular Those Related To Economics Is Based On Both Theory And Evidence. This Is Especially The Case With Trade Related Intellectual Property , Given The Long History Of Domestically Driven Intellectual Property Rights Development And The Dominance Of The Legal Profession In Promoting And Enforcing Its Standards As A Civil Or Criminal Matter . The Legal Perspective Focuses On The Property , Rather Than On The Policy Aspect Issue.

Types Of IPR

1. PATENTS: Patents Are Granted For Invention Of New Products & Processes. For An Invention To Be Patenable , It Must Be New," Non –Obvious" And Have A Potential Of Industrial Or Commercial Application.
2. TRADE SECRETS: A Trade Secret Is Any Type Of Valuable Information Including A " Formula , Pattern , Compilation , Program Device , Method , Technique Or Process" That Derives Independent Economic Value From Not Being Generally Known Or Readily Ascertainable And Is Subject To Reasonable Efforts By The Owner To Maintain Its Secrecy.
3. TRADEMARKS: A Trademark Permit The Seller To Use A Distinctive Name, Mark Or Symbol To Identify And Market A Product Service Or Company . Trade Mark Allows Quick Identification Of The Seller's Product And For Good Or Ill , Can Become An Indicator Of A Product's Quality .
4. COUNTERFEITING: An Imitation Of A Product Is Referred To As " Counterfeit" Products Are Manufactured , Marketed And Distributed With The Appearance Of Being The Genuine Manufacturer.

Importance Of Ipr In Internationaltrade

1 . **Incentive For Innovation :**

Patents Provide An Incentive To Technological Innovation, Which Is The Key Factor In Trade Competitiveness.

2. **Provides Technological And Market Information :**

   Patent Documents Provide Unique Technical Information That Can Be Invaluable To Both Industrial Researchers And Industrial Policy Makers.

3. **Protects Domestic Market**

   Patents Protects Domestic Markets Against Foreign Competitors.

4. **Provides Internatonal License Fee Income**

   The Level Of International Transactions In Royalties And Fees Demonstrates The Value Of Patents And Trademarks To Trade

Conclusions:

The Provisions Of The Trip's Relating To The Subject Matter Of Patents Must Be Literally Interpreted And thereby Provides The Member States The Certain Amount Of Liberty In Respect Of Inventions For Which Patents May Be Granted. The Trip's Agreement Directly Or Indirectly Allows Non - State Entities Especially Multinational Companies To Control The Production , Supply , Distribution Of Food And Medicines Which May Adversely Affect The Interests Of The Developing And The Least Developed Nations .

It Is Believed That The Ongoing Process of Harmonization of Patent Law Having Its Virtues In Developing Uniform Standards Of Patentability And Patent Procedures Throughout The World. Increasingly , health , education , heritage and the global commons, including environmental considerations are concern in the context of changing demographics and shifting public opinion . New ways to involve broad publics through consultations , round tables , discussion , focus groups and social media will enhance and at times , perhaps overtake legislative options.

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Intellectual Property Rights and Entertainment Media Industry of India: An Overview

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Abstract:
Artistic Works like Films, Music, Sound Recordings, Choreography, Script, Screenplay, none of these could fetch remuneration for their creators without copyrights. Since their access must be given to a large number. UNESCO, WTO, WIPO, therefore work in seeking the right balance between the interests of the artist and those of the general public. The certain new techniques try and invade the private space of an artist's work which threaten this equilibrium. This paper presents an overview of the current scenario of music and film piracy in India.

Keyword: Arbitration, IP, Piracy, Settlement, ODR

Objectives of the study

1. To develop an understanding about the various areas of infringement of IPRs in Indian entertainment industry.
2. To develop a critical overview of how the violation of IPRs is adversely affecting the basic characteristic of entertainment industry, its creativity.
3. To develop an insight into various issues and challenges of IPR violations on the basis of few cases.

Research Methodology

The study presents a deeper insight into various issues and challenges concerning IP rights in the Indian media and entertainment industry. To make a detail critical study of the issue, the paper primarily employs Secondary Data Analysis method and presents a picture of the present scenario and the widely discussed matters and issues related to the field and how it is assuming the shape of a big problem in the Indian media and entertainment industry. As part of the Secondary Data Analysis, this paper employs Case Study Method for presenting some of the most befitting cases which amply demonstrate the seriousness of the issue and the various ways it is posing a big challenge to the Indian entertainment industry.

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Introduction

One Industry that never sleeps is The Indian media and entertainment industry. It has content generation, number of outlets and employment of advance technology. However, when we talk of content generation and its delivery how much are the contents original and how much can we be sure that the principles and regulations of the Intellectual Property Rights (IPR) have been adhered to in its making. Every industry that is dependent on copyright protection, especially films and movies, is facing tremendous losses due to optical disc piracy. If, as a country, we are not able to protect such media- which is in fact the fourth largest contributor to our GDP, we are pushing the country into economic jeopardy. Thus, the major development in this industry is hindered due to piracy.

Amidst this chaos, IP rights comes as a major safeguard against any such kind of infringement of the originality, authenticity and the creativity of the creators, providing recognition to the talents of the creators and ensuring the dissemination of original and genuine work among the masses

According to IBEF Report generated in April, 2017, the media and entertainment industry stands as an important segment of Indian economy and is estimated to grow at a CAGR of 14.3% to touch Rs 2.26 trillion by 2020. On one hand, we see a tremendous growth of the Indian media and entertainment industry whereas the issue of its adherence to legal and ethical norms tags along the other hand.

The Indian media and entertainment industry often faces many legal challenges; violation of IP rights, cyber laws, copyright and trademark laws are the prominent amongst them. Dispute Resolution becomes quite a tricky affair for all the stakeholders, more so in Entertainment Industry, because the slug in the promotion of a movie affects tge interests of the viewers. It's therefore time that we replace the obsolete methods with the newer laws. For instance, the United Nations Commission on International Trade Law(UNCITRAL) has adopted on the UNICITRAL Model Law on International Commercial Arbitration in 1985. India is also a party to this Law.

Arbitration

Alternative dispute resolution allows the parties to opt for arbitration, instead of court. Under arbitration, the parties agree to resolve any grievance, dispute or conflict through an appointment of an independent third person. This ensures the following a) Confidentiality of the Proceedings b) Retain amiable relationship c) higher scope of settlement d) protects brand name e) cost effective and most importantly f) a very flexible procedure. Therefore, such legal referee would aid settlement on all the

matters related to Intellectual Property issues like trademark, copyright, patent, design as well as online defamation, unauthorised use of brand name, etc.

Crowd sourcing or Citizen Journalism has been on a noticeably rising trend owing to the platform provided by Social Media and Internet. This growth has also seen an increase in violation of IP rights, infringement of copyright and disputes over ownership of content despite the existence of the Digital Millennium Copyright Act since 1998.Even though we have a strong judicial system as our backbone, the legal framework needs improvement and modification. Legal concerns and issues of the Indian media and entertainment industry are too diverse and various forms of violation of IP rights often remain a major point of debate and discussion.

