Impact Factor – 3.452 ISSN – 2348-7143

INTERNATIONAL RESEARCH FELLOWS ASSOCIATION

RESEARCH JOURNEY

Multidisciplinary International E-Research Journal

PEER REFREED & INDEXED JOURNAL

March - 2018

SPECIAL ISSUE-LII

Intellectual Property Rights (IPR)

Executive Editor

Mr. Digambar S. Kulkarni
IQAC - Coordinator,
Hon. Shri. Annasaheb Dange Arts,
Commerce & Science College,
Hatkanangale, Dist. Kolhapur.

Mr. Balaji A. Kamble
Librarian,
Hon. Shri. Annasaheb Dange Arts,
Commerce & Science College,
Hatkanangale, Dist. Kolhapur.

Chief Editor : Dr. Dhanraj T. Dhangar

RESEARCH JOURNEY
MULTIDISCIPLINARY INTERNATIONAL RESEARCH JOURNAL

This Journal is indexed in :
- UGC Approved Journal List No. 40705 & 44117
- Scientific Journal Impact Factor (SJIF)
- Cosmoc Impact Factor (CIF)
- Global Impact Factor (GIF)
- Universal Impact Factor (UIF)
- International Impact Factor Services (IIFS)
- Indian Citation Index (ICI)
- Dictionary of Research Journal Index (DRJI)

SWATIDHAN PUBLICATIONS

Impact Factor – 3.452 ISSN – 2348-7143

INTERNATIONAL RESEARCH FELLOWS ASSOCIATION'S

RESEARCH JOURNEY

Multidisciplinary International E-Research Journal

PEER REFREED & INDEXED JOURNAL

March-2018

SPECIAL ISSUE-LII

Intellectual Property Rights (IPR)

SWATIDHAN INTERNATIONAL PUBLICATIONS
For Details Visit To : www.researchjourney.net

 Price : Rs. 250/-

Editorial Board

Our Editors have reviewed paper with experts' committee, and they have checked the papers on their level best to stop furtive literature. Except it, the respective authors of the papers are responsible for originality of the papers and intensive thoughts in the papers.

- Executive Editor-

Published by -

© **Mrs. Swati Dhanraj Sonawane, Director, Swatidhan International Publication, Nashik**

Email : swatidhanrajs@gmail.com **Website :** www.researchjourney.net **Mobile :** 9665398258

Editor's Desk.....

In India, the Higher Educational Institutions (HEIs) particularly, Universities and UG colleges are working under the guidance of University Grants Commission (UGC) and National Assessment and Accreditation Council (NAAC) in order to assure and sustain quality in education. Both UGC and NAAC have made drastic changes in their policies to cater the diverse needs of the stakeholders. Two circulars (notices) from UGC give very much importance to the awareness of Intellectual Property Rights (IPR) and Academic Integrity through avoiding plagiarism. Through the notice published on 15th July 2016, the UGC instructed that universities and affiliated colleges should make inclusion of IPR as an elective subject under CBCS and through the notice published on 1st September 2017, the UGC asked the universities and colleges to work actively for the promotion of academic integrity and prevention of plagiarism considering the importance of protecting intellectual creations. Besides, the NAAC in its new manual of assessment and accreditation of affiliated college has given five points weightage to the IPR awareness programs. It means the concepts like "Intellectual Property Rights (IPR)" and "Academic Integrity" have become the watchwords in today's educational scenario.

Keeping in view the importance of these changes, the Internal Quality Assurance Cell (IQAC) of our college organized a one day seminar on Intellectual Property Rights in which more than 30 deligates took part to deliberate the various issues including plagiarism, research ethics, copyrights, patent, trademarks, geographical indications and protection of traditional knowledge. The present special issue is an outcome of this seminar and it includes twenty two research papers touching upon the IPR related issues.

Quality education is a great medium of entire development of nation.A nation is known by the quality of it's educational system which is provided to new generation.According to Dr.Babasaheb Ambekdar 'the higher education should inculcate the values of brotherhood, socio-economic equality and national integration in the new generation'' Now India has a big human resource especially it has a great youth power. Indian higher education is going to maintain a quality education through various agencies i.e UGC, AICTE,NCERT at different level. The UGC works as the nodal agency for the higher educational institutions.

*We always believe that the publication of any book is the result of collective efforts. The present special issue entitled '**Intellectual Property Rights'** is an outcome of the team efforts. Therefore, We would like to extend our deep and sincere thanks to Hon. Shri. Rajendra Dange (Chimanbhau), our Principal, Dr. Yojana Jugale, the seminar organizing committee and all members of IQAC. I am also thankful to our teaching and non-teaching staff, delegates from other colleges. Finally, I owe to my sincere thanks to Dr. Dhanaraj Dhangar, Chief Editor & the publisher of the UGC approved research Journal who published our research papers in the special issue of '**Research Journey' Multidisciplinary International E-Research Journal.***

Executive Editors

INDEX

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Plagiarism Laws and Intellectual Property Rights (IPR)

Digambar S. Kulkarni
Asst. Professor (Dept.of English)
HSADACS College, Hatkanangale
(Affiliated to Shivaji University, Kolhapur)
Email: dskulkarni528@gmail.com (Mob. 9823093043)

Abstract

The present research article aims to understand three major concepts: plagiarism, intellectual property rights and how the plagiarism violates the intellectual property rights in the process of academic productions. Plagiarism is neither a new idea nor a recent phenomenon. However, in current scenario it becomes a serious threat to academic integrity as the researchers, scholars and students have developed tendency of using electronic media (particularly web sources) frequently. Plagiarism is an act of stealing others' ideas or knowledge that are written or expressed earlier and lying that these ideas or intellectual productions are his or her own creations by discrediting the efforts of the original creator. Intellectual Property Right (IPR) is a legal process of protecting individual's intellectual property such as research outputs, literary creations and artistic works from stealing or discrediting by others through IPR acts- Copyrights, Patents, trademarks and plagiarism laws. Brooding over the two major concepts of plagiarism and IPR, the present researcher has tried to understand how plagiarism threats to IPR in the final section of this research article.

Key Words: Plagiarism, Intellectual Property Rights (IPR)

Introduction :

The electronic or multimedia tools particularly android mobiles, computers and internet provide easy access to anyone to any kind of information on a single click within a moment and because of this, the learners have developed the habit of approaching to selected and required learning materials only overlooking the reference books and assured knowledge resources. Many people including students and researchers are resorted to the copy and paste method to get academic benefits and in this process they avoid to acknowledge the earlier scholars from whom they have borrowed and thus, they discredit their intellectual efforts and creations. It is here the plagiarism law plays very crucial role by protecting the intellectual property of the original creator. The act of plagiarism leads the borrower or the stealer towards the legal consequences and henceforth, the learners do not dare to steal or borrow others' materials for his or her academic benefits. The present research article is a theoretical study as it aims to understand the concepts of plagiarism, intellectual property rights and how the plagiarism becomes threat to intellectual property rights in the process of intellectual creation. Therefore, the present study is divided into three sections and each section offers explanations and examples of various types of plagiarism that violate the intellectual property rights. As it is a doctrinal research, the present researcher has employed descriptive method for analyzing the topic and the analysis and the interpretations are purely based on the secondary sources-reference books, research articles and web recourses.

Plagiarism: Meaning and its Forms

Many people have misconceptions about the concept of plagiarism and they relate it only to the act of writing. They think that plagiarism simply means to copy or to borrow or to steal

others' ideas. No doubt, the plagiarism begins with the act of stealing or copying but ends with the fake claims of its authorship. Plagiarism is a condemnable act that discredits the intellectual efforts of the original creator and brings dishonor to the person who plagiarizes others' ideas for the academic benefits. Now days, the researchers or the learners have indulged in finding various techniques to escape from the charges of plagiarism instead of avoiding plagiarism. They use others ideas or knowledge in their own words simply paraphrasing or breaking the syntactic structure to show that they are the original creators. In my view, paraphrasing or breaking the syntactic structure while presenting earlier ideas is also a kind of plagiarism in which the borrower presents old ideas in his or her own words. Another misconception about plagiarism is that people restrict it only to the writing activity. Plagiarism also happens when we use others presentations and designs while delivering lectures without acknowledging or quoting the materials of earlier stalwarts.

Plagiarism can be labeled as an academic misconduct or knowledge piracy that discourages the hard working individuals as they are put under the threat of stealing their intellectual property. The plagiarizers are always engaged in finding various methods to steal others' intellectual creations. They can do this by simply copying and pasting others intellectual products and presenting as their own. Plagiarism can be classified according the methods used for making intellectual theft by the plagiarizers. It happens intentionally and unintentionally. The learners or researchers do plagiarism intentionally to hide his or her academic sterility by using the methods of copy and paste, paraphrasing, self stealing and patchwork to show how he or she is genuine in academic output. In unintentional intellectual theft, the plagiarizers show that they have no knowledge of research ethics, citation methods and the methods of acknowledgement or sometimes they use high number of quotations or citations. In short, copying, paraphrasing, patch working, self stealing and unintentional plagiarism are common forms of plagiarism in the academic scenario.

Intellectual Property Rights (IPR) and Plagiarism Laws

Intellectual Property Right (IPR) protects the intellectual properties of the concerned individuals and hence, it becomes obligatory to understand the concept of intellectual property. Intellectual properties are those properties that exist through the human intellectual efforts. They are simply the creations of human brains. As far as concerned the topic of this paper, research articles, literary creations, research thesis and academic reviews etc have been classified as intellectual properties. As the researchers or authors invest their brain for intellectual creations, they are deserved to get benefits of their efforts. The author or the academician can claim their intellectual outcomes through IPR rights such as copyright act and using plagiarism laws. The plagiarism detection softwares and plagiarism laws offer intellectual property rights to the original knowledge creators. The plagiarism softwares namely Duplichecker, Paperrater, Turntin and Ithentication, etc are really useful plagiarism checkers to detect the intellectual theft. By using these softwares, one can protect his or her intellectual property.

The laws against plagiarism protect the intellectual property from being stolen by the plagiarizers. In India, the University Grants Commission (UGC) published a notice explaining the consequences of plagiarism. The UGC instructed universities and colleges that they should train and orient their faculties and students about the research and publication ethics. All Higher Educational Institutes (HEIs) shall include the principles of academic integrity and publication

ethics in the curricula of UG and PG programs as a compulsory course work. The HEIs should look into the matter of training their students, faculty members and researchers for using plagiarism detection softwares to avoid the menace in the research. The UGC rules and regulations for curbing plagiarism are functioning as the laws that will protect the intellectual properties in the forms of research articles, research dissertations and theses, etc. According to this UGC regulation, the submission of undertaking from the researchers indicating the plagiarism free research outcome becomes mandatory to the researchers. All HEIs have to create research repository section on its website including research publications, dissertations and theses of their faculty members. This provides online exposure to research outcomes and hence, it becomes easy to get knowledge whether the research is original or have some plagiarized materials. Further, it is also mentioned in the UGC regulations (dated,1st September 2017) that the HEIs have to establish the Academic Misconduct Panel (AMP) and Plagiarism Disciplinary Authority (PDA) to look into the matter of plagiarized research. The penalties for students and the faculty members differ according to the degree of plagiarism. In case students, if the plagiarism goes 60%, he or she will not given any credit or degree and in case of the faculty members, if plagiarism crosses the limit of 60%, he or she will not be allowed to publish any work for the minimum period of three years and will lose the claim of two annual increments. Considering all these initiatives against plagiarism, I personally, feel that no one dare to plagiarize others' intellectual creations for academic benefits and in this way the plagiarism laws becomes one of the intellectual property rights that protect individual's intellectual property.

References:

- Bloch, Joe. *Plagiarism, Intellectual Property and the Teaching of L2 Writing.*
- Adukia, Rajkumar. *Handbook on Intellectual Property Rights in India*
- UGC Regulations published in the Gazette of India, Part III. 2017.

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Copyright act in India : An Introduction

Mr. Balaji A. Kamble
Librarian (Asst. Prof.)
Hon. Shri. Annasaheb Dange Arts, Com. & Science College, Hatkanangale
(Affiliated to Shivaji University, Kolhapur)
Email- bkamble33@gmail.com

Introduction

Intellectual Property Rights are the lawful rights that are conceded to a person for any imaginative and aesthetic work, for any development or revelation, or for any abstract work or words, expressions and images or outlines for a stipulated time frame. The proprietors of Intellectual Property are allowed sure restrictive rights through which they utilize their property with no aggravation and can keep the abuse of their property. Protected innovation is any development, business or masterful, or any one of a kind name, image, logo or configuration utilized industrially. In India, Intellectual Property is represented under the Patents Act, 1970; Trademarks Act, 1999; Indian Copyright Act, 1957; Designs Act, 2001, and so forth.Copyright is a correct given by the law to makers of scholarly, emotional, melodic and aesthetic works and makers of cinematograph movies and sound accounts. It is a heap of rights including, entomb alia, privileges of propagation, correspondence to people in general, adjustment and interpretation of the work. The main standard to decide if a person is qualified for copyright insurance is innovation in articulation.

Concept of Copyright

The term "copyright" isn't characterized under the Indian Copyright Act, 1957 (hereinafter alluded to as "Copyright Act"). The general undertone of the term copyright alludes "to one side to duplicate" which is accessible just to the creator or the maker, by and large. In this way, whatever other individual who duplicates the first work would be sum to encroachment under the Copyright Act. Copyright guarantees certain base shields of the privileges of creators over their manifestations. Imagination being the cornerstone of advance, no acculturated society can stand to disregard the fundamental prerequisite of empowering the same. Monetary and social improvement of a general public is reliant on innovativeness. The assurance gave by copyright to the endeavors of essayists, craftsmen, fashioners, playwrights, performers, planners and makers of sound accounts, cinematograph movies and PC programming, makes a climate helpful for imagination, which actuates them to make progressively and spurs others to make

Definition of Copyright

A copyright is a form of protection provided by the laws of the United States to authors of "original works of authorship." This includes literary, dramatic, musical, artistic and certain other creative works. Material not protected by copyright (or otherwise protected) is available for use by anyone without the author's consent. A copyright holder can prevent others from copying, performing or otherwise using the work without his or her consent.

Fare Use

A crater made by him/her can't be guaranteed possession for ages all together as it may hurt the social equity. In this manner, a term of life in addition to sixty years is being received in

India to determine the time of copyright. This period may fluctuate from nation to nation. On the off chance that copyright assurance is connected unbendingly, it can hamper advance of the general public. Consequently, copyright laws are sanctioned with essential special cases and restrictions to guarantee that an adjust is kept up between the interests of the makers and of the group.

Brief History of Copyright Law in India

Hence, in most jurisdiction and particularly World Intellectual Property Organization (WIPO) has considered that law must provide adequate policing at the stage when circumventing systems are created, possessed, imported, circulated, and used against technological protection measures. The WIPO was the pioneer in initiating global discussions on protection of intellectual property rights in digital environment. The World Copyright Treaty envisages model provisions to be incorporated in domestic laws in order to provide certain basic protection against copyright infringement in digital environment. Most recently, WIPO agreed to the 1996 WIPO Copyright Treaty (WCT) which addresses the copyright issues raised by digital technology and networks. However, many countries have not yet implemented it into their laws.

When the Indian copyrights act was designed the reference taken from the 1710s law of England's copy right act. The evolution of Copyright Law in India is spread over three phases. The law of copyright was introduced in India during the reign of the British Rule in India via the British Copyright Act, 1911. 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. However the total term of copyright cannot exceed the period of forty-two years. The government could grant a compulsory licence 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 empire enacted the Copyright Act of 1914. It was almost similar to the British Copyright Act of 1911. However the major change that was brought in this Act was the criminal sanction for infringement. The 1914 Act was constantly amended a number of times. Subsequently, India saw the third phase of its copyright law evolution in the introduction of the Indian Copyright Act, 1957 which was enacted in order to suit the provisions of the Berne Convention. This Act was enacted by Independent India and is the main Act by which we are governed till date

Factors covered in Copy right under Intellectual property right in India

Ownership

Generally, the creator or the author of the work is the owner of the work and therefore entitled to get the copyright for the work. Where the author of the work is employed by another person, the work belongs to the employer of the author. And where creation of the works is incidental, but not the purpose, the work belongs to the authors. But in practice, out of the contractual agreement between the employer and the employee, the creation during the course of employment would be belonging to the employer. There may be a situation where a particular final work involves many copyrightable sub-divisions such as film wherein many works such as music, lyrics, dramatic works etc are copyrightable.

Some common examples of copyright works are

Category of work	Examples
Literary works	Novels, poems, scientific articles, film scripts
Choreographic works	For ballet or dance
Artistic works	Paintings, drawings sculpture, cartoons, maps, designs, photographs
Musical works	Musical pieces with or without words
Cinematographic works	Films, television shows, video games

Distinction between Copyright, Patent, Trademark

Copyrights, trademarks, and patents are commonly referred to as "intellectual property." Each one gives the owner exclusive rights to the work, meaning the owner has the right to prevent anyone else from using their work.

Licensing

The copyright owner may grant a license and transfer some or all of his rights to others to exploit his work for monetary benefits. A license is different from an assignment as licensee gets certain rights subject to the conditions specified in the license agreement but the ownership of those rights is not vested with him while in case of an assignment the assignee becomes the owner of the interest assigned to him. A license may be exclusive or of non-exclusive type.

Assignment

The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof. A right to assign work under the Copyright Act 1957 arises naturally when the work comes into existence. However, certain rights are specific to certain types of subject matter/work. Further an author/owner is entitled to multiple rights broadly categorised as Economic rights and Moral rights. The owner of a copyright may grant an interest in the copyright by a License. The Act prescribes that a prospective owner of a copyright in future work may assign the copyright, to any person, either wholly or partially, although the assignment shall take effect only when the work comes into existence.

Infringement

In dealing with copyright, we should bear in the mind that copyright does not protect novelty but only originality. Copyright protects only the expression and not the idea. Therefore, if it is the only method of expressing the work, it cannot be protected. Best example would be the Telephone directory wherein the Name, Address, Phone No. are given and also given in alphabetical order. There can be no other way of expressing the same. Therefore, this would not amount to copyright infringement. This is popularly referred to as Idea-Expression Dicothomy.

Civil Remedies :

The most importance civil remedy is the grant of interlocutory injunction since most actions start with an application for some interlocutory relief and in most cases the matter never goes beyond the interlocutory stage. The other civil remedies include damages - actual and conversion; attorney's fees, rendition of accounts of profits and delivery up.

Conclusion

In India, ancient record of the laws never indicated about the presence of any Copyright law before the English Copyright Act, 1842 A sound copyright legal framework is the cornerstone of creativity and innovation. To achieve our community's goals in education and publishing, and in other areas of economic and cultural development, there must be an effective, harmonized framework of international copyright law. The copyright subsists in original literary, dramatic, musical and artistic works; cinematographs films and sound recordings. 194 The authors of copyright in the afores~~:id works enjoy economic rights. 195 The rights are mainly~ in respect of literary~ dramatic and musical works, other than computer program, to reproduce the work in any material form including the storing of it in any medium by electronic means, to issue copies of the work to the public, to perform the work in public or communicating it to the public, to make any. Copyright is not a single statutory right. It extends multiple rights comprising of a bundle of different rights in the same work. It is seldom that the author of a copyright work himself exploits the work for monetary benefit.

References:

1. Ambedkar B.R.(1950) Indian Constitution, Government of India. P.17-57
2. Lal's Commentary on the Copyright Act, 1957(Act 14 of 1957) with the Copyright Rules, 1958 and Neighbouring Rights, 41 h ed., Delhi Law House, 2006, p.3-5. 159 Article 372 of the Constitution of India. 160
3. N.T. Raghunathan Vs All India Reported Limited, AIR 1971, Born. 48(51) 161 Preamble to the Copyright Act, 1914. 162 Jagjit Kumar Vs Jagdish Chandra AIR 1982 M.P. 144(145); Tribhuwan Prakash Nayyer Vs Union of India, AIR 1970 SC 540.
4. Raju, K.D., Intellectual Property Law, WTO and India, New Era Law Publication, 2005, p. 229.
5. www.wikipeadia.com
6. www.intellectual property right.com

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Traditional Knowledge System and its Protection Through IPR: A Case Study of the Community of Vadar

Dr. Niranjan Kulkarni
Assoc. Professor and Head, Dept. of History,
HSADACS College, Hatkanangale (Dist. Kolhapur)
(Affiliated to Shivaji University, Kolhapur)
Cell-7719825727/Email-niranjan.ukb@gmail.com

Traditional Knowledge System (TKS)

TKS always interchanged with other concepts like indigenous knowledge, local knowledge etc. It signifies a certain geographical location, a certain endogamous community, a certain set of intangible/tangible knowledge and their production. In short a specific kind of knowledge system which deeply embedded in their cultural tradition. Most of the time, TKS is always transmitted orally, from generation to generations.

The characteristics of TKS can be surmised through the report of International Council for Science (ICSU); like; "a cumulative body of knowledge, know-how, practices and representations maintained and developed by peoples with extended histories of interaction with the natural environment. These sophisticated sets of understandings, interpretations and meanings are part and parcel of a cultural complex that encompasses language, naming and classification systems, resource use practices, ritual, spirituality and worldview." [1]

The World Scenario: TKS and IPR

The protection of Traditional knowledge system as an intellectual property came out of detailed deliberations on the international front. The Convention on Biological Diversity, in 1992, recognized the value of traditional knowledge. In the same year, the Rio Declaration recognized indigenous and local communities as distinct groups with special concerns. Responding to the report of World Trade Organization Agreement on Trade-Related Aspects of Intellectual Property Rights, countries requested the World Intellectual Property Organization (WIPO) to investigate the relationship between intellectual property rights, biodiversity and traditional knowledge. Then, the WIPO established the Intergovernmental Committee on Intellectual Property and Genetic Resources, Traditional Knowledge and Folklore (IGC-GRTKF). The main concern is the territorial rights and traditional resource rights of these communities. Indigenous peoples soon showed concern for the misappropriation and misuse of their "intangible" knowledge and cultural heritage. These communities sought for greater protection and control over traditional knowledge and resources. Currently, only a few nations offer explicit sui generis protection for traditional knowledge.

A Case Study of Vadar

Since the time immemorial, like other archaic civilizations, India is dotted with various tribes, communities, nomads that are dispersed in different parts of India. They are hunter-gatherers, pastoralists, itinerant traders, artists and craft-specialists. *Vadar* is one of these craft-specialist communities. They are specialized in the 'stone working', i.e. producing equipments/tools, art objects out of stone.

The Ecological Context

The geographical indicator of the Vadars can broadly be understood through the boundary region of Maharashtra-Karnataka. This region consists of parts of two districts of southern Maharashtra; namely, Kolhapur and Sangli. Besides, some part of the two districts of North Karnataka, namely, Belgaum and Bijapur are referred to. However, considering the major stock of their language and culture, their origin could be traced in parts of Andhra Pradesh.

As they work in stone, they have, since log time, performed in a specific kind of physiographical environment. The Western Ghats, i.e. *Sahyadri,* limits their area from its west. The *Mahadev* range is on the northern side, separating the Bhima basin from the Krishna valley. The Western Ghats i.e. the main watershed of the study area; along with its eastern offshoot *Mahadev* range, generate many isolated residual hills so as the Kaladagi series in the south. These form major hill complexes of the study area. Basalt is the main rock type of the area, containing secondary siliceous minerals in its cavities. The *Kaladagi* series in the southern part reveal abundance in Quartzite, sandstone, siliceous material, limestone deposits etc. Besides, the *Dharwar* rocks are very rich in iron & gold and the Laterite of the coastal plains is rich in iron & manganese. Deep black cotton soil, which has a high capacity of moisture retention and the quality of plasticity, is predominant soil types in this area. The climate is typical subtropical monsoon, and the region presents rich varieties of flora and fauna.

All the three sub-castes of the *vadars* are heavily concentrated in this borderland. Since a long time, along with various types of socio-economic reasons, the specific physiographical structure of this area have tempted this community to locate themselves in this area.

Vadar: Their Craft, Society and Culture

Here a general ethnographic outline of Vadar is briefly stated which, mainly, is collected from the published works and primary field-observations.

The Vadars of Maharashtra also know as Od, Vadda or Beldar, Wodde, Waddar, Vadar & Orh, have migrated from Andhra Pradesh. Nowadays, though they are dispersed throughout Maharashtra, they are heavily concentrated in the study region. They are divided into three endogamous groups based on their occupation, namely, Gadi (cart) vadar, Mati (soil) vadar and Dagad / Pathar-vat (stone) vadar. These names have their own etymological meanings, myths of origin and as well as interesting legends also. Besides, wherever they have settled, their group-names have been translated into the respective language area, e.g. Dagad in Maharashtra has the synonymous of Kallu in Karnataka. This collection of synonyms points to their origin, migration routes, adaptability to the new lands, languages, people and so on.

This community practices group endogamy and surname exogamy. The marriages are arranged through negotiations where cross-cousin marriages are in vogue. Divorce and widow remarriages are permitted in the community. The marriages take place in the bride's residence. The dead are cremated. Similar to the other traditional communities the disputes and misunderstandings are solved by the elders during the Jat Panchayat.

Traditional occupation of vadar, especially the dagad-vadar, is to work in stone. They dress the stone which is used in construction, make domestic stone tools/equipment like rotary querns, mullers etc. They make sculptures as also build temples mostly in the local styles.

The training start from the early childhood and the institute is the family itself. The craft-mechanism of vadars includes the search of resource areas, selection of raw materials, extracting

the stones which are of various and peculiar types, the minute and elaborate process of main stone working with various set of equipment and tools of work and the final trade. All the phases of this mechanism are heavily affected by the social, economical and cultural contexts in which both, the vadars and the consumers live in.

Though the stone working is connected to the dagad-vadars, the other groups viz. Gadi vadar and Mati vadar assist them in respective phases of their occupation. The basic language structure of vadars of this region points to *Telugu*, however, due to strong sense of adaptability, *Kannada* and Marathi dominate thoroughly. The religious places or the regular pilgrimage centers of the vadars in the Deccan are concentrated in the study area. Generally they worship the goddess Yallamma at Saudatti, Karnataka. Along with Yallamma they also worship other mother goddesses and folk deities.

At present, the closer to the towns they are, the speedy effects of urbanization and industrialization influence them. Due to various socio-economic reasons, Vadars are seriously stricken by poverty. The poorer people can be seen working as laborer in the industries on a low scale and also in the road-making works of government. The children are going to the different fields of occupation. The traditional knowledge of craft is speedily disappearing. Besides, as the Vadars were included in the list of de-notifies tribe, when we go further away from the towns the various kinds of atrocities to them and lest respect to their art/craft is witnessed.

It should be noted that except Enthoven (1922) and Singh (1996), there is a conspicuous absence of detailed ethnographic information regarding Vadars. Hence it is necessary to undertake, as early as possible, an intensive documentation of their exclusive art/craft*:* the traditional knowledge & its socio-economic context and try to preserve it in its rapid extinction. There is also a pressing need to conceptualize the ways to preserve the tradition in the speedy extinction of it in the modern age. To strive for Intellectual Property Rights for their specific craft would be positive direction for the preservation of their rich cultural heritage.

