UNIT – 5

LAW RELATING TO INTELLECTUAL PROPERTY

Intellectual property rights (IPR) are legal rights protecting creations of the mind, such as inventions, literary and artistic works, and designs, symbols, and brand names. They grant creators exclusive rights to use and profit from their work for a limited time, encouraging innovation and creativity. Examples of intellectual property include patents, copyrights, and Trademarks.

1. Creations of the mind: IP is non-physical property that arises from human intellect, such as inventions, artwork, and software.
2. Exclusive rights: IPR gives the creator the sole right to use, sell, and benefit from their creation for a specific period.
3. Legal protection: These rights are established through laws to prevent unauthorized use and ensure creators can benefit from their efforts.
4. Encouraging innovation: The system aims to balance the interests of creators with the public good, fostering a creative and innovative environment.

Various Forms of IP (INTELLECTUAL PROPERTY RIGHTS)

Intellectual Property (IP) refers to creations of the mind—such as inventions, literary and artistic works, designs, symbols, names, and images—used in commerce. IP law protects these creations, allowing creators or owners to earn recognition or financial benefit from their work. There are several major forms of IP, each with distinct characteristics and purposes.

Intellectual Property comprises 2 distinct forms:

A. Literary & Artistic Works:-They are books, paintings, musical compositions, plays, movies, radio/tv programs, performances, & other artistic works.

They are protected by

1."COPYRIGHT"

B. Industrial Property:- Industrial Property describes physical matter that is the product of an idea or concept for commercial purposes.

They are protected by

2. **By Patents**
3. **By Trademarks**
4. **By Trade Secrets**
5. **By industrial designs**
6. **By Layout-designs**

1. Copyrights

A copyright protects original works of authorship that are fixed in a tangible medium, such as books, music, films, paintings, software, and websites. It gives the creator exclusive rights to reproduce, distribute, perform, or display their work.

Duration: Generally lasts for the creator's lifetime plus 70 years (varies by country).

2.Patents

A patent protects new inventions and gives the inventor exclusive rights to make, use, sell, or distribute the invention for a certain period (usually 20 years from the filing date).

Types of Patents:

Utility Patents: Protect functional inventions or new processes (e.g., machines, chemical compositions).

Design Patents: Protect the unique visual appearance of a product.

Plant Patents: Protect new varieties of plants developed through asexual reproduction.

Example: The patent for the first smartphone touchscreen technology.

3.Trademarks

A trademark protects words, phrases, symbols, logos, or designs that distinguish the source of goods or services. Trademarks help consumers identify and differentiate brands in the marketplace.

Duration: Can last indefinitely as long as it remains in use and properly renewed.

Example: The Nike "Swoosh" logo or the word "Coca-Cola."

4.**Trade Secrets**

A trade secret is confidential business information that provides a competitive edge. It includes formulas, practices, processes, designs, or compilations of information that are not publicly known.

Protection: There is no formal registration; protection relies on maintaining secrecy through contracts and security measures.

Example: The formula for Coca-Cola or Google's search algorithm

5.**Industrial Designs**

Industrial design rights protect the aesthetic or ornamental aspects of an article—its shape, configuration, pattern, or color. This protection ensures that others cannot copy or imitate the visual design of a product.

Duration: Usually 10–25 years, depending on jurisdiction.

Example: The unique design of an iPhone or a luxury car body.

6.**Layout Designs of Integrated Circuits**

This form of IP protects the three-dimensional layout of electronic circuits in semiconductor chips.

Duration: Typically around 10 years from registration.

Example: The design of a microchip used in smartphones or computers.

Historical evolution of copy rights act, 1957.

Copyright is a form of intellectual property right that provides legal protection to creators for their original literary, artistic, musical, and dramatic works, as well as cinematograph films and sound recordings. It gives the creator exclusive rights to reproduce, distribute, perform, and adapt their work, ensuring recognition and economic benefits.

The Copyright Act, 1957 is the principal legislation governing copyright law in India. Its evolution reflects India's adaptation to changing creative, technological, and international developments.

Pre-Independence Period:

Before 1957, copyright in India was governed by the Indian Copyright Act of 1914, which was largely based on the UK Copyright Act of 1911. This colonial-era law provided limited protection to authors and artists and did not adequately address India's growing literary and artistic fields.

Enactment of the Copyright Act, 1957:

After independence, India enacted the Copyright Act, 1957, which came into force on 21 January 1958. This was the first independent and comprehensive Indian legislation on copyright. It granted protection to original literary, dramatic, musical, and artistic works, as well as cinematograph films and sound recordings.

