

INTELLECTUAL PROPERTY RIGHTS- ITS SPHERE OF INFLUENCE

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ABSTRACT

A property is an asset to anyone who possesses it. There are many kinds of property that can be recognized like land, wealth, gold, intellect, etc. Most of these can be easily manipulated to gain a commercial advantage because of the attributes they possess. But the most interesting and difficult one to maneuver is the property of intellect. Striking part is that it is both hard to assess what to protect and whether the idea or notion to be protected indeed requires protection. Thus, we divulge the need intellectual property rights to safeguard this property. The management of intellectual property and the preservation of the IPR form a major concern nowadays. In this paper, an overall view of IPR inclusive of the various topics relating to the varied fields and the management of intellectual property is taken into account. All the issues considered are put forth as a layout which clearly charts the perspectives. The probable solutions that may be provided for the problems are also mentioned. The paper also outlines IPR and its sphere of influence in a concise manner.

Index Terms— Intellectual Property, Intellectual Rights.

1. INTRODUCTION

A wide range of obstacles in the protection and preservation of innovative ideas and novel solutions have paved a way towards a deeper understanding of the importance of intellectual property rights. Various intellectual property rights allow the property owner to permit its usage, where and how it will be used and also the time period up to which the property rights transferred to a group by the owner or another group can be utilized.

Only worthy and relevant matter must be termed as intellectual property as opposed to the current scenario wherein every advance in the scientific field is rushed into patenting, no matter how insignificant its contribution might be to the targeted community. Yet if anything is patented it remains either unlicensed or forgotten.

Protection of intellectual property rights has to be against corporate and individual theft, the predominant one being

the latter. Also high level decline in technological barriers serves as a threat to IPR protection. Thus, maintenance of the exclusivity and originality of the relevant matter, thereby, preservation of IPR constitutes the need of the hour.

2. A LAYOUT OF INTELLECTUAL PROPERTY RIGHTS

The layout gives an idea about the widespread areas which are influenced by IPR, the barriers and a basic plan. The figure has IPR at the root level from which the various perspectives are traced. Firstly the barriers constitute of the legal and technological aspects. The decline in technological barriers and various laws pose a major threat to intellectual property. Also various human related factors like requirement of effective and efficient compensation, reasonable pricing and lack of public awareness towards IPR lead to various problems. Secondly the plan constitutes of what the various rights are and how to manage them. Finally the various issues will comprise of:-

Legal issues: Inclusive of privacy, data protection, digital signatures, electronic contracts and consumer satisfaction.

Financial issues: Consists of banking regulations, customs and various tax related matters.

Economic and cultural issues: Covers work force management, revenue implications, content and culture diversity.

Governance : Includes certification issues

Technological issues:

2.1. IPR issues in biotechnology

The field of Biotechnology has stimulated the imagination of researchers and stakeholders and motivated them to work upon the related concerns. There are various disagreements based on the nature, utility and value of biotechnology.

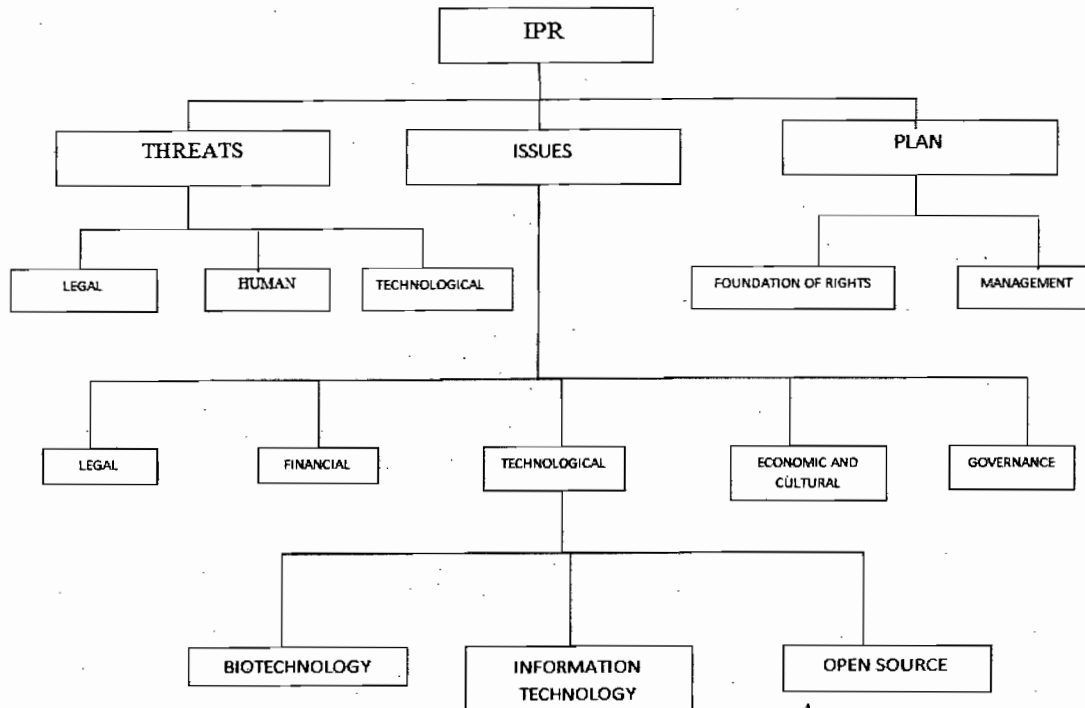


Figure 1: Layout of Intellectual Property Rights

- Various public interest groups are concerned regarding the effect of its long-term application on the health of living beings and the environment.
- Technological and productive revolutions have been taking place in this sector for the benefit of the society.