References

1. International Council for Science (March 2002). "Science and Traditional Knowledge: Report from the ICSU Study Group on Science and Traditional Knowledge", p. 3. Retrieved 24 May 2012.
2. Enthoven, R .E., The Tribes and Casters of Bombay. Vol. III. New Delhi. (Reprint 1990), 1992
3. Singh, K. S. Communities, Segments, Synonyms, Surnames and Titles. People of India National Series. Vol. VIII. New Delhi: OUP, 1996.
4. Singh, K. S. India's Communities, N-Z. People of India National series. Vol. VI. New Delhi: OUP, 1998

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Importance and Need of the Intellectual Property Rights

Adv. Prashant Prabhakar Jarandikar
D.Y.Patil Vidyapeeth (DU), Pune. (Ex. Law Officer)
B.V.'s New Law College, Sangli. (Asst.Professor)
Email: prashantjarandikar@gmail.com (Mob. 9420777882)

Abstract

The focus of this paper is, related with the main theme of the conference, on the importance and need of the Intellectual Property Rights. I have tried, at my best, to suggest by way of the available resources and my perception the need and importance of Intellectual Property Rights. Taking the broader approach i have tried to emphasize on the advantages of the protection of the intellectual property. I have explained with reference to the Indian Constitution the place of the Intellectual Property Rights.I think, for being both rationally demanding and professionally pertinent, Intellectual Property Rights must be protected, in the interest of not only of the individual one who invents it but also for the interest of the Nation and society at large. Due to lack of the knowledge/awareness about IPR in the society, very few persons register their intellectual property. By way of this paper i urge them to register the said property. My final conclusion will be to endeavour the awareness of the Intellectual Property Rights.

Introduction

Whenever we refer the term "Intellectual Property Rights" obviously due to the term Right we must refer it to the term law. In order to understand the importance and need of the Intellectual Property Rights, we have to learn some laws which are force in India and the constitutional provisions with reference to the IPR, if any. Thus Intellectual Property Rights are the Rights given to the person who invents or creates it. These rights are conferred on the inventor for the exclusive use of the thing, article, method etc which he has invented. As we all know that man is a rational animal. He is totally different from the other animals. He has the creative brain, by the use of his brain he has started to invent number of things for the physical comfort of the individual as well as society. In the course of time the invention of the particular individual could be used by others. It means men are copying the art, creation and brain of another. It is the great threat to the person who is in origin brilliant and invented some things, art, model etc. This is the ultimate financial loss of the person who has invented the particular idea.

Objectives of the Study

1. To study the meaning and brief history of Intellectual Property Rights in general.
2. To observe in short Constitutional provisions regarding Intellectual Property Rights.
3. To understand the importance and need of the Intellectual Property Rights.

Methodology

The Present study is Doctrinal Research. The secondary data has been used for the paper. The sources for the collection of data are The Constitution of India, variety of books, case laws, articles from the journals, newspapers and Internet.

Brief History of Intellectual Property Rights/Laws in India

Basically the laws relating to Intellectual Property Rights have their foundation in Europe. The first known copyright related patent was in Italy. Venice was the place where most of the patents related laws were made here. So far as the India is consider the British brought the first patent related Act known as British Patent Act, 1852.it was brought into force in India in 1856.After the Independence our Parliament gave us the Copyright Act 1956.Later on we have some amendments in the original Act but, in the last year the NDA govt. has abolished some major amendments related to the copyright.

Constitutional Provisions regarding Intellectual Property Rights

If we compare the American Constitution with Indian Constitution regarding the IPR, we may found that in the American Constitution there is clear provision for the IPR. But on the contrary Indian constitution does not provide any clear provision related with IPR. We had Art 19(1) (g) as "Right To Property" but it has been repealed by the 44th Amendment. Still, we have Art.31 (C) and Art.300 A which are related with the Property. But point to be noted that we have no fundamental right regarding right to property.Art.253 is also relevant so far as international laws are concerned. These are some basic articles which are related with the property in general. I hope that it may include the Intellectual Property.

The Meaning of Intellectual Property and Intellectual Property Rights

Intellectual property is that kind of property which includes intangible innovation of the human brain and primarily makes copyrights, patents, and trademarks. It also includes trade secrets, publicity rights, moral rights etc. The artistic works like music and literature and inventions of words, phrases can be described as intellectual property. It may be said that intellectual property is a general term for the set of intangible assets owned and legally protected by a company from outside use or implementation without the permission. Intellectual Property Rights means in simple language rights over the intellectual property. It includes patent, copyright, trademark etc.

Importance and Need of the Intellectual Property Rights

As we have seen the laws in India regarding intellectual property and constitutional provisions. We have realized the issue that how important it is to protect the intellectual properties by way of right. Thus we will understand the importance and need of the Intellectual Property Rights by way of the following points.

1) Value and Respect to Intellectual beings

In the present era of information and technology due to computerization, it would be possible to steal the invention from the originator of the idea. So in order to protect the intelligence of the originator it is very important to give that person right to protect his intellectual invention. By way of the right of protecting the individual's Intellectual property, we value and respect that intellectual being.

2) Something New to Customers

It has become, due to intellectual property rights, almost possible for the customers to purchase different products. For example in the automobile sector we different kinds of cars of different kind of companies. They have their own logos, their won design. It comes under the

intellectual property rights; due to those rights it has become very easy to find something new to the customers.

3) To Form your own Branding

Consumers are attracted to the brand name. Some brands have their own good will. People purchase some product in the market only due to the brand. They believe in the brand. Thus in order to form your own brand it has become necessary to protect the intellectual property.

4) To keep aloof your competitors

Once you acquire the patent by way of the intellectual property rights, you will be in a safe zone. It means no one can copy your idea and sale into the market and earn money. It means it ultimately keeps your competitors aloof from you.

5) Measure source of revenue stream

Intellectual property rights are not only beneficial to the individuals who invent them but to the Govt. also. The concerned govt. can collect revenue from the intellectual property. It can be taxed as like other property. So it increases national income.

6) Securities for loan.

As a lay man we know that in order to get a loan from the bank we have to give some property as security. Herein after it would be possible for the banks to take intellectual properties as a security for the loan being the form of property.

7) Provides exclusive use of his creation

Once the intellectual property is protected by way of law as right I t would be possible for the creator to use it as he wants to be. He may dispose it as he wants to be. This right will give him exclusive use of that creation.

8) Help to boost the Social Economy

As it is the source of revenue it will develop the social economy. The beneficial area of the intellectual property will not be constrained to the creator but to the society at large also.

9) Increases Market value of the Company

If any company invents anything automatically the market value of the company automatically raises. If we do not protect the invention by way of law it would be very difficult for the industrial area to maintain their good will. They all will steal others' intellect and there would be chaos.

Conclusion

At the very concluding paragraph, I just want to say that the intellectual property rights are very important not only for the individuals but to the society at large and to the nation. We belonging to the higher education must educate others that intellectual property is the form of the property and as like that it should be protected by way of law.

References

1. The Constitution of India: Bare Act.
2. The Constitution of India: .D.BASU, .J.N.Panday.
3. The Design Act. 2000 along with Design Rules 2001.
4. Internet.

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Intellectual Property Right, Copyright and Fair use for Boosting the Research

Mr. Shivaji P. Kamble
Librarian, Kisan Veer Mahavidyalaya Wai, Satara
Email: kshivajilib@gmail.com
Mob. 9960542919

Abstract

This article explores Intellectual Property Right, Copyright law and issues of fair use in for-profit academic libraries for boosting the research. The academic libraries playing important role in disseminating the information by maintaining the copyright law and using fair use. Institutional repository (IR) is becoming one of the most popular tools for self-archival and dissemination of an organization's intellectual or scholarly output. The primary objective is not just preservation or changing the scholarly publication process, but showcasing the institution's research or work to the outside community. The present article has discussed the all the related terms regarding IPR.

Keywords: Intellectual Property Right, Copyright, Fair Use, Open Access Material etc.

1. Introduction

The scholarly publishing is undergoing a churning phase, wherein lot of factors like the open-access movement via self-archiving and open access (OA) journal publishing, open-archives initiative (OAI), open-source software, and development of cheap computing and storage costs are playing a major role in changing the whole paradigm. Helping the cause is the meteoric rise in prices of journals and consequent drop in library subscriptions. For long, scholarly content has been chained because of the stringent policies of traditional subscription-based, for-profit monopolistic publishers. Stray initiatives for OA were taken in the past but the movement has taken a strong leap ahead recently with more vocal support from the scholarly community. Though there are reservations about OA with people casting their apprehensions about the peer-review process of OA papers, impact factors, publication costs, and dissemination/access interfaces the movement is surely gaining momentum and looks promising enough if some initial glitches are ironed out. IPR is becoming prevalent as the most preferred route to self-archiving. They are providing a centralized system for content capturing, organizing, storage, retrieving, disseminating, and preservating from a single interface thus acting as a scholarly content management system. One of the chief roadblocks to OA is the copyright issues of intellectual content. As most of the authors rather gift away their invaluable rights over their published research to the publishers, it becomes a very onerous task to populate the IRs.

2. Intellectual Property Rights

The IPRs, very broadly, are rights granted to creators and owners for their intellectual creativity in the industrial, scientific, literary, and artistic domain. The work can be in the form of an invention, a manuscript, a suite of software, or a business name. In general, the objective of IPRs is to protect the rights of the creators/owners and at the same time allow the general public to access their creativities. IPRS maintain this balance by putting in place time-limits on the

creators/owners mean of controlling a particular work. The law that regulates the creation, use and control of the protected work is popularly known as Intellectual Property (IP) Law. PRS are mainly statutory rights that allow the creators/owners of the products to prevent people from using the same commercially for a certain period of time. IPRS issues have today taken a global shape in the form of World Intellectual Property Organization (WIPO) and Trade-related Intellectual Property Rights (TRIPS) agreement. The principal IPRs are copyright, patents, trademarks, registered designs, geographical indicators, anti-competitive policies in contractual licenses, and trade secrets. Research and development (R&D) involves a lot of funding and human intellectual efforts. The result of R&D like products and processes, innovations/inventions, new designs, literary and artistic work, generally turning out in financial gains to their inventors, authors or creators, and thus are registered under one or the other heads of IPRs. The authors or creators can opt for a legal action when their IPRs are infringed. Since copyright of scholarly content is the primary theme of this paper, it is discussed in detail in the next section.

3. Copyright:

Copyright stands for the legal rights exclusively given for a definite period of time to the authors or creators of intellectual work such as a publication or an artistic or a literary work for sale or any other use. Copyright in such cases provides the authors/creators the rights of ownership and legal protection against unlawful reproduction of such work. Besides, providing the legal protection against unlawful reproduction and use of their work, the copyright also recognizes the benefits accrued by the reproduction or usage of their creative works by others. This obviates an agreement between the authors and the publishers (or users). The time span for which the law provides the copyright protection varies in different countries depending upon their regulations. It is life time of the author and a term of 60 years after the death of the author in India, 50 years in UK and USA, and 70 years in the European Union. After the expiry of the copyright period, the work falls into the public domain and then can be used by anyone without authorization.

The salient features of copyright are: * Protection of aesthetic creations without formalities.* Registration not necessary. * Protection of expression of ideas only, not the ideas themselves. * No concern with the quality of the work. * Protection to original work only. [sup2]

Copyright grants certain exclusive rights to its owner. Based on these rights, the copyright owner can copy the work, issue copies of the work to the public, rent or lend the work to the public, perform, show or play the work in public, communicate the work to the public (including broadcasting and electronic transmission), and can adapt of the work or do any of the above in relation to an adaptation. Copyright is said to be infringed when one of the exclusive rights of the owner is performed by a party without the consent or authorization of the owner. This infringement is called primary infringement. Providing accessories for infringing the exclusive rights or assisting in the making or distribution of infringing rights is also treated as an infringement and is referred to as secondary infringement.

4. Copyright And Content Licensing

The major concern, while depositing content in IR, is the copyright and the licensing issue. The authors and the IR are concerned that whether or not their publisher's copyright policies will allow it. The checking of publisher copyright polices in order to establish whether

or not articles can be added to the repository is one of the most tedious jobs. A ready reference about publisher's copyright policies is the list developed by the RoMEO (Rights Metadata for Open Archiving, Project maintained by the SHERPA (Securing a Hybrid Environment for Research Preservation and Access) Project -- a Joint Information Systems Committee funded project at the University of Loughborough to investigate the rights issues surrounding the self-archiving of research in the UK under the Open Archive Initiative Protocol for Metadata Harvesting (OAI-PMH). Through surveying the academic community, it ascertained how give-away research literature and metadata was used and how it should be protected. From this work, the RoMEO Project created a list of publisher's conditions for self-archiving. SHERPA maintains the SHERPA/RoMEO listing, which details the rights given to authors by the major publishers of peer-reviewed academic journals. It is now possible to search for many publishers and find out what permissions they normally give as part of copyright transfer agreement. The majority of publishers support the rights of academic authors to make available their work online. However, some see repositories as a threat and prohibit authors from depositing their work by virtue of the copyright transfer agreement, which they ask the author to sign. This makes it difficult or impossible to populate the repositories with content. According to current data, around 71 per cent of the 297 publishers on the RoMEO list formally allow some form of self-archiving. The archiving policy varies from publisher to publisher like green publishers allow both pre-and post-print archiving; blue publishers allow post-print (i.e. final draft after refereeing) archiving; yellow publishers allow preprint (i.e., before refereeing) archiving; and white publishers do not support archiving formally. Digital content available freely cannot be considered as OA content, because the copyright owner might not have given consent for the types of permissive uses outlined by the BOAI. The CCA initiative provides creators with a series of 11 licenses under which creators may make their OA work available. For example the CCA license allows anyone to make derivatives and to make commercial use of the material without permission. This means that a commercial publisher can republish material from an OA publisher without permission or payment of fees. Although e-prints in IRs are freely available, they do not have consistent copyright notice. It generally has * No copyright statement. * A conventional copyright statement.*A copyright statement modified by specific use provisions. *Liberal use permitted for noncommercial purposes. * A CCA or other license, which may or may not permit commercial use or derivatives. * Another local variation.

5. Copyright and Fair Use:

Copyright law begins with the premise that the copyright owner has exclusive rights to many uses of a protected work. The Copyright Act sets forth several exceptions to those rights. The best-known exception is fair use. The fair use provision under the copyright law provides that the fair use of a copyrighted work, including reproduction, is not an infringement of the copyright. Fair use applies to all copyrighted works regardless of the media in which they are fixed. The statute lists six exemplars of fair use: • Criticism, • Comment • News reporting • Teaching (including multiple copies for classroom use) • Scholarship • Research. University faculty, staff and students may make copies of copyrighted materials within the Fair Use Doctrine. Otherwise, the appropriate permissions from the copyright holder are required before making copies. Fair use assertions depend upon an examination of the facts surrounding each case and the factors identified in the applicable copyright statutory provisions along with the

court cases interpreting the statutes. The fair use standard requires consideration and balancing by University faculty, staff, and students of the following factors to determine whether duplication or use by a party other than the copyright owner constitutes fair use: • The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes. In general, uses for educational purposes at nonprofit institutions weigh in favor of fair use. If the use is commercial, fair use is less likely to be found. Copies used in education, but sold at a monetary profit would not be fair use. • The nature of the copyrighted work. The nature of works may range from pure facts to highly creative works. Some works are closer to the core of copyright protection than others. Examples: fiction (more protection) and factual works (less protection); motion pictures (more protection) and news broadcasts (less protection); creative works (more protection) and compilations (less protection); in print (more protection) and out of print (less protection); unpublished (more protection) and published (less protection) • The amount and substantiality of the portion used in relation to the copyrighted work as a whole. No exact measures of allowable quantity exist in the law. Amount is both quantitatively and qualitatively measured. Quantity is evaluated relative to the length of the entire original and the amount needed to serve the educational objective. Where only a small portion of the work is to be copied and the work would not be used if purchase or licensing of a sufficient number of authorized copies were required; the intended use is more likely to be considered fair. Copying excerpts that encompass most of the body of a work would weigh against fair use. • The effect of the use upon the potential market for or value of the copyright. Educational uses that have little or no impact on the market value for the original work weigh in favor of fair use. Copying should not harm the commercial value of the work. As a general rule, there should be no copying of a copyrighted work to substitute for its purchase by the user. Factors to consider: Is the use educational? Is the work going to be used for more than one class and/or more than one semester? Is there a means to obtain permission from the copyright holder? Is the original out of print? Is the cost of the license or royalty prohibitive? Teachers may make personal copies of copyrighted materials for scholarship and research purposes. Some activities are even less likely to constitute fair use and should almost never be engaged in without the explicit permission of the copyright owner: • Copying of materials for profit. • Copying of published textbooks. • Copying of unpublished materials. • Copying of the same materials, e.g. course packs, for classroom use term after term • Copying of works intended to be "consumable" in the course of study or of teaching such as workbooks, exercises, standardized tests, test booklets and answer sheets. The following are fair use guidelines only and will generally provide a safe harbor against claims of copyright infringement. However, each situation has to be evaluated based on the factors referenced above.

6. Library Reserve – Fair Use Guidelines:

• Books – you may place the entire book (not a copy) on reserve or a photocopy of a complete chapter, story, article or essay from a collected work if it does not constitute a substantial portion of the total work. • Journals and Newspapers – you may place a photocopy of one article, story or essay from a single issue per journal title on reserve. • Illustrations – you may place one chart, graph, diagram, cartoon or picture per book or periodical issue on reserve.• CDs – you may place the original item, but no copies, on reserve. • Software – The Chief Information Technology Officer must verify licensing rights before you place software on

reserve. • Public Domain Works – you may reproduce works in the public domain without restriction.

Conclusion:

It is clear and thematic 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. Through knowledge will come power, and spreading awareness will lead to lawful and fuller usage of allowances such as fair use and the responsibility users have toward their source material and the creators or owners of that material. The present paper has highlighted on IPR related terms and about academic libraries roles in dissemination of information by using the fair use policy.

References:

1. Frederickson, L.(2017).Copyright Librarianship: A Primer. Copyright & New Media Law, 21(1),9-11.
2. Copyright and Fair Use.(2016*). ARSC Journa*l,47(2),215-221.
3. Hoorn, Esther. Repositories, copyright and creative commons for scholarly communication, Ariadne, 2005, 45. http://www.ariadne.ac.uk/issue45/hoorn/
4. Krenelka Chase, A.(2013). Copyright and Fair Use in For-Profit Academic Libraries. Reference Librarian, 54(3), 220-225. Doi:10.1080/02763877.2013.779545
5. Moorthy, A.L. & Karisidappa, C.R. Intellectual property rights, and copyright issues in the context of electronic information, in Information technology and applications in libraries: a textbook for beginners, edited by M. Mahapatra & D.B. Ramesh, 2004. pp. 583-89
6. Nath, S.S., B.S.Joshi, C, M.,& Kumar, P.(2008). Intellectual Property Rights: Issues for Creation of Institutional Repositary. DESIDOC Journal of Library & Information Technology, 28(5), 49-55.

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Intellectual Property Rights in Digital Environment : An Overview

Ravindra R Mangale
Librarian
Yashwantrao Chavan (KMC) College, Kolhapur
Email: ravi_libmmec@rediffmail.com

Abstract :

In the present scenario, IPR awareness is the key to technological innovations and in the emerging knowledge-based economy; the importance of IPR is likely to go further. The awareness among the creators of information and knowledge about IPR has become essential in the digital environment because in the digital environment it is becoming difficult to prove rights violation whenever they occur. In the present paper we are discussing of Intellectual Property Rights (IPR) in the Digital environment. We are focusing an overview of IPR in Indian digital environment.

Keywords: Intellectual Property Rights (IPR), Digital Environment, Information and Communication Technology.

Introduction

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.‖(Business Guide to Uruguay Round, WTO, 1995)

What is Intellectual Property?

Intellectual property refers to the product of a person's imagination and creativity and the rights of these people to control the use of their products. Intellectual property can be bought, sold, exchanged and licensed to other people or organizations by the intellectual property holder. Intellectual property is insubstantial and is not linked to the tangible artistic, dramatic or musical work which may have resulted from it. For example: a book is actual property and can change hands without affecting the intellectual property (in this case copyright) of the artist. Intellectual property is protected by intellectual property law. There are six major types of intellectual property law: copyright, patents, designs, trademarks, circuit layouts and new plant varieties; however, confidential information, the duty of fidelity, trade secrets, confidentiality and moral rights are also included.

Historical Background

Through the years history has documented remarkable men and women which have contributed much of their facts to improving society. Intellectual Property Rights plays a very important role in not just protection the individual to protect the use of their facts from misuse but it was meant to promote originality and creativity. Intellectual Property Rights has evolved with the appearance of new technologies its possibility has grown and several factors including globalization of economies as well as changes in the way businesses operate and politicization of IPR issues have been factors influencing its direction. If one were to assess the Philippine setting it would appear that our progress is slow compared to our other neighbors. Our earliest record of laws on intellectual property rights dated back in 1947. We joined the World Organization (WIPO) in 1980 only after 10 years after it was established and our Intellectual Property code has

only taken into effect during 1987. Furthermore the country is viewed as one of the nations that are weak in enforcing laws governing Intellectual Property. Resulting in Millions lost in revenue for corporations and the government in taxes. Consistent enforcement is critical because of the reality that there are people who do not respect the Intellectual property rights of others. The reason may vary from greed, lack of awareness, perceived necessity, criminal intent or even an innocent mistake. When illegal copies take market share or even kill a potential market the enforcement mechanisms become vital to not only protect the players and the entities but also the general public as well. Most of the industries that are affected include computer software, music, films, luxury goods and fashion, perfumes, books, watches, medicine among others. According to World Intellectual Property Organization (WIPO) the factors that influence the increase include a significant gap in the consumer purchasing power, inability to meet the market demand and emergence of new technologies making it easier to produce volumes of illegal copies at faster rate. Enforcement measures are in the form of actions involving administrative, criminal, civil and technological. But in order to succeed a concerted effort to enhance public awareness and a strong political will can make a difference in minimizing if not eradicating the problem.

Why Intellectual Property Rights:

The Intellectual Property rights were basically documented and accepted all over the world due to some very significant reasons. Some of reasons for accepting these rights are:

1. To provide incentive to the individual for new creation.
2. Providing the recognition to creators and inventors.
3. Ensuring material reward for intellectual property.
4. Ensuring the availability of genuine and original products.

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 technology 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 IPR.

Literature Review:

Bomanwar considered intellectual property rights in the context of new information society, noted the thrust area of economic activity shifted to knowledge based industries and intellectual goods, and described impact of piracy of intellectual property act viz. viopiracy, geopiracy and IT products of new information society. He noted that developed countries demand protection against piracy while developing countries feel that such protection will prevent entry of new comers and felt that in the free flow of information IPR was hurdle to it

Panda; K C and others examined copyright law in the electronic age and noted proliferation of electronic information creating interest in the minds of authors, publishers, users and intermediates regarding the copyright law. Discussed the role of IFLA in the protection of copy right in the global scenario and concluded that there is an urgent need to reconsider the existing copyright law to make it suitable in electronic age.

Lakshmana Moorthy, A and Karisiddappa, C.R. observed copyright and electronic information, observed the main objectives of copyright law as promoting the access and the use for information and protecting the work from infringement and for encouraging the authors for pursuit of knowledge. They discussed the Indian Copyright law 1957 and its amendments, mentioned major worldwide projects to protect copy right of electronic information and concluded that the library professional should negotiate few electro copying similar to the kind of fair use as in the case of printed materials.

Murthy, T.A.V. and Jain, S.P. they found the present copyright law which was framed after the invention of the printing press as by and large being forced on the existing electronic environment and felt that there is need to modify the IPR which confers exclusive right to the author to exploit the work created by him/her for monitory gains in compensation of labor, skill and capital investment in generating information.

Digital Libraries

Digital Libraries (DL) are now emerging as a crucial component of global information infrastructure, adopting the latest information and communication technology. Digital Libraries are networked collections of digital texts, documents, images, sounds, data, software, and many more that are the core of today's Internet and tomorrow's universally accessible digital repositories of all human knowledge.

According to the Digital Library Federation (DLF, USA - http://www.dlf.org), "Digital libraries are organizations that provide the resources, including the specialized staff, to select, structure, offer intellectual access to, interpret, distribute, preserve the integrity of, and ensure the persistence over time of collections of digital works so that they are readily and economically available for use by a defined community or set of communities.

In India currently the concept Digital Library is being practiced by and large loosely or even confused by many information systems. It is therefore imperative that the concept is properly understood so that there is no ambiguity while we progress with the work of designing or developing a digital library which is fully justified in the technical sense of the word. It is important that embarking on a digital library project is something which will take away substantial amount of time, energy, manpower and of course the hard earned money being pumped into it – be it for system development or towards development and maintenance of the collection, in a meaningful way. There is consensus all over that there exists a very large quantum of digital information, scholarly as well as trade, which are scattered and distributed throughout the Net and also being stored in numerous other databases and repositories spread across the world. Also there is an unprecedented technology support and availability of infrastructure for digital libraries.

IPR in Indian Digital Environment

Deming Zhou while discussing Chinese copyright protection system has raised specific issues of IPR in digital context. These are also relevant in the Indian context. The advent of digital technology has greatly accelerated the dissemination and distribution of information with great speed and accuracy never seen before. It is much easier to disseminate literary, artistic and scientific work to a very large community of Internet users and users of electronic media. At the same time poses some problems and issues for consideration. The major issues are,

- Is digitization to be considered as similar to reproduction, for example using Xerox machine?
- Is digitization a deductive activity such as translation from one language to another?
- Can transmission of digitized documents through Internet be considered as commercial distribution or public communication similar to broadcasting?
- Is the principle of exhaustion of the distribution right still effective in the digital age?
- Can we consider a database as a special collected work that should be protected by the copyright law or it can be considered as a special work requiring specific legislation for its protection?
- What can be considered as ―Faire use‖ in the Internet environment?
- What are the concerns of the library community?
- In the digital context if access could be technologically restricted by the copyright owner, how could the public exercise fair use with regard to those works?
- Whether libraries should be prevented from employing digital technology to preserve work by making three copies-an archival copy, a master copy and a use copy?
- Whether Internet Service Providers (including libraries and educational institutions) should be liable for copyright infringement merely because they facilitated the transmission of digital data (Zeroes and Ones) that translated into another party's copyrighted work.

IPR Developments in India

- 1947: Patents & Designs Act, 1911
- 1995: India joins WTO
- 1998: India joins Paris Convention/PCT
- 1999: Patent amendment provided EMR retrospectively from 1/1/95
- 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:

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

Conclusion:

According to this paper we found the conclusion that, before the advent of Information and Communication Technology (ICT), IPR and copyright laws were seen as a dull and almost

irrelevant area of law relating to information provision. But with the use of ICT the IPR now have become central point and one of the most dynamic and fast moving areas of law. In the present scenario, IPR awareness is the key to technological innovations and in the emerging knowledge-based economy; the importance of IPR is likely to go further. The awareness among the creators of information and knowledge about IPR has become essential in the digital environment because in the digital environment it is becoming difficult to prove rights violation whenever they occur. In the context of digital information, because it is distributed to a larger community, it is difficult to judge, ―fair use, access and control the infringement of copyright law. It is almost impossible for a copyright owner to know which person used his/her work. It is also impossible for copyright owner to give permission to use and receive remuneration. In this context it is necessary to modify the copyright law. The librarians in the digital environment have the same responsibility to collect information and help the readers by giving it even if the form is electronic information. The role of librarian is to be protected and enhanced. The copyright protection should be encouraging the use of information for creativity and not for creating hurdles in the use of information. The Librarians should continue to work as catalyst for the free flow of information between the owners of copyright and the users of the information.

