

9. Contemporary Issues in E-Business

9.1 Intellectual Property Right Patent Right, Design right, Trademark, Copyright

Intellectual property refers to creative work which can be treated as an asset or physical property.

Intellectual property rights fall principally into four main areas; copyright, trademarks, design rights and patents.

It is a term referring to creations of the intellect for which a monopoly is assigned to designated owners by law.

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9.1 Intellectual Property Right Patent Right, Design right, Trademark, Copyright

Patent Right

A patent is a form of right granted by the government to an inventor, giving the owner the right to exclude others from making, using, selling, offering to sell, and importing an invention for a limited period of time, in exchange for the public disclosure of the invention.

Patents apply to industrial processes and inventions, and protect against the unauthorized implementation of the invention.



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9.1 Intellectual Property Right Patent Right, Design right, Trademark, Copyright

Patent Right



To get a patent, technical information about the invention must be disclosed to the public in a patent application.

Patent is territorial and the protection is granted for a limited period, generally 20 years from the filing date of the application.

Registration Term in Nepal	7 years from the date of registration
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Registering Patents in Nepal

<http://www.iponepal.gov.np/patent.php>

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Patent Right

The world's 50 most innovative companies

<https://www.usatoday.com/story/money/business/2018/01/12/worlds-50-most-innovative-companies/1023095001/>

<https://patents.justia.com/company/microsoft>

<https://www.patentlyapple.com/>

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Industrial Design Right

An **Industrial Design Right** protects the visual design of objects.

An industrial design consists of the creation of a shape, configuration or composition of pattern or color, or combination of pattern and color in three-dimensional form containing aesthetic value.

The design when applied to a product gives the product a unique appearance.

An industrial design can be a two- or three-dimensional pattern used to produce a product, industrial commodity or handicraft.

9.1 Intellectual Property Right Patent Right, Design right, Trademark, Copyright

Industrial Design Right



The design holder shall have his right on the design for a period of five years from the date of its registration

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Trademark

A **Trademark** can be a name, word, slogan, design, symbol or other unique sign that identifies a product or organization.

Trademarks are registered at a national or territory level with an appointed government body and may take anywhere between 6 and 18 months to be processed.

Registering in countries such as the US, the UK, Japan, etc will protect the mark in that country only, but within the European Union, there now exists a Community Trade Mark (CTM) which covers the mark in all EU countries.

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Trademark

Registered trademarks may be identified by the abbreviation **TM**(Unregistered), or the ® (Registered) symbol.

A Registered Trademark is a special mark or symbol, on which an individual or firm has affirmed ownership by registering it with the National Trademark Office.

An unregistered trademark can be any mark, symbol, signature, word, combination of colours, numerals etc. created and used by the company or person to indicate that the products are produced or services are offered by them, but it does not provide a high security to the owner, as in case of a registered trademark.



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Trademark

There is also the Madrid System (with 10 years validity) that provides a facility to submit trademarks applications to many countries at the same time.

In Nepal, The registered trademark holder shall have his right on the trademark for a period of seven years from the date of registration.

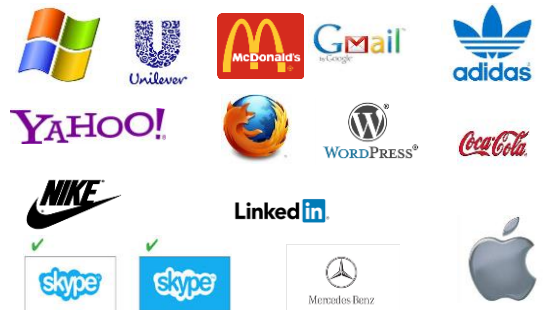
Trademarks are used to distinguish goods and services of one trade from those of another.

Trademark rights may be used to prevent others from using a confusingly similar mark, but not to prevent others from making the same goods or from selling the same goods or services under a clearly different mark.

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Trademark



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Copyright

Copyright is a form of protection provided to the authors of "original works of authorship" including literary, dramatic, musical, artistic, and certain other intellectual works, both published and unpublished.

It is a legal right created by the law of a country that grants the creator of an original work exclusive rights to its use and distribution, usually for a limited time.

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9.1 Intellectual Property Right Patent Right, Design right, Trademark, Copyright

Copyright

Example: The specific character, and material relating to Batman is protected under copyright.



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Copyright

The 1976 Copyright Act generally gives the owner of copyright the exclusive right to reproduce the copyrighted work, to prepare derivative works, to distribute copies or phone-records of the copyrighted work, to perform the copyrighted work publicly, or to display the copyrighted work publicly.

The copyright protects the form of expression rather than the subject matter of the writing.

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Copyright

Copyrights are *territorial*.

Typically, the *duration* of copyright is the author's life plus 50 to 100 years (that is, copyright typically expires 50 to 100 years after the author dies, depending on the country)

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.

The economic and moral rights available to the author under this Act shall be protected throughout the life of the author and in the case of his/her death until fifty years computed from the year of his death.