Intellectual Property Rights (IPRs), Cyber laws and IPRs laws like copyright, trademark etc. pose a challenge to the Indian entertainment industry. The industry must keep in mind mandates like “cyber due diligence” and other provisions of Information Technology Act, 2000.A majority of disputes in the industry pertains to Intellectual Property Rights (IPRs) and its violation. Such violations are the negative aspect of the functioning of the Indian media industry and further add to its dysfunction. As part of the Asian entertainment industry, India has many instruments to solve these disputes like Alternative Dispute Resolution (ADR) or Online Dispute Resolution (ODR). Organizations like the U.N. have a subsidiary body called the World Intellectual Property Organization (WIPO).

IPR and its importance in media and entertainment It is essential to know the importance of IPR laws. The Indian entertainment industry has shown tremendous growth; it is expected to grow even more in coming years. The major reason behind this growth is undoubtedly the creativity in content, like it is quite often said that “Content is the King”. The whole entertainment industry is based on this element of creativity for which it can feel proud. Hence, it is very important to keep intact and uphold this element of creativity which forms the basis of functioning of the entertainment industry. This is where IPR laws become all the more important as the sole guardian of one's indigenous and creative work, so that the entertainment industry can function smoothly and the artists can get the due credit and recognition for their original piece of work

It is only when such laws or judicial mechanism exist in the society and they are actively enforced that a creative mind is free to unleash its imagination and to bring out a masterpiece of creative art. Indian films have always acted like torch bearers while showcasing various social concerns and issues and trying to garner popular support. However, it becomes essential that there should be certain strong laws to

safeguard the originality and creativity of the makers and in that case the protection of IP rights assume tremendous importance. Currently, the Ministry of Information and Broadcasting is planning to set up a 'Copyright Board' which will ensure firm implementation of intellectual property rights laws in the Indian entertainment industry, especially the film industry. It has already started discussions with the Ministry of Commerce and Industry to work out modalities for the new board.

Media, the fourth pillar of democracy, is expected to play a key role in the formulation of thoughts, opinion and ideas amongst the public by being an objective disseminator of facts and news of great importance. The Social Responsibility Theory is very important. It points out the social responsibilities and obligations of media. The theory stresses the fact that media should strive for achieving excellence in its deliberations and professionalism should not be sacrificed at any cost. The theory therefore aims at safeguarding the interests of journalism and journalistic ethics, thus improving the standard of journalism. The theory describes the important role and functions of media towards informing and educating people, enlightening the people about their rights and duties, strongly advocating social causes and criticizing unjust government decisions and policies. However, the present scenario tells us that the Indian media and entertainment industry is getting engulfed in all sorts of controversies and cases of unethical conduct.

The Indian film industry (Bollywood) artists have often been accused of violating IP rights in various ways. In such circumstances how can we expect the media to play an ethical role and to truly act as tools of information dissemination, creators of original knowledge or piece of creative art? Indian media has quite often been accused of violating many laws and regulations of the land and copyright has been one such area where Indian artists have always been accused of infringement, raising serious concerns over the issue of protection of IP rights. Increasing number of cases of violation of IP rights by members of the Indian film industry has made us think as to whether the media professionals are aware of the Social Responsibility Theory. The reality is that members of the entertainment industry instead of setting standards are getting trapped in legal battles and controversies. Various incidents of unlicensed copying of movies by the film industry have put a question mark on the originality of the contents in Indian films and also the moral conscience of the film fraternity members. The cases of infringement of IP rights by the Indian entertainment industry question its obligations towards society and its adherence to the Social Responsibility Theory.

IP rights violation in the entertainment industry No doubt, Bollywood as an industry has touched new horizons of success. The success story of Indian cinema undoubtedly revolves around Bollywood movies generating revenue in crores, followed by South Indian movies and some other regional movies as well.

The growth in many ways has been a 360 degree development, covering all dimensions of film making. The present era has also witnessed a remarkable development in terms of movie script based on some hard social realities, thus acting as the true mirror of society. A very good illustration of this fact is the making of some legendry and thought provoking movies like Love, Sex and Dhoka, Gangs of Wasseypur, Masaan, Guzarish, Swades, Ankho Dekhi, D-Day, Talaash, Lunch Box, Ugly, I am Kalaam, Khosla ka Ghosala, Children of War etc which have won great national and international accolades and have been successful in keeping the viewers glued to the screen. These movies created space for quality content, gave a new line of thinking for the talented movie makers and provided quality entertainment to those sections of the audiences who are interested in watching "out of the box", real life-based inspiring movies.

It is actually the contribution of such movies which has held the banner of the Indian entertainment industry high adding to both the name and the fame of Indian cinema. The names of movies like Sarabjit, Queen, Dangal and Bombay Talkies have been able to create an imprint in the minds of cine goers. Along with the remarkable growth of Indian cinema have come issues that have proved to be a threat to these newly opened and widely appreciated new genres of thoughts and ideas. Issues like piracy, copyright etcare still casting an evil shadow on the path of the success and popularity of cinema although laws have become stringent. Fortunately, new rules and regulations have beenformulated and various organizations have emerged to keep the originality element of Indian cinema intact

Cases of IP rights violation

Case 1: "Jai Ho"- Do Song Enjoy Trademark Protection ?

Sohail Khan's movie titled Jai Ho has landed itself in the middle of a legal controversy for trademark infringement. The title "Jai Ho" is also the title for the hugely popular A.R. Rehman song "Jai Ho" from the movie Slumdog Millionaire which helped him fetch an Oscar, also for which Mr. Rahman has trademark protection.

Case 2 : Kunal Kohli vs Jyoti Kapoor

Kunal Kohli ,who is well known for making some excellent films like "Faana" and "Hum Tum", recently faced allegation against his movie "Phir Se" for which he finally had no other choice but go for an arbitrary settlement. The movie was his debut movie as an actor. It was alleged that the original story and script belonged to Jyoti Kapoor, and the story of the movie was copied from her script.

The charges levelled against Kunal Kohli were of a very serious nature. According to Kapoor, in 2010 she

had written a script for the movie titled 'R.S.V.P' and registered it with the Film Writers Association. In 2013, she met director-producer Kunal Kohli who showed interest in her script. However, the two could not arrive at an agreement following which Kapoor approached another production house which agreed to make a film on her script. In 2014, Kapoor came across newspaper articles about Kunal Kohli launching a new film 'Phir Se'. From the articles and Kohli's interviews, Kapoor realised that Kohli had used her original screenplay. Kapoor lodged a complaint with the FWA and Indian Motion Pictures Producers Association (IMPPA) and also issued a notice to Kohli. The consequences of the allegation were so severe that in November 2014, a Joint Dispute Settlement Committee of IMPPA issued notice to Kohli directing him to stop shooting of the movie 'Phir Se' till the matter was resolved.

The story of the movie was allegedly plagiarized. Jyoti Kapoor had filed a case saying that “Theatre manager had e-mailed her a 90- page bound script sent to Kunal after which he wanted to buy it. However, negotiations did not work out and the next thing I know is the striking similarity in the script I submitted and the film he announced.”

The High Court had issued an interim stay order on the release of the movie after allegations levelled by Jyoti Kapoor regarding similarities in the script of two movies, “Phir Se” and “RSVP, but the final loss was in terms of the image of some recognized people who represented the Indian film fraternity which is otherwise known for its element of creativity and talent.