References:

1. BOMANWAR, V.J.(1998) Intellectual property rights and new information society. In Towards the new information society of tomorrow: Innovations, challenges and impact. Papers presented at the 49th FID conference and congress, New Delhi.
2. PANDA, K.C.(1997) Copyright law in the electronic age. In Access to electronic information: Papers presented at the SIS-97, - 16th Annual Convention and Conference. 29-31, January, 1997. Bhubaneswar ed. By M.Mahapatra and others. Society for Information Science, Bhubaneswar Chapter, Bhubaneswar, 1997. Pp 400-402.
3. MURTHY, T.A.V. and JAIN, S.P. Network access to electronic documents and its copyright implications to developing countries. pp iv 40-44.
4. SREEKUMAR, M.G. and SREEJAYA P. Digital library initiatives and issues in india : efforts on scholarly knowledge management.
5. DEMING ZHOU, Chinese copyright protection system and the challenges of digital technology; pp 45-50.
6. HOMBAL, S.G. and PRASAD K.N.(2012) DESIDOC Journal of Library & Information Technology, Vol. 32, No. 3
7. HANDA,SUMEET.(2015).Intellectual Property Right In Digital Environment: An overview In Digital Environment in international journal of digital library services.

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Intellectual Property System In India

Dr. Ashok P. Jadhav
Head,
Department of Commerce & Management
Hon Shri Annasaheb Dange ACS College,
Hatkanangale, Dist-Kolhapur (M.S.)

Abstract

This research paper looks at the broad contours of India's current intellectual property rights (IPR) regime and offers an assessment of the current situation as well as scenarios for continued advancement. In looking at the needs for India's next stage of growth, both industry and policymakers are focusing on strategies for fostering capacity for innovation. The link between innovation and competitiveness can be clearly demonstrated at a national level, and at a sub national level there is also a growing need for understanding the dynamics of innovation and to take requisite steps accordingly. With this in mind, a stable IPR regime is the foundation of a globally competitive nation, drawing in investments, specifically from FDI. Ultimately, India will do well in the long term if it enables a robust IP ecosystem and protects the IP of its own companies. It will also provide a stable framework for multinational companies wanting to enter India. Yet there are some critical impediments, which have hampered prospects for broader acceptance of IPR norms, and if addressed may enable greater economic cooperation between countries.

Keywords: IPR, Management system of IPR, International Protection for IPR

Introduction

India's IPR system is underscored by a number of policies, laws, and international agreements that shape protections for domestic rights holders as well as how the country views its global obligations. The origins of India's IPR system date back to British colonial rule, when as a colony the state enacted various rules and enforcement mechanisms pertaining to IP rights. Post-independence, India retained elements of these structures while updating some guiding regulations and other bureaucratic structures. As India moved toward liberalization, privatization, and globalization in the 1990s and later, Indian policymakers made further adjustments to keep up with growing needs of domestic and international stakeholders. As a result, today the statutory foundation of India's IPR regime is composed of a patchwork of key laws, governing bodies, and international agreements. These structures are further detailed below.

Objectives of the Study

1. To study the types of protected intellectual property and their coverage by Indian law
2. To study the management system of IPR
3. To study the International protection for IPR

Research Methodology

The paper is an outcome of a review of a substantial number of secondary sources and personal experiences and observations on the Intellectual Property Rights in India.

Types of Protected IP and Their Coverage by Indian Law

Under Indian law, there are six discernible major categories of innovations that are eligible for IP protections.

4.1 Patents:

Patents are a set of exclusive rights that are granted to an inventor for making, selling, or using an invention. Three core pieces of legislation—the Patents Act of 1970, Patent Rules of 2003, and Patent Amendment of 2005—form the basis of patent law in India. The Patents Act has provisions with respect to compulsory licensing, the government's rights to fix prices for patentable goods, and use of some patents for the government only. The Patent Amendment also allows petitioners to file applications through electronic media (though the paper copy should be filed within one month). Of note, over the course of several decades, India's patent law has taken a range of different approaches to the question of "process patents"—that is, whether processes (in contrast with products/molecules/chemical compounds) may be patented. The 1970 law granted process patents, and under its provisions, patents for chemicals, medicines, and drugs were initially granted for a period of fourteen years. This situation changed with the enacting of the Patent Amendment Act of 2002 and Patent Rules, which extended the patent term for a period of twenty years (as well as adding several other provisions related to fees and other questions). Yet with the Patent Amendment of 2005, process patents were completely abolished. This amendment has specific implications for chemical and pharmaceutical industries in particular, which will be discussed later.

4.2Trademarks:

Trademarks are recognizable signs, designs, or expressions that identify the goods and services of a producer as being distinct from another. In India, the Trademark Act of 1999 was a redrafted version of the Trademark and Merchandise Marks Act of 1958 that extended trademarks to services as well. Coverage for trademarks in India is ten years from the date the application is first made, while a 2010 amendment to the act enabled stakeholders to take advantage of provisions in the Madrid Protocol, a treaty that protects trademarks in multiple countries through the filing of one application with a single office.

4.3Copyrights:

Copyrights are a form of intellectual property that grants the creator of original work exclusive rights for distribution for a limited period of time. The first copyright act came to India in 1914, which was modeled on the British Act of 1911. After independence, India's copyright regulations underwent thorough revisions, ultimately resulting in the Indian Copyright Act of 1957, which included (among other provisions) an extension of copyright protections to cover 50 years of protection. Since then, the act has been amended five times (most recently in 2012), with amendments covering further extensions of the copyright period, updates to reflect the digital environment, and coverage for other media forms, including radio diffusion, cinematographic film, and others.

4.4Geographic indicators:

A geographic indicator highlights a place of origin for a product and for the purpose of IP may be closely linked to the perceived value of the good. Examples of geographic indicators include Darjeeling tea, Banaras Saree in India and Havana, and Champagne internationally.

India's Geographic Indications of Goods (Registration & Protection) Act is relatively new, as it first passed in 1999 and was made in fulfillment of obligations under GATT, to which India is a signatory. The purpose is to exclude unauthorized persons from misusing geographic indicators and protecting consumers against deception from passing off goods not related to any geographic area. The registration of such indicators is valid for a period of ten years and can be renewed for further periods of ten years successively.

4.5Industrial Designs:

Indian law also safeguards IP protections for industrial designs based on the unique look or feel of an invention, such as its pattern, shape, or texture. For the purpose of registration, design-related IP protections can be conferred on fourteen classes of goods. Once registered the period of design is fifteen years with renewals at every five-year period. After fifteen years the design becomes open and public property.

Additionally, within the field of design the Semiconductor Integrated Circuits Layout Design Act and Rules of 2000 seeks specific protections for semiconductors.6 This act gives an owner an exclusive right to create layout design for a period of ten years. The act enables the owner to commercially exploit their creation and, in the cases of infringement, seek relief under its provisions.

4.6Agriculture:

Under Indian law, IPR related to innovation in crops and planting are covered by the Protection of Plant Varieties and Farmers' Rights Act of 2001.7 This act seeks to provide for the "establishment of an effective system for protection of plant varieties, the rights of farmers and plant breeders and to encourage the development of new varieties of plants." The duration of protection of registered varieties is different for types of crops. For trees and vines, the protection is eighteen years, while for other crops it is fifteen years. Similarly, for extant varieties, protection is fifteen years from the date of notification.

Domestic Governance and Management of IPR

To execute and enforce the statutory guidelines above, India has a patchwork bureaucracy, which, as of this writing, is being updated under the guidance of a new national IP think tank. As such, the governance and management of IPR in India still currently falls under various offices that cut across different parts of the national government.

IP protection is the responsibility of a number of departments, including the Department of Education, the Department of Information Technology, the Department of Agriculture and Cooperation, and the Department of Industrial Policy and Promotion, among others. While several of these departments can be found within the Ministry of Commerce and Industry, other departments are housed in ministries from different parts of the national government. The Controller General of Patents Designs and Trademarks (CGPDTM), whose office falls under the Department of Industrial Policy and Promotion at the Ministry of Commerce and Industry. This office is a critical element of India's IP structure, as it is responsible for managing the broadest spectrum of IP types. The CGPDTM has various registries under it, namely trademark and geographic indicator registries. The trademark registry is located at five regional centers, and the geographic indicators registry is located at Chennai. Similarly the CGPDTM has four regional patent offices under it, located at the four metropolitan centers, namely Mumbai, Chennai, Delhi,

and Kolkata. The patent information system at Nagpur also reports to the CGPDTM. In addition to the above registries and offices, there is also a national institute for IP management under the CGPDTM.

International Protections for IPR: Trips

Finally, the third pillar of India's IPR regime is defined as its obligations under international frameworks. On this front, perhaps the most pressing and important agreement for understanding India's engagement in the international IPR system is its response to TRIPS. India's position with respect to TRIPS began with being defensive about the country's obligations and its IPR developments, slowly changed to moderation, and finally changed to being aggressive with respect to some specific dimensions. Initially, India held a more defensive view of the international IPR regime. In the 1970s, it passed through a phase of "know-why" oriented technological learning, when the country focused technological development on building up process capabilities through reverse engineering. This phase was possible because India's 1970 Patent Act allowed for this view of "know-why" development coupled with emerging IPR culture, such as by allowing process patents on chemical substances. Internationally, this put the country at odds with the suggested requirements of TRIPS after 1994 when the agreement came into force. Ultimately, India saw a proliferation of its "process" industry during the initial years from the 1970s onwards, while at the international level pharmaceutical companies already wanted a more stringent IPR regime.

India's pharmaceutical industry initially was strongly opposed to the idea of product patents and
led the push for defense against TRIPS. During the 1990s, the pharmaceutical industry's business interests in India became sharply divided, with some multinational corporations wanting to export to overseas markets, utilizing India's largely cheap labor. These corporations came out strongly in support of the TRIPS Agreement. A large number still did not feel that they had adequately caught up with the rest of the pack and wanted the process patent regime to be extended. India accordingly signed the TRIPS Agreement in 1994. Mentioned in the GATT treaty was also that member countries conform to their national legislations on IPR and to the conventions and suggestions contained in the treaty. The declaration recognizes members' "right to grant compulsory licenses and the freedom to determine the grounds upon which such licenses are granted." It also grants each member the "right to determine what constitutes a national emergency or other circumstances of extreme urgency" in implementing TRIPS.

Conclusions:

The broad level contours of IP policy are now visible in the form of the national IP policy. India now needs to improve the IPR regime both from the side of the legislation and also from the side of enforcement of laws. This improvement will help in the creation of a better environment for improving the overall innovation in the country. The need also exists to start looking at and understanding the IPR regimes abroad and, more importantly, bringing in the requisite changes, such as better digitization, in the present regime. For this, Indian states as well as industry will have to play a proactive role in asking the central government for a better IP protection regime so that there is greater innovation at the state level, which contributes toward the future competitiveness of India. Particular industries' performance, namely the pharmaceutical industry, will depend on the kind of IPR regime prevalent in India. It is

important, however, that the likely impacts of introducing various measures are taken into account before framing and implementing IP policy.

References

1. Klaus Schwab, The Global Competitiveness Report 2014–2015 (Geneva: World Economic Forum, 2014).
2. Institut Européen d'Administration des Affaires was an earlier name of INSEAD. For the full index, see Soumitra
3. Dutta, Bruno Lanvin, and Sacha Wunsch-Vincent, The Global Innovation Index 2014: The Human Factor in Innovation (Fontainebleau, Ithaca, and Geneva: Cornell University, INSEAD, and WIPO, 2014).
4. Intellectual Property India, "The Patents Act, 1970," http://ipindia.nic.in/ipr/patent/patent_Act_1970_28012013_book.pdf. This section also draws from N.K. Acharaya, Textbook of Intellectual Property Rights, 7th ed. (Hyderabad: Asia Law House, 2014).
5. "Madrid Protocol Takes Effect in India," World Intellectual Property Review, August 7, 2003, http://www.worldipreview.com/news/madrid-protocol-takes-effect-in-india.
6. Ministry of Law, Justice and Company Affairs (India), The Semiconductor Integrated Circuits Layout-Design Act, 2000, Act of Parliament no. 37 of 2000, no. DL-33004/2000 (New Delhi, September 4, 2000), http://sicldr.gov.in/Resources/SICLDRA1.pdf.
7. Ministry of Law, Justice and Company Affairs (India), The Protection of Plant Varieties and Farmers' Rights Act, 2001, Act of Parliament no. 53 of 2001, no. DL-33004/2000 (New Delhi, October 30, 2001), http://agricoop.nic.in/PPV&FR%20Act,%202001.pdf.
8. A process patent is in contrast with a product patent. A process patent is granted for a manufacturing process that is different from the original process, while a product patent is granted for only a product that is different from the original product.
9. "Declaration on TRIPs Agreement and Public Health," World Trade Organization, November 20, 2001, http://www.wto.org/english/thewto_e/minist_e/min01_e/mindecl_trips_e.htm.

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Intellectual Property Rights In India: An Overview

Miss. Vandana S. Tandale
Assistant Professor
Hon Shri Annasaheb Dange ACS College,
Hatkanangale, Dist-Kolhapur (M.S.)

Abstract

Intellectual property rights (IPR) have become important in the face of changing trade environment which is characterized by global competition, high innovation risks, short product cycle, need for rapid changes in technology, high investments in research and development (R&D), production and marketing and need for highly skilled human resources. Regardless of what product an enterprise makes or what service it provides, it is likely that it is regularly using and creating a great deal of intellectual property. There is an emergent need for enterprises and professionals to systematically consider the steps required for protecting, managing and enforcing intellectual property rights, so as to get the best possible commercial results from its ownership. This paper provides an overview of intellectual property rights meaning, concepts and theory.

Keywords: IPR, Trends in IPR

Introduction

Intellectual property Right (IPR) is a term used for various legal entitlements which attach to certain types of information, ideas, or other intangibles in their expressed form. The holder of this legal entitlement is generally entitled to exercise various exclusive rights in relation to the subject matter of the Intellectual Property. The term intellectual property reflects the idea that this subject matter is the product of the mind or the intellect, and that Intellectual Property rights may be protected at law in the same way as any other form of property. Intellectual property laws vary from jurisdiction to jurisdiction, such that the acquisition, registration or enforcement of IP rights must be pursued or obtained separately in each territory of interest. Intellectual property rights (IPR) can be defined as the rights given to people over the creation of their minds. They usually give the creator an exclusive right over the use of his/her creations for a certain period of time.

Objective

To take a brief overview of Intellectual Property Rights
To study the trends of Intellectual Property in India

Methodology

The paper is an outcome of a review of a substantial number of secondary sources and personal experiences and observations on the Intellectual Property Rights in India.

Intellectual Property

Intellectual property is an intangible creation of the human mind, usually expressed or translated into a tangible form that is assigned certain rights of property. Examples of intellectual property include an author's copyright on a book or article, a distinctive logo design representing

a soft drink company and its products, unique design elements of a web site, or a patent on the process to manufacture chewing gum.

Intellectual Property Right

Intellectual property rights (IPR) can be defined as the rights given to people over the creation of their minds. They usually give the creator an exclusive right over the use of his/her creations for a certain period of time. Intellectual property (IP) refers to creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce.

Categories of Intellectual Property

One can broadly classify the various forms of IPRs into two categories:

- IPRs that stimulate inventive and creative activities (patents, utility models, industrial designs, copyright, plant breeders' rights and layout designs for integrated circuits) and
- IPRs that offer information to consumers (trademarks and geographical indications).

Duration of Intellectual Property Rights in a Nutshell

1. Term of every patent will be 20 years from the date of filing of patent application, irrespective of whether it is filled with provisional or complete specification. Date of patent is the date on which the application for patent is filed.
2. Term of every trademark registration is 10 years from the date of making of the application which is deemed to be the date of registration.
3. Copyright generally lasts for a period of sixty years.
4. The registration of a geographical indication is valid for a period of 10 years.
5. The duration of registration of Chip Layout Design is for a period of 10 years counted from the date of filing an application for registration or from the date of first commercial exploitation anywhere in India or in any convention country or country specified by Government of India whichever is earlier.
6. The duration of protection of registered varieties is different for different crops namely 18 years for trees and vines, 15 years for other crops and extant varieties.

Intellectual Property Trends – India

Indian IP scenario is undergoing a fascinating transformation. The office of the Controller General of Patents, Designs and Trademarks (CGPDTM) is making relentless efforts in order to improve the current IP landscape in India. CGPTDM is committed towards making the Indian IP climate suitable for innovation and technological growth in India. The present government has realized the importance of a balanced IP system to address the country's innovation and development related objectives. And the efforts show up in the initiatives like new IP policy, amendment in Patent rules, amendment in trademark rules etc. The CGPDTM is also incessantly working towards making the average patent grant time from 5-7 years to 18 months by March 2018. In an official report released by CGPDTM the Indian IP development trends were discussed and analyzed for the year 2015-16.

- As per the CGPDTM report, in the year 2015-16, 30% growth was recorded in filing of IP applications. 10%, 19% and 34.47% growth was recorded in the fields of Patent, Design and Trademark application filing respectively in comparison to previous years.

- Patent trends: 10% growth was recorded in patent application filing in comparison to the previous year.
- Design trends: Design application filing showed an increase of 19% as compared to 2014-15.
- Trademark trends: Trademark application filing showed a whopping increase of 34.47% as compared to the previous year.
- Geographical Indications trends: A total number of 26 Geographical Indications were registered in contrast to 20 last year.

Initiatives of Government of India towards Protection of IPR

1. The Government has brought out A Handbook of Copyright Law to create awareness of copyright laws amongst the stakeholders, enforcement agencies, professional users like the scientific and academic communities and members of the public.
2. National Police Academy, Hyderabad and National Academy of Customs, Excise and Narcotics conducted several training programs on copyright laws for the police and customs officers.
3. The Department of Education, Ministry of Human Resource Development, Government of India has initiated several measures in the past for strengthening the enforcement of copyrights that include constitution of a Copyright Enforcement Advisory Council (CEAC), creation of separate cells in state police headquarters, encouraging setting up of collective administration societies and organization of seminars and workshops to create greater awareness of copyright laws among the enforcement personnel and the general public.
4. Special cells for copyright enforcement have so far been set up in 23 States and Union Territories, i.e. Andhra Pradesh, Assam, Andaman & Nicobar Islands, Chandigarh, Dadra & Nagar Haveli, Daman & Diu, Delhi, Goa, Gujarat, Haryana, Himachal Pradesh, Jammu & Kashmir, Karnataka, Kerala, Madhya Pradesh, Meghalaya, Orissa, Pondicherry, Punjab, Sikkim, Tamil Nadu, Tripura and West Bengal.
5. The Government also initiates a number of seminars/workshops on copyright issues. The participants in these seminars include enforcement personnel as well as representatives of industry organizations.

Conclusion

As a result of Start-up India initiative, the office of CGPDTM is taking steps to encourage IPR protection amongst startups, which includes providing facilitators to start ups to file and process their applications for patents, designs and trademarks and reimbursement of professional charges of facilitators. The provisions pertaining to necessary assistance via emails and helpdesk are also mentioned in the report. Other initiatives were also adopted in order to expedite the IP registration process have been introduced. The idea is not only to clear backlog but also to streamline the whole procedure.

References

1. Ankit Prakash, India: IP Value 2009: Recent Developments In Intellectual Property, available at http://www.mondaq.com/article.asp?articleid=76022 (visited on 27th January, 2011).

2. Rouse, IP environment in India, available at http://www.inhouselawyer.co.uk/index.php/intellectual-property/7552-ip-environment-in-india (visited on 28th January, 2011).
3. Mr. T.C James, Consultant FICCI IPR Division & Former Director, Department of industrial Policy & Promotion, Government of India, available at http://www.ficci.com/sector/24/Add_docs/ipr-dec2010.pdf (visited on 2nd feburary 2011).
4. http://ipr.indlaw.com/guest/displaynews.aspx?092706d9-f478- 43de-8ea0-dd7dfc735681,also see to http://www.ficci.com/sector/24/Add_docs/ipr-dec2010.pdf (visited on 2nd feburary 2011).
5. Intellectual property and its importance to development in india, available at http://collegeproperty.info/intellectual-property-and-its-importance-to-development-inindia.html (visited on 1st feburary,2011).
6. Anand Pravin and Sumeera Raheja, "India: The Changing Face Of Intellectual Property", available at http://www.buildingipvalue.com/08_AP/203-206Anand.pdf (visited on 1st feburary 2011).

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

IPR Protection in the Digital Space Through National Legislative Frameworks in Indian Context

Kishor N. Desai
Librarian,
Krantiagrani G.D. Bapu Lad Mahavidyalaya, A/P-Kundal
Tal-Palus, Dist-Sangli.Pin-416 309
Email-kishor.desai007@gmail.com, Cell- 9730820255

Abstract

The Intellectual Property Right and Copyright cover printed matter, patents, industrial design, trademarks, trade secrets, etc. The growth of new technology has given rise to new concepts like computer programs, computer database, computer layouts, various works on the Web, etc. So it is very necessary to know more about the legal factors with regard to computer programs/software, computer databases and various work in cyberspace. Copyright is the key issue in intellectual property rights in the digital era, In light of this, the paper tries to highlight the copyright challenges brought about by the internet, summarising the legal instruments that are available in India.

Keywords: - Intellectual Property Rights (IPRs), copyright, Internet, Information Technology, Communications.

Intellectual Property Right (IPR)

The term Intellectual Property (IP) refers broadly to the creations of the human mind: inventions, literary and artistic works, and symbols, names, images, and designs used in the commerce. Intellectual Property is divided into two categories: *Industrial Property*: It includes inventions (patents), trademarks, industrial design and geographic indications of source; and *Copyright*: It 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. The Intellectual Property Rights (IPRs) Acts have three-level protection, viz. legal-through legislations like copyright laws; technological-through digital rights management systems (DRMS); and legal protection to help technological protection-through prohibition of acts of circumvention of copyright laws.

IPRs – An Indian Perspective

In India, the protection of IPRs is governed by the following legislations:

Patents Act of 1970:

A patent gives the inventor monopoly right over the product and also allows him or her to license it for others to make and sell, in return for the payment of royalties. Patents are used to protect technological inventions including processes. The Patents Act, 1970 was amended in 1999 passed by the Indian Parliament on March 10, 1999, that provides for establishment of a mailbox system to file patents and accords exclusive marketing rights for 5 years.

Trade Marks Acts, 1958:

Registered trademark rights protect the signs used to identify a company's products or services, distinguishing them from those owned by other businesses. The Trade Marks Bill 1999

repeals and replaces the Trade and Merchandise Marks Act, 1958 passed by the Indian Parliament in December 1999.

Industrial Designs Bill, 1911

Design rights consist of both registered and unregistered forms. The more common type is the registered design, covering the appearance (that is, the shape or pattern) of a product or its packaging, as well as typefaces and graphics. The Industrial Designs Bill, 1999, which replaces the Design Act 1911 (modified in 1970), was passed in December 1999.

Copyright Act 1957

Copyright provides legal rights of ownership exclusively given for a definite period of time to the authors or creators (like writers, poets, composers, etc.) on their literary or artistic works and legal protection against unlawful reproduction of such works. Copyright Act 1957 was enforced to protect the IPR in the print publishing era. It was amended in 1983, 1984, 1991, 1992, 1994 to keep pace with the expanding needs owing to rapid growth of electronic media and Information Technology.

Basic Principles of Copyright

- Copyright is negative right
- Copyright is a right with limitations: Temporal Limitation, Permitted Use or Fair Use or Fair Dealing Doctrine, Geographical Limitations and Compulsory Licenses
- Copyright vests in original work
- Copyright does not vest in ideas
- Copyright is a bundle of rights: Exclusive economic rights, Moral rights, Neighbouring rights

Subject Matter of Copyright Protection (Section 13)

Original, Literary, Dramatic, Musical, Artistic Works ("Original" is not the same as "novel" Test of originality is a low one) Cinematograph Films (include video films), Sound Recordings

Geographical Indications (GI):

The term of GI has been defined as "Geographical Indications", in relation to goods, means an indication which indentifies goods (agricultural goods, natural goods or manufactured goods) as originating or manufactured in the territory where a given quality reputation or other characteristics of a good in attributable to its geographical origin.

Copyrights and the Internet:

The internet facility to access started in the US some 30 years ago, in the government defence department as a transfer information tool during wartime. Initially (1950-1975), it was operating at a snail's pace and later in 1983 Internet came into existence subsequently spreading across the globe. At present, the copyright laws have been to protect Internet items, just as it has been adopted through the years to protect various other new mediums.

Internet Protection-Indian Scenario:

The Indian Copyright Act kept track of international conventions and the current copyright laws are far behind the West. As India has not signed the "WIPO Internet Treaties"

there is no equivalent legislation in India to the USA (Digital Millennium Copyright Act), Australia (Digital Agenda Act0 or EU directive implementing the WIPO Internet Treaties. India is one among the top 20 countries in the utilisation of the Internet. India has become the software development hub of the world and has become a favourite destination in this area. The increase in the utilisation of the Internet problems in copyright protection related to digital transmission has become worse. Non-profit organisations like NASSCOM (National Association of Software and Service Companies) have been actively working as a partner with the Government of India and State Governments in formulating IT policies and legislation in India.

Information Technology Act (IT Act) or Cyber Laws, 2000:

The Department of Electronics (DoE), Government of India enacted the Information Technology Act (IT) 2000 to address problems created by 'cyberspace' regarding conduct of electronic commerce. The IT Act does not lay down any concrete framework for dealing with specific copyright violations of the Internet. There are provisions that may be constructed to be seeking to address some aspects of copyrights as is obvious from section 43 which relates to penalty for damage to computer systems.

The Communications Convergence Bill, 2000:

Currently, there is the Communications Convergence Bill, 2000 pending before the Indian Parliament which seeks to promote, facilitate and develop in an orderly manner the carriage and content of communications (including broadcasting, telecommunications and multimedia) and for the establishment of a regulatory framework to control and carriage and broadcast all forms of communication. This bill also does not directly address issues related to copyright or other IPRs or privacy but its provisions would have a significant impact on distribution of copyrighted material. The focus of the bill appears to be control of radio frequency spectrum and licensing of users of the radio frequencies.

Conclusion:

Copyright is serious issue for protecting IPR in Internet. The Indian Copyright Act is silent about the copyright application in the digital environment. Almost all countries have given protection to computers databases, computer software/program and Internet by amending their copyright laws. But there are many countries, which have yet to amend their copyright laws for the protection of computer databases, computer software/program and Internet. Undoubtedly, the current copyright laws do provide protection to copyright owners but it has some drawbacks. Some doubts have been raised in the effectiveness of copyright protection being enforced onto people. The borderless nature of Internet, calls for a more encouraging relationship in other jurisdictions and close competition with the international organisations. The society must use mechanisms to educate on the necessity of copyright protection to prevent any unauthorised use.