Subsequent Amendments:

The Act has been amended several times to keep pace with technological and international developments***:***

- **1983 & 1984 Amendments:** Strengthened enforcement provisions and extended protection to computer programs.
- **1994 Amendment:** Introduced rights for performers and broadcasters, aligning with digital and media changes**.**
- **1999 Amendment:** Brought Indian law in conformity with the TRIPS Agreement (WTO).
- **2012 Amendment:** Updated the Act for the digital era, recognized the rights of authors and performers, and ensured compatibility with WIPO Internet Treaties.

Current Framework:

Today, the Copyright Act, 1957 (as amended) ensures protection of intellectual creations in multiple formats, balancing the rights of creators with public access and technological advancement.

Registration procedure

1. Determine Eligibility

Before registering, ensure your work qualifies for copyright protection. Copyright can be claimed for original works such as:

- Literary works (books, poems, software, etc.)
- Artistic works (paintings, drawings, photographs)
- Musical works (lyrics, composition)
- Cinematograph films
- Sound recordings
- Dramatic works, etc.

2. Prepare Your Work

You need a complete and identifiable copy of the work to submit with the application:

- For text: manuscript or published copy
- For music: sheet music or recording
- For software: source code (first and last 10 pages or a full version if required)
- For art: high-quality digital images

3. File the Application

The process is typically done online via the national copyright office. Go to official website

- Log in and click “New Application.”
- Choose the type of work (literary, musical, artistic, etc.).
- Fill in details about the author, applicant, and nature of work.
- Upload copies of the work and supporting documents.

- Pay the prescribed fee online (varies depending on the type of work).

4.Payment and Acknowledgment

Once payment is made, receive an acknowledgment number (diary number).

Keep this number for future reference.

5. Examination by the Copyright Office

The office checks for:

- Completeness of your application
- Possible disputes or objections
- If no objections arise, your application moves forward.
- If there's an objection, you'll be notified to respond or attend a hearing.

6. Registration and Certificate

Once cleared, your work is entered into the Register of Copyrights, and you receive a Certificate of Registration.

This certificate serves as legal proof of ownership.

7. Duration of Copyright

Typically lasts for:

- Author's lifetime + 60 years (India)
- Author's lifetime + 70 years (U.S., EU)

Meaning of Copyright in Computer Programs

Copyright is a legal protection given to creators of original works of authorship. In the case of computer programs, copyright protects the expression of the program (the source code and object code), not the underlying ideas or algorithms.

Under Indian Law:

The Copyright Act, 1957 (as amended) covers computer programs under the category of "literary works" (Section 2(o)).

The owner of a computer program has exclusive rights to:

- Reproduce the program in any material form (including storage in electronic form)
- Issue copies to the public
- Perform or communicate the work to the public
- Make adaptations or translations

- Sell or rent copies

Ownership of Copyrights and Assignment

Ownership:

The author of the computer program is the first owner of the copyright (Section 17 of the Copyright Act).

However, if a program is created:

- By an **employee** in the course of employment under a contract of service — the employer becomes the first owner, unless there is an agreement stating otherwise.
- Under a contract for service (i.e., a freelancer or consultant) — the programmer retains ownership unless rights are assigned in writing.

Assignment:

Copyright can be assigned (transferred) to another person under Section 18 of the Act.

- The assignment must be in writing, signed by the assignor, and must specify:
- The work, rights assigned, duration, territorial extent, and consideration (payment).
- If duration or territory is not specified, it is assumed:
  Duration = 5 years
  Territory = India

Criteria of Infringement

Copyright infringement occurs when any of the exclusive rights of the copyright owner are exercised without authorization.

Infringement in Computer Programs:

- Copying source or object code.
- Making unauthorized adaptations or modifications.
- Using or distributing pirated software.
- Uploading or downloading copyrighted software from the internet without permission.
- Installing software beyond the licensed number of users or systems.

Key case: Tata Consultancy Services v. State of Andhra Pradesh (2005) — The Supreme Court recognized software as “goods” and subject to copyright protection.

Piracy on the Internet

Software Piracy means unauthorized copying, distribution, or use of computer software. Common types include:

- **Counterfeiting**: Selling fake copies of software.
- **Soft lifting**: Sharing software licensed for one user with multiple users.
- **Internet piracy:** Uploading or downloading copyrighted software without permission.
- **Crack/Key generator use**: Circumventing license keys or DRM.

