

Intellectual Property

- Intellectual property refers to a set of legal rights granted to individuals and organizations for their creative or innovative works, such as inventions, literary and artistic works, symbols, names, and images used in commerce.
- The purpose of these legal rights is to protect the creators of these works and to encourage innovation and creativity by providing them with exclusive control over their works and the ability to benefit from their exploitation.

There are several types of intellectual property rights, including:

Copyright: This protects original works of authorship, such as books, music, and software, and gives the copyright owner the exclusive right to reproduce, distribute, and display their work.

Trademarks: This protects distinctive symbols, logos, and names used to identify a product or service and distinguishes it from those of others.

Patents: This provides the inventor of a new and useful product or process with the exclusive right to make, use, and sell that invention for a limited period of time, typically 20 years from the date of filing.

Trade secrets: This protects confidential business information, such as recipes, formulas, and client lists, that provide a competitive advantage to the company.

- Having the right type of intellectual property protection helps you to stop people stealing or copying:
 - the names of your products or brands
 - your inventions
 - the design or look of your products
 - things you write, make or produce

Intellectual property rights (IPR) provide a number of benefits to individuals and businesses, including:

- **Exclusive rights:** IPR gives the owner exclusive rights to use, commercialize, and prevent others from using their invention or creation.
- **Monopolistic advantage:** IPR provides a competitive advantage to the owner by limiting the competition.
- **Revenue generation:** IPR enables owners to generate revenue from licensing, selling, or commercializing their creations.

- **Encouragement for innovation:** IPR provides an incentive for individuals and businesses to invest time and resources in innovation and creative work.
- **Protection of goodwill:** IPR helps to protect the reputation and brand image of a company.
- **Legal enforcement:** IPR allows the owner to take legal action against infringement, providing a means to enforce their rights.

COPYRIGHT

- Copyright refers to the legal protection of original works of authorship in the digital world, including online and offline computer programs, websites, music, films, books, and other types of digital media.
- The principles of copyright law apply in the online world, just as they do in the physical world, and they provide the creators of these works with exclusive rights to reproduce, distribute, and display their works, and to control how they are used by others.
- Registration of Copyright is not mandatory in Nepal, any work is protectable under the Copyright Act 2059 B.S., however, registration of copyright will be fruitful to proof of copyright against the possible infringement, piracy in future.
- Due to the registration of copyright, it is sufficient to enter into any licensing, agreement with others in order to full enjoy of exclusive right of copyright.

Examples of issues related to copyright in cyber law include:

- **Online piracy:** This refers to the unauthorized copying, distribution, and sharing of copyrighted works on the internet, and is a major challenge for the creators and owners of digital content.
- **Digital rights management:** This refers to the use of technology to control access to and use of copyrighted works, and to protect the rights of the copyright owner.
- **Liability of online service providers:** This refers to the responsibility of online service providers, such as internet service providers, for the infringing activities of their users.
- **Jurisdiction:** This refers to the difficulties in determining which legal jurisdiction applies to a particular case of copyright infringement in the online world, as the internet is global and borders are often crossed in online activities.

Protectable subject matter:

Literary-Book, pamphlet, article, thesis, lectures, computer programmatic.

Artistic-Architectural design, photography, painting, sculpture, woodcarving, lithography, work of applied art, illustration, map, plan etc. Musical-Musical notation with or without words, sound recording etc.

Dramatic-Drama, dramatic music, dumb show, performance etc.

Non-protectable subject matter:

Any thought, religion, news, method of operation, concept, principle, court judgment, administrative decision, folksong, folktales

PATENT

- In the context of cyber law, a patent is a form of intellectual property protection that gives the holder the exclusive right to make, use, and sell an invention for a certain period of time, usually 20 years from the date of filing.
- This protection applies to a wide range of technologies, including software, computer hardware, and other innovations related to the internet and digital technologies.
- They can also serve as a way for companies to differentiate their products and services from competitors and to increase the value of their business.
- Even if someone else invents the same item independently and with no prior knowledge of the patent holder's invention, the second inventor is excluded from using the patented device without permission of the original patent holder.
- However, the process of obtaining a patent for a software or internet-related invention can be complex and costly.