References:

1. Chawla Alka. Copyright Law and Industrial Designs Special IP Tools: Delhi: Intellectual Property Right sensitisation programme, Jaipur, 23rd December 2008.
2. Chaube, O.N. and Murthy, A.V. Protecting Digital Intellectual Property: An Indian Scenario presented at CALIBER 2002, Ahmadabad: INFLIBNET.

3. "Management of Intellectual Property Rights in India", (Accessed on September29, 2017) http://pfc.org.in/workshop/managementofIPRinelecronics.pdf.
4. Moorthy, A.L. and Karisiddappa, C.R., The relevance of Intellectual Property Rights in the Digital Millennium. Accessed 23 March 2017.http://handle.net/1849/363.
5. The UCLA Online Institute for Cyberspace Law and Policy. The Digital Millennium Copyright Act. Accessed on April29, 2017. http://www.gseis.ucla.edu/iclp/dmcal.htm.

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Need of Registration of Intellectual Property Rights

Prof. Nilkanth V. Chakradhari
Hon. Shri. Annasaheb Dange ACS College, Hatkanangale
Dist – Kolhapur (M.S.)

Abstract

The paper gives information about the Registration process of intellectual property right. The central government plays a great role in the registration of the intellectual property right. There is a need for the registration of intellectual property rights. The registration gives us legal right of the property.

Introduction:

Intellectual property right gives monopoly to the owner for the use of the items for a specific period. It gives a legal security to the owner of the item. The monopoly of the item is protected by the law itself. The govt. has legal control over it by its respective departments. There are various types of intellectual property rights. The term refers to the assignment of property rights through patents, copyrights and trademarks. The law deals with the rules for securing and enforcing legal right to inventions , designs and artistic works just as the law protects ownership of personal property and real estate , so too does it protect the exclusive control of intangible assets. Intangible assets such as musical, literary and artistic works, discoveries and inventions and words, phrases, symbols and designs..

Registration of intellectual property:

In India, The intellectual property rights pertaining to trademark and patents are controlled by the "controller general of patents designs and trademark, Department of industrial policy and promotion, ministry of commerce and industry.''

Copyrights are handled by the copyright societies, Govt of India. Based on the type of intellectual property right to be registered, applications must be made to the concerned authorities in the prescribed form.

Trademark Registration:

Trademark is the most common type of intellectual property right. Trademark registration and trademark protection in India are governed by the trademark act 1999, amended in 2010. In India more than two lakh trademark registration applications filed during the year 2013-14.

Copyright Registration:

Copyright registrations are handled by the copyright office acting under the Indian copyright act, 1957.amended in 2012. One of the popular type of copyright registration in India is copyright registration of website and software. Websites and software can be copyrighted as they are both considered to be "literary works''. Under the Indian copyright act 1957. The copyright office comes under the Ministry of Human resource development.

Patent Registration:

Patent registration in India can be obtained for any invention relating to a product or process that is new, involving inventive step and capable of industrial applications. They are

registered under the patent act 1970 amended in 2006. The patent registration comes under the Dept. of industrial policy and promotion (DIPP), ministry of commerce and industry.

Conclusion:

To conclude this paper the above mentioned registrations plays a key role for the monopoly of the product to its owner for a particular period.

Books for reference :

1. " intellectual property'' oxford English dictionary (3rd edition) oxford uty. Press sept 2015
2. Mossoff A . 'rethinking the development of patents : an intellectual history 1550 to 1800
3. The patent act 1970 , (www.ipindia.nic.in)
4. En.wikipedia.org
5. Trade marks act 1999. (www.ipindia.nic.in)

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Patent as Intellectual Property Right

Dr. M. R. Thite
H.O.D. Accountancy
Night College of Arts and Commerce, Ichalkaranji
Email:- thitemr@gmail.com

Introduction

Intellectual property refers to creations of the mind: inventions; literary and artistic works; and symbols, names and images used in commerce. Intellectual property rights are like any other property right. They allow creators, or owners, of patents, trademarks or copyrighted works to benefit from their own work or investment in a creation. These rights are outlined in Article27 of the Universal Declaration of Human Rights, which provides for the right to benefit from the protection of moral and material interests resulting from authorship of scientific, literary or artistic production. The importance of Intellectual property was first recognized in the Paris Convention for the Protection of Industrial Property (1883) and the Berne Convention for the Protection of Literary and Artistic Works (1886). Both treaties are administered by the World intellectual property Organization (WIPO). An efficient and equitable intellectual property system can help all countries to realize intellectual property's potential as a catalyst for economic development and social and cultural well-being. The intellectual property system helps strike a balance between the interests of innovators and the public interest, providing an environment in which creativity and invention can flourish, for the benefit of all. A patent is an exclusive right granted for an invention- a product or process that provides a new way of doing something, or that offers a new technical solution to a problem. A Patent provides for their inventions. Protection is granted for a limited period, generally 20 years. Patent rights are usually enforced in courts that, in most systems, hold the authority to stop patent infringement. Conversely, a court can also declare a patent invalid upon a successful challenge by a third party. Owners may also sell their invention rights to someone else, who then becomes the new owner of the patent. Once a patent expires, protection ends and the invention enter the public domain. A patent is a document, issued, upon application, by a government office (or a regional office acting for several countries), which describes an invention and creates a legal situation in which the patented invention can normally only be exploited (manufactured, used, sold, imported) problem in the field of technology. An invention may relate to a product or a process. The protection conferred by the patent is limited in time (generally 20 years)

Patents are frequently referred to as "monopolies", but a patent does not give the right to the inventor or the owner of a patented invention to make, use or sell anything. The effects of the grant of a patent are that the patented invention may not be exploited in the country by persons other than the owner of the patent unless the owner agrees to such exploitation. Thus, while the owner is not given a statutory right to practice his invention, he is given a statutory right to prevent others from commercially exploiting his invention, which is frequently referred to as a right to exclude others from making, using or selling the invention. The right to take action against any person exploiting the patented invention in the country without his agreement constitutes the patent owner's most important right, since it permits him to derive the material

benefits to which he is entitled as a reward for his intellectual effort and work, and compensation for the expenses which his research and experimentation leading to the invention have entailed.

It should be emphasized, however, that while the State may grant patent rights, it does not automatically enforce them, and it is up to the owner of a patent to bring an action, usually under civil law, for any infringement of his patent rights. The patentee must therefore be his own "policeman."

Patent Law in India

The Patents Act 1970, along with the Patents Rules 1972, came into force on 20th April 1972, replacing the Indian Patents and Designs Act 1911. The Patents Act was largely based on the recommendations of the Ayyangar Committee Report headed by Justice N. Rajagopalan Ayyangar. One of the Recommendations was the allowance of only process patents with regard to inventions relating to drugs, medicines, food and chemicals. Later, India became signatory to many international arrangements with an objective of strengthening its patent law and coming in league with the modern world. One of the significant steps towards achieving this objective was becoming the member of the Trade Related Intellectual Property Rights (TRIPS) system.

History

Being a signatory to TRIPS, India was under a contractual obligation to amend its Patents Act to comply with its provisions. India had to meet the first set of requirements on 1st January 1995 to give a pipeline protection till the country starts granting product patent. On 26th March, 1999, Patents (Amendment) Act, 1999 came into force retrospective effect from 1st January, 1995.

The **Second** phase of amendment was brought in by the Patents (Amendment) Act, 2002 which came into force on 20th May 2003. The main features of the amendments included:

1. Term of Patent was extended from 14 to 20 years, wherein the date of patent was the date of filing of complete specification. Also the difference in term of a drug/ food patent and other patent was removed.
2. The definition of " invention" was made in conformity with the provisions of TRIPs Agreement by introducing the concept of inventive step, thereby enlarging the scope of invention.
3. Deferred examination system was introduced.
4. Introduction of the provision of publication of application after 18 months from the date of filing thereby bringing India at par with the rest of the world.
5. Microorganisms became patentable, whereas inventions relating to traditional knowledge were included in the list of "what are not inventions".
6. The concept of unity of invention in accordance with EPC and PCT.
7. Section 39 was reintroduced thereby prohibiting the Indian residents to apply abroad without prior permission or first filling in India.
8. Provisions of appellate Board were brought in by inserting section 116. All appeals to the decision of the Controller would be appealable before the appellate Board. The Head Quarter of the Appellate Board is to be in Chennai.
9. Section 117 provided for Bolar provision for the benefit of agrochemical and pharmaceutical industry.

The **third and final** amendment to the Patents Act, 1970 came by way of Patents (Amendment) Ordinance, 2004, which was later replaced by The Patent (Amendment) Act, 2005, and Patents (Amendment) Rules, 2006 with retrospective effect from 1st January, 2005. With the third amendment India met with the international obligations under the TRIPS. Significant achievements of this amendment were :

1. Deletion of section 5, opening of mailbox and grant of product patents. Thus this amendment led to the dawn of the "product patent regime" in India.
2. Abolition of Exclusive Marketing Rights (EMR).

The Head Patent Office is located at **Kolkata** and its branch offices are located at Delhi, Mumbai and Chennai. Patent system in India is administered by the Controller General of Patents, Designs, Trademarks and Geographical Indications. Each office has its own territorial Jurisdiction for receiving patent applications and is empowered to deal with all sections of Patent Act. The jurisdiction for filing the patent application depends upon:

i) Indian applicant(s) : determined according to place of residence, place of business of the applicant or where the invention actually originated.

ii) Foreign applicant(s): determined by the address for service in India.

How is A Patent Granted?

The first step in securing a patent is to file a patent application. The application generally contains the title of the invention, as well as an indication of its technical field. It must include the background and a description of the invention, in clear language and enough detail that an individual with an average understanding of the field could use or reproduce the invention. Such description are usually accompanied by visual materials.- drawings, plans or diagrams- that describe the invention in greater detail. The application also contains various "claims" that is , information to help determine the extent of protection to be granted by the patent. An invention must meet several criteria if it is to be eligible for patent protection. These include, most significantly, that the invention must consist of patentable subject matter, the invention must be industrially applicable (useful), it must be new (novel), it must exhibit a sufficient "insensitive step" (be non-obvious), and the disclosure of the invention in the patent application must meet certain standards. In order to be eligible for patent protection, an invention must fall within the scope of patentable subject matter. Patentable subject matter is established by statute, and is usually defined in terms of the exceptions to patentability the general rule being that patent protection shall be available for inventions in all fields of technology. Subject matter which may be excluded from patentability includes the following examples of fields of technology which may be excluded from the scope of patentable subject matter includes the following:

- Discoveries of materials or substances already existing in nature.
- Scientific theories or mathematical methods.
- Plants and animals other than microorganisms, and essentially biological processes for the production of plants and animals, other than non biological and microbiological processes.
- Schemes, rules or methods, such as those for doing business, performing purely mental acts or playing games.
- Methods of treatment for humans or animals, or diagnostic methods practiced on human or animals.(But not products for use in such methods.)

The **TRIPS** Agreement further specifies that Members may exclude from patent protection certain kinds of inventions, for instance inventions the commercial exploitation of which would contravene public order or morality.

Conclusion

Intellectual property refers to creation of mind, inventions, literary and artistic work and symbols, names and images used in commerce. It can be divided into two categories, Industrial property and copyright. To legally enforce such right, we need to register our creation with the office of controller General of patents, Design & Trade Marks under Minister of Commerce & Industry, Govt. of India.

Patent implies a new product or process capable of industrial application. The term for registered patent in India is 20 years. The process of registration, payment of fees, renewal is online and is required digital signature of the applicant. An invention to became patentable subject matter it should be novel, it must be non-obvious should be capable of industrial application and should not fall within provisions of sec. 3 & 4 of the patent Act 1970.

References :-

1. http:// wwwipindia.nic.in
2. http://economic times. Indiatimes.com
3. Intellectual property rights by Dr. M.K. Bhandari.
4. http://wwwmondaq.com/India.

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Procedure to Protect Intellectuality by Obtaining Patents in India

Dr. M. N. Survase
Assistant Professor,
Hon. Shri Annasaheb Dange ACS College, Hatkanangale,

Abstract

The IPR protects your innovations and ideas related rights and from infringement by others and restricts its uses, making and selling without your permissions. This paper aims to explore the significance of intellectual property rights and to know the procedure to obtain patents in India. For that, the data and information is collected from news papers, articles, magazines, internet websites, and expert interviews. Protecting intellectual property with patents provides the exclusive rights by law to the assignees or originator to make use of and exploit their inventions. The invention which meets the novelty, non-obviousness, usefulness in the industry, enabled etc criteria's as per Indian patent act and fulfilling patentable criteria's with proper application and details justifications with fallow up and clearing the objections are eligible to grants the patents.

Keywords: Intellectual property right, Patents, patentability of invention, obtaining patent

Introduction

Intellectual property deals with the various innovations and ideas of the person or the organization. It is essential and key factor in the personal or commercial uses. It consist various aspects such as logos, corporate identity of products, processes and services. The intellectual property thefts have increased with enormous duplicating the products and services without proper permissions in commercial areas. With the considerations of these things, the lot of companies and producers facing the business risks and unauthorised uses of ideas, designs, products and services. It creates the need of protect the intellectual property with legal authority of owners for the protection of its ideas and product with long term business viability.

The great ideas about the products or services have lot of chances of duplications. The intellectual property rights can helps protecting with the patents, trademarks and copyrights. It will be help us to prevent the uses from competitors to use your ideas for their own business or economic profit without your legal consent and authorizations.

It is very important to protect any unique product or services form the uses of competitors for the protection of market share and business growth and to avoid revenues. If we lost the ideas and services about the products and services without obtaining intellectual property rights it may be harmful or can be become the cause of business destructions. It is our own responsibility to protect the intellectual property assets with proper rights. The obtaining intellectual property right may be considered as an overwhelming process but is easier than you think. It is difficult and time consuming but the protection of IP is well worth for the business.

Objective:

This paper aims to explore the significance of intellectual property rights and to know the procedure to obtain patents in India.

Methodology

For the same paper, the data and information is collected from news papers, articles, magazines, internet websites, and expert interviews. The collected data and information processed for the understanding current scenario and explore the IPR in India. The patentable subject matter with all essential guidelines and criteria's of concerned authority and government of India illustrated. The conditions and stepwise procedure for the obtaining the patent is given in easily and concisely.

Analysis and discussion

What is intellectual property?

The creations of mind, such as inventions, literature and artistic works, designs, symbols, images and terms used in research, business and commerce is known as a Intellectual property. The term of Intellectual property (IP) is used for the intangible asset that doesn't exist in a physical object but has a economic values. It includes innovative ideas, concepts, designs, software, inventions, trade secrets, formulas and brand names, artistic works like music and literature, discoveries, process and services.

What is intellectual property right?

Intellectual property rights refer to the legal ownership of IP by a person or business of an invention, discovery related to the particular product or processes for the protection of the owner against unauthorized copying or imitations.

What is the importance of protecting intellectual property?

The IP (Intellectual property) are the valuable assets for the business and vital because it can protect your business from your competitors. It can provide the licensing and revenue for the business. It helps and protects the innovative research and encourage for the betterment business. It helps in marketing and branding the product. It provides the security for loans and many more lot of aspects of your business. It protects your rights against infringement by others and restricts its uses, making and selling without your permissions. It helps to earn royalties by licensing and making money by selling it.

Types of intellectual property :

1. Copyright: It is a legal rights provided to creators for perform, print, publish, record literary, artistic, or musical materials for its uses and distributions (Wikipedia).
2. Patents: It is the exclusive rights granted by a government authority to an originator to manufacture, use, or sell an invention and prohibit others from making, using, or selling an invention for a certain number of years.
3. Trademarks: It is a symbol, word, or words registered legally or established by use as to represent a company or product.
4. Industrial designs: It is the art or practice of designing object for manufacturing consisting aesthetic aspects and three-dimensional features like shape, surface, patterns, lines, colours or two-dimensional features of objects.
5. Geographical indications: It is a name or sign used on products which corresponds to a specific geographical location or origin having specific qualities, reputation or characteristics (WIPO).

Protecting intellectual property with Patents

Patent is a statutory right for an invention granted for a limited period of time to the patentee by the Government, in exchange of full disclosure of his invention for excluding others, from making, using, selling, importing the patented product or process for producing that product for those purposes without his consent. Protecting intellectual property with patents provides the exclusive rights by law to the assignees or originator to make use of and exploit their inventions for a limited period of time (approximately 20 years). The patent holder legally excludes others from his invention and its commercial uses.

Patentable subject matter as per guidelines of CGPDT India

- Any article, apparatus or machinery or its component
- Any, substance whether living or non living, product, pharmaceutical product
- Any composition of matter, pharmaceutical products
- Any process, manner or art of manufacturing other than essential biological process

Conditions to be patentable

1. Novelty: Patenting should have the new inventions or satisfactory improvement in old patents. The information should be disclosed to public and available in prior
2. Inventiveness: Patenting should be inventive and decided on the matter contained in simple or complex unpublished aspects relates to a Processor Product or both.
3. Usefulness: An invention must possess utility for the grant of patent means it should be capable of used in any kind of industry.

Where to Apply?

For the patent we should apply online or offline at the respected patent office. The place of applicant residence or place of inventions determines the address of territorial jurisdiction. For detail guidelines and online application visit http://www.ipindia.nic.in/ for online filing of patent visit https://ipindiaonline.gov.in/epatentfiling/goforlogin/dologin

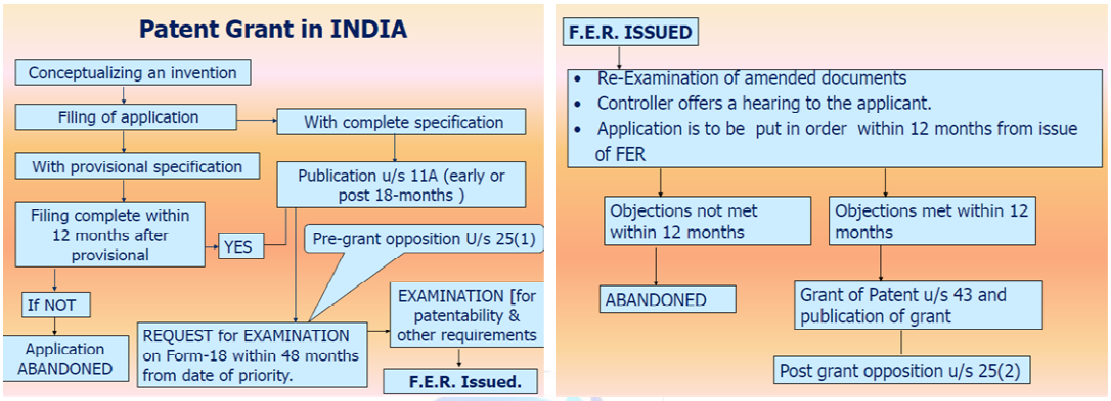
Sr. No.	Patent office	Territorial Jurisdiction
1	Mumbai	Gujarat, Maharashtra, MP, Goa, UT's daman & Diu, Dadra & Nagar Haveli
2	Delhi	Haryana, HP, J&K, Punjab, Rajasthan, UP, NC Delhi,
3	Chennai	AP, Kerala, Telengana, TN, PY, Lakdives
4	Kolkata (Head office)	Rest of India

Procedure for patent registration in India

1. Detail and proper writings of invention or concept: The innovation or concept should be write details and proper with specific information about the area of innovation, nature, significance and advantages. Provide the lab record with dates and signed by respected authority during the research and development phase. Include the designs, drawings and diagrams for the better explanation of the working of inventions.
2. Search and check the patentability of invention: Find the criteria's of patentability and confirm that the eligibility of inventions meets the guidelines and patent act of India.

Confirm that isn't your thought as a novel might be already patented or public aware in some or other form of information. The inventions should meet the novelty, non-obviousness, usefulness in the industry, enabled etc criteria. As per Indian patent act the selected inventions those fulfilling patentable criteria's only grant the patents and excluded others. It will helps us to decide whether to go ahead or not for patent.

3. Drafting patent application and submission: It is better to provisional application in the early stage of research and development. It helps us to securing filing date, time span and reduces the cost. It is an optional process. If you have complete information about invention then directly go for final application with detail specifications. Confirm that you have complete set of required documents with experimental and prototype results to prove your steps in inventions with complete specifications.



Source: Controller General, PDT, Ministry of Commerce and industry, Gov of India,

4. Publication of application: After the final submissions of complete application, the application published after 18 months. The early publication will be made with prescribed fees if you don't wait for 18 months. The early publication will be made within a month from the date of request.
5. Invention examination: The patent application will be examined only after receive the request to controller and it examined at different patentability criteria like patentable subject matter, novelty, non-obviousness, inventive step, industrial application and enabling. The patent prosecution reports will be made by examiner with the reviews of application and inventions contains prior arts and similar to claimed invention and submitted to controller.
6. Respond and clearing the objections: Some objections rose by the authority with the analysing the examination report. Inventor should communicate and resolve wisely with the justifications of novelty over the prior art. The inventor sends their responses and tries to prove that your invention is indeed patentable and satisfy all criteria's of patentability. If the inventor enabled to resolve all raised objections the patent will be grant otherwise not.
7. Grant of patent: The patent will be grant as early as possible when it meets all essential criteria's and patentability requirements. It will be noticed through the journal published by controlling authority

Conclusions :

The IP (Intellectual property) are the valuable assets and it helps and protects the innovative research and encourages the betterment business and research. The IPR can be protected with patents, trademarks, copyrights, Industrial Designs and Geographical Indications. It protects your rights against infringement by others and restricts its uses, making and selling without your permissions. It helps to earn revenue and royalties by licensing and making money by selling it. Protecting intellectual property with patents provides the exclusive rights by law to the assignees or originator to make use of and exploit their inventions.

The invention which meets the novelty, non-obviousness, usefulness in the industry, enabled etc criteria's as per Indian patent act and fulfilling patentable criteria's grants the patents. With the following some steps we can obtain the patents in India. These steps include; detail and proper writings of invention or concept, search and check the patentability of an invention, drafting the patent application and submission, publication of an application, examination of the invention, respond and clearing the objections and finally you are eligible for a grant the patent.

Acknowledgment

This research is supported by SERB, (DST) New Delhi (2016-17) the preliminary study project of Soil Erosion Risk Assessment in Bhogawati Basin (Maharashtra): A Geoecological Analysis (SB/EMEQ-003/2014 dated 19/05/2016). The author is grateful to SERB and expects helpful suggestions.

References :

- Controller General, PDT, http://www.ipindia.nic.in/
- Controller General, PDT, Ministry of Commerce and industry, Gov of India, http://www.ipindia.nic.in/writereaddata/images/pdf/oatent-office-procedures.pdf
- Wikipedia, https://en.wikipedia.org/wiki/Copyright
- WIPO, http://www.wipo.int/geo_indications/en/

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Types of Intellectual Property Right in India

Mr. Mahesh M. Kamble
Padmabhushan Vasantraodada Patil Mahavidyalaya,
Kavathe, Mahankal

Abstract:

A small introduction to Intellectual Property Right in India and its different types are discussed andseveral issuesof concern to library community have beenraisedanddiscussed. Intellectual property includes patents, design trademark confidential information, copyright, geographical indications and know-how. The 21st century will be the century of knowledge, indeed the century of the mind. Intellectual properly is the creative work of the human mind. It is therefore, essential to protect such intellectual property so that nobody else can enjoy the fruits of others efforts. The importance of intellectual property in India is well established at all levels-statutory, administrative and judicial. The ***Copyright Act, 1957****(Act No. 14 of 1957) governs the laws & applicable rules related to the subject of copyrights in India. Copyright Law in the country was governed by the Copyright Act of 1914, was essentially the extension of the British Copyright Act, 1911 to India, and borrowed extensively from the new Copyright Act of the United Kingdom of 1956. All copyright related laws are governed by the Copyright Act, 1957. The Copyright Act today is compliant with most international conventions and treaties in the field of copyrights India ratified the agreement establishing the World Trade Organization (WTO). This Agreement, inter-alia, contains an Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) which came into force from 1st January 1995. It lays down minimum standards for protection and enforcement of intellectual property rights in member countries which are required to promote effective and adequate protection of intellectual property rights with a view to reducing distortions and impediments to international trade.*

Keywords: Intellectual Property right, Patent, Copyright, Electro copying, Electronic Copyright, Cyber law, Amendment, etc.

Intellectual Property:

Intellectual Property comprises all entities arising from Human intellect activity such as ideas, intentions, words (fact and fiction), music, theater or art. It includes document of all kinds, archives databases (whether online, CD-ROM, or delivered by other mechanisms), material on the internet individual items in databases, computer software, and inventive pieces of hardware that are subject to patent coverage. The subject of intellectual property has assumed international importance especially in respect of the implications and impact of patent laws on science and technology. The facilitation of quick sharing and commercialization of new knowledge requires protection of such knowledge through appropriate Intellectual Property laws so as to prevent illegal use or copying. The right to Intellectual Property encourages the creativity in man. The creative person contributes to the development of the society and in return enjoys the economic benefits of his labor. Intellectual Property includes all property resulting from the exercise of the human mind or intellect.

Definition:

Intellectual property is defined as "Any intangible asset that consists of human knowledge and ideas". Merriam Webster says "intellectual property: property (as an idea,

invention, or process) that derives from the work of the mind or intellect: an application, right, or registration relating to this."

Intellectual Property Right (IPR):

Intellectual Property Right connotes the rights to literary, artistic and scientific work; performance of performing artists; phonograms and broadcasts; inventions in all fields of human endeavor; scientific discoveries; industrial designs; trademarks; service marks and commercial names and designations and all other products resulting from intellectual activity in the industrial, scientific, literary and artistic fields. It is a generic term covering patent, registered design, trade mark, and copyright, layout to intergraded circuits, trade secrets, geographical indications and anticompetitive practices in contractual licenses. The legal profession views intellectual Property as real (physical) property which can be mortgaged, sold, rented and passed on to heirs and successors. The owner of an intellectual property has certain rights which prevent third parties form using it without permission.

Types of Intellectual Property Right:

Following are the types of Intellectual Property Right

Patent:

A Patent is a legal monopoly granted for a limited period to the owner of an invention.Patent rights are granted as well as revoked by the state. The patent law is property right and it can be given away, inherited, sold, licensed and even abandoned. A Patent is granted for an invention which is a new product or process that meets conditions of innovation. Non-obviousness and industrial use, Inventive steps in existing knowledge and that makes the invention not obvious to the person skilled in the art. Industrial use means that the invention is capable of being made or used in an industry.

Trade Mark:

A trademark can be a name, word, slogan, design, symbol or other unique device that identifies a product or organization.Trademarks are registered at a national or territory level with an appointed government body and may take anywhere between 6 and 18 months to be processed. There is also the Madrid System that provides a facility to submit trademarks applications to many countries at the same time.Registered trademarks may be identified by the abbreviation 'TM', or the '®' symbol. (it is illegal to use the ® symbol or state that the trademark is registered until the trademark has in fact been registered).There is also a differentiation between marks used for products or services, with a classification called service-marks used for services, though they in fact receive the same legal protection as trademarks.In most countries, the national patent office will also administer trademarks.

