

Intellectual Property Rights and Piracy Issues in Pakistan

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Intellectual Property Rights

- The concept of intellectual property rights (IPR) has never been as controversial as it has become with the rapid advancement in technology and is new subject matter for protection in Communication Technology Laws as well as in current International Intellectual Property Rights Laws/System .

What is Intellectual Property?

- Intellectual property refers to creations of mind: inventions, literary and artistic works, and symbols, names, and images used in commerce.
- Intellectual Property is divided in to two categories
 - Industrial Property
 - Copyright

What is Intellectual Property?

- Industrial Property includes patents for inventions, trademarks, industrial designs etc. and other commercializable innovative creations.
- Copyrights include literary works such as novels, poems and plays, films, musical works, artistic works such as drawings, paintings, photographs and sculptures, and architectural designs.
- All software products are perceived to have copyrights.

What are intellectual property rights?

- IP rights are like any other property rights – they allow the creator, or owners, of a patent, trademark, or copyright to benefit from their own works or investments.
- It sets forth the right to benefit from the protection of moral and material interests resulting from authorship of any scientific, literary, artistic productions.

Why promote and protect IP

- The progress and well beings of humanity rests on its capacity for new creations in the areas of technology and culture.
- The legal protection of these are new creations encourages the expenditure of additional resources, which leads to further innovation.
- The promotion and protection of IP spurs economic growth, creates new jobs and industries, and enhances the quality and enjoyment of life.

IP Organizations in Pakistan

- Established in April, 2005
- Under the Control of Cabinet Division
- Integrated IP Management After April 2005
 - Trade Marks Registry, Karachi
 - The Patent Office, Karachi
 - Copyright Office, Karachi
 - Regional Office, Lahore
 - Regional Office, Islamabad

IP Functions

- **THE PATENT OFFICE**

- Grant of Patents
- Registration of Industrial Design
- Registration of Layout Design of Integrated Circuits
- Registry Works like a Civil Court, Controller Hears cases relating to
- Registration, Post Registration, Opposition and Rectification matters

- **TRADE MARK REGISTRY**

- To Grant Protection to Trademarks Relating Goods
- To Grant Protection to Trademarks Relating Services
- Registry Works like a Civil Court, Registrar Hears cases relating to
- Registration, Post Registration, Opposition and Rectification matters

IP Functions

- **COPYRIGHT OFFICE**

- To Grant Registration of various copyrighted works
- To provide prima-facie evidence to prove the ownership of copyright before the court of law or any authority
- Copyright Board hears the opposition before registration

IP Related Laws in Pakistan

- IP rights are protected by the laws of the states with reference to the international law of intellectual rights and protection and the violation may result in serious legal actions.
- These laws include copyrights law, patent laws and trademarks laws which protects the creation of individual and businesses from unauthorized exploitation.

IP Related Laws in Pakistan

- Federal Legislative List under Article 70(4) of the Constitution of Pakistan deals with the copyright, inventions, designs, trade-marks and merchandise marks which are the subjects in the legislative competence of the Parliament.
- The worsening situation of the IPR protection in Pakistan compelled the government to establish the Intellectual Property Organization of Pakistan (IPO-Pakistan) in 2005, to enforce and manage the IPR in Pakistan.

IP Related Laws in Pakistan

- The Policy and Administrative control schedule of the IPO includes:
 - The Trademarks Ordinance, 2001 (XIX of 2001)
 - The Copyrights Ordinance , 1962 (XXXIV of 1962)
 - The Patents Ordinance, 2000 (LXI of 2000)
 - The Registered Design Ordinance, 2000 (XLV of 2000)
 - The Registered layout Designs of the Integrated Circuits Ordinance, 2000(XLIX of 2000).

IP Related Laws in Pakistan

- The Pakistan Intellectual Property Rights Organization Ordinance, 2005
- The Copyrights Ordinance, 1962
- The Registered Design Ordinance, 2000
- The Registered Layout-Designs of Integrated Circuits Ordinance, 2000
- The Patents Ordinance, 2000
- The Trade Marks Ordinance, 2001
- The Merchandise Marks Act, 1889
- The Trade Marks (Invalidation and Summary Registration) Act, 1950
- The Electronics Transactions Ordinance, 2002
- Sections Relating to Infringement of Trade, Property, and Other Marks in Pakistan Penal Code, 1860
- The Press, Newspapers, News Agencies and Books Registration Ordinance, 2002
- Many more...