Consequences:

- Loss of revenue to developers and companies.
- Cybersecurity risks from pirated software.

Remedies and Procedures in India

The Copyright Act, 1957 provides civil, criminal, and administrative remedies.

Civil Remedies (Sections 55–62):

- Injunction: Court order to stop the infringement.
- Damages or account of profits: Monetary compensation.
- Delivery up: Seizure of infringing copies and materials.
- Jurisdiction: The owner can file a suit where they reside or carry on business (Section 62).

Criminal Remedies (Sections 63–70):

- Imprisonment: 6 months to 3 years.
- Fine: ₹50,000 to ₹2,00,000.
- Enhanced penalties for repeat offences.
- Police can seize infringing copies without a warrant (Section 64).

Administrative Remedies:

- Customs authorities can prohibit import of infringing copies under the Copyright Rules, 2018.
- Registrar of Copyrights may intervene in disputes or assignments.

Digital Rights Management (DRM)

Meaning of Digital Rights Management (DRM)

Digital Rights Management (DRM) refers to a set of technologies, tools, and policies used by creators, publishers, and distributors to control access to and usage of digital content. It ensures that only authorized users can use, copy, distribute, or modify digital materials such as software, music, movies, e-books, and documents.

In simple terms, DRM is a technological solution to enforce copyright in the digital environment.

Importance of DRM

The digital age has made copying and sharing of content extremely easy, leading to widespread piracy and unauthorized use. DRM plays a crucial role in protecting the rights of creators and companies.

Key Importance:

- Protection of Intellectual Property (IP):Prevents unauthorized copying, sharing, or modification of digital works.
- Revenue Protection: Ensures that creators and companies are paid for their content.
- Control over Distribution: Enables owners to decide who can access their content, how long, and under what conditions.
- Compliance with Licensing Terms: Enforces restrictions such as number of devices or duration of use.
- Data Security: Protects sensitive digital documents and corporate information from leaks.

Working of DRM

DRM systems work by combining encryption, authentication, and usage control mechanisms to restrict and monitor how digital content is used.

Step-by-Step Working:

- **Encryption of Content**:The digital file (music, software, e-book, etc.) is encrypted so that only authorized users can open it.
- **License Creation:**A license key or digital certificate is issued to legitimate users.It defines what the user can do — e.g., view, print, copy, or share.
- **Authentication**: When a user tries to access the content, the DRM system verifies their identity and license validity.
- **Decryption and Access Control**: If the license is valid, the DRM system decrypts the content for use according to the rights granted.
- **Monitoring and Enforcement:** The system continuously monitors how the content is used — to ensure no unauthorized duplication or sharing occurs.

DRM Use Cases

DRM is used in a wide range of industries and applications where digital content needs protect case

DRM Use Case Example

Software

Prevent unauthorized installation or copying of licensed programs.

Music & Movies (Entertainment)

Control streaming, downloading, and offline playback rights (e.g., Netflix, Spotify).

E-books & Publishing

Restrict copying, printing, or sharing of e-books (e.g., Kindle DRM).

Corporate / Enterprise

Protect confidential files, reports, and data from leaks or misuse.

Education / E-learning

Control access to course materials, video lectures, and test content.

Gaming

Prevent piracy and cheating by binding games to user accounts (e.g., Steam, Origin).

Benefits of DRM

- Prevents Digital Piracy:

Reduces unauthorized sharing and illegal downloads.

- Monetary Security:

Helps creators and companies receive fair compensation.

- Controlled Access:

Grants flexible access rights (e.g., subscription, rental, or time-limited access).

- Content Tracking and Analytics:

Monitors usage to understand user behavior and detect abuse.

- Legal Compliance:

Ensures adherence to copyright and licensing laws.

- Brand and Reputation Protection:

Prevents misuse or alteration of digital products.

Key Functions of DRM Software

DRM software typically includes several core functionalities to enforce digital rights

- Encryption

Converts digital content into unreadable format until a valid license is verified.

- License Management

Issues, verifies, and revokes digital licenses for users.

- Access Control

Restricts who can view, copy, share, or print the content.

- User Authentication

Validates user identity before granting access.

- Usage Tracking and Reporting

Monitors access frequency, devices used, and user behavior.

- Revocation and Expiry Management

Allows the creator to revoke access or set expiration dates for licenses.

- Integration with Payment Systems

Links DRM protection with e-commerce and subscription platforms.