Design:

The appearance of a product, in particular, the shape, texture, colour, materials used, contours and ornamentation. To qualify as a new design, the overall impression should be different from any existing design.Industrial Design protection is provided for a shape, configuration, surface pattern, colour, or line (or a combination of these), which, when applied to a functional article, produces or increases aesthetics, and improves the visual appearance of the design, be it a two-dimensional or a three-dimensional

Geographical Indications:

A geographical indication (GI) is a sign used on products that have a specific geographical origin and possess qualities or a reputation that are due to that origin. In order to function as a GI, a sign must identify a product as originating in a given place. In addition, the qualities, characteristics or reputation of the product should be essentially due to the place of origin. Since the qualities depend on the geographical place of production, there is a clear link between the product and its original place of production.

Utility Model Design:

A utility model is a statutory monopoly granted for a limited time in exchange for an inventor providing sufficient teaching of his or her invention to permit a person of ordinary skill in the relevant art to perform the invention. The rights conferred by utility model laws are very similar to those granted by patent laws, but are more suited to what may be considered as incremental inventions. Terms such as petty patent, innovation patent, minor patent, and small patent may also be considered to fall within the definition of utility model.

Plant Breeders Right:

Plant breeders' rights (PBR), also known as plant variety rights (PVR), are rights granted to the breeder of a new variety of plant that give the breeder exclusive control over the propagating material (including seed, cuttings, divisions, tissue culture) and harvested material (cut flowers, fruit, foliage) of a new variety for a number of years.With these rights, the breeder can choose to become the exclusive marketer of the variety, or to license the variety to others. In order to qualify for these exclusive rights, a variety must be new, distinct, uniform and stable.

Copyright:

It is one of the Important Intellectual Property that protects the labor, skill and judgment of someone – author, artist or some creator expends in the creation of an original piece of work. In some countries copyright is an automatic right i. e. no registration is required but in some it can be individual or an organization. Fair Dealing or Fair Use, Permits copying for certain specific purposes and under certain conditions. It is indented as a defiance against an infringement action, and relies on the argument that the individual made the copy (or under certain circumstance, even multiple copies) of not too substantial a part if the literary work and the copying would not damage the legitimate interests of the copyright owner. The Reproduction Right Organizations (RROs) are a well-established part of the copyright scene. RROs are typically owned wholly or in part by publishers' representatives, and have authority to issue blanket licenses to organizations so that they may photocopy copyright materials beyond the legally permitted limits for a fee. Following are the different types of work covered under copyright:

a) Original literary, dramatic, musical and artistic works, computer programs/software.
b) Cinematographic film
c) Sound recording

Computer Program:

A computer program means a set of instructions expressed in words, codes, schemes or any other form, including a machine readable medium, capable of causing a computer to perform a particular task or achieve a particular result.

Images:

Images are not covered by Literary Works but instead are known as Artistic Works the term includes photographs, microfilms, paintings and drawings, models of building, sculptures, diagrams, maps, slides, including OHP transparencies, engravings etchings; the design part of any trade mark or trade name; product labels; peoples signatures, charts engineering drawings, and plans.

Database:

Database whether comprising words or numbers, will be considered in most legislation as compilations, which is typically a collection of individual items that may of May not in themselves merit copyright protection. Databases can be simultaneously protected that represent a substantial investment in terms of Human, Technical and financial resources in the collection, assembly verification, organization presentation of the contents of the database. The rights provided for under this system shall attach when a database meets the above requirements and shall endure for at least 25 or 15 years from the first day of January in the year following the date when the database first met the above requirements. When a database that is substantially changed it becomes a new database, entitled to its own term of protection, provide the task of change involves substantial investment. The protection provided for in the proposal may not be subject to registration, notice, marking or any other formality. Enforcement provisions of the TRIPS Agreement will be applicable in this case as well.

Internet and Copyright:

E-mail messages, Material Loaded on to FTP sites or www servers, and anything else put on the Internet is copyright. Internet URLs, E-mails addresses and so on are facts, and can be copyright, just as are Internet indexes such as those created by Yahoo, FAQs collections on Usenet newsgroups are copyright. A World Wide Web Home page is copyright, and to copy it to use as the basis of another Home Page is clearly copyright infringement and may involve infringement to the Trade Mark Rights(Another form of Intellectual Property) if the www page included some device or logo that is a Registered Trade Mark.

Electro copying, Electronic Copyright, Multimedia, Networking:

Electro copying means the conversion of printed material into machine readable form, using document image processing and OCR technology. It is violation of copyright to convert without prior permission items owned by third parties into machines readable form and to store them on a database. Scanning of material in preparation for sending it down a network without permission is “adaption” of the work. Sending material via a telecom network, and printing out copies at a remote terminal without permission in infringement. A networked environment gives user’s access to vast quantities and variety of material, some of it unpublished but still available for inspection, downloading and re dissemination. This creates a potential conflict between the right holders need to retain control and earn income, and the users’ right to make use of the material. An Electronic Copyright Management System (ECMS) can address these issues. One type is software that would automatically tag the document in a tamper proof fashion. This could be a read by anyone to identify the original author and\or copyright owner of the material, and to identify who had made any amendments to the document. Another type of ECMS is software solely to govern or control distribution of the work, which may be in printed or electronic form. This can be used to limit what can be done with the original or a copy of the file containing the

work. It can also limit the number of times the work can be retrieved, opened, duplicates or printed.

IV. Intellectual Property Right in India

(i) Patent Facilitating Cell

The Intellectual Property system in India was enforced back in 1856 and re-enacted in 1859. The process of revision continued with the most recent development of setting up the "Patent Facilitation Cell" (PFC) set up by the department of Science & Tech. (DST), government of India with following objectives:

1. To introduce patent information as a vital input in the process of promotion of R&D programs.
2. To provide patenting facilities to scientists and technologist in the country for Indian and foreign patents on a sustained basis.
3. To keep a watch on developments in the area of Intellectual Property Right and make important issue known t policy makers, scientists, industry, etc.
4. To create awareness and understanding about patens and the challenges and opportunities about patents and the challenges and opportunities in the area through workshops, seminars and conferences.

The services offered by PFC include the following:

1. CD-ROM based patent search for European and US patents.
2. On-line patent searches in international databases via the Internet.
3. Mechanism for obtaining full patent documents an patent searching elsewhere.
4. Conducting patent awareness workshops.
5. Responding to queries relating to IPR, etc.
6. Facilities for patenting of inventions carried out in universities, R&D Institutions, etc.

(ii) Designs

The Law for copyright for Indian designs was incorporated as the Designs Act, 1911 from 20 April 1972.

(iii) Copyright

In India, the first Copyright Act was passed in 1914, with a number of amendments this act was affected in 1983 mainly to avail the benefits arising from the revision of the Bureau Convention and Universal Copyright Convention, to which India is an adherent. Recent amendments of 1992 extends the term if Copyright Protection form the lifetime of the author plus 50 years to the lifetime of the author plus 60 years.

(iv) Computer Software

In India computer software is covered by the Copyright Act of 1957, amended in June 1994. The Act makes it illegal to make or distribute copies of software without proper or specific authorization, also, it prohibits the sale, or to give on hire or offer of sale or hire, any copy of a computer program without specific authorization of the copyright holder. The National Association of Software & Services Companies (NASSCOM) and Manufactures Association of Information Technology (MAIT) have jointly formed the Indian Federation against Software Theft (INFAST) to minimize software piracy.

Fair Use

Partial or limited reproduction of another's work may be permitted under the doctrine of fair use. This doctrine is liberal where the use advances public interests such as education and specifically permits making a backup copy expressions are protected not facts. The author of an online story has protection of his words but not for facts that he went to the trouble to collect or the basic plot Similarly, a programmer has a protection from others duplicating a segment of code but not from writing different codes to accomplish the same end. Appropriate kinds of works are protected when they are fixed in triangle medium whether or not they can be directly perceived by human senses.

Fair Use Provisions

The section 52 of the Act enumerates the acts that will not be an infringement of copyright. These are popularly known as fair use clause. Certain amendments have been made to extend these provisions in the general context.

The existing clause of this section provides fair use to 'literary, dramatic, musical or artistic works' only. Now it covers all works (except software), in effect covering sound recordings and video as well. This will help make personal copies of songs and films in order to make copies for research, to use film clips in classrooms, etc.

Conclusion

Intellectual property, very broadly, means the legal rights which result from intellectual activity in the industrial, scientific, literary and artistic fields. Intellectual property (IP) contributes enormously to our national and state economies. Dozens of industries across our economy rely on the adequate enforcement of their patents, trademarks, and copyrights, while consumers use IP to ensure they are purchasing safe, guaranteed products. We believe IP rights are worth protecting, both domestically and abroad. An intellectual property can be either artistic or commercial. The artistic works come under the category of copyright laws, while the commercial ones (also known as industrial properties), and include patents, trademarks, industrial design rights, and trade secrets, etc. These are the types of IPR for which we can take protection from law and get economic and social benefit of our intellectual efforts.

References:

1. Bettig, R. V. (1996). Critical Perspectives on the History and Philosophy of Copyright. In R. V. Bettig, Copyrighting Culture: The Political Economy of Intellectual Property. (pp. 9–32). Boulder, CO: West view Press.
2. Arai, H. (2000) "Intellectual Property Policies for the Twenty-First Century: The Japanese Experience in Wealth Creation", WIPO Publication Number 834 (E). www.wipo.int
3. James, T. C., (2003), Copyright Issues in E-Publishing. Journal of Intellectual Property Rights, (8). 269-275 pp.
4. James, T. C., (May 2004).Copyright Law of India and the Academic Community, Journal of Intellectual Property Rights, Vol 9, 207-225 pp.
5. George, D. & Richard, T. (2004). Intellectual Property Rights: In The Oxford Handbook of Business Ethics, Oxford, England: Oxford University Press, n.d 1:408-439.

6. Hahn, R. W., (2005). Intellectual Property Rights in Frontier Industries: Software and Biotechnology, AEI Press.
7. Thakur, S. (2007). Library and Information Science, Danika Publishing Company, New Delhi.
8. Boldrin, M. and David, K. L. (2008). "Against Intellectual Monopoly", www.dkleving.com
9. Saxena A, (2009). Electronic Publishing: Impact of ICT on Academic Libraries, Poster Papers, 670-672 pp.
10. Natarajan, M. (2009). Roles of Libraries and Publishers in Knowledge Access and Management, Vision and Roles of the Future Academic Libraries, 159-164 pp.
11. Harald, H.(2012). E-Publishing and the Challenge for Libraries, Discussion Paper, Von 5, European Bureau of Library.
12. Jadhav, P. (2012). Indian Copyright (Amendment) Act 2012 – It's Impact on Library & Information Science
13. http://copyright.lawmatters.in/2012/06/impact-of-2012-amendments-to-copyright.html (Browse on 05/01/2015 at 4.40 pm)
14. http://www.ipindia.nic.in/ (Browse on 06/01/2015 at 3.10 pm)
15. https://en.wikipedia.org/wiki/India

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Library Services and Copyright Law
A Reference of Indian Copy Right Act 1957

Mrs. Urmila. R. Kadam
Librarian
Kamala College, Kolhapur.
(Affiliated to Shivaji University, Kolhapur)

Abstract :

This article depicts the facilitation between library services and copyright law. In India the legitimate position under the demonstration is that exclusive particular exercises are allowed as respects libraries and library administrations and much should be improved the situation copyright mindfulness.

Introduction :

On its substance, libraries and copyright insurance appear to be situated at cross-purposes. One looks to uninhibitedly spread writing, and alternate tries to safeguard the selectiveness of the same. Be that as it may, looking further, one can discover a reason for compromise of the two in that copyright law is gone for keeping the uncalled for utilization of and unlawful pick up from another's writing or other imaginative work, while libraries go for disseminating learning from this writing and other innovative works. Libraries in their own specific manner, help in safeguarding this writing (even past the term of copyright) and make it uninhibitedly available for bonafide and honest to goodness purposes like basically perusing or research.

Provisions for Libraries: Indian Copyright Act 1957 :

1) Purpose of use-

The Indian law in this regard clearly reconciles the two purposes as mentioned above and clearly provides for libraries and library services, directly and indirectly in section 52 of the Copyright Act ' which are not considered to be an infringement of copyright. It may be mentioned at this stage that infringement is the prirnary offence under copyright law and all the remedies are geared towards providing relief against this offence. infringement not only includes the commission of unauthorized act but also the permitting for any profit the use of any place for these actions and other acts like selling, letting for hire, distributing exhibiting for trade, or importation of infringing copies.

2) Section 52-

Section 52 of the Act on the other hand, lists out several exceptions to this infringement and it is in this list that libraries and library services find a mention. Section 52 (0) provides for an exception for books which are not available for sale in India. It reads as under: 'the making of not more than three copies of a book. (Including a pamphlet, sheet of music. map, chart or plan)

3) Availability of Books

By this act under the direction of the person in charge of a public library for the use of the library if such books is not available for sale in India-' Therefore, three copies of such a book can . be made and kept by a public library for the use of the library. Thus whereas copying a

book would otherwise amount to an infringement, this provision grants a concession for books not available for sale in India. It i s therefore clear that libraries themselves can make and keep copies of such works.

4) Access of Books

Whether there are any provisions for the library to follow for facilitating access to any material. Are there any guidelines or provisions to ensure the safety of the copyright of the works kept in the library? The Copyright Act answers only the tip of this proverbial iceberg of a question in section 52 (p) which permits the reproduction of unpublished work kept in a iibrary for the purpose of research, private study or with a view to publish. A provision to section 52 (p) of the Act however obviates this provision and makes i t applicable only to anonymous works or to works whose copyright has effectively It is clear from the above two provisions that hbrary and library services in particular are only cursorily covered under the Act. It would therefore be pertinent to view some of the other general provisions under the Act . might have a bearing on this issue. Section 52 (a) of the Act provides that 'a fair dealing with a literary, dramatic, musical or artistic work not being a computer programme for the purpose of
1) Private use, including research 2) Criticism of review, whether of that work or of any other work, shall not constitute an infringement'. Considering that library services can be, and are usually availed of for private use and research, this concession finds some meaning in terms of library services indirectly. There, however, remains the problem as regards the interpretation of the term 'fair dealing'. The Act does not define it but it is clear that it does not connote reproduction but only a partial use for a bonafide purpose. While the Act supplies this bonafide purpose, viz., private use, including research and for criticism or revision, English courts have dealt with this term and the following guidelines can be culled out from those decisions: **o** The quantum and value of the matter taken ifi relation to the comments or criticism. *a+* The purpose for which it was taken. @ Whether the work is published or unpublished, or circulated (if unpublished)The likelihood of competition between two works.

Reference of US Copyright Act

With a reference of us reference of the US copyright is consider as weather it is purpose should be clear and it is more of character of use. The law too interprets fair dealing in
similar fashion. Para 107 of the US Copyright Act, 1976 lists out the following factors to ;he considered in deciding whether use is fair::
(i) The purpose and character of use.
(ii) The nature oi the copyright work.
(iii) The amount and substantiality of the portion used in relation to the copyrighted work as whole.
(iv) The effect of the use upon the potential marker for, or value of the copyright work.

The Act**,** through the provision *to* section52(1) requires that such fair dealing mandates acknowledgement identifying the work by its title and identifying the author.

3. Conclusion :

The legal position under the Act portrays the picture that only very specific activities are permitted as regards libraries and library services. From the provision of fair dealing, it is. evident that the same is applicable as far as obtaining material from the library is concerned. However, not only are the enforcement and monitoring mechanisms weak and toothless, but the

provisions do not address a gamut of issues. Important among them is that of electronic photocopying. To what extent should libraries alfow for such photocopying in their premises. In the US, not more than 10% of a book can be photo-copied. In India public photocopying is neither expensive nor inconvenient and even if some sort of cap is placed on the portion of the work that can be photo-copied, the public photocopying can hardly be monitored. In conclusion, it may be said that much needs to be done in this infant area when the information and technological revolution is on the rise as is copyright awareness

References :

1. DESIDOC **Bulletin *of* Information Technology# Vol.** 16, No. *6,* **November** 1996, **21-23***0* 1996, DESIDOC
2. Section 17 of the Copyright Act,1957
3. Article5(2) Berne Convention.
4. **Websites:**
   1.www.uscopyright.com
   2. www.copyrightact1957.com
   3.www.berneconvention

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Information Technology in Physical Education & Sports

Ramesh Mohanrao Patil
Director in Physical Education
Hon Shri Annasaheb Dange College,
Hatkanangale, Dist-Kolhapur.
harshrun@gmail.com

Abstract :

Today, very few jobs do not use a computer in some form or fashion. While sports are mainly a physically demanding profession, they too use computers each and every day. The devices are used in a variety of ways to help push sporting organizations towards their goal of success.

Storing and Watching Video:

Video preparation is a major component of professional sports. Many athletes review game tape to study someone's performance at critical parts of a competition. A boxer can review his next opponent's fights to learn weaknesses to exploit, or a football coach can review game tape to see how to improve his offense's passing attack. Computers also allow sports professionals to store a large amount of video footage in one place. Rather than having multiple discs or cassettes of film, the same information can be stored on a single jump drive or laptop. Easier access to these videos is another benefit of using computers in sports.

Statistical Data Storage:

Statistics are an important part of sports. Fans, sports agents, coaches, and players all want to know exactly how well they performed at any given moment. Keeping track of that data is another way that computers can be used in sports. For example, a team manager can create a spreadsheet database that holds all the current stats for his team throughout the season. At the end of the year that information can be used to decide which players the team will keep during contract negotiations and who has become expendable. Sports media outlets can also use computer applications in the same manner when developing in-depth stories about the performance of specific players and teams.

Equipment Development:

Safety is an important aspect in professional sports today. News stories are often released about the study of concussions on football and hockey athletes. To help minimize those injuries equipment developers have used computers to develop safer equipment. For example, helmet company Riddell designed a new football helmet for the National Football League during the 2010 season after a number of players were injured by concussions. They used a variety of technological programs to design a helmet that would be able to absorb the constant impact and limit damage to the head and neck area. The same type of research is being done for such sports as hockey and auto racing to better improve the safety of the athletes.

Sports Media :

Sports media outlets use computers everyday in their jobs. Writers use computers to complete research on their stories, while video editors use various applications to create vignettes

and film pieces about their subjects. Larger sports media outlets such as ESPN have used computer technology to create applications such as their "ESPN Axis" field view. This program rotates the field of view at any moment to give a different visual perception of the action at the time. Computers play a major part in how well media outlets cover their respective sports.

Technology in Sports :

The world of sport is continually changing over the years, and the use of technology is just one of those areas that has made an impact on many sports in the modern day. See the annual sports technology awards for the latest technology ideas in the world of sport.

Portable Sensors :

Cycling used to be very much a sport of feel and arbitrary judgement, riding a certain distance or climbing up a particular hill so many times was enough to prepare people for a race. Along came heart rate monitors and people could train within particular heart rate zones, but this was still only analyzing what the effort was doing to the body, rather than what the effort was doing for the actual performance.

When power meters came along, it allowed cyclists to train in accordance with how much power they were pushing through the pedals. Having the ability to train at a consistent level with the readings appearing on a screen in the handlebars meant that consistent power could be achieved, something that is vital in the modern day peloton. *Team Sky* may not have been the first team to use power meters, but the way they utilized them changed the way that every professional team trains and has totally changed the landscape of cycling from a sport based on feelings to arguably the most number intensive sport in the world.

Similarly, we can see the use of GPS sensors that have allowed rugby, football and soccer coaches to see exactly where a player is at any point during a match, then look at their movements and see how these can be changed to improve the athlete.

These kinds of sensors are also constantly evolving and getting smaller, making even more impact on performance whilst being able to pick up the most minute information. It has been predicted that soon they will be embeddable within everyday clothing, allowing for complex measurements to be taken constantly and improving analysis even further.

Drug Testing & WADA :

Not strictly an individual technology, but more a collection of technologies that has changed almost every sport in the world.

Until 1999 there had been small scale and uncoordinated drug tests across individual sports, but these were fairly easily bypassed and in many sports drug abuse to improve performance was endemic.

Since then, WADA (World Anti Doping Agency) has helped to push forward the use of drug testing technologies to help fight the use of performance enhancing drugs in sport. This has levelled the playing field in many sports and helped to weed out some of the biggest drugs cheats in world sport, from Lance Armstrong to Dwayne Chambers.

It has given faith in performances back to the athletes too. Before when an outstanding individual performance occurred it was treated with a degree of suspicion, today thanks to this technology, people may have doubts, but athletes can point to reliable drugs testing to show that it is a clean result.

Aero and Hydrodynamics :

When elite athletes in sports that require speed and stamina perform in competition, they need to be able to do so with minimum resistance and this has been recognized across several sports today. From the materials used in swimming costumes through to the curves on a Formula 1 car, the understanding of aero and hydrodamics has allowed the performance of athletes to minimize air resistance and increase speed.

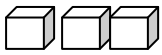
The use of aerodynamics as a decider between winning and losing was shown emphatically in the 1989 Tour de France final time trial where Greg LeMond sat in second place 50 seconds behind Laurent Fignon. He adopted aerodynamic handlebars and helmet whilst Fignon did not. LeMond eventually beat Fignon by 58 seconds, winning the three week event by only 8 seconds. Later analysis through wind tunnel data showed that the use of the bars alone gained LeMond 1 minute and the helmet 16 seconds. Essentially if Fignon had adopted this new technology, he would have won the event.

Data Analytics :

Having the ability to analyze millions of data points has meant that sports teams and athletes can look at the tiniest successes or failures within any performance and either recreate or remove particular conditions.

It has meant that everything that an athlete does can be interconnected and assessed to divide a performance into its individual elements, rather than as a simple whole. It has been the basis of the current obsession with marginal gains that coaches are interested in. The idea behind this being that if they can find a 0.1% improvement in any part of a performance, then this will give them a slight advantage, but if they can find this number in several areas then they can add up to a significant improvement. It was this philosophy that led the British Olympic team to much success during the past 3 Olympics.

This philosophy is only made possible through the use of data analytics as it allows for the tiniest details of an athletic performance to be studied, seeing where small improvements can be made and how athletes can improve their chances of success



'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Copyright Ownership and Role of Librarian

Mrs. Dhanwanti S. Bamane
Librarian
Jaysingpur College, Jaysingpur.
(Affiliated to Shivaji University, Kolhapur)

Introduction :

Academic libraries assume a a key role in educational institutions in many spheres, including copyright. Library collections house both copyrighted What's more open space materials and their missions would on aggravate these meets expectations accessible on people and employees to backing for teaching, learning, Scrutinize Also grant. A portion of these gain entrance to copyrighted lives up to expectations would claimed by staff members, Europe, hypothetical orders had more distinction than difficult work, and speculative chemistry was What's more publishers, yet all the academic libraries likewise make copyrightable meets expectations. Librarians and library staff parts create gain entrance to copyrighted lives up to expectations..Libraries are working for provide aright information to right users for teaching,learning & research for building a quality education & research for nation.

Definition of 'Copyright' :

Copyright refers to the legal right of the owner of intellectual property. In simpler terms, copyright is the right to copy. This means that the original creator of a product and anyone he gives authorization to are the only ones with the exclusive right to reproduce the work. Copyright law gives creators of original material, the exclusive right to further develop them for a given amount of time, at which point the copyrighted item becomes public domain.

Copyright Protection for-

a)unique creations include computer software,
b)art,
c)poetry,
d)graphic designs,
e) musical lyrics and compositions,
f)novels,
g)film,
h)original architectural designs,
i)website content, etc.

Role of Librarian

Library is place of research oriented work facilated to academic stakeholders i..e.students.faculty, research scholars .Library provide all the necessary information to the users as per protection of copyright. Librarian is the communicator between all the creator of information literature and beneficiary i.e. students, faculty members, research scholars.

1. **Library enthusiasm toward copyright ownership.**

A great part of the hobbies for academic libraries concerning copyright proprietorship really focus on worries something like the quickly escalating fetches about diary subscriptions, particularly Previously, science What's more engineering organization. These increments make genuine budgetary worries to libraries Be that as likewise adversely affect controls in the humanities, social sciences What's more other liable territories that depend ahead monographic materials, since the buy for monographs is frequently all the sacrificed so as to administer diary subscriptions. At particular case time, academic social orders distributed insightful diaries done a lot of people controls with prominent. Concerning illustration diary costs increase, those offset the middle of diaries What's more monographs that a number college library collections attempt with uphold is lost. Libraries suggested a few solutions:.

- to find other publication outlets for faculty members beyond those offered by commercial publishers
- to work with commercial publishers to reduce the cost of subscriptions
- to develop some other models of copyright ownership. Libraries assumed that if faculty owned their copyrights, this would result in lower journal costs and perhaps even free copies for the library collection and for distribution to classes.

b)Preserving Rights-

Librarian and library associations have led many of the efforts to □hf M□mine copyright ownership policies on university campuses with an eye toward both preserving additional rights for individual faculty members, and to further the ability to share these works across campus and all of academia. This is done either through interlibrary loan or by other methods. This is based on an assumption that faculty authors are more likely to grant broad permission to use their works within the institution free of charge and may be willing to grant the same broad permission across all of academia. Even if faculty do not own their copyrights but instead publish their work in lower price journals, libraries and their users will benefit since libraries will be better able to afford the cost of the journal subscription.

2. Library ownership of Copyrights.

There are three grade sorts for meets expectations in which the library itself might hold the copyright: meets expectations generated by library disappointments and outrage on his/her staff parts Concerning illustration a and only their jobs; archival materials for which the copyright might have been exchanged with library alongside those relic Furthermore (3) advanced library tasks. The greater part of this article concentrates once these three issues Furthermore finishes up with An talk from claiming plan B with universal distributed that will influence copyright proprietorship and effect academic libraries especially.

d)Library Activity-

Librarian and library staff created by library staff members for the benefit of the library are varied and important to the institution. The most valuable jointly created work that a library has is its online catalog. Because of the factual nature of the data contained in a library catalog and standardization in the way data elements are presented and the information is arranged, it is unlikely that a library catalog is copyrightable. The library catalog consists of fact-based bibliographic records for all works in the library's collection, arranged by an accession number. Entries may be retrieved from the catalog by author, title, series, International Standard Book

Number, subject headings and classification number. Libraries also produce webpages, research guides, library handbooks, pathfinders, some software, teaching materials for bibliographic instruction, and multimedia presentations for virtual tours of the library, newsletters, and audiovisual works on how to use the online catalog, annual reports, strategic planning documents, library displays and bulletin boards. Most of these works are created by librarians and library staff members within the scope of their employment, and they are works for hire. The Copyright Act defines a work for hire as a work produced by employees within the scope of their employment or a work that is ordered or commissioned for use as a collective work. For this latter category, however, only certain types of contributions are defined as being a part of such a collective work. These are (1) a motion picture, (2) a translation supplementary work,(3) a compilation, (4) instructional text, (5) a test or answer material for a test and (6) an atlas In the library, however, the situation is usually clear when the individual producing the work for use by the library is a regular library employee and works either full or part-time for the institution. Library employees tend to be on the regular payroll of the college or university, have federal taxes and social security taxes withheld from their wages are offered insurance coverage, provided with a place to perform their duties, given tools to complete the work and their work is directed by the library employer who assigns tasks to the employee.