The matter was resolved in an out-of-court settlement after Jyoti decided not to fight with her 'family', as they all belong to the same film fraternity. It is said that even after receiving the notice from IMPPA, Kunal didn't stop the film shooting. Seeing this, Jyoti Kapoor approached the Bombay High Court and filed a case against “Bombay Film Company”, the production houses of the movie. There was also a new angle to the controversy as the defendant stated that many elements in the movie did not resemble R.S.V.P., such as the setting, the treatment of the story and the climax. There were further claims that R.S.V.P. isn't unique or novel, but the court went through her script and concluded that it can be appropriately termed as a novel.

The movie violated the IPR laws for copyright; in simple terms, the script or screenplay was stolen or copied. Unfortunately after a long legal battle, Kunal failed to prove that his screenplay was original. As a result of which the Bombay High Court asked him to go for a settlement. It was only after almost two months after writer Jyoti Kapoor secured an interim stay on Kunal Kohli's upcoming film 'Phir Se' over plagiarism charges that the Bombay High Court gave the green signal to the movie to be screened in

theatres. But bad luck followed as the movie couldn't reach the theatre screens.

Case 3:1.5 Crore Knock Out

A Case continuing since 2010, is the one where 20th Century Fox filed a suit against Sohail Maklai, an Indian producer of the film “Knock Out” . it was alleged that Indian producers had infringed Fox's copyright in the script for the movie “Phone Booth”. Plaintiff contended that, in its script, a person gets trapped in a phone booth in a hostage situation and comes clean about his extra-marital affair and in the Defendant's film, a person is trapped in a phone boot but the movie revolves around politicians. The Defendant argued that the copyright cannot be claimed over an idea of the film .The Single judge of HighCourt granted the interim injunction . later, it was vacated by a Division becnch of High Court. The Court recorded that the suit was being disposed in terms of the 'Minutes of the Order' submitted to the court by both the parties. The case which was lying low for couple of years happened to be a landmark Case, making history when the court awarded 1.5 crore as compensation to 20th Century Fox.

Pritam Chakraborty vs Iranian Music Band

Another very popular case relates to the Indian music industry where the music was stolen, rather used without permission of its creator. It concerns a famous Bollywood music director Pritam Chakraborty is surprising that when creativity is given freedom and judicial system remains unbiased such issues do occur.

Unfortunately, the industry is full of many such cases of plagiarism. Although shameful, the truth is quite bitter and difficult to be accepted. It is not just one such case but quite a few, including cases related to plagiarizing of music, story etc.

No doubt, music director Pritam Chakroborty's tremendously melodious compositions are remarkable, but his name also figures when it comes to the issue of music plagiarism. According to reports, during the pre-production of the movie “Action-Replay”, the director Vipul Shah was extra cautious and had made Pritam sign an “anti-plagiarism indemnity”. In Vipul Shah's words: “I have taken a written indemnity from our music composer Pritam that not a single song in Action Replay is a copy. How will I know if he takes something from a Chinese, Taiwanese or Syrian song?”

“Agent Vinod” was a movie directed by Sriram Raghavanand, released in 2012. The movie had a very famous song called “Pungibaja” sung by Mika Singh. Soon after the release of the song, the music director

Pritam got entangled in copyright violation issues under IPR laws. He was alleged to have copied the song from an Iranian music band named Barobax Corp, founded in 2003. The company issued legal notice to Pritam and the production house of the film. The music was discovered to be a copy of the title track of an album created by three Iranian nationals named Kashayar Haghgoo, Kevian Haghgoo and Hamid Farouzmand in 2010.

On 12th March, 2012, the band came across the promotion of the movie 'Agent Vinod' on their satellite television in Iran where the song 'Pungi Baja De' was being aired. On listening to the song, the band realized that the initial portion of the song was copied without any change from the title song of their album. Since their song 'Soosan Khanoom' was registered under the Copyright Act in Canada on June 30th 2010, it couldn't be used without the permission of the band. The band learned about Indian copyright infringement laws and filled a case against Pritam in an Indian court. The High Court sent a notice to Pritam Chakroborty and Eros Internationals Pvt. Ltd, Illuminate Films Pvt. Ltd, and Shree Castle's Pvt. Ltd. The notice stated: “We demand that the music director, producers and directors refrain from releasing the song in the movie or use it to promote the movie. Failing to do so, the band shall be compelled to initiate proceedings to seek a restraining order and necessary compensation.”

Conclusion

The critical analysis of facts related to the violation of IP right by the Indian entertainment industry and the few cases cited make it clear that time has come to give a serious thought to the issue of maintaining and safeguarding the element of originality and creativity in the Indian media and entertainment industry. It is important to make optimum use of devices that help fight the cases of violation and safeguard Intellectual Property Rights.

It is also been seen that lack of knowledge about IP rights is also an issue, which needs attention. There is a need to know more about IPR laws as it protects a wide spectrum of intellectual properties. All those who belong to the industry must safeguard the originality and creativity of content, raise awareness about the IP laws, discern the various forms of infringement and the modifications incorporated in the law and their implications if the industry is to remain healthy.

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Intellectual Property as Trademark is help for economic development in India

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Abstract:
intellectual property is a category of property that includes intangible creations of the human intellect, and primary encompasses copyrights, patents and trademarks. A trademark is one types of intellectual property. Industrial property includes patents for invention, industrial, designs and geographical indications. Trademarks help for commercial value. Trademarks and related intellectual property encourage vibrant competition for the benefit of consumers, workers, brand owners and society at large. Trademarks promote freedom of choice. Trademark provides unique identity to a product and domain names (internet resource locators).

Keyword: intangible creation, invention, industrial designs, geographical indications, commercial value, benefit of consumers, workers, brand owners, freedom of choice, unique identity .

Introduction; Trademarks already existed in the ancient world. . The first trademark legislation was passed by the Parliament of England under the reign of King Henry III in 1266, which required all bakers to use a distinctive mark for the bread they sold. The Trade marks Act 1999 came into force with effect from 15-09-2003. Section 2 (1) (2b) “Trade mark means a mark capable of being represented graphically and which is capable of distinguishing the goods or service of one persons from those of others and may include shape of goods, their packaging and combination of colures. Trademark is primary rights of intellectual property , trademark, is a recognizable sign, design, or expression which identifies products or services of a particular source from those of others, although trademarks used to identify services are usually called service marks. The trademark owner can be an individual, business organization, or any legal entity. A trademark may be located on a package, a label, a voucher, or on the product itself. For the sake of corporate identity, trademarks are often displayed on company buildings. A trademark is any sign that individualizes the goods of a given enterprise and distinguishes them from the goods of its competitors." The trademark can, by its acquired reputation, become a valuable piece of property for the owner, allowing him to license or franchise it or to make other commercial use of it.

Objectives

1. To understand that why trademarks is important.
2. Trademarks are to confer the protection to the user of the trademark on his goods and prescribe

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conditions on acquisition, and legal remedies for enforcement of trademark rights.

