



## Role of Intellectual Property Rights in Digital Era

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### Abstract

In the social media age, the rights to intellectual property have grown in significance. In the era of technology, media and digital scenario, the protection of Intellectual Property Rights is a critical matter of concern. Similar to conventional property rights are intellectual property rights. IP Rights protect those who have produced something or invested in something to profit from their own labour or ownership of a patent, trademark, or copyrighted work. Article 27 of the UDHR highlights the protection of these rights, including the right to the preservation of pecuniary and moral interests stemming from one's development of works of the sciences, literature, or the arts. Works of literature, artwork, inventions, designs, names, symbols, and images utilised for commercial purposes are all considered forms of intellectual property, or IP. This essay addresses how the features of digital duplication provide challenges for conventional (IPR) systems, including standard IPR laws and related ideas from printed to digital works. By going into the extent of Indian copyright law, ownership rights, infringement, fines, etc., it sheds some light on the Indian programming sector. The study additionally discusses the differences between "personal" and "public" infringers—those who produce personal copies and those who make works accessible to others for profit or free. This essay explores tactics for protecting IPR in India as well as the difficulties associated with IP protection in the era of digital media.

**Keywords:** - Intellectual Property, IP Rights, Human Rights, Indian Software Industry, Digital Works, Rights In India, Indian Copyright Law, Digital Media.

*"The legal and cultural implications of intellectual property are significant. Here, society as a whole must confront difficult questions like open source vs. private ownership, among others."*

— Tim Berners-Lee

### I. INTRODUCTION

The word "intellectual Property" (IP) means a biological researcher's or creator's creation that has some economic worth. The term "intellectual property" describes works of art. Under certain regulations, it may be safeguarded in the nature of different Intellectual Property Rights (IPRs). Intellectual property is an asset that may be purchased, sold, mortgaged, licenced, traded, or given to others just like any usual kind of property. When someone owns intellectual property, they have exclusive monopoly authority over it, meaning that no one else may use it for legal purposes without their consent.

IPRs provide writers and researchers credit and rewards for their imaginative work. IPRs may be held concurrently in many nations, but as they are territorial rights, they can only be enforced within the borders of the countries that granted them. With the exception of trademarks and geographical indications, all IP rights have a set term that may be extended indefinitely by paying the required fees. With the exception of copyright and trade secrets, the majority of IPRs must be renewed in order to remain in effect for the duration of their protection. Copyrights have a set duration that cannot be modified or extended. Industrial secrets don't need to be refreshed and have an endless lifespan. The paper's subsequent paragraphs provide an explanation of the many kinds of IPRs and their importance in biomedical research.

IP Rights are different types like Copyrights, Trademarks, and Patents. They are slowly developing in India with many legislations in tune with international standards.

**Industrial Property Rights:** IP rights associated with specific industrial activity are known as industrial property rights. Patents, the secret trade secrets, trademarks is essential industrial designs, geographical designations, and novel plant varieties are the main types of industry intellectual property rights.

**Patent:** A patent is a government-granted exclusive right related to an invention. It provides a technological fix for a technical issue. A patent is an agreement between the government and an application or inventor that grants the government the right to protect the invention after the applicant's or inventors complete disclosure of it. Consequently, patenting offers a method of safeguarding innovations while maintaining their secrecy.

**Trade Secret:** A trade secret is any economically valuable knowledge that one tries in good faith to keep private. This information may be displayed as a process, design, instrument, practice, data compilation, method, or programme device. Client lists, corporate specifics, employee data, accounting records, data compilations, business plans and techniques, designs to choose from, designs, algorithms to, and more are examples of trade secrets.<sup>6</sup> Trade secrets are the only type of intellectual property that permits the preservation of the ownership of the right over time and the protection of concepts.

**Trade Mark:** A trade mark indicates the identity and place of origin of a product, just as a name does for a person. Any mark that may be graphically represented is a trademark. A trademark's primary purpose is to make it possible for the stakeholders to recognize a product made by a certain business and set it apart from similar or identical items offered by rival companies. The Trade Marks Act of 1999 states that a mark may be either of the following: a device, trademark, headings, label, ticket, name, signature, words, letter, numbers, form of products, packaging, or any combination of colors.

**Industrial Designs:** Every product or commodity is differentiated not only by its technical features but also by the way it looks or is designed. An industrial design pertains to the product's external appearance or aesthetics. It is what draws consumers to a product and gives it appeal. It is not a part of the technical or functional aspects of the item; rather, it is exclusive to its outward features. When a design is registered, its owner has the exclusive authority to use it.