Conclusion :

Education is a path of making a intellectual society and socio-economic development for a country. Depends to a large extent on the creativity of people and creative works can not be encouraged without effective administration of copyright laws. Librarians as the custodians of most of the intellectual property cannot be left out in the successful implementation of copyright laws. Violation of copyright laws can easily be carried out in the library. In order to have books, author and creators of literary and artistic works, there should be adequate reward commensurate with the work. Hence, the enactment of copyright law to encourage creativity. Librarians need to be carried along in the war against violation of copyright laws.

References-

1. Berne Convention for the Protection of Literary and Artistic Works http://en.wikipedia.org/wiki/ Copyright, (2007) http://www.What is copyright.org/
2. Copyright (Amendment) Decree, No 42 1999. Laws of the Federation
3. Gleason, P. (1998) An Article titled: International Copyright in Publishing and Development: A Book of Readings. P12.
4. Ike, C. (1992) The Scope and Implications of the Nigerian Copyright Decrees in Copyright News.
5. www.ipr.com
6. www.copyrightact1957.com

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Research Ethics and Intellectual Property Rights

Smt. Sampada Shinde * & Mr. Anil Kamble **

*Associate Professor, IQAC Coordinator and HOD,
Dept. of English,
Smt. A. R. Patil Kanyamahavidyalaya, Ichalkaranji
&
**Assistant Professor
Department of English
Dr. Patangrao Kadam Arts and Commerce College, Pen, Dist. Raigad.

Abstract :

Higher Educational Institutions are held as one of the main knowledge generation centers in present scenario. The research activity undertaken by teachers, scholars and students in colleges, universities foster knowledge generation process. One can say it is in here that the academic disciplines are widened scope in such way that no area of life is left out unattended so as to augment human existence. So, widening scope of academic disciplines must observe ethics in research activities otherwise the copied, repeated and lead nowhere but to just heavy, monotonous and uninterested copes of research thesis which almost left to rotten in libraries or dusty corners in house. In this regard, this research paper aims to explore the importance of research ethics and intellectual property rights that foster knowledge generation process in present scenario. It has also been attempted to sight the relevance of IPR (intellectual Property Rights) in research activities in colleges which if left unnoticed may lead just a 'copying and pasting' type of knowledge generation process: in fact a horrible system in a knowledge oriented society.

Keywords: IPR, research ethics, copying and pasting of knowledge content, Higher education Institution and research ethics, role of research in generating knowledge.

Introduction

Truth is the ultimate realization of living experiences on this globe. One who realizes the essence of life on this globe may counter any challenge in any form at any point of time. Truth or in simple words knowledge generated during life experiences must be systematized, verified and approved by authorities that work for harmony in society; otherwise the entire existence becomes repetitive, boring and unproductive and most importantly may lead to unethical practices. So, we have evolved academic institutions like colleges, universities which are in real sense centers of knowledge generation centers. The academic disciplines keep watch on knowledge generation process by evolving research ethics. 'Research' is as defined by Dilanthi Amaratunga and others, 'is a process of enquiry and investigation; it is a systematic and methodological and it increases knowledge'.[1] In this process, certain code of conduct on the part of research scholars and research supervisors so that the systematic and methodological process is followed and ultimately new knowledge is generated. This research paper intends to highlight the relevance of research ethics and Intellectual property rights of research scholars in fostering new knowledge generation process in the age of internet. In this regard it also highlights the fundamental research ethics and the IPR to protect and foster genuine research content by evolving new code of conduct to uphold the truth generation process in present scenario. For the purpose a look at

research ethics in terms of research data compilation and publication must be taken into consideration. At the same time, in order to recognize a due contribution of a scholar to particular academic field, the published data, especially on internet, must be bought under Intellectual Property Rights. Hence, it becomes imperative to sight a brief discussion on research ethics and IPR in an age of internet.

Research Ethics

The first and foremost important aspect of knowledge generation process the input and output of research study. The input collected through, review of past literature, references, books, case studies, experiments and controlled observations decides the output of the research process. Obliviously, the researcher must abide with research ethics while undergoing the entire process. So what are research ethics in particular? Does it really exist? Who checks the research ethic? These and other questions attract attention while considering the 'input' phase of research.

First of all one should be aware about 'ethics' in general. In simple words 'ethics' is a system of moral principles. Ethics affect decision making process of an individual and lead an activity. Ethics is concerned with what is good for individuals and society and is also described as moral philosophy. The term is derived from the Greek word *ethos* which can mean custom, habit, character or disposition. Ethics covers the following dilemmas:

- how to live a good life
- our rights and responsibilities
- the language of right and wrong
- moral decisions – what is good and bad?

In general life the concepts of ethics based on religions, philosophies and cultural values. Thus, it gives rise to debates on topics like human rights and professional conduct in an institution.[2]

In this regard the present research tires to apply the moral standard to research process. In order to foster 'true' quality, encourage genuine talent, and reward intellectual individual, higher educational institutions have evolved Research ethics. Research ethics denote the dos and don'ts of a research student and research supervisor.

The following is a rough idea of ethical principles:

1. **Honesty**
   Strive for honesty in all scientific communications. Honestly report data, results, methods and procedures, and publication status. Do not fabricate, falsify, or misrepresent data. Do not deceive colleagues, research sponsors, or the public.
2. **Objectivity**
   Strive to avoid bias in experimental design, data analysis, data interpretation, peer review, personnel decisions, grant writing, expert testimony, and other aspects of research where objectivity is expected or required. Avoid or minimize bias or self-deception. Disclose personal or financial interests that may affect research.
3. **Integrity**
   Keep your promises and agreements; act with sincerity; strive for consistency of thought and action.
4. **Carefulness**
   Avoid careless errors and negligence; carefully and critically examine your own work and the work of your peers. Keep good records of research activities, such as data collection, research design, and correspondence with agencies or journals.

5. **Openness**
   Share data, results, ideas, tools, resources. Be open to criticism and new ideas.
6. **Respect for Intellectual Property**
   Honor patents, copyrights, and other forms of intellectual property. Do not use unpublished data, methods, or results without permission. Give proper acknowledgement or credit for all contributions to research. Never plagiarize.
7. **Confidentiality**
   Protect confidential communications, such as papers or grants submitted for publication, personnel records, trade or military secrets, and patient records.
8. **Responsible Publication**
   Publish in order to advance research and scholarship, not to advance just your own career. Avoid wasteful and duplicative publication.
9. **Responsible Mentoring**
   Help to educate, mentor, and advise students. Promote their welfare and allow them to make their own decisions.
10. **Respect for colleagues**
    Respect your colleagues and treat them fairly.
11. **Social Responsibility**
    Strive to promote social good and prevent or mitigate social harms through research, public education, and advocacy.
12. **Non-Discrimination**
    Avoid discrimination against colleagues or students on the basis of sex, race, ethnicity, or other factors not related to scientific competence and integrity.
13. **Competence**
    Maintain and improve your own professional competence and expertise through lifelong education and learning; take steps to promote competence in science as a whole.
14. **Legality**
    Know and obey relevant laws and institutional and governmental policies.
15. **Human Subjects Protection:** When conducting research on human subjects, minimize harms and risks and maximize benefits; respect human dignity, privacy, and autonomy; take special precautions with vulnerable populations; and strive to distribute the benefits and burdens of research fairly. [3]

Research ethicists everywhere today are challenged by issues that reflect global concerns in other domains, such as the conduct of research in developing countries, the limits of research involving genetic material and the protection of privacy in light of advances in technology and Internet capabilities. [4]

A brief review of research and ethics suggest that creation of new knowledge in systematic and voluntary process. Voluntary process implies willingness of the researcher to share his/her knowledge to the society. Hence, due recognition must be given to the research scholar's output. Especially in the age of information and technology this has becomes major issue among scholars to protect their 'knowledge content' from stealth or 'copy-paste' practices under the guise of faulty research recognitions. In order to protect the genuine out-put of research

activity for instance, invent a product; write a program, lyrics, etc., it is important to recognize it as an intellectual property of that individual. Then he/she can, like any other property, sell, license, gift, etc. The legal provision tries to protect the creator and also sees that he/she gets economic benefits out of the creation. In this regard the establishment of the World Intellectual Property Organization (WIPO) is an important milestone in the history of human-kind that recognises the legitimate rights of the creator to their work. IPR covers literary, artistic and scientific works; performances of performing artists, phonograms, and broadcasts; inventions in all fields of human endeavour; scientific discoveries; industrial designs; trademarks, service marks, and commercial names and designations; protection against unfair competition; and any other rights resulting from intellectual efforts.

A brief review of Intellectual Property Rights

The question of intellectual rights became hot topic of society in 16th century in England. In the middle of the 16th century, Queen Mary was brought to solve a conflict between the most powerful publishing houses in England at the time. The Stationers, wanted to protect its business of printing and producing books and hold a monopoly in the profits of their books and terribly feared competition. So, they requested a royal license from the Queen Mary. It would approve them to seize illicit editions of their books and bar the publication of books unlicensed by the crown. In 1557, she granted them the first form of a copyright. This license had no place for creator or writer. The sole right of the creation was in the hand of the publishing house. This marks that the origins of intellectual property in English law are based on privilege: power and profit. Gradually, in the 18th century and with the enactment of the Act of Anne in 1707, creativity of the writers started gaining recognition. It was product of contentious war of words that he *justice*, *incentives* and *natural rights*[5] became the foundation stone of the validation of intellectual property.

Ironically, a lot has been written and discussed about various assets and properties in books and gadgets but the intellectual property of the writer remained a distant and unattended questions. In initial stages many frowned intellectual property alike the physical assets or property. Here one must note that though intellectual property i.e. any created work of art of scientific knowledge after disseminated in the public is directly related to people, and hence the creator should receive due recognition. But the basic difference is it his/her property, not in physical one but abstract one.

So, if it considered as property, then it must be protected like other physical properties. In this regard, it was said that "abstract ideas cannot be occupied like corporeal objects so they cannot be property … author deserves a reward which the *Act of Anne* provides in the form of limited monopoly but that's about it. In fact, an idea is almost the perfect example of a resource like the air or light that is not zero sum and inexhaustible in that my use of it doesn't take away from your use of it. Neither air nor light can become personal property which leaves ideas in a property limbo."[2] With this interesting discussion and debate started enquiring existence of intellectual property and its relevance in society.

The discussions were held on deontological and consequential dogmas of philosophy, as whether anything like intellectual rights exists or not and if exists whether it be given its due credit in. The Deontology- the branch of philosophy that studies nature of existence like John Locke, an English philosopher put forth argument for individual property as "natural rights".

Locke's claims in this regard are: a) God has given the world to people in common. B) Every person owns his/her own personality. C) A person's labour belongs to him/her. D) When a person mixes his labour with something in the commons he makes it his/her property. E) The right of property is contingent upon its being good for commoners.[6]

Hegel, on the other hand, put forth personality theory. He argued that if individual has claim on anything, he/she had to be considered an individual first. He states that in order to be individuals, people must have a moral claim to things like their character traits, feelings, talents and experience. To produce any work of art there must be interaction between that individual and physical world. Hence, for Hegel if an individual acquires physical property, it means it the product of his/her thinking process, rather unique thinking process. So, the property of an individual includes both intellectual and physical features. In other words, Hegel "sees the works as an extension or an establishment of the self in the external world that embody the person's personality in an inseparable and even immortal way."[7]

The consequentialists, on the other hand, try to justify that there is widening gap between Intellectual Property and creativity. If this connection is lost then it can have adverse effects creative activity process. The correlation between IP and creativity is voluntary rather than necessary and universal. For example, China was a creative and inventive empire that gave rise to many technologies and artistic sub-cultures without any promise of IP; and hence proliferation of low quality products and superficial value products. Both perspectives put forth by John Lock and Hegel point at lack of a perfect philosophical, ethical or normative justification for the existence of Intellectual Property rights. There are laws grading our expression, products etc. but protecting intellectual rights of an individual is getting quite impossible in present age of internet.

On account of debates and discussion held by philosophers, the judiciary has come up with various legal provisions, namely under the titles of Copyrights, Patents and Trademarks.

Copyright and Copyright Law:

Copyright is a kind of right that protects the 'expressions' of ideas by an individual; but not the idea itself. In other words it protects a range of works that are 'expressions of ideas'. For instance, literary works like drama, novel, poetry; artistic works like paintings, pictures, videos, and sculptures can be considered for 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.[8]

Given the nature of research ethics and discussion of development of intellectual property rights in society, its relevance in society, especially in academic institutions must be highlighted.

Relevance of Intellectual Rights in Higher Education

In last decade, in order to foster research activity in Higher Education institutions, the University Grant Commission started Research Grant Schemes as well as under the faculty development programmes initiated grants schemes for research output aiming at research culture. As a result many faculties applied for research grants and even few of us tried to grab lucrative

post in academic institutions. Paradoxically, in want of quality out-put, recently UGC has withdrawn its grants for research activities. As per the recent notifications of the UGC the research activity is left to the discretion of the faculty. One of few reasons behind limiting the research grants by UGC is low quality of research output and various unethical practices going to grab the schemes. The notification has many implications. But this research paper ponders over unethical practices and the intellectual rights of the genuine scholars.

Plagiarism :

One of the unethical practices being malpractice being carried out is plagiarism. Plagiarism is an unethical practice of taking 'ideas' of original writers and stating it as one's own. It is a kind of theft and intellectual dishonesty. In real sense, the research scholar can take inspiration from the previous research or reference books but following research ethics. He/she can summarize, borrow, paraphrase or copy the ideas of genuine writer by adding quotation marks and giving proper reference: name of the author, page number, name of the publisher and publication year etc.

However, according to Nanjundaswamy and C. P. Ramesesh, "the recent past the trend of committing research misconduct is increasing to an alarming extent. Among the researchers and scientists, one out of three admits to questionable research practices. The main reason behind is fabrication or falsification of data, plagiarism and mistakes in making observation and drawing inferences. Added to this, self-plagiarism is also notices in number of publications."[9]

On account of this, the academic institutions and publication institutions have come up with various techniques to address this unethical practice in research studies. For instance, as recorded by Nanjundaswamy and C. P. Ramesesh, "many institutions are taking help of *iThenticate* a software designed especially for identifying genuine work of research. This software can scan annually 2.3 million research articles and it is highlighting to note that more than 10 million matches indentified from the previously published content over the past two years."[10]

Conclusion :

One of the results of this anti-plagiarism software and the research scholars are getting more conscious about their work and try to come up with their own ideas. This is going to ultimately benefit the quality and productive output on the one hand and on the other hand the genuine writers, authors shall receive positive feedback to go for new ideas: ideas that solve new challenges of our times in new way. Hence, it is imperative to follow research ethics to protect the 'ideas' of authors and writers, because 'true' truth must spread not the plagiarized one.

References:

1. Dilanthi Amaratunga, David Baldry, Marjana Sarshar and Rita Newton, Quantitative and Qualitative Research in the built environment: Application of 'Mixed' Research Approach, Emerald, Work Study, Vol. No. 51, No. 1, 2002. Pp. 17-31
2. http://www.bbc.co.uk/ethics/introduction/intro_1.shtml accessed on 09/03/2018
3. (https://www.niehs.nih.gov/research/resources/bioethics/whatis/index.cfm) Adapted from Shamoo A and Resnik D. 2015. Responsible Conduct of Research, 3rd ed. (New York: Oxford University Press)
4. https://researchethics.ca/what-is-research-ethics/ accessed on 09/03/2018

5. Module: Intellectual Property Rights, UNESCO and Commonwealth Educational Media Center for Asia (CEMCA), New Delhi. P.6
6. Ibid. p.7
7. Ibid. p.8
8. Ibid.p.10
9. Nanjundaswamy and C. P. Ramesesh, University News, 54(41), October, 10-16, 2016, p.17
10. Ibid. p.17

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

Intellectual Property Rights (IPR) in Libraries

Dr. Amol D. Khobragade* & Dr. Pranali B. Gedam*

*Librarian
Yashavantrao Chavan Institute of Science, Satara.
E-mail: amolkhobragade@live.in
&
**Librarian
Azad College of Education, Satara.

Abstract

This paper deals with the role of libraries in managing the resources and gets the maximum usage of the resources within the limitation of Intellectual Property Rights (IPR). It guides the professionals on how they should respect the IPR laws and how they are flexible for the genuine users. The LIS professionals should be fully aware of the IP laws to protect the interest of the user community. The purpose of copyright law is to balance the rights of copyright holders and users. Existing copyright law is applicable in the digital age also. As more and more information becomes available in digital format, libraries must be ensuring that public can enjoy the same access rights as with printed information.

Keywords: IPR, Academic libraries, Copyright, LIS professionals.

Introduction:

The word intellect originates from the root "intellects" in Latin which means the power of knowing as distinguished from the power to feel. Man has own capacity to acquire knowledge and increase his knowledge bank by gathering knowledge throughout his life time. An intellectual product is nothing but the brain child of his original idea, creative thought, which forms a special kind of property known as intellectual property. The intellectual property is ownership of something intangible. A right is legally protected interest and object of the right is the thing in which the owner has interest. The object in intellectual property right is immaterial.

We are living in the age of sophisticated and abundant of information.Knowledge is dominating in this age. The one who best practices the knowledge application leads the race. Now, the countries strength is assessed by its Intellectual Property rather than its economic power. Protection of Intellectual Property is gaining more importance as equal to protecting natural resources. Many higher learning institutions and universities started generating revenue through managing the Intellectual properties and also they brought in strict governance to monitor the IPR. In India, the academic libraries not fully understand the value and importance of protecting and managing its intellectual assets for the future prosperity. Very few research institutes involved in developing and management of their institutions knowledge assets.

Academic libraries in the developing world are on cross roads. They are confused on whether to support the IP protection so as to generate the income of the authors or support the open access drive where the knowledge is made available to everyone without any commercial implications. There is an immediate requirement for Indian universities to take any one route so as to protect the interest of knowledge custodians. If they take first approach though the receiver

has to pay for the usage, the contributor also will get benefit out of it. If they take second route both receiver and contributor need not have any commercials in their transactions.

Intellectual Product:

An intellectual product has two components: **intellectual** and **physical** component**.** The **intellectual component** is the intangible part of the product i.e. the creative work – The ideas, concepts, discoveries and the expression of these elements that is protected by copyright.

The **physical component** is the expression of the work reproduced in a physical medium. For example, in case of a book the physical component would be the paper, ink binding etc. Now, consider the sequence of events involved in creating and publishing a book and subsequent use of that book.

Features of Intellectual Property:

- It is a form of intangible property.
- It's existence distinct from the physical articles or goods which contain the rights.
- In some cases the rights are capable of existence and enforcement with no tangible form.
- The various rights might subsist in the same things. For example, a document might be subject to patent, design rights and trademarks. A pictorial trademark might also be subject to copyright.

Objectives of the Study

3. To know the concept of Intellectual Property Rights in library prospective
4. To explore the how it use in libraries
5. To find the solution of facing the difficulties in libraries using IPR

Categories of Intellectual Property Rights:

a) Industrial property: consists of rights relating to inventions, trademarks, industrial designs and geographical indications.

b) Copyright: Copyright protects rights related to creation of human mind in the fields of literature, scientific, music, art and audio-visual works etc. The basic rights of ownership of intellectual property are known as "intellectual property rights" (IPR), which are primarily derived from legislation concerning patents, designs, copyrights and trademarks.

According to the World Intellectual Property Organizations, there are seven categories of Intellectual Property Rights:

6. Copyright and Related Rights
   ii) Trademarks, Trade names and Service marks
7. Geographical Indications
   iv) Industrial Designs
   v) Patents
   vi) Layout Designs of Integrated Circuits
   vii) Undisclosed Information

Application of Copyright Protection for Printed Materials:

Copyright is concerned with protecting the work of human intellect. It is an exclusive right given to author or his/her heir to gain the economic benefit of their creation. This may be for:

1. Literary, dramatic, musical and artistic works
2. Cinematograph film
3. Sound recordings.

In this context, Librarians are facing some common difficulties in the libraries are given below with suitable solutions

Sample 1:

Situation: When users ask for the photocopying of few pages or the entire documents but librarians sometime cannot clearly demarcate what is fair dealing especially when they are offering the membership or when the library itself is attached to any commercial establishments. The questions would be how much portion of the documents can be photocopied? Whether photocopy of the journal articles allowed? Whether scanned copy of the journal articles can be uploaded in webpage?

Solutions:

The copyright act 1957, section 52 describes that the following actions does not constitute infringement

1. If it is used for research or private study
2. If the portion of document used for criticism or review
3. If the purpose is for reporting in a newspaper or writing article in periodicals

But, still librarians should take precautions by following some common guidelines like only 10% of the document or 20 pages whichever lesser can be allowed for photocopy. Photocopying groups which cover entire document or any systematic reproduction should be restricted. Photocopying of entire journal should be restricted.

Sample 2:

Many libraries provide newspaper clipping service by scanning the content page of newspapers or magazine/Journal article and uploading it in their server and provide access to its users.

Solution:

Libraries can archive the hardcopy of entire newspapers or the portions in the order they want. They can create Index and Abstracts of the clippings or journals articles and can upload the same in their search platform. When anybody is interested to refer the full text of the article, they should be guided to library and provide hyperlink to the original newspaper.

Application of Copyright Protection for Digital Materials:

In the recent year's national and international conference and seminar proceedings are brought out in digital form and online access through their organizational and or associations website. Librarians are facing severalproblems in disseminating this information to their clients. Many libraries are not equipped with proper tools to control the distribution of digital resources within the organization or sometime outside the organization.

Sample 1:

When the libraries procure the books sometime the contain supplement and additional information through CDs. On the other hand the CDs may contain the full text versions of the book or may contain the supportive documents like source code, charts, graphs or maps. The question would be whether these can issued as any other printed material in the library? How does the library control the user by downloading the content to his/her personal desktop?

Solution:

The CDs or DVDs which comes along with the books should be separated from the book and should be treated as separate entity. However, the libraries can have relative reference

number. Instead of allowing these materials for lending, it can be loaded in a system which should be kept inside the library premises. Any user who would like to refer these resources should be allowed to browse through this system. The **section (52)** allows library to keep one back up of the digital resources which they procure. By doing this libraries can avoid the damage or loss which may happen while issuing of these resources. Also, control the user by illegal copying or downloading.

Sample 2:

Libraries are managing the digital resources by mounting CDs or DVDs in CD servers. This they are doing by mirroring the contents or mounting the physical CDs on the servers. The question would be whether this practice is the violation of any copyright law?

Solution:

It is the responsibility on librarians should check the license agreement with the publisher. Taking one back up of the procured resource and releasing access to one person should not be a problem. But, when they are releasing the access to the large population, the license policy should be followed. The latest servers have option to restrict the access as per our requirements. We can also restrict users download. If the contents found to be highly used, multiple licenses should be obtained for short period. The license should be obtained from the authorized copyright owner. Many times it is found that the supplier or distributor unlawfully produce the license.

Conclusion:

The librarian job transferred from custodian of knowledge to facilitator of knowledge. Librarians are in the cross roads whether chose to take the user side or the author side. They are now put under pressure and compulsion to work with the limitation of technology, IP laws and high expectation of users.

In the digital world the librarians have more responsibility to collect, store information and disseminate it to the readers even if it is an electronic form. The copyright protection should be encouraging the creativity and not for creating hurdles in the use of information. The Librarian's work is challenging as a catalyst for the free flow of information between the owners of copyright and the users of the information.

References:

1. Lakshmana Moorthy, A., Prahalada Rao, M. &Karisiddappa, C.R. Intellectual property rights of electronic information in the age of igital convergence. *In* NACLIN 2001: Networking of Digital Resources for National Development: Papers of the Fourth National Annual Convention on Library and Information Networking, Hyderabad, November 2001. H.K. Kaul (Ed.). New Delhi, DELNET, 2001. Pp.583-589.
2. Narayanan, P; Intellectual Property Law, ed.3, Eastern law book house, New Delhi; 2007. Pp 318-345.
3. Paul, S. S. (2003). (A) Basic understanding of intellectual property. Kolkata: Diamond.
4. Program on Information Justice and Intellectual Property, Washington College of Law, American University: Code Of Best Practices In Fair Use For Academic And Research Libraries. January 2012
5. Wherry, Timothy Lee. (2009). Intellectual property: everything the digital – age librarian needs to know. New Delhi: Indiana Publishing House.
6. Yaranal, M., Ramesh. Managing Intellectual Property Rights (IPR) in A Practical Approaches and Solutions, International Journal of Digital Library Services, 2012. Vol. 2, (3). Pp 43-50.

