

APPLICATION OF INTELLECTUAL PROPERTY RIGHTS IN LIBRARIES

Shabahat Husain

Sofia Alvera

Explore the significance of Intellectual Property Rights (IPR) in libraries, while describing different kinds of Intellectual Property Rights and their respective utility in the scholarly world. IPR laws encourage new knowledge, creative and innovative works and inventions for mankind along with the protection and incentives to the creators and scientists in different fields of study. Libraries are mainly concerned with copyright laws to maintain a balance between creator and user of knowledge.

INTRODUCTION

Intellectual property is the creative, artistic and innovative output of human mind. The laws that protect illegal exploitation of creative works are called Intellectual property rights laws. Today, the information society becomes more and more advanced than that of the earlier society. Everyone is in hurry to seek the right information at the right time. Information communication technology (ICT) paved the way for more opportunities to access essential information. As we know that the digital contents are easy to copy and distribute in different media, the rights of the content owner is more vulnerable to protect the misuse and hence must be protected using different IPR laws. Libraries play very crucial role in harmonizing the rights of the owner and rights of user to access the information.

INTELLECTUAL PROPERTY RIGHTS

“Intellectual property (IP) deals with the creations of the human intellect. Intellectual property is a cluster of legally recognized rights associated with innovation and creativity – the works of the mind, as against physical products, land and other tangible resources. Intellectual property rights which include Copyrights, Trade Marks, Patents, Industrial Designs, Geographical Indications and Undisclosed Information, provide legal recognition and protection to the same” [1].

The World Intellectual Property Organization (WIPO) of the United Nations defines intellectual property as “creations of the mind: inventions, literary and artistic works, and symbols, names, images, and designs used in commerce. Intellectual property is divided into two categories: industrial property, which includes inventions (patents), trademarks, industrial designs, and geographic indications of source; and copyright, which includes literary and artistic works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs. Rights related to copyright include those of performing artists in their performances, producers of phonograms in their recordings, and those of broadcasters in their radio and television programs” [2].

Shabahat Husain
Dept. of Library and
Information Science,
Aligarh Muslim University,
Aligarh, U.P.
shabahat12@rediffmail.com

Sofia Alvera
Department of Library &
Information Science,
Aligarh Muslim University,
Aligarh, U.P.
sofialvera@gmail.com

Corresponding Author
Sofia Alvera

KINDS OF IPR

Intellectual Property Rights are mainly of two types:

- Industrial Property.
- Copyrights & related rights.

The industrial properties include Inventions, Trademarks, Trade Secrets, Industrial Designs, Integrated Circuit Design and Geographic Indicators of source. The Copyrights and related rights include all literary works which range from articles, newspaper items, novels, story books, poetry books etc. The drawings, photographs, paintings, architectural design, music, dance, films and artistic performances. From library's point of view, copyright issue is more concerned with IPR. Libraries play very important role in balancing rights of owners and users [3].

Patent

A patent is the set of rules to protect the rights of creators and inventors of original work, it also promotes the proper use of technological inventions for the society [4]. It is a set of exclusive rights granted by a sovereign state to an inventor or assignee for a limited period of time in exchange for detailed public disclosure of an invention which, in effect, is a solution to a specific technological problem and is a product or a process. Patents are a form of Intellectual Property [5].

According to Spinello [6] "three different kinds of patents have been distinguished: design patents, utility patents, and plant patents. Design patents protect any new, original, and ornamental design for an article of manufacture, while utility patents protect any process, machine, or article of manufacture. Patent protection provides a firm or individual inventor the right to exclude others from making, using, selling or importing the claimed invention for a 20-year period".

According to India Patent Information System, Patent rights are granted for creative and innovative works if it is:

- Art, Process, Method or Manner of manufacture;
- Machine, Apparatus or other Articles;

- Substances produced by Manufacturing;
- Computer Software which has Technical application to Industry or is used with Hardware;
- Product Patent for Food / Chemical / Medicines or Drugs [7].

Trade Secret

A Trade Secret is a different type of IPR that is used by business organizations which have some confidential information related to their unique business quality. A trade secret is usually defined as an information used in the operation of a business that gives the owner "an opportunity to obtain an advantage over competitors who do not know or use that information so long its secrecy is maintained". It can be used to protect "secret formulas" (such as the one developed by Coca-Cola), blueprints for future projects, marketing plans, and manufacturing processes [6].