3. To understand the legal meaning of trademark in India.
4. To acquire knowledge about scope of trademarks.

Literature review:

The trademark can, by its acquired reputation, become a valuable piece of property for the owner, allowing him to license or franchise it or to make other commercial use of it Protection against unfair competition, counterfeiting and piracy. Trademarks started to play an important role with industrialization and they have since become a key factor in the modern world of international trade and market oriented economics. Trademark is one of the areas of intellectual property and its purpose is to protect the mark of the product or that of a service. Hence a trademark is defined as a mark capable of being represented graphically and which is capable of distinguishing the goods and services of one person from those of others and may include shape of goods, their packaging and combination of colours ,they include a device ,brand, heading ,label ticket ,name ,signature, word ,letter ,numeral ,shape of goods, packaging or combination of colours or any combination thereof. Registration of trademark is not mandatory but in the present day scenario there is increasing infringement and a lot of cases are challenged so it is advisable to register Trademarks. There is also a need for trademarks to be globally protected. This is said because most have regional or local name brands and most constantly push these weak names while struggling to get global clearance. A Trademark generally refers to brand and logo. For example Amul is brand name and that girl which is in picture is logo of it.

These pictures are help to explain logo, slogan, and brand name of product which is related to trademarks.

Procedural aspects of trademarks related issues are

1. Registration of Trademarks
2. Infringement of Trademarks
3. Passing off and
4. Assignment and Transmission of Trade marks

To understand the scope of trade mark, it is imperative to know the different types of marks. Hence, the details of different marks are explained. A Mark includes a device, brand, heading, label, ticket, name, signature, word, letter, numerals, shape of good, packing or combination of colours or any combination thereof. Hence, it is imperative to know different types of marks in existence in modern business.

1. **Device** is a mark, which refers to any pictorial representation, which does not come under any other category, Objects like animal, birds, landscape building, etc., falls within this category.

Macdonald's double arches, Apple Computer's bitten apple and NBC's Peacock are some of the examples of logos that have become trademarks.

2. **Brand** refers to those kinds of marks which are branded on the goods or services. It implies that the symbols themselves constitute the trade mark. Example: Cycle brand Agarbathis 11, P & G etc.
3. **Label** It refers to a composite mark containing various devices, words and descriptive expressions, usually printed on paper, which can be pasted or attached to the goods themselves or their containers.
4. **Ticket** It appears to be something stitched or tagged on the goods and containing the mark printed or pasted thereon. Example: Mark, Crocodile, Fast Track etc.,
5. **Name** It refers to the name of a company, individual or firm. It includes an abbreviation of a name and also word, letter. Example: TATA
6. **Shape** of goods and package including case, box and container etc., does form a trade mark. Example: Shape of the coco cola bottle called the contour bottle.
7. **Letter** as mark is the identity created out of letterforms and has its inbuilt strength of individuality. The letter forms have been very useful elements for designers to work with and develop a successful mark. Some popular examples of letter marks as trademarks are IBM, GM, etc.,
8. **Numerals** can be registered as trade mark upon evidence of uses example 555 for cigarettes and 501 for bar soaps.
9. **Symbol** may take the shape of brands or logos. A logo is a visual depiction of a manufacturer or a company and gives an identity to it. Presently logos are identified by consumers as symbols that belong to a particular company and representing quality, elegance etc., Some popular examples are BMW, Maruthi, Jupiter Benz etc.,
10. **Colour** Combination of colures can be considered as a trade mark. Colour has been held to be registrable and hence protectable, Example: Coco cola, Fanta and Fruit juice drink.
11. **Sound** Tracks as Trade mark A sequence of musical notes was registered in the name of “National Broadcasting Corporation for its services of broadcasting. Famous “TARZAN YELL” was registered by the Edgar Rice Burroughs, Inc. The “Roar of the Lion” sound has been registered by the MGM Pictures, Britannia Biscuit, and Ting Ting Ti Ting. The hoo-hoo of the Pillsbury Doughboy, Musical notes of A.R. Rahman for Airtel Musical song used in Kingfisher advertisement, the mwoosa for milky bar. The sound trademarks are becoming popular, as sound signatures do not need translation

Different types of trademarks in India

There are several forms of a trademark based on their characteristics and features, the major division of trademark types are done based on their categories. However, in India, a product mark, service mark, collective mark, certification mark, shape mark, pattern mark and sound mark can be registered as a trademark. The purpose of the trademark is the same, irrespective of its type. It allows the consumers to distinguish the source of the product/service and assures the quality of the product or service. The basic purpose of all these trademarks is to help customers identify origin and quality of the underlying products or services.

1. **Product mark;** It is used to identify the source of a product and to distinguish a manufacturer's products from others. On the whole, a trademark is an important means to protect the goodwill and reputation of a Business. For example Pepsi®, Maggi®, PHILIPS®, Patanjali®, Nestle®, Amul® etc.

2. **Service Mark**; The Service marks have their particular symbol which is SM and not TM. There is a very thin line of difference between other trademark and service mark so many companies end up having both. For example is McDonald's, which is a service mark for restaurant services.

3. **Collective Mark;** The Collective marks are used by the members to identify themselves with the level of quality or accuracy, also geographical origin or other characteristics set by the organization they are related with. Examples are like "CA" device is used by the members who fall under Institute of Chartered Accountants; another example is "CPA" which denotes members of the Society of Certified Public Accountants

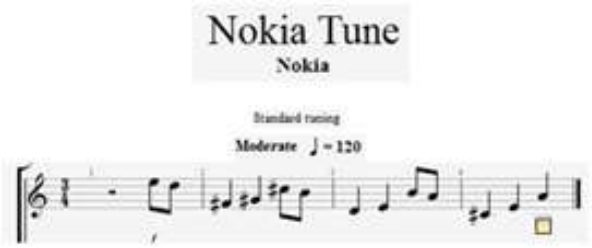
4. **Certification Mark:** The certification mark is created to show the standard of a company i.e. it is to show that a trader's goods or services are certified as meeting particular standards. The issue of certification mark states that the product has successfully passed a test that further says about a certain standard that is reached by the product. Woolmark, which is certified for the fabrics on clothing, Agmark, and ISI. Food products, Toys, Cosmetics, Electrical goods, etc. have such marking that specifies the safety and the quality of the product


5. **Shape marks:** Shape Mark has facilitated promotion of products and emerged into the trademark type after the technological advancement of graphics. Any graphical representation which is able to make a difference amongst the products can be shape marked. For example



6. **Pattern Mark:** These are the marks consisting of a pattern which is capable of identifying the goods or services as originating from a particular undertaking and thus distinguishing it from those of other undertakings. Such goods/services are registrable as Pattern Marks. For example;

7. **Sound Mark:** A sound mark is a trademark where a particular sound does the function of uniquely identifying the origin of a product or a service. In the case of sound marks, a certain sound is associated with a company or its product or services – for example, the MGM's roar of a lion.



Importance of trademarks

1. Trademarks enable consumers to make quick, confident and safe purchasing decisions.
2. Trademarks never expire.
3. Trademarks promote freedom of choice.
4. Trademarks are a bargain to obtain
5. Trademarks and related intellectual property encourage vibrant competition for the benefit of consumers, workers, brand owners and society at large.
6. Trademarks are an effective communication tool.
7. Trademarks make it easy for customers to find you.
8. Trademarks allow businesses to effectively utilize the Internet and social media.
9. Trademarks are a valuable asset.