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

बौध्दिक संपदा अधिकार

डॉ. मोहन मंगेशराव सावंत
मा.श्री.अण्णासाहेब डांगे कला, वाणिज्य व विज्ञान महाविदयालय,
हातकणंगले

प्रास्ताविक –

समस्त प्राणीजगत में मनुष्य को सर्वश्रेष्ठ इसीकारण माना जाता है क्योंकी उसके पास बौध्दिक क्षमता है। इसी क्षमता के आधारपर आज हर क्षेत्र में उसने अलग – अलग संशोधन कर मानव का जीवन बेहतर से बेहतर बनाने की कोशिश की है। मानव का रूदबा बनाए रखा है । समस्त विश्व में आज बौध्दिक संपदा का महत्व बढ रहा है। ज्ञान, विज्ञान, कृषि, आरोग्य, संगीत, साहित्य , कला आदि क्षेत्रों में आज हररोज कुछ नया संशोधित हो रहा है । लेकिन इस संशोधन को सुरक्षित करने के लिए कानुनन अधिकार नीति की अहम भूमिका है । प्रस्तुत आलेख में हम यह नीति क्या है। इस नीति के अंतर्गत कौन– कौन से प्रावधान है तथा इस संपदा के कितने प्रकार है इस बात पर हम विचार करेंगे।

बौध्दिक संपदा अधिकार का अर्थ –

बौध्दिक संपदा किसी नविनमतम ज्ञान या उत्पाद का सृजन करना है । बौध्दिक संपदा अधिकार की परिभाषा करते वक्त प्रोफेसर घनश्यामदास झा लिखते है –" वह कोई भी वस्तु ,जो किसी व्यक्ति के मस्तिष्क की उपज हो जैसे कोई शब्द , वाक्यांश, प्रतीक, डिझाइन ,संगीत, काव्य कलात्मक कार्य ,खोज एव अविष्कार जिसका कोई आर्थिक या सामाजिक विकास में महत्व हो वह व्यक्ति की बौध्दिक संपदा कहलाती है। "१ इस उत्पाद पर उस व्यक्ति का कानुनन एकाधिकार हो जाता है । इसका अगर किसी व्यक्ति को इस्तमाल करना है तो उस व्यक्ति कि कानुनन अनुमति लेनी होंगी। भारत में केंद्रिय मंत्रिमंडल ने राष्टीय बौध्दिक संपदा अधिकार के लिए भावी नीति तैयार की है। इससे भारत में रचनात्मक और अभिनव उर्जा के भंडार को प्रोत्साहन मिलेगा। इससे वैश्विक स्तर पर प्रचलित बेहतरीन कार्य व्यवहार लागु करके उसको अनुकुल बनाया जाएगा। साथ साथ इस उर्जा का हम आदर्श इस्तमाल भी कर सकेंगे।

बौध्दिक संपदाओं को बचाने के लिए कानुन क्यौ ? –

बौध्दिक संपदाओं को बचाने के लिए सरकार को कानुन बनाने की जरूरत इसलिए महसूस हुई क्योंकी किसी भी मौलीक रचना के निर्माण के पिछे साहित्यिकों को , या शास्त्रज्ञों को, या कलाकार को अपने जीवन का बहुत सारा समय तथा पैसा देना पडता है । इस कानुन के निर्माण के कारण उनके सांविधानिक अधिकारों की रक्षा होगी। आर्थिक रूप से भी रचनाकार सबल हो जाएँगे। इसके साथ साथ रचनाकारों को नए संशोधन के लिए बढावा मिलेगा । समाज में उनको सम्मानित करने का मौका मिल जाएगा। समाज के सामाजिक तथा आर्थिक विकास के लिए भी यह जरूरी है।

बौध्दिक संपदा नीति में प्रावधान –

१. बौध्दिक संपदा नीति के अंतर्गत अगले साल से एक माह में पंजीकरण हो सकेगा।
२. पंजीकरण करनेवाले व्यक्ति को अपने उत्पाद को ब्रांड के रूप में बेचने का अधिकार मिलेगा।
३. पंजीकरण करनेवाले व्यकित को अपने उत्पाद के लिए २० साल तक पेटंट मिलेगा।

४. २० साल में अगर वह व्यक्ति अपने पेटंट में कोई बदलाव लाता है तो ही उस व्यक्ति को उसके उत्पाद के लिए उसका पेटंट का अधिकार बढाकर दिया जाएगा।
५. अन्यथा उस उत्पाद का उस व्यक्ति का पेटंट समाप्त हो जाएगा।
६. इसमें फार्मा क्षेत्र के संबंध में विशेष प्रावधान है।
७. इस नीति के अंतर्गत सरकार के साथ अनुसंधान और विकास के तहत संगठनों और शिक्षा संस्थानों को शक्ति संपन्न बनाया जाएगा।
८. विकसित देश की तरह हमारे देश के लोगों को बौध्दिक संपदा के बारे में जागरूक कर उन्हें संशाधन के लिए प्रोत्साहित करना।
९. राष्टीय बौध्दिक संपदा अधिकार नीति के कारण सभी बौध्दिक संपदाओं में सहयोग बनाकर रखना संभव हो जाएगा।

बौध्दिक संपदा नीति के फायदे –

१. इस नीति के कारण भारत देश की वैश्विक प्रतिमा में सुधार आएगा।
२. टेड मार्क पंजीकरण की अवधि एक माह होगी।
३. इस देश में रचनात्मक विकास के लिए बढावा मिलेगा ।
४. देश में स्टार्ट अप तथा आंतप्रनरशिप को बढावा मिलेगा।

बौध्दिक संपदा नीति के प्रकार – बौध्दिक संपदा को मुख्यत निम्न भागों में विभाजित किया जाता है।

१.कॉपीराईट २. ट्रेडमार्क ३. पेटंट ४. इंडस्ट्रियल डिझाईन ५. ट्रेड सिक्रेटस ६.भौगोलिक संकेत संक्षिप्त रूप से हम इसका निम्नप्रकार से विवेचन कर सकते है।

१. कॉपीराईट –

यह रचनाकार या लेखक का एक प्रकार का अधिकार माना जाता है। इसके तहत किसी भी लेखक को अपनी मौलिक रचना के कॉपी वितरण एव उपयोग का पूर्ण अधिकार प्राप्त हो जाता है। भारतीय संविधान के कॉपीराईट एक्ट सन १९५७ जो १९५८ में जारी हुआ जिसमें पॉच बार संशोधन हो चुका है।

२. टेडमार्क –

भारत में टेडमार्क ऍक्ट सन १९९९ में बना लेकिन १५ सितंबर २००३ से इसका कार्यान्वयन हुआ है। इस कानुन के अंतर्गत अपने उत्पाद का लोगो,बोधचिन्ह, प्रतिक, मुहावरा,डिजाइन रजिस्टर करा सकता है। अपने उत्पाद का गैरकानूनी रूप से उपयोग या कापी करने से यह कानुन रोक लगा देता है। उदा. पारले जी,निरमा ,हिंदुस्थान लिवर लिमिटेड आदि कई कंपनियों ने अपने उत्पाद को इस कानुन के तहत सुरक्षित कर दिया है।

३. पेटंट –

यह एक प्रकार का अन्नय एकाधिकार है । इसके अंतर्गत किसी रचनाकार को या उसके उतराधिकारी को निश्चित समयअवधि के लिए सरकारव्दारा अधिकार प्राप्त किया जाता है। इस समयअवधि में वह रचनाकार या उतराधिकारी उस रचना व्यापारिक लाभ उठा सकता है । भारतीय पेटंट एक्ट सन १९७० में बना २००५ में इसमें संशोधन हुआ।

४. इंडस्टिअल डिझाईन –

किसी भी वस्तु का सौदर्यमूल्य बढानेवाला व्दिमीतीय या त्रिमीतीय ढॉचा जो किसी रंग,लाईन अथवा अन्य किसी सामान के मिश्रण से बना हो इंडस्टिअल डिझाईन कहलाता है । यह ऍक्ट डिजाईन ऍक्ट २००० नाम से जाना जाता है। इस कानून के अंतर्गत किसी भी डिजाईन को रजिस्टेशन दिया जाता है तो वह १० साल तक मान्य रहता है। और अगले पॉच साल तक इसे नवीनीकरण किया जा सकता है ।

५. टेड सीक्रेट –

कोई भी कंपनी अपने उत्पाद की विशेषता बनाए रखने के लिए उसका निर्माण का तरीका ,तकनीक, सुत्र या चित्र आदि को टेड सीक्रेट के अंतर्गत रखती है । इसके लिए कोई अलग नियम नही बनाए गए है इसके लिए टिपस के सामान्य नियमों का पालन किया जाता है ।

६. भौगालिक संकेत –

यह किसी उत्पाद की जगह का संकेत दिलाता है उदा कश्मिरी शॉल अन्य शॉल से भिन्न होती है आजरा घनसाळ तंदुल जो सबसे अलग है । इन वस्तुओं की गुणवता उस जगह पर निर्भर करती है अत उस उत्पाद के साथ उसके जगह की जानकारी भी अंकित की जाती है। यह कानुन भारत में सन १९९९ में बना और १५ सितंबर २००३ में यह जारी किया गया ।

निष्कर्ष

निष्कर्ष के तहत हम कह सकते है कि बौध्दिक संपदा अधिकार आज के आधुनिक युग की सबसे बडी जरूरत है क्योंकी यह ज्ञान और विज्ञान का युग है और इसमें आगे चलकर हर क्षेत्र में काफी संशोधन होनेवाला है । अत हमे अपने संशोधन को सुरक्षित रखने के लिए इस कानून की जरूरत है।

संदर्भ –

१. घनश्यामदास झा बौध्दिक संपदा अधिकार – हिमज्योति २०१० शीतजल मात्सिकी अनुसंधान निदेशालय भीमताल नैनीताल उतराखण्ड
२. इंटनेट सामग्री

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

पेटंट : एक आढावा

श्री. प्रविण चंद्रकांत कुंभार
ग्रंथपाल,
शंकरराव जगताप आर्टस् ॲण्ड कॉमर्स कॉलेज, वाघोली
मो. नं. ९७६६८०१०३७
ई-मेल : sjaccwlibrary@gmail.com, pravin6652@yahoo.com

सारांश :

आधुनिक युगाचा विचार करता माणसांच्या गरजा वाढत आहेत. माणसांच्या गरजा विचारात घेवून नवनवीन शोध लागत आहेत. अशा नवनवीन शोध करणाऱ्या संशोधकास आपला लागलेला शोध, नवीन आयडिया आताच्या काळात सुरक्षितता कमी झालेली वाटत आहे. अशावेळेस आपणास पेटंट सारख्या घटकांची मदत घ्यावी लागते. जागतिकीकरण, इंटरनेटच्या युगात आपले काम, संशोधन, आपल्या कल्पना सुरक्षित ठेवण्यासाठी सर्वांना इंटलेक्चुअल प्रॉपर्टी नियमावलीची मदत घ्यावीच लागते. सदर लेखात आपण इंटलेक्चुअल प्रॉपर्टी नियमावलीतील पेटंट या घटकांचा आढावा घेणार आहोत.

की वर्ड : ट्रेडमार्क, कॉपीराईट, डिझाईन प्रोटेक्शन, पेटंट इत्यादी

प्रास्ताविक :

सध्याच्या आधुनिक युगात वावरत असताना आपल्याला प्रत्येक ठिकाणी प्रतिस्पर्धी पहावयास मिळतो. कारण कोणत्याही प्रकारचे काम करताना, व्यवसाय करताना आपल्या तो व्यवसाय योग्य पध्दतीने ठिकवून ठेवणे खुप अवघड झालेले आहे. आपली माहिती, आपली नवीन कल्पना, नवीन व्यवसायाच्या आयडिया इत्यादी सुरक्षित ठेवण्यासाठी आपण बरेच प्रयत्न करत असतो. अशा आपल्या आयडिया सुरक्षित करण्यासाठीच इंटलेक्चुअल प्रोपर्टी नियमावलीचा उपयोग केला जातो. इंटलेक्चुअल प्रोपर्टीचे काही महत्त्वाचे प्रकार खालीलप्रमाणे :

१. पेटंट
२. कॉपीराईट
३. ट्रेडमार्क
४. डिझाईन प्रोटेक्शन
५. इत्यादी

सदर प्रत्येक नियम व उपयोग हे आपण आपल्या गरजेनुसार वापर करत असतो. आपल्या व्यवसायातील गोष्टींचे रक्षण करण्यासाठी इंटलेक्चुअल प्रोपर्टी नियमावली वापरली जाते.

कॉपीराईट :

सध्याच्या माहिती तंत्रज्ञानाच्या काळात विविध क्षेत्रातील बाबी सुरक्षित करण्यासाठी कॉपीराईट वापरतात उदा. मिडिया, पब्लिकेशन्स, फिल्म, इत्यादी विविध उद्योगामधून कॉपीराईटला फार महत्त्व आहे. बिल गेट्स यांनी आपली ऑपरेटिंग सिस्टीम इतरांना इतर सिस्टीममध्ये वापरण्यास देताना त्या ऑपरेटिंग सिस्टीमचा कॉपीराईट अधिकार स्वत:कडेच ठेवला त्यामुळे त्यास ऑपरेटिंग सिस्टीमच्या प्रत्येक कॉपीमागे पैसे मिळत गेले असा कॉपीराईट कायद्याचा अभूतपर्व उपयोग करताना आपणही जगातील सर्वात यशस्वी माणसाचा आदर्श नक्कीच घ्यावा. कॉपीराईट कायद्यांतर्गत आपणास खालील अधिकार मिळतात.

१. पब्लिकला आपले कॉपी प्रोटेक्टेड काम विकणे किंवा भाडयाने देणे.
२. स्वत:च्या वा व्यावसायिक कामासाठी याचा वापर करणे.
३. कामाचे प्रदर्शन किंवा विक्री करणे.

आपणास बऱ्याच ठिकाणी I हे चिन्ह दिसत असेल ते चिन्ह कॉपीराईट प्रोटेक्टेड हे दर्शविते. जर कोणी आपल्या कॉपीराईट प्रोग्राम अधिकृत लायसन्स शिवाय वापरत असेल तर त्यावर आपण कायदेशीररीत्या कारवाई करू शकतो.

ट्रेडमार्क :

ट्रेडमार्क मध्ये कंपनीचे नाव, प्रोडक्टची टूंग लाईन, कंपनीच्या प्रोडक्ट वा खास टेक्नॉलॉजी नाव यांचा यात समावेश होतो. आपल्या प्रोडक्टला इतरांच्या प्रोडक्टपासून वेगळे करणारे त्याचे नाव, त्याचा लोगो, त्याचा शेप, रंग व त्यासाठी वापरलेला आवाज हे ट्रेडमार्क अंतर्गत कव्हर होतात. आपण अनेक कंपनी आणि त्यांच्या प्रोडक्टच्या नावानंतर उजव्या बाजूस वर TM असे लिहिलेले पाहतो याचा अर्थ हे नाव Trademark म्हणून रजिस्टर केलेले. आहे.

डिझाईन प्रोटेक्शन :

डिझाईन प्रोटेक्शन या नियमांतर्गत आपण केलेली नाविन्यपूर्ण डिझाईन आपण प्रोटेक्ट करू शकतो. नवीन प्रोडक्टचे डिझाईन, नवीन मशीनचे डिझाईन तसेच कंपनीचा लोगो या गोष्टी डिझाईन प्रोटेक्शन मध्ये मोडतात. आपण एखाद्या मशीन मध्ये नवीन पार्ट डिझाईन केले तरी ते प्रोटेक्टेड करू शकतो.

पेटंट :

पेटंट संशोधन संबंधित माहिती प्रोटेक्ट करण्यासाठी पेटंट कायदा वापरतात. पेटंट मिळाल्यानंतर संशोधकास अधिकार २० वर्षापर्यंत वापरता येतात. एक व्यक्ती किंवा अनेक व्यक्तींचा ग्रुप एकत्रितपणे देखील पेटंट फाईल करू शकतात. पेटंट मध्ये प्रोसेसचा फ्लो चार्ट व ब्लॉक डायग्राम यांना फार महत्वाचे स्थान आहे. आपली कन्सेप्ट आकृतीचा वापर करून दर्शविल्यास त्याचा पेटंट मिळवण्यासाठी फार उपयोग होतो. पेटंट प्रोसेस ही बरीच खर्चिक आहे तसेच ती पूर्ण होण्यास जवळपास २ ते ३ वर्षेपर्यंत कालावधी लागतो म्हणून आपले पेटंट हे फक्त कागदोपत्रीच न राहता त्याचा प्रत्यक्ष बिझनेसमध्ये कसा वापर करून त्यावर आधारित प्रोडक्ट कसे काढावे यावर ही व्यावसायिकांचा फोकस राहिला पाहिजे.

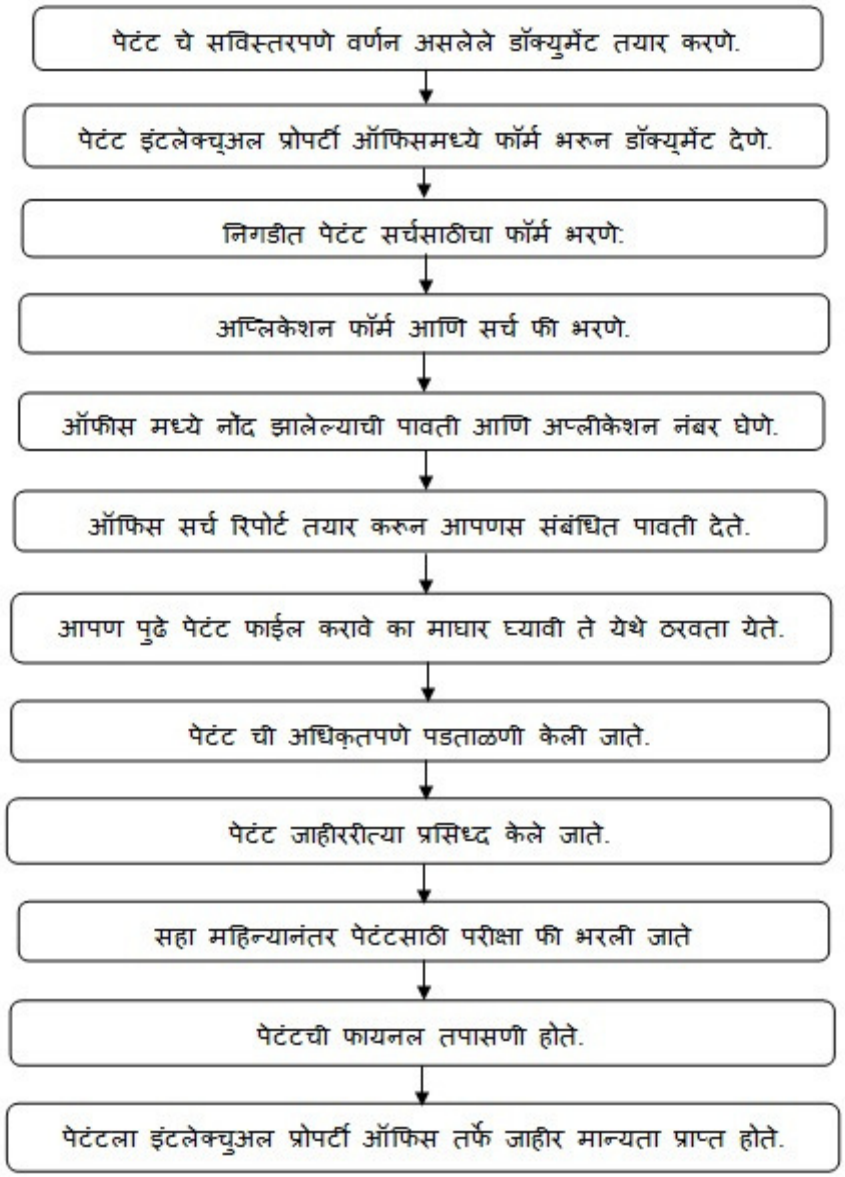
पेटंट म्हणजे काय?

एखाद्या शोधाच्या / संशोधनाच्या उपयोगाबद्दलचा एकाधिकार म्हणजे पेटंट. हा अधिकार संशोधकाला किंवा त्याने निर्दिष्ट केलेल्या व्यक्तीला काही मुदतीसाठी दिला जातो. हा अधिकार इतरांना वापरता येत नाही. पेटंटची मुदत संपली की त्या अधिकाराचे गरजेनुसार नूतनीकरण करता येते. पेटंट मिळाल्यानंतर पेटंटधारकाला त्याच्या संशोधनापासून आर्थिक आणि इतर लाभ मिळविण्यातील अनेक अडथळे कमी करता येतात. पेटंट म्हणजे संशोधकाला मिळालेले कायदेशीर संरक्षणच आहे.

पेटंट फाईल करण्याच्या प्रोसेस :

आपण आपले संशोधन नीट व व्यवस्थितपणे डॉक्युमेंट मध्ये मांडणे फार गरजेचे असते. पेटंट ड्राफ्ट लिहिताना त्यासाठी वापरला जाणारा प्रत्येक शब्द हा बरोबर वापरला गेला आहे की नाही यांची काळजी घ्यावी. आपण पेटंट फाईल करण्याअगोदर ते या जगात प्रथम कोणी फाईल केले आहे की नाही याचा शोध घेणे गरजेचे आहे. आपले पेटंट इंटलेक्चुअल प्रोपर्टी ऑफिस मध्ये नोंद केल्यानंतर ही जो पर्यंत ते अधिकृत मान्यताप्राप्त होत नाही तो पर्यंत त्या माहितीची गुप्तता राखणे गरजेचे आहे.

पेटंटसाठी लागणाऱ्या प्रोसेसचा चार्ट पुढे दिलेला आहे :



BOLMJ

पेटंटसाठी पात्र ठरण्यासाठी त्यामध्ये पुढील बाबी असाव्या लागतात.

१. अपूर्व (पूर्वी अस्तिवात नसलेला) हवा.
२. त्या शोधाचा उपयोग उद्योगात करता आला पाहिजे.

कोणत्या गोष्टींचे पेटंट होत नाही :

१. नेहमीच्या व्यवहारात आधीच उपयोगात असणाऱ्या वस्तूंसाठी पेटंट मिळणार नाही. म्हणूनच भारताने हळद, बासमती तांदूळ, कडुलिंब अशा वस्तूंच्या पेटंट विरुध्द लढा दिला.
२. पेटंट कायद्यात पेटंट अपात्र म्हणून जाहीर केलेल्या शोधांना / वस्तूंना पेटंट मिळणार नाही.
३. मौखिक / पारंपारिक ज्ञान पेटंट अपात्र असेल म्हणूनच भारतातील आयुर्वेदिक औषधे - औषधी वनस्पती, वनस्पती आणि प्राणी यांच्या काही प्रजाती पेटंट अपात्र असाव्यात असा भारताचा आग्रह आहे.

पेटंटचे फायदे काय आहेत ?

पेटंटपासून व्यक्ती आणि समाज यांना अनेक फायदे मिळू शकतात. त्यामधील व्यक्तीला

१. शोधाच्या संदर्भात कायदेशीर सरंक्षण मिळते.
२. शोधाच्या उपयोगाचा एकाधिकार प्राप्त होऊन आर्थिक लाभ मिळवता येतो.
३. पेटंट ही व्यक्तीची मौल्यवान संपत्ती असते.
४. पेटंटची माहिती गुप्त नसते. उलट ती जगजाहीर करण्यात येते.

पेटंट रजिस्टरसाठी येणारा खर्च :

पेटंट रजिस्टरसाठी भारतात येणारा खर्च हा आपणास ऑनलाईन स्वरूपात पुढील वेबसाईट वर उपलब्ध आहे.

http://www.ipindia.nic.in/form-and-fees.htm.

पेटंट ऑफीस :

Head of the Office – Intellectual Property Office
Dr. K. S. Kardam
Sr. Joint Controller of Patents & Designs
Intellectual Property Office Building,
Plot No. 32, Sector 14, Dwarka,
New Delhi-110075
Phone: 011-28034304-05, 011-28034317
Fax: 011-28034315
Email: delhi-patent@nic.in
Sh. N K Mohanty
Deputy Controller of Patents & Designs
Boudhik Sampada Bhawan, Antop Hill,
S. M. Road, Mumbai – 400 037.
Phone: 022- 24153651, 24101144, 24148165
Fax: 022-24130387
Email: mumbai-patent@nic.in
Shri. S. P. Subramaniyan
Deputy Controller of Patents & Designs
Intellectual Property Office Building,
G.S.T. Road, Guindy,
Chennai-600032
Phone: 044-22502081-84, 044-22502080
Fax: 044-2502066
Email: chennai-patent@nic.in
Sh. Sanjay Bhattacharya
Deputy Controller of Patents & Designs
Intellectual Property Office Building,
CP-2 Sector V, Salt Lake City,
Kolkata-700091
Phone: 033-23679101, 033-23671987
Fax: 033-23671988
Email: kolkata-patent@nic.in

समारोप :

आधुनिकीकरणाच्या युगात रोज नवनवीन माहिती, शोध लागत आहेत. माणसांच्या गरजांनुसार नवनवीन संशोधन होत आहे. अशा संशोधनांमधून आपले संशोधन सुरक्षित राहून जगासमोर आणायचे असेल तर पेटंटशिवाय दुसरा चांगला पर्यायच नाही असे म्हटले तर वावगे ठरणार नाही.

संदर्भ ग्रंथ :

१. गोविलकर विनायक, बौध्दिक संपदा अधिकार, पुणे : डायमंड पब्लिकेशन्स
२. Hovey, Craig (2002), The Patent Process, Publisher : John Wiley & Sons.
३. Ahuja, V. K. (2015), Intellectual Property Rights In India, Edition : 2nd, Publisher : LexisNexis.
४. https://bolmj.wordpress.com/tag/पेटंट-फाईल-करणे Date 09.03.2018e
५. https://bolmj.wordpress.com/2013/07/22/intellectual_property_info/Date 09.03.2018
६. ज्ञानगंगोत्री, वर्ष ५ वे, डिसेंबर-२००४ जानेवारी-फेब्रुवारी २००५ अंक ३
७. http://www.ipindia.nic.in/form-and-fees.htm. date10.03.2018
८. Kamble Mahesh(2015), Intellectual Property Right(IPR) in India, National Conference on Emerging Trends in Library Technology at Shahaji college, Kolhapur.

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

संशोधन क्षेत्रातील नीतीतत्वे

डॉ.अमर लक्ष्मण कांबळे
सहाय्यक प्राध्यापक
मा. श्री. अण्णासाहेब डांगे कला, वाणिज्य व विज्ञान महाविद्यालय,
हातकणंगले.

सारांश :

संशोधनाची आवश्यक्ता नियमितपणे समाजाला राहिलेली आहे. विविध क्षेत्रातील नवनवीन संशोधन त्या क्षेत्राला अधिक समृध्द व्यापक करणारे असते.एखादया विषयाचे सर्वांगीण आकलन संशोधनामुळे होत असते. साहित्याच्या क्षेत्रात किंवा शैक्षणिक क्षेत्रात संशोधनाचे महत्व फारच वाढलेले आहे. विविध अभ्यासपध्दती,संशोधनपध्दती या निमित्ताने समोर येत आहेत.युजीसी ,विद्यापीठे तसेच विविध सामाजिक,शैक्षणिक तसेच साहित्यिक क्षेत्रात कार्यरत असणा-या संस्था विद्यापीठे संशोधनाला महत्व देत आहेत. त्यासाठी संशोधक,अभ्यासकांना प्रोत्साहित करीत आहेत. विविध प्रकारचे अनुदान दिले जात आहे.यामुळे संशोधनाचे क्षेत्र व्यापक झालेले आहे.अशा वेळी मोठया प्रमाणात संशोधन होत असताना त्याचा दर्जा उद्देश आणि संशोधनातील प्रामाणिकपणा याची पायमल्ली होताना दिसते.संशोधनात आचारसंहिता आहे ती पाळणे ही संशोधकाची नैतिक जबाबदारी आहे.मात्र असे असूनदेखील काही अभ्यासक ही नीतीमत्ता पाळत नाहीत.इतरांच्या संशोधनाचा त्यांच्या बौध्दिक हक्काचा आदर करणे हे महत्वाचा गुण संशोधक अभ्यासकांनी आत्मसात करण्याची गरज आज प्रकर्षाने जाणवताना दिसते.

प्रस्तावना :-

संशोधन हे अत्यंत महत्वाचे आहे.विद्यापीठीय, शैक्षणिक तसेच साहित्यिक क्षेत्रात याचे महत्व अन्नन्यसाधारण आहे. नावीन्यता ,वैविधता,विषयाची सर्वांगीण चिकित्सा,सांगोपांग चर्चा यानिमित्ताने होत असते. अभ्यास विषयाचे विविधांगी पैलू यामुळे समजण्यास मदतच होते. संशोधक,अभ्यासक,लेखक,संपादक किंवा प्रकाशक या सर्वांची यामध्ये महत्वपूर्ण भूमिका असते. राष्ट्रीय आंतरराष्ट्रीय विविध मानांकने असणारे आणि मान्यताप्राप्त अशा नियताकालीकामधून किंवा प्रकाशन संस्थेकडून ज्यावेळी उत्तम दर्जाचे संशोधन प्रकाशित होते.वाचकाला तो विषय समजून घेण्याला मदत होते. शिवाय विद्यापीठ अनुदान आयोगाच्या नियमावलीमुळे आणि विद्यापीठीय शिक्षण पध्दतीमुळे लेखकाला त्याचा वैयक्तिक लाभ ही होतो. युजीसी विद्यापीठ,एनजीओ असे संशोधन करण्यासाठी मुबलक अनुदानही देतात.अलिकडे संशोधात्मक लेखन हे सेवाकाळात तसेच वरिष्ठ वेतनश्रेणीसाठी ग्राहय धरले जात असल्यामुळे मोठयाप्रमाणात असे लेखन करणारे आणि प्रसिध्द करणारे व्यावसायिक भूमिका घेवून या क्षेत्रात आल्यामुळे संशोधनाच्या दर्जा संदर्भात अनेक प्रश्न निर्माण होत आहेत. अशावेळी संशोधनातील नैतिकता,प्रामाणिकपणा ढासळला जात असल्याचे दिसते . यामुळे संशोधनाचा दर्जा आणि गुणवत्तेचा आणि मालकी हक्क यांचा प्रश्न निर्माण होतो.