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9.2 Electronic transaction/cyber law

Electronic transaction

An electronic transaction is the sale or purchase of goods or services between businesses, households, individuals, governments, and other public or private organizations, conducted over computer-mediated networks.

The goods and services are ordered over those networks, but the payment and the ultimate delivery of the good or service may be conducted on or off-line.

Uniform Electronic Transactions Act (UETA) developed in 1999 prepares the ETA (Electronic Transactions Act)

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9.2 Electronic transaction/cyber law

Electronic transaction

Since the transaction rely on the network as the media, insecurity in the network leads to the disclosure or defacement of the transaction details. For example, online details transferred for credit card payments may be captured by the hackers to make other fake transactions.

So, security issues has become the major issue in all electronic transactions. For its security, Electronic Transaction Acts are made with different obligations.

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9.2 Electronic transaction/cyber law

Electronic transaction

Secure Electronic Transaction (SET) is a system for ensuring the security of financial transactions on the Internet.

It is supported by Mastercard, Visa, Microsoft, Netscape, and others.

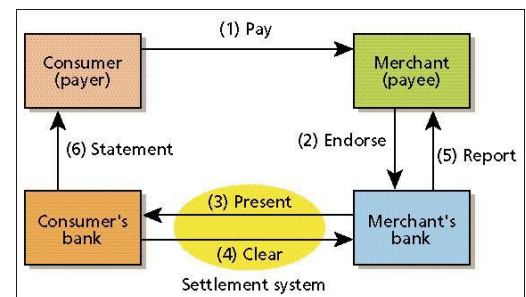
With SET, a user is given an *electronic wallet* (digital certificate) and a transaction is conducted and verified using a combination of digital certificates and digital signatures among the purchaser, a merchant, and the purchaser's bank in a way that ensures privacy and confidentiality.

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9.2 Electronic transaction/cyber law

Electronic transaction



9.2 Electronic transaction/cyber law



Cyber Law

Internet has its wide usage in all sorts of Businesses with its varying applications from personal use to agriculture to large scale enterprises, government sectors, etc in one hand,

while on the other hand, it has opened up many possibilities for the intruders to access the network and breach authentication to create defacement to the information base.

Cyber crimes (Crimes that are committed over the internet) such as hacking, piracy, copyright violation, fraudulent and all other deceitful activities have now become major issues widely practiced in the internet.

Cyber law is much about the legal issue of computing.

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9.2 Electronic transaction/cyber law



Cyber Law

Cyberlaw or **Internet law** is a term that encapsulates the legal issues related to use of the Internet.

It is less a distinct field of law than intellectual property or contract law, as it is a domain covering many areas of law and regulation.

Some leading topics include internet access and usage, privacy, freedom of expression, and jurisdiction.

Internet has opened up many opportunities for the world. It has given tremendous market access that any one from any corner of the world can offer their products and services to any part of the world.

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9.2 Electronic transaction/cyber law



Types of Cyber Crimes

- Network unauthorized access & penetration
- Theft of proprietary information
- Financial fraud using computers, internet
- Sabotage(damage) of data or networks
- Disruption of network
- Creation and distribution of computer viruses
- Software, intellectual property piracy
- Identity theft
- Terrorism
- Cyber-stalking

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9.2 Electronic transaction/cyber law



Types of Cyber Crimes

Cyberstalking is a crime in which the attacker harasses a victim using electronic communication, such as e-mail or instant messaging (IM), or messages posted to a Web site or a discussion group.

A cyberstalker relies upon the anonymity afforded by the Internet to allow them to stalk their victim without being detected.

Cyberstalking messages differ from ordinary spam in that a cyberstalker targets a specific victim with often threatening messages, while the spammer targets a multitude of recipients with simply annoying messages.

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9.2 Electronic transaction/cyber law



Cyber Law

Cyber law refers to all the legal and regulatory aspects of Internet and the World Wide

Besides, providing protection against new types of infringements of the business/consumer privacy rights, confidentiality of business information and other regulatory aspects, cyber law provides a legal framework to promote and conduct commerce along with rapid development of new applications, thus build the necessary trust to use new applications.

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9.2 Electronic transaction/cyber law



Cyber Law

The government of Nepal (House of Representatives) has approved the Electronic Transaction Act-2063 on 4th December 2006.

According to Cyber Law in Nepal if an individual is found in such cyber crime like hacking the intellectual property of others he or she will be punished for minimum 6 months to 3 years in prison and has to pay minimum 50 thousand to max 3 lakhs.

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9.3 Cross-Border Legal Issues

As cross-border business transactions are nowadays routine matters for business entities all over the world, the related legal aspects are becoming more and more complex.

The cross-border business transactions are associated with the **M&A(Mergers & Acquisition) transaction**.

The success of an M&A transaction lies with the common commercial operation principals along with the anticipation of potential legal issues, and careful structuring to navigate potential legal obstacles and to achieve the commercial objectives in a feasible and efficient way.

Since each nations have their own procedures for business transactions, cross border deal may be different and implementation of the business issues will greatly depend on the facts, dynamics, scale and geographic scope of the particular situation.