Registration of trademarks

Trademark applications can be filed online by IndiaFilings.comor a trademark agent or lawyer. A trademark registration application must contain the following information:

1. Logo or the Trademark.
2. Name and address of the trademark owner.
3. Classification or Trademark Class.
4. Trademark used since date.
5. Description of the goods or services.

The ® symbol, can be used only once the trademark is registered and the registration certificate is issued. Also, you may use the registration symbol only in connection with the goods and/or services in respect of which the trademark is registered.

Role of trade mark

The good trademarks are associated with quality, security and sense of belonging in the minds of the consumers for that product. Few trade names like those of TATA, GODREJ, PARLEY'S, BRITAINIYA, LG, HINDUSTAN UNILIVER, AMUL embody the goodwill of the company and institution they represent. Trade mark is a legally protected valuable marketing tool for product differentiation and presence of a lot of trade marks in the market also signifies the freedom of choice to consumers. Hence, in today's competitive markets, the importance of trade mark as valuable intellectual property cannot be ignored. A registered trade mark gives the legal right to use, license or sell it within the territory, country or region from the goods and service for which it is registered

Conclusion

Patents, designs, copy right and trademarks are industrial property used in some and also apply termed as intellectual property, since they are the product of purely intellectual effort of pioneering businessmen. Now a day trademarks is very important for developing countries because its help to protect and give security to the consumer as well as producers. Indian applicants lead in the matter of trademark applications and not patents. The number of new drug applications filed by Indian companies with USFDA, for instance, has never crossed the single digit figure.

However, in the sphere of trademarks, out of the 1,79,317 applications in 2010–11, the class consisting of “medicinal, pharmaceuticals, veterinary and sanitary substances” accounted for 31,634 trademarks, representing 17.64%. Analysis shows that the number of Indian design patent assignees was as small as 271.33% of design patents were for jewellery and ornaments. Trademark is giving protection and security for quality of goods that why people attract for product because of brand name. Trademarks help to create higher demand of product, peoples they attract by slogan, logo, and pattern. So it helps to increase supply of product with higher employment level.

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A study on awareness of Copyrights vis-à-vis Plagiarism among under graduate students

* **Prof. Hardeep kaur Bhanga**

Introduction

In this fast pace digital era where information is available in Micro-seconds coupled with access of internet facility to most especially student fraternity, it is not surprising if students rely on ready-made assignments &/or projects instead of giving a kick start to their brains. Downloading or copy paste is the option and easier way for timely completion of assignments &/or projects. In this whole scenario students are often unaware about the ethical and legal issues involved. Students hardly give anytime to a thought that their actions may lead to plagiarism or infringement of copyrights. This creates serious menace to original creative works. The consequences not only causes reputational and monetary losses to the original author but students also fail to learn study skills and this may lead to problems later on in their career. The researcher through this paper tries to understand the level of awareness about copyright & plagiarism among under graduate students.

Review of Literature

In the educational field, one of the main grave harm is the breach of copyright. There are two major areas possible in this regard. Those include plagiarism in assignments, projects and presentations. In various cases, students in the same class may copy assignments from each other. They may also get their assignments from outside free resources, especially the Internet. In a number of places, local companies may offer helping students partially or completely in those projects. The Internet also includes numerous websites in which students can submit their projects and get assistance from experts through the web. In a few cases, this may be obtainable for monetary compensation, or it can be offered as part of blogs or websites of experts for free .

The expression of original ideas is considered intellectual property, and is protected by copyright laws, just like original inventions. Almost all forms of expression fall under copyright protection as long as they are recorded in some media (such as a book or a computer file) .

*

There are various times when the reproduction of a particular work may be considered fair, such as criticism, comment, news reporting, teaching, scholarship, and research. However, under certain circumstances, using parts of copyrighted works is considered “fair use,” and is allowable under the law .

Plagiarism could be avoided if teachers employ tactics to prevent it, such as teaching their students proper citation methods .

In this era of information technology, the Internet has brought remarkable changes to the academic world. The Internet has had a radical effect on the conception, organization, accession, and propagation of information. More and more students are turning to the Internet for ready solutions and shortcuts for lettering assignments, projects and presentations .

The chance to plagiarize from books and journals in written assignments & projects has always existed but the widespread improvement and use of the Internet as a source of learning materials has enabled students to download and plagiarize information much more easily .

A study investigated four dimensions - awareness about plagiarism, knowledge on academic referencing, intent and extent in committing plagiarism as contributing factors towards plagiarism. The findings provide some sociological insights for better understanding of the problem among students in universities .

Plagiarists are referred to as “thieves” or “criminals,” and plagiarism as a “crime,” “stealing,” “robbery,” “piracy,” or “larceny.” Even some dictionaries define plagiarism as “literary theft” —a definition that is consistent with the term's etymological origin, the Latin word plagium (which, at Roman law, referred to the stealing of a slave or child)

Objective

1) To understand the level of awareness of copyrights & plagiarism among under graduate students.
2) To understand and highlight difference &/similarities between copyrights & plagiarism.

Methodology

The Researcher has collected data from both primary and secondary sources.

I) Primary Data – Following tools are used to collect the primary data:
   a) Questionnaire - Primary data is to be collected by well designed questionnaire filled up by under graduate students
   b) Interview and discussions - Interview technique is to be used for collection of data from under graduate students.

ii) Secondary Data – Secondary sources of data relevant to the study will be collected from following sources:

a) Published Sources - Books, Periodicals, Magazines, and Newspapers etc.

b) Internet - Websites of various research journals.

Differences & Similarities

Copyrights

Copyright literally implies right to copy. Copyright is a unique kind of intellectual property. The right which a person acquires in a work, which is the result of his intellectual labour, is called copyright. It is an incorporeal right, being the exclusive privilege of printing, reprinting, selling and publishing his own original work, which the law allows an author .

Plagiarism

The word 'Plagiarism' comes from Latin word 'plagiare' which means 'to kidnap' or 'to abduct'. According to Oxford Dictionary, Plagiarism can be defined as taking someone else's work or pretending it to be your own work.

Literary Works

Literary work as defined under Section 2(o) of Indian Copyright Act, 1957 includes computer programmes, tables and compilations including computer [databases].

Copyrights Act, 1957

Section 51 of Indian Copyright Act, 1957 deals with acts which constitute infringement of Copyright whereas Section 52 of the same Act, 1957 lays down certain exceptions to infringement of Copyright. Sub-section (a) of Section 52 of the said Act permits a fair dealing with a literary, dramatic, musical or artistic work not being a computer programme, for the purposes of private use including research and criticism or review, whether of that work or any other work.

Further under Sub-section (h) of the same Section the Statute permits the reproduction of a literary, dramatic, musical or artistic work by a teacher or a pupil in the course of instruction; or as part of the questions to be answered in an examination; or in answers to such questions. At the outset it seems that these statutory exceptions clearly make borrowing of copyrighted material for ones study or research an act not constituting infringement. Here, arises a question of Plagiarism? Whether or not it is Plagiarism, as the Copyright Act is silent about Plagiarism and does not even define it.