**Copyright:** Creators of dramatic, musical, literary, and creative works as well as those who make cinematographic films and sound recordings are granted the legal right to copyright. Copyright is a collection of rights that includes, the ability to reproduce, communicate with the public, alter, and translate a work. Once registered, copyright is an equitable right that turns becomes a statutory one. Copyright is established at the time a particular work is produced or published.

Depending on their jurisdiction and nature, certain rights are safeguarded for different amounts of time. The goal of intellectual property rights is to strike a balance between protecting the ownership and creative rights of artists and enabling others to utilise and expand upon their creations. Social media's introduction exposed intellectual property to a number of risks, including copyright violations caused by users sharing or using content creators' works without their consent. In the age of digital media, some western nations have passed new legislation to safeguard IP Rights. Under India, the widespread use of social media has put IP Rights under jeopardy as well. In the era of social media, it is the liability of the current government to create new laws and policies to protect intellectual property rights.

## **II. INTELLECTUAL PROPERTY RIGHTS' IMPORTANCE**

Any company entity has intellectual property at its foundation and it plays a major part in it. A corporate organisation should be committed to finding and putting into practice IP solutions since doing so will enable it to grow to new heights of success. The notion that attorneys are the only category to handle IP (intellectual property) is false because an organization's capacity to become a market leader depends on its ability to manage and strategically use its IP assets. Nowadays, maintaining competitiveness requires possessing the skills and expertise required to handle intellectual property assets.

Management experts are the best qualified people for managing and commercialise these assets and generate income. These days, information is a crucial distinction that helps companies stand out from their competitors. Some have dubbed the twenty-first century the "knowledge century." Henry Ford expressed it so well when he said that a man's reservoir of knowledge is the only true security he has in today's world. However, it is imperative that various IP Rights safeguards be applied to this reserve. Assets related to Intellectual Property (IP) are essential business resources that should be taken care of managing well in order to give a company a competitive advantage. IP Rights holders are entitled to exclusive use of their own brand, innovative products, and creative designs. The exclusivity acts as a good motivator for them to out a good investment to become more competitive. A company builds strong customer relations through its trademark.

In addition to providing a guarantee of quality, the trademark is an indicator of some incredibly costly goods and services. Customers and clients view a brand or trademark as an official expression of the owner. Copyrights are a particularly valuable asset for creative and software organisations and also for the television and enjoyment industries, as they offer a level of safeguarding that makes these businesses viable in an extremely competitive market. It is aware to all that establishing commercial relationships with intellectual property provides you a competitive advantage. Businesses can profit from the IP asset class through the selling of protected goods and services, franchising, and licencing. Assets with protected intellectual property significantly increase a company's value in the venture of a merger or acquisition.

Furthermore, evident is the significance of intellectual property in export markets. There are two options: either export intellectual property-protected assets or look into franchise agreements with foreign companies. It is crucial to keep in mind that the world's top three corporations—Apple, Microsoft, and Blackberry—have billion-dollar valuations and have accumulated significant amounts of intellectual property that provided to generate reliable revenue streams. A strong portfolio of intellectual property can offer the most benefits and be leveraged to create extra revenue streams through licencing.

### III. CREATING CONTENT AND DIGITAL LIBRARIES

Digital libraries can be seen in mainly three categories. They can be roughly classified into three types based on how material has been developed and made available: born digital, transformed digital, and obtained digital libraries.

**Born Digital:** The proliferation of born digital content has coincided with the advancement of the internet. Content developed in digital format for born digital libraries is done so with the information and ability as its primary purpose is digital storage and consumption. Simple word processing programmes or sophisticated multimedia content creation and development tools are some examples of the tools used to create such born digital material. Previously, during the print-based conventional library period, libraries had a little role in publishing. The idea of printing a booklet or book with the library's label has not been widespread, except from the voluminous printed paraphernalia that these libraries are making creating, such as guides, catalogues, and bibliographies. Nonetheless, libraries may now take on a more lavish role as publishers thanks to the current digital era. The effort of creating the material is delegated to the institution's researchers, students, or professors. Usually, the task of publishing or hosting the material in the institution's internet-based library or digital repository falls to the libraries.

**Turned Digital:** Analogous materials, like printed books, are transformed into digital form in the turned digital type. Utilising digitization technologies, in particular scanning technology, analogous material found in print medium, such as paper, manuscripts, etc., is converted to digital form and stored only in digital form. The digitization process is becoming more straightforward as a effect of daily advancements in digitization technology. Prominent global digital library projects like the Million Book Project and Project Gutenberg falling under the category of transformed digital libraries. The converted digital kind may be divided into two categories: converted digital with modified content or converted digital with replica content, depending on the sort of conversion that took place. First category comes with the digital material is a perfect duplicate of its print equivalent.

