

Intellectual Property in Cyberspace

Intellectual Property (IP) simply refers to the creation of the mind. It refers to the possession of thought or design by the one who came up with it. It offers the owner of any inventive design or any form of distinct work some exclusive rights, that make it unlawful to copy or reuse that work without the owner's permission. It is a part of property law. People associated with literature, music, invention, etc. can use it in business practices.

There are numerous types of tools of protection that come under the term "intellectual property". Notable among these are the following:

- Patent
- Trademark
- Geographical indications
- Layout Designs of Integrated Circuits
- Trade secrets
- Copyrights
- Industrial Designs

Cyberspace is the non-physical domain where numerous computers are connected through computer networks to establish communication between them. With the expansion of technology, cyberspace has come within reach of every individual. This fact led to the emergence of cyberspace as a business platform and hence increases pressure on Intellectual Property. Nowadays, cyber crimes do not solely limit themselves to fraud, cyberbullying, identity thefts but also an infringement of copyrights and trademarks of various businesses and other organizations. Online content needs to be protected and hence Intellectual Property Rights and Cyber laws cannot be separated.

In cyberspace, sometimes one person makes a profit by using another person's creation without the owner's consent. This is a violation of privacy, and it is protected by IPR. We have certain laws to avoid violation of Intellectual Property Rights in cyberspace and when it is violated, then additionally we have several remedies in law.

Copyright Infringement: Copyright protection is given to the owner of any published artistic, literary, or scientific work over his work to prohibit everyone else from exploiting that work in his name and thereby gain profit from it.

When these proprietary creations are utilized by anyone without the permission of the owner, it leads to copyright infringement. If copies of any software are made and sold on the internet without the permission of the owner or even copying the content from any online source, these all are examples of copyright infringement.

Copyright Issues in Cyberspace:

1. Linking –

It permits a Website user to visit another location on the Internet. By simply clicking on a word or image on one Web page, the user can view another Web page elsewhere in the world, or simply elsewhere on the same server as the original page.

Linking damages the rights or interests of the owner of the Linked webpage. It may create the supposition that the two linked sites are the same and promote the same idea. In this way, the linked sites can lose their income as it is often equal to the number of persons who visit their page.

2. Software Piracy –

Software piracy refers to the act of stealing software that is lawfully shielded. This stealing comprises various actions like copying, spreading, altering, or trading the software. It also comes under the Indian copyright act.

An example of software piracy is downloading a replica of Microsoft Word from any website other than Microsoft to avoid paying for it as it is a paid software. Piracy can be of 3 types:

1. Soft lifting
2. Software Counterfeiting
3. Uploading-Downloading.

3. Cybersquatting –

Cybersquatting means unauthorized registration and use of Internet domain names that are similar to any business's trademarks, service marks, or company names. For example, let us consider Xyz is a very famous company and the company hadn't created a website yet. A cybersquatter could buy xyz.com, looking to sell the domain to the company Xyz at a later date for a profit. The domain name of a famous company can even be used to attract traffic and this traffic will help cybersquatters earn a lot of money through advertising.

When more than one individual believes that they have the right to register a specific domain name, then this can lead to a Domain Name Dispute. It arises when a registered trademark is registered by another individual or organization who is not the owner of a trademark that is registered.

Trademark Issues in Cyberspace :

Trademark means a mark capable of being depicted diagrammatically and which may distinguish the products or services of one person from those of others and will embody the form of products, their packaging, and combination of colors. A registered service mark represents a service. Trademark infringement refers to the unlawful use of a trademark or service mark which can cause ambiguity, fraud, or confusion about the actual company a product or service came from. Trademark owners can take the help of the law if they believe their marks are being infringed.

Advantages of Intellectual Property Rights

1. It provides exclusive rights to the creator's or inventor's.
2. It gives freedom to inventor to share his knowledge without keeping its secret.
3. It helps to creator financially.
4. It provides legal defence to the creator.

Conclusion: With the growth of Cyberspace and technology advancements, copyright and trademarks are not limited to the usual intellectual property alone but have spread to intellectual property rights over the internet.

Cyberspace is becoming a hub for intellectual property rights infringement. Several practices by the cyber site operators resulted in the violation of intellectual property rights and various other rights of other website operators. It has become crucial that people are aware of the illegal usage of their websites and webpages.

International conventions and treaties have provided various laws to protect infringement of IPRs online which are helping e-commerce and e-businesses to grow. However, the Information technology Act does not provide any provisions in respect of cybercrimes related to IPR, cyberstalking, cyber defamation, etc.

Also, the Indian Trademark Act, 1999 and Copyright Act, 1957 are silent on issues on online Trademark and Copyright infringement. Though computer programs are protected under the Copyright Act, 1957, it does not provide remedies for cyberpiracy.

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