

Intellectual Property Right and Information Technology

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ABSTRACT

With the emerging technological development and e-commerce business, there emerge the risk associated with duplication and theft of their property. Intellectual Property Right provide protection to these elements of e-commerce business. Intellectual property laws include three major laws: Patent Law, Copyright Law and Trademark Law. This research provides an overview of these laws. Further, the importance of IPR in Information Technology is studied. Various aspects of e-commerce business are there which needs to be protected under Intellectual Property Right, these elements are explained. Copy of other business's intellectual property is illegal, hence these elements must be protected under IPR law so that frauds, thefts and misuse of one's properties can be minimized.

Key Words : Intellectual Property Right, E-commerce, Information Technology, Patent Law, Copyright Law, Trademark Law

Introduction

Intellectual Property is an intangible property. It means that those assets or properties which require some protection and which are created by someone using their minds such as music, artistic work, designs, inventions, literary work and so on. It is described as property because it can be sold, purchased, mortgage etc. For ex: when a person or a businessman purchases another business then he also purchases the

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goodwill with assets, which is not a tangible asset but companies sell their goodwill or brand-name in consideration of cash or shares like other tangible assets. This shows the importance of intangible assets, so it becomes necessary to protect these assets.

The person who creates his own intellectual piece of work like literary work, art and craft work, singing work, etc, that piece of work becomes their property and they own it just like any other tangible property. So in order to protect their right towards their creation Intellectual Property Laws came into existence.

Intellectual Property Right gives the property right to the holder for a particular period to exercise a monopoly on the use of an item. The different types of IPR are:

- Patent
- Copyright
- Trademark

Patents prevent inventions, trademark prevents brand name and copyright is related to creative works. These are the three major pillars of IP law which provides protection and extends a monopoly power regarding their intellectual property. These pillars protect from frauds or duplication. These are governed and described under the Indian Copyright Act 1957, The Patent Act 1970 and The Trademark Act 1999.

History of Patent law

Patent Law came in India in 1856 based on British Patent Law of 1852 for the protection of Inventions. In 1911, Indian Patent and Design Act was enacted. Later on, in 1970, patent bill was again introduced in the parliament and was passed by the house of parliament in 1970. This act came into force on 20 April 1972. The Patent Act 1970 was again amended by the patents (amendment) act, 2005, where this act was extended to all fields of technology including food, drugs, chemicals and micro organisms.

History of Trademark

The first statutory law of Trademark in India was The Trademark Act, 1940 which was almost similar to the UK Trademark Act 1938. In 1958, Trade and Merchandise Act, 1958 was enacted. Later on, the Trade and merchandise marks Act 1958 was repealed by Trade Marks Act 1999 which is the current governing law.

History of copyright

The copyright Law was introduced in India at the time when British East India company was established in 1847 but laws were very much different from today's law. Then, in 1914, Indian legislature under the British Raj enacted the copyright Act of 1914, which was almost similar

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to United Kingdom copyright Act of 1911. Later on, in 1957, copyright Act was enacted by Independent India under which India is governed till date.

Review of literature

Sai Ho Kwok, christoper C. Yang, kar Yan Tam (Jan 2004), In their research they studied about the watermark design patterns for the commerce applications.

Andriamirado Rakoto (april 2018), This paper studies the protection of IPR in E-commerce in every country whether it is developing or developed. This papers aims at providing highlights about protection of IPR in e-commerce.

Alok kumar Yadav (2008), in his research, he had studied copyright with respect to new technology like computer programs, computer database, computer layouts, or any work on web. This study showed that work related to computer must be registered under IPR.

Tabrez Ahmad, Partha Sarathi Misra (January 2011), In their research they focused on the most literary and artistic work that can be created digitally. This paper discuss the case in which Indian court adopted new and different methods of protecting the right in digital era.

Lien Verbauwheede (vol 9, November 2004, pp 568-580) Article deals with some of the basic issues that should be considered before launching a website. They explained the elements which are to be protected in web commerce.

Navin Kumar Jaggi (August 2018) this research they studied the importance of IPR in e-commerce because of the growing use of internet.

Objectives

- To understand IPR and related laws
- To study the role of IT in IPR

Importance of IPR in IT

- IPR safeguards intellectual property regarding e-commerce and IT
- Prevention from theft and fraud
- Protect the right of property holders
- Prevents disclosure of trade secrets
- Creates awareness about brand names, logos which avoid chances of duplicacy
- Helps in making technological improvements safe

Role of IT in Intellectual Property Right

1. Website design : Website design can be protected under copyright law. Copyrighted website designs cannot be duplicated. However it is legal to recreate elements similar to an existing copyrighted website design.
2. Website content : website content in form of text, graphics, data, music, images must be registered under IPR laws so that duplicacy can be avoided. These are protected under copyright law.
3. Search Engine : A search engine is a web tool which enable users to search and locate information over the internet. Search engines are protected under Patent Law.
4. Software : any kind of HTML code used in websites are protected under copyright or patent law.
5. Domain Name : Domain Name of your website must be registered to enable users to locate the website on Internet. You can register your domain name in any form. Like: .com, .Net, .org, .info, .in and many other such types are available.
6. Databases : Database security is important to protect and secure a database. Databases are protected under copyright Laws.
7. Other aspects : any other aspect of the website like source code, graphics, symbols, displays, GUI (graphical user interface), algorithms, programs, charts etc can be protected under IPR laws and any kind of confidential information can also be protected under Trade Law Secrets.

Conclusion

Intellectual Property Right is important to protect the interest of property holders who invented or created something. IPR protect their intangible property from frauds, theft, misuse or manipulation. With the development of technology and e-commerce sector, risk associated with them is also growing and to safeguard this sector from risk various elements of e-commerce are registered under IPR Laws. Hence, e-commerce companies must register their creations and inventions to protect their websites and its contents from any kind of loss.

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