TRADE SECRET

Trade secret law protects only against the misappropriation of trade secrets.

If competitors come up with the same idea on their own, it is not misappropriation; in other words, the law doesn't prevent someone from using the same idea if it was developed independently.

Trade secret laws protect more technology worldwide than patent laws do, in large part because of the following key advantages:

- no time limitations on the protection of trade secrets
- no filing or application fees are required to protect a trade secret.
- Although patents can be ruled invalid by the courts, meaning that the affected inventions no longer have patent protection, this risk does not exist for trade secrets.

Intellectual Properties Issues

1. Plagiarism

- Plagiarism is the act of using someone else's work or ideas and presenting them as your own without giving proper credit.
- This can include copying text from a website, book, or another source and using it in a paper, essay, or other written work without referencing the original source.
- It can also refer to using someone else's ideas, research, or other forms of intellectual property without proper attribution.
- As a result, plagiarism has become an issue from elementary schools to the highest levels of academia.
- Plagiarism also occurs outside academia.
- Popular literary authors, playwrights, musicians, journalists, and even software developers have been accused of it.

2. Reverse Engineering

- Reverse engineering is the process of taking something apart in order to understand it, build a copy of it, or improve it.
- It was originally applied to computer hardware but is now commonly applied to software as well.
- Reverse engineering in cyber law can be a controversial issue, as it can raise questions about the protection of intellectual property rights, such as copyrights and trade secrets.
- On one hand, reverse engineering can be seen as a valuable tool for advancing technology and improving security, as well as promoting competition and innovation.
- On the other hand, some argue that reverse engineering can be used to unfairly exploit the work of others, and that it can undermine the incentives for innovation and investment in new technologies.
- In many countries, reverse engineering is protected by laws that allow it for certain purposes, such as compatibility, security, and research, while prohibiting it for others, such as commercial exploitation.

3. Cybersquatting

- Cybersquatting is the act of registering, trafficking in, or using a domain name with the intent of profit from the goodwill of someone else's trademark.
- This is typically done by registering domain names that are similar or identical to well-known trademarks or brands, with the intention of selling the domain name back to the trademark owner for an inflated price or using the domain name to divert traffic to a website for commercial gain.
- Cybersquatting is considered bad faith and is illegal in many jurisdictions.
- Companies and individuals can take legal action to recover their trademarked domain names under the Anticybersquatting Consumer Protection Act (ACPA) in the United States and similar laws in other countries.

4. Open-Source Code

- Open-source code refers to a type of software license that allows the source code of a software program to be freely available to the public, allowing anyone to use, modify, and distribute the code.
- **Advantages** - Collaboration and community development, Cost savings, customizable
- A software developer could attempt to make a program open source simply by putting it into the public domain with no copyright.
- This would allow people to share the program and their improvements, but it would also allow others to revise the original code and then distribute the resulting software as their own proprietary product.
- Users who received the program in the modified form would no longer have the freedoms associated with the original software.
- Use of an open-source license avoids this scenario.

5. Competitive Intelligence

- Competitive intelligence (CI) refers to the collection, analysis, and dissemination of information about competitors, markets, and industries.
- Competitive intelligence is legally obtained information that is gathered to help a company gain an advantage over its rivals.
- One frequently used dirty trick is to enter a bar near a competitor's plant or headquarters, strike up a conversation, and pry people for information after their inhibitions have been weakened by alcohol.
- Competitive intelligence analysts must avoid unethical or illegal actions, such as lying, misrepresentation, theft, bribery, or eavesdropping with illegal devices.

6. Trademark Infringement

Trademark infringement is the unauthorized use of a trademark or a confusingly similar mark by another person in a way that is likely to cause confusion among consumers as to the source or sponsorship of goods or services. Trademark infringement occurs when someone uses a trademark that is identical or similar to another person's trademark in a way that is likely to cause confusion among consumers.

Examples of trademark infringement include:

Using a similar trademark for related goods or services: For example, using a trademark that is similar to a well-known brand for a similar product or service.

Counterfeiting: Making and selling fake goods that bear a trademark that is identical to a well-known brand.

Cybersquatting: Registering a domain name that is identical or similar to a well-known trademark and using it to divert traffic to a website for commercial gain.