**Gained Digital:** In the acquired digital type, the materials created digitally from the beginning or may have undergone digital transformation at some point, but the library is not involved in the process. All that the library does is make the already-available stuff easier to access. This might contain information that is not owned by the library itself but is made available via licencing processes, such as databases, e-books, periodicals, and so forth. While libraries provide access to the information without really holding it, the licensors—such as the publishers themselves—host the content. Alternatively, the digital material might have been obtained by the library by purchase or acquisition on CD-ROM and DVD-ROM media, and it could have been housed on the library's computer system. Even though creating digital material for exclusive library collection involves very high expenditures, consortium access guarantees that top-notch resources may be made quickly accessible to users and that the content can be managed more easily.

### IV. COPYRIGHT LAW AND THE COMPLICATIONS OF DIGITAL NETWORK PLATFORMS

There three main categories for copyright concerns in the digital age.

- Problems with a whole new category of work, such as databases, computer programmes, and multimedia project.
- Problems with the public transmission, dissemination, and replication of a work via digital media.
- Concerns about copyright management and administration in the digital sphere.

The main issues with copyright protection are as follows:

- Computer programmes are too protected; and
- Ideas are not shielded against theft, as occurs when a computer programmer looks at another person's programming and takes inspiration from it. Programmers are accountable for copyright infringement if they use another program's expression without permission. When accessing or utilising information, there are some specific circumstances when copyright issues might not be addressed, including:
  - Web publishing: When browsing the Internet for content that is protected by copyright, technological exchanges between computers may result in transmissions that violate several copyrights.
  - Data revolution: Fair use and the "first sale doctrine" have served as the cornerstones of library services. Any library that has copyrighted content on a website, gopher site, or file sharing platform may be held legally responsible for transmitting it.
- Libraries and publishers of digital works may have to provide resources for the development of technologically based protection systems to preserve digital copyrights.
- A rise in the very value of information. Information becomes valuable for those who think it is valued, when it is used and thoroughly altered by a huge quantity number of users should refrain from claiming copyright and instead focus on getting information in front of consumers as soon as possible and building a solid reputation as a source of high-quality data;
- Shorten the time it takes to market for research data; provide publishing vehicles that users may utilise to get information more quickly, including CDs and flash drives;

While publishers develop a market, distribute, and sell the works, authors generate creative and intellectual works. Libraries developed very fast with clear roles that include gathering, organising, preserving, and disseminating works of intellectual and creative value to change their use easier. The preservation function is one of the primary key differences between the functions of other intermediates and libraries. In the past, libraries have been mandated by social and cultural organisations to provide equal access and availability to current users, so as to guarantee access and availability for users in the future.

## V. LITERATURE REVIEW

(Zeilinger, M. 2018) In the global economic environment of hyper-commodification and financialization in recent years attempts to incorporate electronic artwork into the high-stakes art for the commercial marketplace have not proven especially effective thus far. This is perhaps because digital artworks find it difficult to establish themselves as valuable items deserving of being collected. This article explores the potential of blockchain technology to create excluding digital art markets where non-commodifiable digital works of art have value as artificial scarce items. These initiatives, here represented by the platform Monograph, usually framework their concerns as ones pertaining to the interests among digital artists and the evolving the ontologies of contemporary art, drawing on the decentralised government approaches and distributed database protocols that are that underpin modern the digital currency technologies.

(Ansong, E., 2019) This study aims to explore the commercial structures and tactics of digital enterprises within the context of emerging economies, with the goal of better understanding the very nature of these organisations' operations and survival strategies. A review of the literature on digitally enterprise models lead to the modification of a 16-business strategy archetype for the aim of evaluating digital enterprises in Ghana. The study used a critical realism methodology to analyse survey responses from a sample of 91 digital companies.

(Gaikwad, A., 2020) Symbols, names, and pictures used in trade, and literary and creative works, are all considered forms of intellectual property. Similar to conventional property rights are intellectual property rights. They are enabled by those who have created something or invested in something to profit from their own labour or ownership of a patent, trademark, or copyrighted work. These rights are outlined in Article 27 of the United Nations Declaration of Human Rights, and one of them is the right to have one's financial and moral interests resulting from one's creation of scientific, literary, or artistic works preserved. Works of literature, art, innovations, layouts, names, symbols, and images used in trade are all considered forms of intellectual property, or IP.

(Chatterjee, S., 2022) The aim of this important study is to identify the variables that could affect corporation digital entrepreneurs for SMEs (small and medium-sized enterprises) in India. This study also looks at the adoption of AI-powered strategic planning and CRM skills as a moderating factor in corporate digital entrepreneurship. The imaginative advancement of a framework has benefited from the contributions of theories and literary works. The model was verified using a unique system of partial least squares structure equation modelling approach using 315 valid respondents. The control and effect of the moderators has also in the process of research using multigraph analysis.