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9.3 Cross-Border Legal Issues

Mergers and acquisitions (M&A) is the area of corporate finances, management and strategy dealing with purchasing and/or joining with other companies. In a **merger**, two organizations join forces to become a new business, usually with a new name.

Mergers and acquisitions (M&A) are transactions in which the ownership of companies, other business organizations or their operating units are transferred or combined. As an aspect of strategic management, M&A can allow enterprises to grow, shrink, change the nature of their business or improve their competitive position.

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9.3 Cross-Border Legal Issues

Some of the key considerations that should be taken into account when embarking on any cross-border M&A transaction are as follows:

- **Deal structure.**

The deal structure depends on, among other things, the commercial objectives of the acquirer, and the financial, tax, and legal and regulatory considerations.

- **Due diligence.**

Due diligence is an essential part of the M&A process. In addition to the usual legal, financial and tax investigations, it is crucial in cross-border M&A transactions to be aware of the regulatory, currency, and infrastructure risks and other local issues.

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9.3 Cross-Border Legal Issues

- **Political Considerations.**

Identifying and evaluating the actual or potential political implications should be accomplished in advance of initiating any M&A or strategic investment transaction.

It may play a key part in M&A transactions involving politically-sensitive industries, such as defence, security and energy. In certain jurisdictions, advance notification and consultation with labour unions and other employees' representatives may be required.

- **Cultural and Communication Obstacles.**

Cross-border transactions—inbound or out-bound—present a unique set of issues that are compounded by the scale and geographic scope of the deal in which the cultural background, language requirements should also be considered.

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9.3 Cross-Border Legal Issues

Similarly other related issues are;

- **Protection of intellectual property rights and technology transfer**
- **corporate governance and corporate social responsibility(CSR);**

Nepal Rastra bank has made it mandatory for banks and financial institutions to set up a corporate social responsibility (CSR) fund and allocate at least one per cent of their net profit.

- **letters of intent, heads of agreement, confidentiality and exclusivity agreements;**
- **Insurance policies;**
- **employment law;**
- **Anti-trust issues.**
- **Anti-corruption legislation.**

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9.4 Ethical and other Public Policy issues

Illegal acts break the law while unethical acts may not be illegal

Ethics

It is Branch of philosophy that involves systematizing, defending, and recommending concepts of right and wrong conduct.

But Right and wrong may not always be clear.

Consider examples of unethical activities such as;

- Company sells profiles of customers with information collected through cookies
- Company allows personal use of Web but secretly monitors activity
- Company knowingly sells tax software with bugs

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9.4 Ethical and other Public Policy issues

Web Spoofing

Web spoofing is an electronic **deception related to the Internet**. It occurs when **the attacker sets up a fake website** which almost totally same with the original website in order to lure consumers to give their credit card number or other personal information.

Privacy Invasion

This issue is related to consumer. **The privacy invasion occur when the personal details belonging to consumers are exposed to the unauthorized party.**

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9.4 Ethical and other Public Policy issues

Online Piracy

The online piracy can be defined as **unauthorized copyright of electronic intellectual property such as e-books, music or videos.**

Email Spamming

E-mail spamming, also known as unsolicited commercial e-mail (UCE) involves **using e-mail to send or broadcast unwanted advertisement or correspondence over the Internet.**

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9.4 Ethical and other Public Policy issues

Poor Service

Online sellers can ship damaged or counterfeit goods to customers, or fail to ship any goods at all. They may refuse returns or fail to give credit to the customer who in good faith returns the purchase.

Typo Squatting

Purchasing a domain name that is a variation on a popular domain name with the expectation that the site will get traffic off of the original sight because of a user's misspelling of the name.

For example, registering the domain names webapedia.com or yahooo.com in the hopes that someone making a typo will get to that site unexpectedly.

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9.4 Ethical and other Public Policy issues

Typo Squatting



9.4 Ethical and other Public Policy issues

Cybersquatting

Similar to typosquatting is [cybersquatting](#), also known as domain squatting. In this case, a person buys URLs are spelled similarly to other sites and brands.

The owner of these knockoff URLs does not want to build a website at the address. The goal is to sell the URLs to the owners of real sites and brands.

Many companies are willing to pay thousands of dollars for these "fake" URLs. A URL hijacking only pays a few dollars to register the domain. So, the strategy is often extremely profitable.

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9.4 Ethical and other Public Policy issues

Bait and Switch

Sellers often advertise amazing deals on the latest gadgets, such as laptops, flat-screen televisions and cellphones, and then divert the curious customers to sites that don't sell those goods at all, or may place a set of strict conditions -- such as providing a lot of personal information -- on the purchase.



Example: Ad claims \$10 laptop (while supplies last) there was one a while ago that was 10 years old, but that ad wasn't lying, however, it was misleading and it got the customer onto their site.

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- > M-commerce
- > Digital Signature
- > Digital Certificate
- > Electronic Data Interchange (EDI)

- Complete Assignments
- Case Study

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