The following acts shall not constitute an infringement of copyright, namely:-

(a) a fair dealing with a literary, dramatic, musical or artistic work [not being a computer programme,] for the purposes of-

(i) private use, including research;

(ii) criticism or review, whether of that work or of any other work;

Further under the clause (h) of sub-section (1) of the same section provides that the reproduction of a literary, dramatic, musical or artistic work-

(i) by a teacher or a pupil in the course of instruction; or

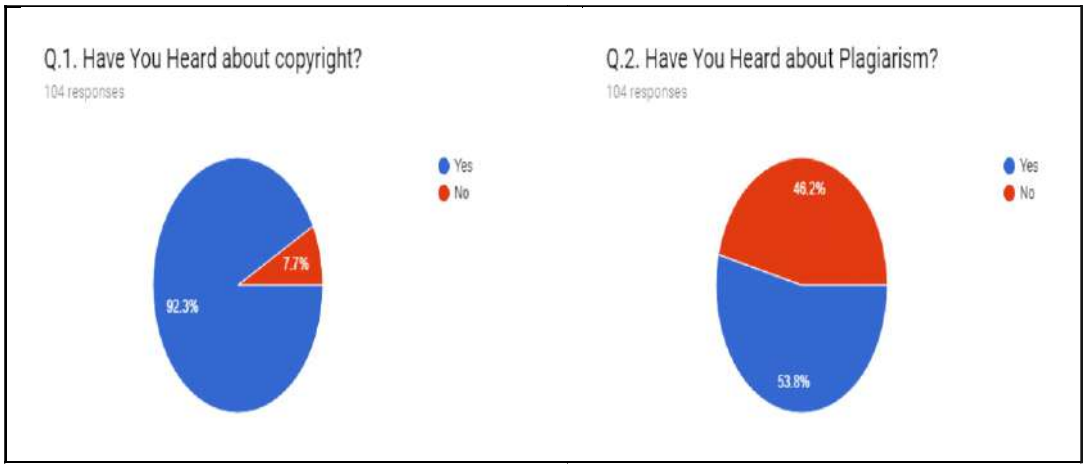
(ii) as part of the questions to be answered in an examination; or

(iii) in answers to such questions;

In the light of above exceptions & act of fair dealing students may not be infringing copyrights in completion of their assignments, projects & presentation but may be plagiarizing content of others knowingly or unknowingly.

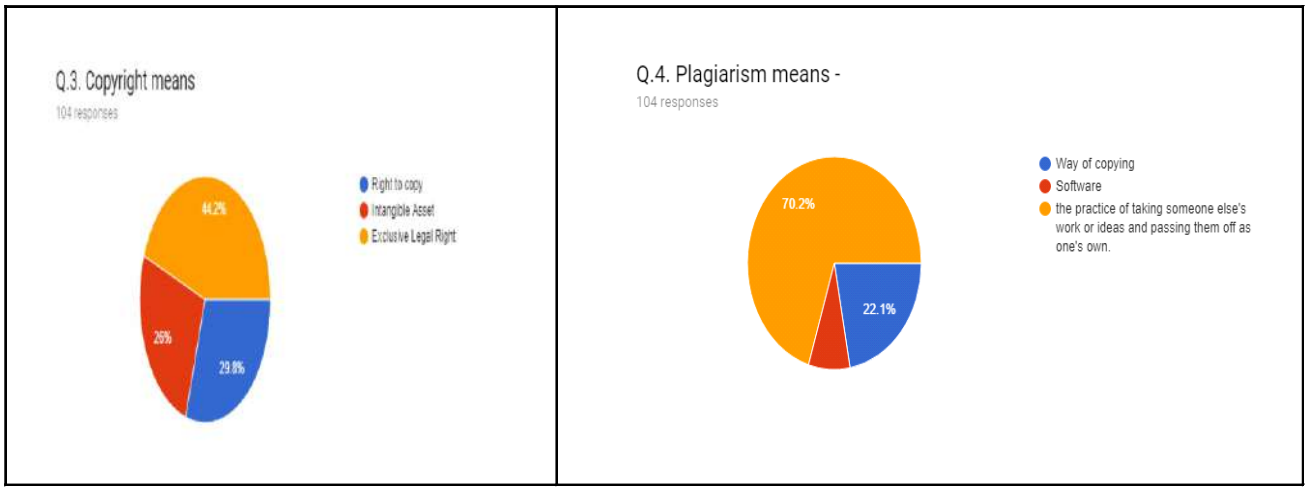
Data Analysis & Interpretation

Majority of the respondents i.e. 92.3% have heard about copyrights & 7.7% never heard about it. In contrast only 53.8% heard about plagiarism & 46.2% did not. This shows a copyright is well heard of in comparison to plagiarism.

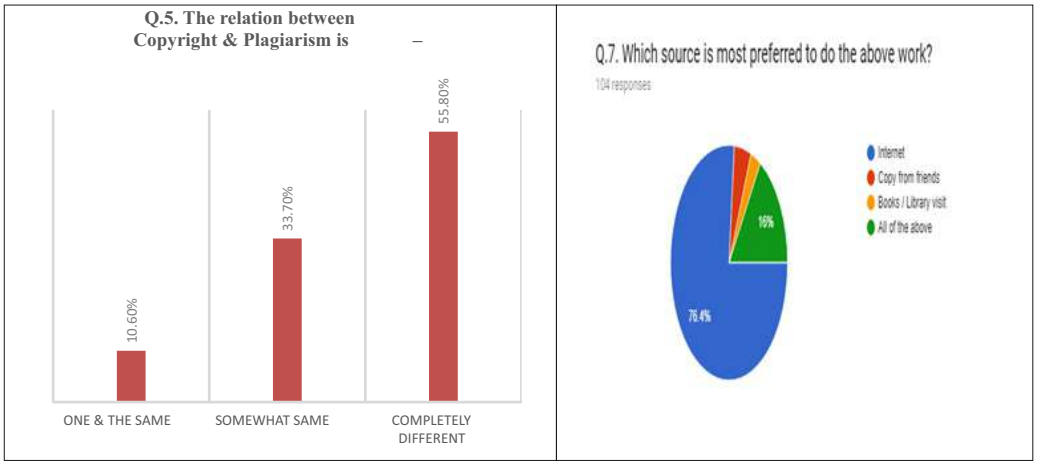


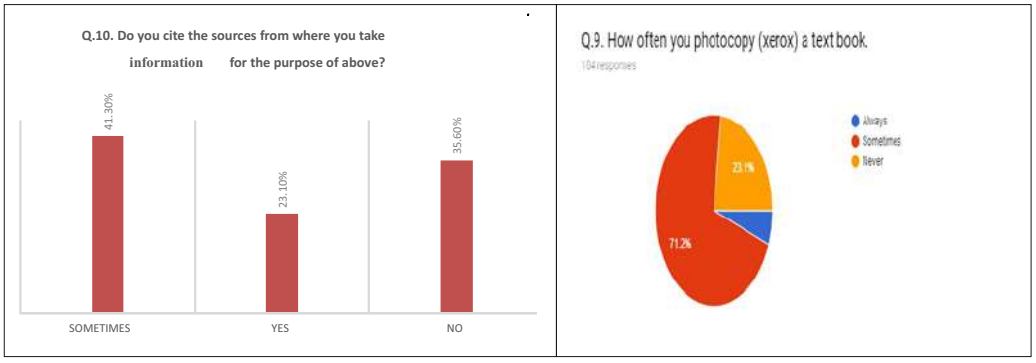
According to 44.20% of the respondents copyright is an exclusive legal right, 26% feel it is an intangible asset & 29.8% feel copyright is a right to copy. In contrast 70.2% of the respondents feel that plagiarism is a practice of taking someone else's work or ideas & passing them off as one's own, 22.10% feel is a way of

copying & 7.7% feel it's a software.