United with strong domestic and international intellectual property rights, such as patents, biotechnology can be termed as an instrument for the transfer of new technology. Recent developments in intellectual property law have allowed unique claims to be made to the whole or parts of living organisms and have, hence, diluted the notions of public domain and general possession. Furthermore, government should consider formulating compatible laws, standards and practices regarding plant material, crop protection and bio-security as well apart from the others. The ethical handling of biological materials and data from any form of living organism must be guaranteed by law.

2.2. IPR issues in information technology

The major issue in the field of information technology is in shifting margins between proprietary information and

public information. There are concerns that the extension of patents to the algorithms of computer software will lead to undue restrictions on access to the most important resource of the emerging information society, namely, knowledge. Information is unique as a resource in that it can be shared and distributed without being consumed. But the question is whether certain portion of the society is cut off from the access of this useful and relevant information or not.

The broader issue is, of course, whether the monopolies implied by IPRs enlarge the gap between the haves and the have-nots, and contribute to a digital divide in the emerging information society.

The first problem concerns the range of software patents. Such patents are about to be extended to all methods, concepts, and strategies that are translated into algorithms of computer programs. At this point it seems a need to discuss the appropriateness of such patents, or at least to devise guidelines for their proper use, should they be granted.

The second problem addresses the access to the knowledge stored in data bases. To be more specific it must discuss how to guarantee impartial access to data bases. The discussion must include the problem of financial costs so that no one is prevented from sharing the benefits derived from knowledge resources. Copyrighting provides exemptions for the use and imitation of protected texts for scientific and educational purpose.

2.3. IP issues in Open Source

The open source culture includes open access to information, decisions made in the public domain and decentralization [9]. The open source culture today ultimately reflects a need for more freedom like freedom to play music, freedom to take software and be allowed to modify it to one's likings and needs. Other examples reflecting this culture can be found in various fields for instance -

Education: the sharing of course matter for free.

Governance: public's direct involvement in decision making.

Hardware: open access to various schematics and design.

Journalism & media: discussion forums and blogs.

The decrease in technological barriers threatens the need for IPR that are associated with the open source technology. Hence, a deeper insight to this problem and its requisite solution is extremely essential.

3. MANAGEMENT OF INTELLECTUAL PROPERTY

The concept of managing intellectual property is about using IPR to protect and preserve any original idea [2, 5]. These legal rights permit a person with innovative ideas to restrict others from duplicating them. Management of intellectual property can be done using patents, trademarks, copy, writes, design of articles and confidential information. A brief explanation follows:-

Patents are the most well known form of intellectual property rights granted for various inventions..

A patent does not give you the right to make, sell or use something, nor does it guarantee you will make money if you do. It is not ownership. It only excludes others from making, using, or selling your invention. Patents can be acquired by submission of the description of the invention at the Patent Office either in writing or by demonstration. Mostly inventions constitute of minor changes in an already existent system. Patents mostly help in maintaining the individuality of the inventions and prevention of duplication and thefts.

Trademarks are generally used to guard the name of a company, product, service, it maybe a word, symbol or a combination of the two. Trademarks may be registered or unregistered. As opposed in case of registered trademarks it is difficult to prevent rivals from the usage of unregistered trademarks. The main aim of a trademark is to encourage the public to acquire the product, service by name, in simpler terms to distinguish it from frauds and competitors.

Copyright is a warning stating not to copy without permission. In engineering stream workshop drawings, internal reports, business letters, software are copyrighted. Also copyright is not registrable as it arises automatically on

creation. Copyright law protects the expression of ideas, not the ideas themselves.

Digital license protects an author or owners IPR to adjust how content is sold or used and regulate compensation.

Also various issues that may provide effective solutions to the various problems related to IPR -

- The creators and the producers of intellectual property must receive some compensation as it is unreasonable to expect them to create and distribute for no cost. These compensation schemes must be efficient and effective.
- High prices mostly encourage users to illegally obtain the matter and discourage those actually willing to pay for it. Thus the price of copyrighted work must be reasonable relative to the value of the matter.
- Maintaining strict exclusivity and Enforcement of exclusivity of intellectual property is one the most helpful solution to the problems related to IPR.
- Public opinion is an important tool that aids the accomplishment of desirable goals. People must value others property and refrain from duplicating or stealing it thus respecting intellectual property rights.

4. CONCLUSION

The essential purpose behind using an IPR is to carve out an area which rivals choose not to enter owing to high level risk. It is inclusive of safeguarding the useful matter from hoax and theft and safeguarding the exclusivity and originality of the intellectual property. Further work needs to be done towards proper implementation of the solutions to overcome various obstacles related to IPR. The various unanswered questions with respect to the same require a response. Public awareness in relation to intellectual property is essential; thus, understanding the importance and value of IPR. Management of intellectual property is of supreme significance in an attempt to evade and get rid of the tribulations, if not completely, at least up to a maximum possible level.

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