संशोधनातील प्रामाणिकपणा :-

संशोधनासारख्या पवित्र क्षेत्रात प्रमाणिकपणा आणि विश्वासार्हताही असायलाच हवी विशिष्ट ध्येय डोळयासमोर ठेवून काही उद्दिष्टये निश्चित करून काहीतरी साध्य साधण्यासाठी आपण संशोधन करीत असतो.त्यामुळे संशोधकाची जबाबदारी ही वाढते.संशोधन करताना किंवा प्रकाशित करताना काही काळजी घेतली गेली पाहिजे. त्यातील बारकावे समजून घेतले पाहिजेत.अभ्यासकाला संशोधकाला स्वयंशिस्त असावेच लागते. त्यातच जे संशोधन संशोधक स्वतःची निर्मिती म्हणून प्रसिध्द करतो,त्यातील प्रामाणिकपणा अत्यंत महत्वाचा आहे. अलिकडे संशोधनाच्या क्षेत्रात अनियमिता ही वाढलेली दिसते.याकडे गांभीर्याने पाहिले जात नाही. वाङ्मय चौर्य यासारखे प्रकार सर्रास होताना दिसतात दृ

साधन आणि संदर्भ यांच्या नोंदी ठेवताना मूळ लेखक, संपादक किंवा प्रकाशक यांचा नामोल्लेख टाळला जातो. पर्यायाने इतरांचे लेखन संशोधन हे संशोधक स्वतःच्या नावे जाणते अजाणतेपणे प्रकाशित करतो.संशोधनाच्या क्षेत्रात प्रामाणिकते इतकेच दुस-याच्या संशोधनाविषयीचा आदर असावा लागतो. तेवढी निष्ठा संशोधकाला त्याच्या कार्यामध्ये ठेवावी लागतेच.व्यक्तिगत स्वार्थ ही संशोधनमूल्याला बाधा आणणारी आहे.

संशोधनातील पारदर्शकता :-

निष्पक्षपणा ,पारदर्शी आणि सत्याशी निष्ठा सांगणारे संशोधनच काळाच्या ओघात टिकणारे असते.सामाजिक उत्तरदायित्व व्यक्त करणारे लेखन महत्वाचे आहे.तडजोडीची भूमिका ही मूळ उद्देशापासून संशोधकाला बाजूला फेकते. त्यामुळे अंतिम साध्य,साध्य करता येत नाही. संशोधकाला अविर्भाव नसावा. तो पूर्वग्रह दुषित नसावा तसेच त्याने संशोधकीय नीतीमत्तेचे पालन केलेले असावे. वास्तवात अवाजवी स्तोम न करता अभ्यासक संशोधकांनी स्वतःच्या मर्यादा ओळखाव्यात. अभ्यास विषयालाही मर्यादा असतात हे समजून घ्यावे. त्यामुळे संशोधन कार्य सुलभ होते. वास्तवात संशोधनातील आचारसंहिता नीतीतत्व लक्षात घ्यावे. प्रताधिकार कायदयाच्या कक्षेत संशोधन असू द्यावे. संशोधकाने या कायदयाच्या गुन्हयात अडकणारे कोणतेच कृत्य करू नये.ते नीतीमत्तेला धरूनही राहत नाही.आत्मीय समाधान त्यामुळे मिळत नाही. वाङ्मयचौर्य ही गंभीर बाब आहे.त्याविषयीची सजगता असायलाच हवी. कोणतेही लेखन सार्वजनिक करताना संशोधकाचा संशोधनाशी एक सामंज्यस्य करार अलिखित स्वरूपाचा झालेला असतो आणि त्यांचे बंधन संशोधकांनी पाळावे ही नैतिकता आहे.

कोणतेही क्षेत्र असो ज्यावेळी नैतिकतेचा विषय पूढे येतो त्यावेळी ते क्षेत्र किती पारदर्शक आहे .यावर त्याचे नैतिक अधिष्ठान अवलंबून असते.लेखक,संपादक,प्रकाशक,संशोधक व अभ्यासक यांची भूमिका ही व्यावसायिक किंवा तडजोडीची असेल किंबहुना त्यात प्रामाकणिकता नसेल तर अशा संशोधनाच्या पावित्र्यावर प्रश्न निर्माण होताना दिसतो त्यामुळे ज्या भूमिका घेवून अभ्यासक काम करतोय त्याचे आकलन किती सर्वंकष आणि सर्वसमावेशक आहे यावर त्या संशोधनाची उपयुक्तता निश्चित होते.संशोधनाच्या केंद्रस्थानी प्रामाणिकपणा असेल आणि त्यामध्ये पारदर्शकता असेल तर ते संशोधन जबाबदारीने स्वीकारले जाते.

संशोधनाची आदर्श आचारसंहिता :-

संशोधन आक्षेपार्ह नसावे.मानहानीकारक नसावे.मानखंडन करणारे असू नये.मानसिक शारीरिक, सामाजिक हानीकारक नसावे.व्यक्तीगत किंवा सामूहिक स्वार्थाचे किवा समर्थनार्थ केलेले संशोधन हे प्रसंगी धोकादायक ठरू शकते दृसंशोधानाची वर्तनतत्वे अंगीकारणे महत्वाची आचारसंहिता आहे . एकच संशोधन एकापेक्षा अधिक नियतकालीकातून प्रकाशीत करू नये पूर्व संमती किंवा लेखक प्रकाशक यांचे हक्कांचे उल्लंघन होणारे कोणतेही कृत्य करू नये. प्रताधिकार कायद्याचे जाणते अजणातेपणे उल्लंघन होणार नाही याची काळजी घ्यावी. वाङ्मय चौर्य हा निव्वळ कायदेशीर गुन्हा ठरत नाही, तर संशोधन प्रकाशन क्षेत्राचे पावित्र्य कमी करतो.याचे गांभिर्य लक्षात असू द्यावे दृ

संशोधनाचे ध्येय,त्याची उद्दिष्टे निश्चित करून संशोधनाची निर्मिती करणे गरजेचे आहे , मुलभूत आव्हानांचा विचार या ठिकाणी महत्वाचा ठरतो. कोणतेही संशोधन तर्कहिन ,मनखंडन करणारे धोकादायक असता कामा नये मानसिक परिपक्वता आणि संवेदनशीलता सत्य आणि सुसंगत युक्तीवाद अचूक मूल्यमापन तसेच अभ्यास विषयावर असणारी प्रामाणिक निष्ठा,विश्वास हे संशोधनाचे मूल्य वाढवित असते. संशोधनाचे संशोधनमूल्य विचारात घेवूनच त्याचे सार्वजनिकीकरण करणे हिताचे ठरते. या क्षेत्रात झपाटयाने बदल होत आहेत दृविविध साधन सामूग्री सहजतेने उपलब्ध होत आहे.संगणकीय क्रांतीमूळे विविध स्वॉफ्टवेअर्स याठिकाणी उपलब्ध आहेत.अशावेळी दुय्यम साधनांचा वापर करून केलेले विधान हे अर्धसत्य

किंवा चुकीचे ठरण्याची शक्यता विचारात घेवून काळाच्या कसोटीवर आणि विषयाला सर्वांगीण न्याय देणारे लेखन, संशोधन प्रकाशित होण्याची गरज आहे. पाल्हाळपणा,पुनरावृत्ती अतार्किकता,अलंकारिकता भाषिक अविर्भाव

पूर्वग्रहदूषितपणा ,विषयाच्या ज्ञानमर्यादा आणि अविर्भाव तसेच माहितीचा अभाव सादरीकरणातील उणीवा विषय आणि आशय यातील वैध्यर्म्य तसेच आत्मप्रौढीची भूमिका विषयाला आणि लेखनाला न्याय देवू शकत नाही. लेखकाच्या मर्यादित आणि संकुचितपणामूळे विषयज्ञानावर आकलानावर प्रभाव होवु शकतो.

कॉपी राईट ॲक्ट :- प्रताधिकार कायदा

कायदा हा सर्वांना समान आहे.तो सर्वाना लागू होतो. संशोधनाच्या , प्रकाशनाच्या क्षेत्रातही काही महत्वपूर्ण कायदे आलेले आहेत. प्रकाशक,अभ्यासक कोणीच कायदयापेक्षा मोठा नसतो कोणत्याही क्षेत्रातील गुन्हा हा गुन्हाच ठरतो.दुस-याची वस्तू आपली म्हणने जसे अयोग्य आहे.तितकेच अयोग्य हे इतरांचे लेखन संशोधन स्वतःच्या नावावर पूर्णतः किंवा त्यातील काही भाग प्रकाशित करणे हा गुन्हा आहे. कॉपी राईट ॲक्ट म्हणजेच प्रताधिकार कायद्याअंतर्गत हा गुन्हा असून याचे गांभिर्य सर्वांनी घेतले पाहिजे दृ अविवेकी कृत्य हे संशोधकाची अपरिपवक्वता सांगते.कोणत्याही लेखनाला संदर्भ वापरावे लागातात आणि त्याच्या नोंदी घेणेो तितकेच महत्वाचे आहे.कॉपीराईट ॲक्ट अतिशय प्रभावी कायदा या क्षेत्रात आहे. त्याच्या कक्षेत आपण येणार नाही याची खबरदारी घ्यावी किंवा संवदेनशील लेखकाची ती जबाबदारी आहे वाङ्मय चौर्य हा जबाबदार लेखकाचा दुर्गूण ठरू नये दृजेथून संदर्भ घेतलेत ते जसे च्या तसे घ्यावेत, ते कोट करावेत व ज्यांचे आहेत त्यांचा नावाचा निर्देश योग्य त्या ठिकाणी केला जावा. दुस-याची मते आपल्या नावे टाकू नये.

अलिकडच्या काळात या कायदयाचे महत्व वाढलेले आहे. सर्वसाधारणपणे सोशल मीडिया मध्ये कॉपी पेस्ट करणे,डाटा शेअर करणे यासारख्या गोष्टी सहजरित्या केल्या जातात. तितक्याच सहजतेने वाङ्मयचौर्याचे आपल्यावर आरोप होवू शकतात.पण याचे गांभीर्य दोघांनाही नसल्याने तसे घडत नाही ,पण अलिकडे प्लोगॅरिजम करणे हा गुन्हा असून त्याला विशिष्ट मर्यादा आणि निकष तसेच काही निर्बध घालण्यात आले आहेत. याविषयीची माहिती सजगता लिहिणा-या व्यक्तिकडे असावी.कारण कोणत्याही दुस-या व्यक्तीचे लेखन, मत स्वतःच्या नावावर प्रसिध्द करणे किंवा तसे वर्तन करणे हे कॉपीराईट ॲक्ट खालील गुन्हा आहे"

संशोधनाचा दर्जा गुणवत्ता टिकवण्यासाठी संशोधनातील नैतिकता सांभाळणे हे प्रत्येकाचे कर्तव्य आहे. मार्गदर्शक तत्वाचे पालन केले पाहिजे दृसंशोधनाला व्यापक अधिक परिपूर्ण करण्यासाठी मूलभूत संकल्पना निश्चित मानांकनावर आाणि गुणवत्तेच्या कसोटीवर टिकणारे संशोधन करता येईल. बौध्दिक हक्क हिरावणे किंवा त्यावरती अघात करणे हे नैतिकतेला धरून नाही. एकणूनच संशोधनाचा बौध्दिकतेचा संबधीत संशोधकाचा आदर करणे त्याच्याशी प्रामाणिक असणे तसेच बौध्दिक क्षेत्रातील विश्वास निर्माण करणे किंवा जतन करण हे संशोधकाचे प्राध्यान्यक्रमाचे कर्तव्य आहे.

संदर्भ :–

1) J. P. Swazey, "Ethical problems in academic research," Nov./Dec. 1993

2) Lakhotia SC. Societal Responsibilities and Research Publications. 2014

3) David B. Resnik What is Ethics in Research & Why is it Important? December, 2015

4) A Guide To Research Ethics, University Of Minnesota Center For Bioethics , 2003

'RESEARCH JOURNEY' International Multidisciplinary E- Research Journal
Impact Factor - (CIF) - 3.452, (SJIF) – 3.009, (GIF) –0.676 (2013)
Special Issue 52 : Intellectual Property Rights (IPR)
UGC Approved No. 40705 & 44117
ISSN : 2348-7143
March 2018

बौध्दिक संपत्ती अधिकार

प्रा. सरिता अण्णासाहेब मोरे
महावीर महाविद्यालय, कोल्हापूर
(शिवाजी विद्यापीठ, कोल्हापूर संलग्नित)

सर्व प्रकारच्या मालमत्तेस संरक्षण व संरक्षण प्रश्नांचा सामना करावा लागतो बैद्धिक मालमत्ता वेगवेगळ्या धोक्यांना तोंड देतात जर क्षणिक मालमत्ता चोरली जाऊ शकते तर बौद्धिक संपत्तीची प्रतिलिपी करण्याची भिती असते.

बौद्धिक संपत्ती अधिकार कायदा हा एक आधुनिक संकल्पना नाही त्याची मुळ १५ व्या शतकात शोधता येते. त्या वेळी प्रिटिंग प्रेसच्या शोधातून साहित्यिक कामाची प्रतिलिपीत करण्याचे काम विलक्षणरित्या शक्य होते या बेकायदेशीर कॅापीमुळे व्यक्तिगत रचना व शोध जतन करण्यासाठी कायदे तयार करण्यात आले म्हणजेच बौद्धिक संपदा अधिकार कायद्याची सुरवात होते. आज आपण जागतिक बौद्धिक संपदा संघटना (डब्लू आय पी ओ) आणि टी आर आय पी यांना व्यापाराशी संबंधीत बौद्धिक संपत्ती अधिकार करार म्हणून पाहतो म्हणजे कोणत्याही पुस्तकात कविता, कोणत्याही वैज्ञानिक किंवा तांत्रिक शोधाचा, औद्योगिक किंवा कृषीविषयक शोध कोणतेही प्रसारण, चित्रपट किंवा मुलत: डिझायन केलेले इतर वस्तु मानवी संसाधनाच्या सरंक्षणासाठी अनेक मार्ग आहेत. त्याची माहिती खालील प्रमाणे सांगता येईल.

बौद्धिक संपत्ती अधिकार संकल्पना :–

एखाद्या व्यक्तीने विशिष्ट वस्तू, पदार्थ आणि त्याच्या बुद्धिमत्तेसह घटक तयार केले आहे. त्या बौद्धिक संपत्तीचे व मालकीचे आहे आणि त्याला त्यांच्या अधिकार आहे बौद्धिक संपदाच्या सर्जनच्या, नवनिर्मितीच्या अधिकारानुसार बौद्धिक संपत्तीचा अधिकार म्हणतात. हे यावरून स्पष्ट होते. बौद्धिक संपत्तीच्या हक्काची स्थापना म्हणजे बौद्धिक मालमत्ता मालकास किंवा अधिकृत अधिकार्याच्या स्वतंत्र वापरासाठी, वापरण्यासाठी/ वापरण्याचे स्वतंत्र आणि तसेच दुसरीकडे अनधिकृत व्यक्तीद्वारे वापर किंवा वापरावर बंदी असणे होय.

या बौद्धिक संपत्ती अधिकारांचे वर्गीकरण करण्यात आले आहेत. या वर्गीकरणातून आपणास प्रत्येकाची नियम, माहिती सविस्तर अभ्यासता येते.

बौद्धिक संपत्ती अधिकारांचे वर्गीकरण :–

१) योग्य कॅापी करा
२) पेटंट उजवीकडे
३) व्यापार योग्य
४) सेवा आयकॅान उजव्या
५) डिझाईन उजवीकडे
६) भौगोलिक अधिकार

एकूण सहा वर्गीकरणापैकी योग्य कॅापीराइट ची माहिती नियम आपण सविस्तर पाहू.

कॅापीराइट किंवा कॅापीराईटस :

बौद्धिक मालमत्ता किंवा संपत्ती संरक्षित करण्यासाठी कॅापीराइटचा प्रामुख्याने माहिती पाहत असताना असे म्हणता येईल की, पुस्तके, कांदबरी, गाणी, संगणक, कार्यक्रम इत्यादी सारख्या मूळ साहित्यिक वर्गाची साठवण करण्याचा हा एक मार्ग आहे. जेव्हा ते अस्तित्वात येतात. तेव्हा ही रचना निर्मात्याची संपत्ती बनते. अर्थपूर्ण कला लेखन आणि विज्ञान यांचे सरंक्षण हे केवळ कॅापीराइट आहे हे त्याचे काम सार्वजनिक प्रदर्शित करण्यासाठी पुन आणि साधित कार्य नियोक्ते किंवा मालक आणि सरंक्षण तयार करण्यासाठी विशेष अधिकार देणे आहे नियोजकत्यांना आर्थिक लाभ न होता इतरांच्या परवानगीशिवाय इतरांना प्रतिबंधित करण्याचे अधिकार देण्यात आले आहेत. लेखन आणि लेखन अभिव्यक्तीचे सरंक्षण करणे

एन्कोड बदलाची पुष्टी करणे महत्वाचे आहे सोप्या भाषेत सांगायचे झाले तर कॉपीराइट करताना एखाद्या व्यक्तीच्या निर्मितीचे अनधिकृत प्रकारात त्या व्यक्तीचे बौद्धिक विचार इतर कोणत्या स्वरुपात प्रकाशित करण्यावर प्रतिबंध करते.

कॉपीराइट श्रेण्या :–

१) कॉपीराइटचे हक्क :– साहित्यिक आणि कलात्मक कार्याच्या लेखकांना आणि ध्वनी ग्राहक यंत्र आणि ब्रॉडकास्ट संघटनेच्या निर्मात्याचे अधिकार

२) औद्योगिक मालमत्ता अधिकार :– विशिष्ट चिन्हे (उदा. ट्रेडमार्क) एक नवीन उपक्रम, रचना ट्रिगर आणि तंत्रज्ञान औद्योगिक मालमत्ता साठवण्याचा अधिकार.

कॉपीराइटचे प्रकार :–

१. मूळ साहित्यिक – यामध्ये नाटकीय किंवा कलात्मक कामावर कॉपीराइट.
२. फिल्मवर कॉपीराइट.
३. संगणक प्रोग्रॅमवर कॉपीराइट.
४. गाणे, संगीत आणि अन्य रेकॉर्डवर कॉपीराइट.

वरील प्रकारच्या कार्यावर, कृतीवर आपणास कॉपीराइट.वर नियम , प्रतिबंध, हक्क सांगता येते.

कॉपीराइट ॲक्ट १९५७ :

- कोणत्या माहितीवर कॉपीराइट. असेल ते १९५७ मध्ये स्थापन झालेल्या कॉपीराइट ॲक्ट मध्ये समाविष्ट केले आहे.
- उत्कृष्ट नमुना निर्मात्यांची कविता, छायाचित्र, पेंटींग इ. वर एक कॉपीराइट असेल.
- जर एखाद्या जर्नलच्या रोजगारा दरम्यान काम तयार केले असेल तर पत्र, मॅगझिनच्या प्रकाशकास त्याच्या कोणत्याही जर्नलमध्ये रचना प्रकाशित करण्याचा अधिकार आहे. सर्व अधिकार लेखकाकडून असतील.
- जर एखाद्या व्यक्तीच्या देयकावर छायाचित्र, चित्रकला, कोरीवकाम तयार केली असेल तर त्या व्यक्तीस कॉपीराइट मिळेल.
- शासनाच्या अंतर्गत केलेल्या कोणत्याही सृजनातील कामाचा सरकारकडे हक्क आहे. तर काम कोणत्याही सार्वजनिक संस्था तयार करणे किंवा प्रकाशित किंवा सरकार स्थापनेच्या सूचना तयार झाला आहे. संस्था कॉपीराइट विचार केला जाईल.

कॉपीराइट नोंदणी :–

कॉपीराइट नोंदणीसाठी आवश्यक बाबी कोणत्या त्या पाहणे गरजेचे आहे.

- नोंदणी करणे आवश्यक आहे कारण काम करणे हे प्रत्यक्ष कामाचे वास्तविक स्वरुप ठरवण्यात मदत करते.
- आपण रजिस्ट्रार ऑफ रजिस्ट्रारला नोंदणीकृत फी द्वारे विहित नमुन्यात रजिस्ट्रेशन करिता आपला अर्ज पाठवू.
- योग्य छाननी केल्यानंतर आपले कार्य कॉपीराइट रजिस्टरमध्ये नोंदणीकृत केले जाईल.
- कोणत्याही व्यक्ती निश्चित शुल्काद्वारे नोंदणी तपशिलाची छायाप्रती घेऊ शकते.
- आपण कोणत्याही कामाचे आपले कॉपीराइट देखील सोडू शकता त्यासाठी आपल्याला कॉपीराइट रजिस्ट्रारना विहित नमून्यात अर्ज करावा लागतो.

कॅापीराइट कालावधी

कॅापीराइट कालावधी तीन टप्प्याम्ध्ये पाहता येते.

- साहित्यिक, नाटकीय, वाद्य आणि कलात्मक कामासाठी (छायाचित्राव्यतिरिक्त) कामाच्या निर्मात्याची कॅापीराइट आणि त्यांच्या मृत्युनंतर ६० वर्षांनी.
- अज्ञान निर्मात्याच्या घटनेत (निर्मात्याने त्यात नाव उघड केले नाही तर) रचना प्रकाशित झाल्यानंतर साठ वर्षानंतर कॅापीराइट राहील.
- फोटो, सिनामाचे यंत्र, चित्रपट, ऑडिओ रेकॅार्ड, सरकारी किंवा सार्वजनिक काम किंवा संस्थेचे काम प्रथम प्रकाशन पन्नास वर्ष कॅापीराइट असेल.

कॅापीराइटचे हस्तांतरण –

- कॅापीराइट मालक दुसऱ्या व्यक्तींच्या संपूर्ण किंवा अंशत: कॅापीराइटचे अधिकार नियुक्त करू शकतात.
- गावी कार्याची कोणतेही प्रत देखील कोणालाही दिली जाऊ शकते. हा परवाना लिखित किंवा हस्तांतरित करणे आवश्यक आहे.

कॅापीराइट उल्लंघनावरील शिक्षा व नुकसान भरभराईटची तरतुद दिलेली आहे.

भारत एक विकसनशील देश आहे. आजच्या जागतिक परिस्थीतीमध्ये कोणत्याही देशाची निर्मिती मार्ग शोधून काढणारे मुद्दे आणि वैज्ञानिक अधिकार प्रदान करून त्याचे बौद्धिक मालमत्ता सरंक्षण आवश्यक आहे. एखाद्या साहित्यिकाचे साहित्य, इतिहास, काव्य इ मध्ये फेरफार न करता इतर आपल्या नावावर न छापता यावे त्यासाठी हा बौद्धिक संपत्ती अधिकार अवश्यक आहे, नाहीतर इतिहासामध्ये इतिहास त्यामध्ये हवे तसे बद्दल केले जाऊ शकते इतिहासातील सत्यता ही सत्यता राहणार नाही साहित्यांचे साहित्य व त्यातील समस्या , सृजनशीलता राहणार नाही. त्याचे अर्थ बदलत जाईल म्हणून बौद्धिक संपत्ती अधिकार ॲक्ट हे आवश्यकच आहे असेच म्हणावे लागेल. तरच त्यातील नाविन्यता, सर्जनशीलता, वैज्ञानिकता, शोध हे टिकून राहतील.

सदर्भ ग्रंथ :

- adhikarexpress.com
- https.//m.facebook.com **बौद्धिक संपदा अधिकार**
- m.hindiwebdunia.com **जयंतलाल भंडारी बौद्धिक संपत्ती अधिकारामध्ये करिअर**
- **www.drishtlias.com** Fe -14.2017

Impact Factor – 3.452 ISSN – 2348-7143

INTERNATIONAL RESEARCH FELLOWS ASSOCIATION'S

RESEARCH JOURNEY

Multidisciplinary International E-research Journal

PEER REFREED & INDEXED JOURNAL

Papers Publication Expenses for Special Issues

Sr. No.	Descriptions	Quantity	Rate
1	Swatidhan International Publications' & International Research Fellows Association's *(IRFA'S)* ***Research Journey - Multidisciplinary International E-Research Journal*** ***ISSN : 2348-7143*** ***Impact Factor 3.452*** ***(Online Journal only)***	For Single Paper	Rs. 1000/-
		For 10 Papers	Rs. 6000/-
		For 20 Papers	Rs. 10000/-
		More than 20 Papers	Rs. 10000+400/Paper
		For 50 Papers	Rs. 21000/-
		More than 50 Papers	Rs. 21000+300/Paper
		For 100 Papers	Rs. 35000/-
		More than 100 Papers	Rs. 35000+100/Paper
	Online + Printed Journal	For (50 Copies)	
		100 Pages	Rs. 21, 000/-
		150 Pages	Rs. 25, 000/-
		200 Pages	Rs. 29, 000/-
		250 Pages	Rs. 33, 000/-

COSMOS IMPACT FACTOR

Search Journal | Search

HOME | INDEXED JOURNAL | SUGGEST JOURNAL | REQUEST IF | DOWNLOAD LOGO | REVIEWER PANEL

Category

- INDEXED JOURNAL
- SUGGEST JOURNAL
- JOURNAL IF
- REQUEST FOR IF
- DOWNLOAD LOGO
- CONTACT US

- SAMPLE CERTIFICATE
- SAMPLE EVALUATION SHEET

Journal Detail

Journal Name	RESEARCH JOURNEY
ISSN/EISSN	2348-7143
Country	IN
Frequency	Quarterly
Journal Discipline	General Science
Year of First Publication	2014
Web Site	www.researchjourney.net
Editor	Prof. Dhanraj Dhangar & Prof. Gajanan Wankhede
Indexed	Yes
Email	researchjourney2014@gmail.com
Phone No.	+91 7709752380

GIF
GLOBAL IMPACT FACTOR

Insti

News Updates Due to large number of application please allow us time to update your journal

Research Journey

S

SJIF 2016: Under evaluation

Area: Multidisciplinary

Evaluated version: online

Previous evaluation SJIF

2015: Not indexed
2014: 3.009
2013: Not indexed
2012: Not indexed

The journal is indexed in:

SJIFactor.com - SJIF Scientific Journal Impact Factor

Basic information

Main title	Research Journey
Other title [English]	Research Journey
Abbreviated title	
ISSN	2348-7143 (E)
URL	http://WWW.RESEARCHJOURNEY.NET
Country	India
Journal's character	Scientific
Frequency	Quarterly
License	Free for educational use
Texts availability	Free

Contact Details

Editor-in-chief	Prof. Dhanraj Dhangar
	M.G.V.'S ARTS & COMMERCE COLLEGE, YEOLA, DI
	India
Publisher	MRS. SWATI SONAWANE

Get Involved

- Home
- Evaluation Method
- Journal List
- Apply for Evaluation/Free Service
- Journal Search

Recently Added Journals

Research Journey	
ISSN	2348-7143
Country	India
Frequency	Quarterly
Year publication	2014-2015
Website	researchjourney.net
Global Impact and Quality Factor	
2014	0.565
2015	0.676