### 1.1 Objectives of the study

- The research intends to examine the evolution of intellectual property rights throughout history and to enquire how they have changed and developed to meet the demands of the digital age.
- Examining the ways in which digital-age intellectual property laws affect innovation ecosystems and economic expansion.

### 1.2 Scope of the study

- Protection and Innovation: In the digital age, intellectual property rights—such as patents, copyrights, trademarks, and trade secrets - are essential for promoting creativity and innovation. They provide innovators and creators the motivation and security they need to spend money on R&D, which results in the development of new digital content, technologies, and business models.
- Digital Content: The need of copyright protection grows as digital content—such as music, movies, books, software, and other types of digital media—proliferates.
- Software and Technology: Protecting inventions and technological developments in the digital sphere, such as software, artificial intelligence, algorithmic systems, and other cutting-edge technology, requires the use of patents and secrets of trade.
- E-commerce and Digital Trade: Digital marketplaces and e-commerce platforms cannot exist without respect for intellectual property rights.
- Open Source and Creative Commons: Alternative methods for sharing and licencing intellectual property have also become more popular in the digital age. Examples of these models include Creative Commons licences and open-source software.
- International Perspectives: varying nations and areas have very varying intellectual property rules and regulations, which creates complicated legal and jurisdictional difficulties in the digital age.

## VI. METHODOLOGY

Because it attempts to study an issue that is not well defined or about which we know little, this research is exploratory in nature. Secondary sources including books, journals, news stories, and official websites are used to get the data. The information gathered is of a qualitative kind. To gather secondary data for this research, we used Google Scholar and Google Search Engine.

## VII. CONCLUSION

In summary, the emergence of the digital era has presented several novel obstacles that need to be tackled in order to safeguard intellectual property rights. Digital technologies are advancing at a speed never seen in history, both in terms of their convergence and drive for economic domination in the global market. Since social media has grown, it has become harder to stop someone from stealing or misusing your work. Nevertheless, there are numerous methods to get above these barriers, such

as utilising digital watermarking and copyright protection software, implementing Digital Rights Management (DRM), and registering Intellectual Property (IP) with the government and enforcing ownership rights. If producers adopt specific precautions and strictly follow them, there are chances to create a situation to better safeguard their work and preserve their intellectual property rights in this social media-driven age. It is clear that managing Intellectual Property Rights (IPR) and Intellectual Property (IP) involves a list of tasks and techniques that must be in par with international treaties, national laws, and best practices.

## REFERENCES

- Gaudillière, Jean-Paul. 2014. An Indian path to bio capital? The traditional knowledge digital library, drug patents, and the reformulation regime of contemporary Ayurveda. *East Asian Science, Technology and Society: An International Journal* 8: 391–415.
- Suwapan, Janyarak. 2016. Traditional knowledge digital library: What could we learn from India? *Naresuan University Law Journal* 9 (1): 81–109.
- Sharma, Seemantani. 2017. Traditional knowledge digital library: ‘A silver bullet’ in the war against bio piracy. *The John Marshall Review of Intellectual Property Law* 214: 214–231.
- Zeilinger, M. (2018). Digital art as ‘monetised graphics’: Enforcing intellectual property on the blockchain. *Philosophy & Technology*, 31(1), 15–41.
- Dutfeld, Graham, and Uma Suthersanen. 2019. Traditional knowledge and genetic resources: Observing legal protection through the lens of historical geography and human rights. *Washburn Law Journal* 58 (2): 399–447
- Ansong, E., & Boateng, R. (2019). Surviving in the digital era—business models of digital enterprises in a developing economy. *Digital Policy, Regulation and Governance*, 21(2), 164-178.
- Naqvi Z, Artificial intelligence, copyright, and copyright infringement, *Marquette Intellectual Property Law Review*, 24 (1) (2020) 15-52.
- Gaikwad, A., & Dhokare, C. S. (2020). A Study of intellectual property rights and its significance for business. *Journal of Information and Computational Science*, 10(2), 552-561.
- Nowik P, Electronic personhood for artificial intelligence in the workplace, *Computer Law & Security Review*, 42 (2021).
- Chatterjee, S., Chaudhuri, R., Vrontis, D., & Basile, G. (2022). Digital transformation and entrepreneurship process in SMEs of India: a moderating role of adoption of AI-CRM capability and strategic planning. *Journal of Strategy and Management*, 15(3), 416-433.
- Dhumane, W. M. (2022, May 25). Rise of social media leading to privacy & IP disputes. Indian laws need teeth to tackle them.
- Srivastava, M. (2022, June 1). UPSC Essentials: One word a day- Intellectual Property Rights (IPR).
- Roach, C. (2023). What is Digital Rights Management (DRM)