Regulators and Law Enforcement Agencies for IP Rights in Pakistan

- IPO-Pakistan serves as a regulatory-cum-service body under the direct supervision of the Prime Minister of Pakistan via the Cabinet Division with a mandate to monitor the violations and enforce IPR in Pakistan.
- Federal Investigation Agency (FIA) has been empowered by the IPO-Pakistan with addition of Copyrights Ordinance 1962 in the schedule of Federal Investigation Agency Act, thus authorizing FIA to investigate Copyrights related offences.
- Copyrights Ordinance 1962, provides remedies in form of the civil, administrative and criminal prosecution for the infringement (imprisonment extending/up to 3 years and/or fine of one hundred thousand rupees as amended by the Copyrights Amendment Ordinance 2000).

Regulators and Law Enforcement Agencies for IP Rights in Pakistan

- On August 28, 2012, the Intellectual Property Organization of Pakistan was regularized via an act of the Parliament to provide for and strengthen the role and scope of the organization.

Violations and Consequences

- IP rights violations in Pakistan are widespread and pose serious consequences in terms of financial and loss of the “creative capital” for Pakistan in International trade market.
- Globally, piracy and counterfeiting are responsible for a wide spread loss of lawful employment opportunities and a massive loss of tax revenues for governments.
- In Pakistan, piracy levels in cable television, music and software are over 90%, draining more than US \$1 billion in tax revenues.
- According to the Overseas Investors Chamber of Commerce and Industry (OICCI), Pakistan bears estimated annual losses of PKR700 billion with the national exchequer losing around PKR190 billion in taxes.

Violations and Consequences

- 131 cases of IP violations have been registered with FIA in past 8 years
- The alarming number of registered cases has landed Pakistan on the radar of international watch-lists along with the placement of Pakistan among top 10 countries with highest infringement of IP rights laws by the US Trade Representative Report, 2013.

Piracy

- Deliberate infringement of copyright on intellectual property and an absolute disregard for ownership or authorship of literary works

OR

- Using another person's opinion, ideas or works as if they were one's own and without making any attempt at acknowledging their true source

Trade Loss of US Book Industry Due to Piracy in Pakistan

Year	Loss (in millions of US dollars)
1995	30
1996	30
1997	30
1998	40
1999	42
2000	45
2001	44
2002	44
2003	44
2004	52

IIPA Reviews Piracy in Pakistan

- Piracy of computer, business, medical and engineering texts, English Language Teaching materials, and reference materials
- Legitimate importers and booksellers reported a sharp decline in sales
- Reprint piracy and commercial photocopying remained major problems
- Entire books are photocopied and available for sale in stalls and bookstores
- Trade bestsellers are pirated in large numbers and available everywhere

IIPA Reviews Piracy in Pakistan

- Pakistan also exports pirated books to India, the Middle East, and even Africa
- Some raids are reported but with little effect
- Maximum fine that a pirate has received from prosecutions was Rs.15,000
- No sentences involving imprisonments were meted out
- Pakistan is the world's worst pirate country for published materials (per capita)
- Law in Pakistan is not compatible with international conventions and agreements

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Pakistan's Response

- Government is ready to take serious steps
- Pakistan Intellectual Property Rights Organization (PIPRO) was established in 2004
- A draft Bill for PIPRO Act is ready for presentation to the Parliament
- PIPO has powers and functions to protect IPRs in Pakistan

Conclusion

- Pakistan has a strict and clear copyright law but its implementation is not easy
- Pakistan government's failure to protect copyright causes a damage to its dignity in international community
- Readers/software users are not well aware of the benefits of copyright
- Copyright law must be enforced, but
- First, provide foreign books/software to local readers at low price because

THIS IS THE MAOJR CAUSE OF PIRACY

Conclusions

- Establishment of the IPO and efforts made by the authorities to comply with the complaints regarding IPR, have nevertheless earned Pakistan some respite from the critical supervision of the international bodies.
- However, Pakistan still is lagging behind from ensuring an effective regime and activity to control the menace that seemingly is still on the rise.
- Both the government and masses need to understand that a stringent enforcement of the IPR laws would bring substantial advantages in terms of credibility and foreign investment inflow that would directly contribute in generating more jobs and ensure a greater creative flow from the Pakistani entrepreneurs locally, regionally and globally. Examples of South Korea, Taiwan and Singapore are encouraging and should be learnt from.

Conclusions

- Singapore was once considered the haven for piracy but now leads the technological advancements after restructuring its IPR laws and regulations.
- With the IPO established, the government still needs to perform better via an effective policing, prosecution and delivery of justice on the subjects of IPR violations.
- The legal framework now exists as an Act of the Pakistani Parliament and it is about time to ensure a successful enforcement of IPR regime in Pakistan.