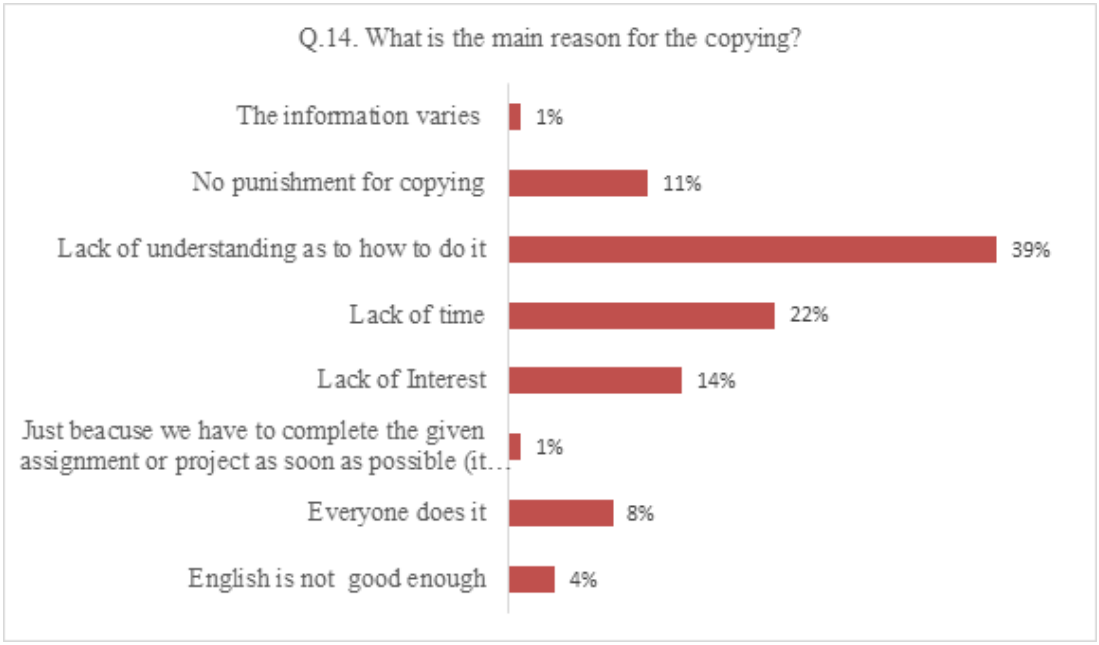


70.10% of the respondents feel that copyright & plagiarism has completely different relation. 99% of the respondents get assignments/projects/presentations and 76.4% prefer to use internet for the said purpose. 65.40% sometimes copy from their friends whereas 71.20% rely upon photocopying from a text book. Further 41.30% cite the sources of information and 59.60% know about bibliography.



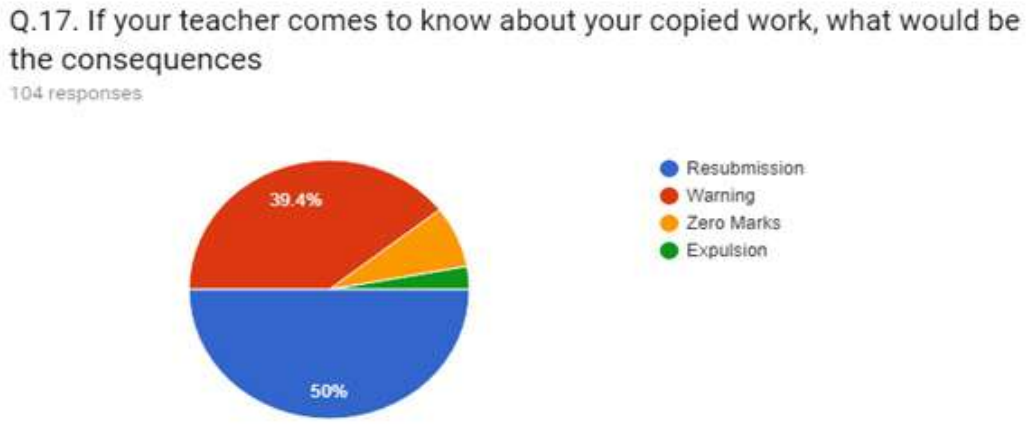


Also 51.90% are aware about the Copyright Act and 63.50% of the respondent feel that it is not okay to copy someone else's work as it is.



Majority of the respondents that is 39% copy because they lack understanding as to how to do their projects/assignments/presentations whereas 22% do so because of lack of time and 14% lack interest. 8% copy as everyone does and only 1% feels that information varies across sources.

39.4% of the respondents are let off with warning on being caught if they have copied the assignment/project/presentation whereas 50% are asked to resubmit the said work in given time frame.



Conclusion

From the study it can be concluded that there is awareness about copyrights and plagiarism both among undergraduate students, still they knowingly/unknowingly and intentionally or unintentionally violate

rights of authors. However, there is no awareness about the consequences of their actions and even the punishment rewarded is not deterrent leading to repetition of action. More so plagiarism is ethical issue and infringement of copyright legal one. The consequences in both cases are far reaching different. It is inevitable to mention here that certain countries have separate law dealing in plagiarism but India. In India copyright has separate law however it does not make registration of copyright mandatory however the moment an idea is expressed the author of the work has exclusive right in it.

Suggestions

In order to curb the practices of increasing plagiarism and copyright violation of author the researcher submits the following suggestions:

- Topics given to the student shall be interesting and latest to quench the curiosity thirst keeping in mind their perspective and level of understanding giving them complete knowledge as to how to do it, from where the information can be availed and when to submit.
- Oral and live discussion for example mock work so that students know what is expected from them.
- Keeping a progressive check whether student is in the right direction giving inputs wherever necessary.
- Teachers need to make students realize the importance of originality and enlighten them on it through moral suasion.
- Insist on quality work not the quantity.
- Impart a session on how to cite resources, paraphrasing and how to do bibliography or references.

Scope for further Research

The said study can be taken up faculty wise and continued with larger universe and sample.