Trade Marks

A trade mark is the exclusive right of particular trade or commercial identity. It is a legal protection which has been codified in the Federal trade Mark Act 1946 known as 'The Lanham Act'. This law gives the seller the exclusive right to register a trademark and to prevent competitors from using that mark.

Geographical Indicator

Geographical Indicator (GI) is a special type of intellectual property which was included in IPR law by Agreement on the Trade-Related Aspects of Intellectual Property Rights (TRIPS) of the World Trade Organization (WTO). It refers to any indication that identifies a good as originating from a particular place, where a given quality, reputation or other characteristic of the good is essentially attributable to its geographical origin. India has in its possession a number of existing or potential GIs. Some of them like, 'Darjeeling' (tea), 'Basmati' (rice), 'Alphonso' (mango), etc. are already renowned the world over [8] [9].

Industrial Design

Intellectual Property Rights protection of industrial design is a strategic medium for improving designer's creativity of micro, small and medium industry. It is one of the efforts of improving national competitiveness in entering free trade era. IPR protection of Industrial Design encourages creative activity to create new designs specially in Micro, Small & Medium Enterprises (MSME) to produce products in the form of interesting creative work.

NEED OF IPR

Intellectual Property Rights Laws are territorial in nature. The majority of countries in the world have a system of intellectual property protection and enforcement because it encourages innovation and creativity, which in turn leads to economic prosperity of the nation. The first intellectual property law was passed in Venice in the year 1474.

Intellectual property rights laws provide a base and encouragement to creative people and reward them of their work. In the absence of IPR, the inventors would derive no benefit from new ideas, artists would not gain from their work, and the investment made in works such as books, films and software would never be recouped. The fact that creativity is rewarded tends to stimulate new creativity, which has benefits for society as a whole.

INDIAN COPYRIGHT LAW

Indian copyright act 1957 was amended in 1983, 1984, 1994, 1999 and 2012 respectively in order to accommodate the new developments taking place with regard to the implication of the Copyright Act. In 1999 & 2012 some of the amendments, which were made, are:

- Increased term of copyright of performers from 25 years to life time of author plus 60 years in case of single author and in case of joint author last surviving author plus 50 years to 60 years.
- Amendment definition of literary works.
- Meaning of copyright in respect of computer programmes.
- New provisions pertaining to power of Government of India to apply the provision

relating to broadcasting organization and performers of broadcasting organization [10] [11].

- The Indian Copyright (Amendment) Act, 2012 incorporates certain provisions to provide legal backing to Technological Protection Measures (TPMs). Section 65A, makes circumvention of an effective technological measure that protects any of the copyrights a punishable offense with two years imprisonment and fine. Section 65B makes it an offense to remove or alter digital rights information without authorization and to distribute any copyrightable works from which the digital rights information has been removed [12].

“The infringement of copyright is punishable with imprisonment for 6 months to 3 years with a fine of rupees fifty thousand to two lakhs if it is committed first time and in case of second time and more if the infringement is committed, the person shall be punishable with imprisonment for a term not less than 1 year up to 3 years and fine of rupees one lakh to two lakhs. The law permits any police officer with the rank of sub-inspector or above to arrest responsible person without any warrant and produce him before the court of a Metropolitan Magistrate or a first class Judicial Magistrate provided he/she is satisfied that offence has been or is being or is likely to be or committed” [13].

ROLE OF LIBRARIES

“The role that libraries play in the scholarly communication process is shaped by the provisions of the copyright. There are essentially three players:

- The creators, who have legal rights;
- The publishers, who have legal rights due to transfer,
- The users (individuals and institutions such as libraries and academe), who have legal rights through exceptions and limits” [14].

CONCLUSION

Intellectual property rights and its proper implications are necessary. Different types of IPRs are related to daily life, thus there is a need of proper awareness among different partners of the scholarly communication. Libraries and library professionals play a very

important role in harmonizing rights of creator and user, because they are the nerve and information centers which provide information to user on one hand and applies copyright laws and policies of authors on the other. The copyright and other IPR promotes creation of new knowledge and encouragement of the creators or innovators.

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