References

Mahatma Education Society's
PILLAI HOC COLLEGE OF ARTS, SCIENCE & COMMERCE
Pillai HOCL Educational Campus, HOC Colony, Rasayani, Via. Panvel, Dist. Raigad. Pin 410207
Tel: 02192 - 252005 / 250066 Fax : 02192 - 252067
Website : www.phcasc.ac.in *Email : phcasc@mes.ac.in*
Affiliated to the University of Mumbai, Approved by Government of Maharashtra

12th September 2018

To,
Shri N.K. Mohanty,
Deputy Controller,
Patents and Designs, IPR Office,
Boudhik Sampada Bhawan, S. M. Road, Antop Hill, Mumbai

Subject: Invitation as Keynote Speaker for the National Conference on "**Intellectual Property Rights**"

Dear Sir,

We, Pillai HOC College of Arts, Science & Commerce are organizing a National Conference on "Intellectual Property Rights" on 29th September 2018.

We have immense pleasure to invite you as a keynote speaker for this conference. Your expertise will certainly benefit the participants of the conference and your presence will surely elevate the quality and outcome of it.

We look forward to your kind presence.

Thanking You,

Dr Lata Menon,
Principal,
Pillai HOC College of Arts, Science and Commerce
Rasayani

Mahatma Education Society's

Pillai HOC College of Arts, Science and Commerce, Rasayani

Organizes

One day National Conference on "Intellectual Property Rights"

September 29, 2018

Delegates' Attendance Sheet

Sr. No	Name of the Delegates	Name of the College	Contact No.	Signature
1.	Gaurija S. Khyarahare	KLE College of Law	9594424446	Gauriaha
2.	Prof. Pooja Singh.	Pillai HOC College	9769494909	Pooja
3	Samidha D. Chandekar	Harwal College CCSIT	8149387839	Chandekar
4.	Laxmi Kodnani		9820195914	
5	Jitendra B Gupta	Shri GPM Degree College	9773474521	
6	Chandrabhan Singh	Shri GPM Degree College	8779647276	
7.	Poonam Gupta	Pillai College of Arts, Commerce & Science	9920759336	
8	Sreevidya T.V	Pillai College of Arts, Commerce & Science	8655093330	
9	Suneet Khatke	Pillai HOC college of Arts, Sci & Comm	9766693362	
10	Kavya Madan Gopal	Pillai HOC College of Arts, Science, Commerce	9868765650	

Mahatma Education Society's

Pillai HOC College of Arts, Science and Commerce, Rasayani

Organizes

One day National Conference on "Intellectual Property Rights"

September 29, 2018

Delegates' Attendance Sheet

Sr. No	Name of the Delegates	Name of the College	Contact No.	Signature
9	Banga hardeep kaur	G.N. Khalsa	9820481366	
10	Sunil Valecha	SNDT, Matunga	9820027531	
11	Prof. Rajeeta P.	Shri GPM Degree C.	9004301375	
12.	Prof. Sonika Gupta	Shri GPM Degree C.	8689881717	
13.	Mr. Hardik Dave	Pillai HOC College of ASC	9930830304	
14.	Ashedini Khillari	PHCASC	9860809283	
15	Harshita Singh	PHCASC	9769101811	
16.	Priyanka Sonawane	PHCET	8097770691	
17.	Darshana W.	PHCET	7208409353	
19.	Binit Kumar.	PHCASC	9757317296	
20.	Sujith Babu	PHCASC	7744851223	
21	Neethumol K. G	PHCASC	7045437763	
22.	Revathy Soman	PHCASC	7666647982	

Name of the delegates	Name of the College	Contact no.	Signature
Arushi Dube	PHCASC	9321599018	
Disha Chotaliya	PHCASC	7506675332	Disha
Kalawatee Upadhyay	PHCASC.	7977243327	Kalawatee
Teena Zachiaua	PHCASC.	9769301463	Teena
Dr. Vishaktha Telgote	PHCASC.	9867142709	
Dr. Archana B	PHCASC.	7977628390	
Dr. Sapana C	~~PHCASC~~ Polytechnic	9763188602	Sapana
Nirali V	PHCASC	7500375678	
Babita Pradhan	PHCASC	9861281719	
Swati Mishra	PHCASC	9819595343	Swati
Mr. Prathamesh. C. Borkhale	PHCASC	9167353696	
Ashwini Sattur	PHCASC.	9004848733	
Jayanta Behera	PHCASC.	9400408718	
Vishaka Borade	PHCASC.	9146788893	
Prajakta Shirke	PHCASC.	8329236971	
Sharvan Kamble	PHCASC.	20735004	
Swapnil Patil	PHCASC		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Inter-University Avishkar Research Convention 2018-19
Level: ZONAL
" SNAKES DIVERSITY IN MAHAD TESHIL WESTERN GHATS MAHARASHTRA, INDIA "
Different methods used for analysis are:
BOD
COD
Conductivity
pH metry
Argent metric
UV-Visible
Conclusions
PHOTOCATALYTIC ACTIVITY STUDY OF Zn- FERRITE NANOPARTICLE SYNTHESI
USING LEMON AS GREEN BINDING AGENT BY SOL-GEL METHOD

OBJECTIVES

- To make the students physically fit.
- To attain personality development of the students.
- To inculcate sportsmanship and leadership among the Students.
- To develop co-operation among the students.
- To make the students competent to meet the challenges Successfully.


નટવરલાલ
નેમાલાલ

Report on Faculty Seminar Series conducted on

Notably, academic research aims at creating new outcomes, ideas, and arguments by engaging teachers in the experiments concerning the realities associated with the process of teaching. Alternatively, since the research process is about a specific inquiry involving asking questions and developing answers through critical thinking and thoughtful reflection, it plays a pivotal role in keeping the teacher researcher up-to-date. Differently stated, research can act as a torchlight guiding the teacher researcher through different aspects of the classroom atmosphere. More significantly, engagement and critical reflection are essentially important in preparing teachers for a global society. Following to this concept, Research and Development Cell in association with IQAC, has initiated faculty seminar series, wherein teachers would showcase research work either from their Ph.D. or from their field of interest. The first session was conducted on 12/1/2019. The whole session was interesting and informative. There were 31 faculty members have presented their works. The presentations were based on various topics. The topics were on psychologies depth of a poet, Laws on surrogate mothers, Survey on happiness index for students, Managing Big data and interplanetary physics. This faculty seminar series is planned to conduct as slot wise. The second slot will be covering rest of the faculty members. This time, the faculty members who are planning to registered for their Ph.D. are given preference of the conference.


NANOPARTICULATE
ORAL VACCINES

MAHATMA EDUCATION SOCIETY's

PILLAI HOC COLLEGE OF ARTS, SCIENCE & COMMERCE

Report on Dr.APJ Abdul Kalam Students' Seminar Series

Pillai HOC College of Arts, Science & Commerce organized an intercollegiate student seminar series on December 15th ,2018. The theme for the competition was 'Evolution of Movies- Walking through the decades'. Inauguration of the event was done by Principal Dr. Lata Menon. The seminar was conducted in 2 sessions and also witnessed many participants from different colleges. The presentations topics were grouped as per the streams. The session began by 11:00 am. The participants presented their research and showcased their presentation skills.

At the end of the session the judges gave feedback to the participants and also gave suggestions for improvement. The session ended by 4:00 pm with prize distribution ceremony.


Dr. A.P.J. Abdul Kalam Memorial
Students' Seminar Series


Dr. A.P.J. Abdul Kalam Memorial
Students' Seminar Series