



A STUDY ON INTELLECTUAL PROPERTY RIGHTS AND ITS SIGNIFICANCE FOR E-COMMERCE.

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ABSTRACT.

Intellectual property rights refer to the property rights which are granted to an author or creator of a new invention or intangible asset. The concept of intellectual property was developed in the 18th century, with the first federal statute on patents being passed in 1790. Intellectual property rights are the legal protection granted to individuals who have invented something new or created something original that is capable of being physically reproduced or transmitted. The scope of intellectual property rights varies from country to country, but generally any form of expression that falls within the jurisdiction of copyright law and patent law is protected as intellectual property (see section 20(1)(b) of the Copyright Act 1957).

More than other business models, e-commerce frequently involves the sale of goods and services that are dependent on IP and its licensing. Through e-commerce, you may exchange things like software, designs, training materials, systems, and more, with the IP serving as the major source of value. Because valuable commodities traded online must be safeguarded by technological security measures and IP laws, or entire firms risk being ruined by theft or piracy. This paper studies the history of IPR, Its types and role of IPR in e-commerce. The protection for any creative work such as music, text, software code, graphic design etc. cannot be revoked by anyone at all as it is not owned by anyone in particular. IP rights protect intellectual property in a wide variety of ways, covering protection of inventions and designs, protection for data and software, as well as protection for literary material like books and films. IP plays a role in facilitating smoother E-Commerce transactions.

Key words: Intellectual property rights, E-commerce, Legal protection.

INTRODUCTION

Intellectual property (IP) is the term used to describe exclusive rights pertaining to creative works. Intangible assets including innovations, literary and artistic works, designs, phrases, symbols, and images can be protected under IP law. This protection is made possible by various IP rights, including patents, trademarks, designs, and copyright (for more information, see the section "Types of Intellectual Property Protection Rights"). These rights allow their owners to profit financially or gain recognition from their inventions or creations

Electronic commerce, or simply E-commerce, is the practice of conducting business dealings online. Among them would be starting or running a business, trading products and services, or both, primarily online. E-commerce platforms like Amazon, Swiggy, Zomato, and others might serve as examples.

E-commerce often entails the sale of goods or services based on licensed intellectual property. Music, photos, graphics, software, content, and so many other sorts of intellectual property can all be transferred through an e-commerce platform in the domain of digital goods. IPR is extremely critical in each of these situations since it's important to safeguard the items' worth. Tools like intellectual property laws and technology security measures are used to provide the protection. IPR in e-commerce is particularly important since IP theft can potentially kill an online firm if it is prevalent.

REVIEW OF LITERATURE

Dr.Arun Gaikwad (2020). The history, goals, and several IPR kinds are also covered in this paper. Ideas, innovations, and creative expressions on the basis of which the public is ready to confer the status of property are referred to as intellectual property rights (IPR). In order for the inventors or developers of that property to profit commercially from their creative endeavors or reputation, IPR grant them specific exclusive rights.

Punam Kumari (2018). Ideas, innovations, and creative expressions on the basis of which there is a public desire to grant the status of property are referred to as intellectual property rights (IPR). In order for the inventors or developers of that property to profit commercially from their creative endeavours or reputation, IPR grant them specific exclusive rights. There are various forms of intellectual property protection, including trademark, copyright, and patent.

Sreeragi R. G.(2021). It must be filed for granting rights in accordance with local laws in order to obtain privilege over innovations. The current study investigates the various types of intellectual property and how long registered inventions will be legally protected.

Lalit Jajpura, Bhupinder Singh and Rajkishore Nayak (2016). The current paper discusses a number of IPR concepts, including patents, trademarks, industrial designs, geographic indications, copyright, etc., together with its accompanying rules, regulations, needs, and functions, particularly in the context of India. Additionally, a brief discussion on the state of India's involvement in IPR-related activities worldwide has been made.

Ming Yang (2018). In order to prepare for the advent of the big data era, this article analyses numerous key issues relating to intellectual property protection in the e-commerce environment and makes recommendations for building an e-commerce intellectual property protection supervisory system.

Andriamirado Rakoto (2018). E-commerce is now of utmost importance to the global economy. In fact, whether they are emerging or established nations, the majority of the world's nations have a platform for conducting electronic transactions on the internet. This paper tries to highlight some important aspects of intellectual property rights protection in online trade.

Dian Retnaningdiah, Siti Resmi, Indah Kurniawati, Beni Suhendra Winarso (2020). The purpose of this study is to examine how Small Business Enterprises (SMEs) use their supply chains to increase their competitiveness through the usage of e-commerce and intellectual property rights (IPR). This study employs an experimental methodology by giving respondents a choice.

Ravi Kiran (2016). In this article, the author discusses how the pharmaceutical industry has adapted culturally to IPR techniques and how this has affected the company's expansion both domestically and

internationally. The research done for this article establishes the status of IPR in certain businesses, and the findings show a definite upward trend while also highlighting the need for more industry-wide awareness and IPR implementation.

Rindu Rika Gamayuni (2015). In this study, the author describes the path analysis of the relationship between intangible assets, financial policies, and financial performance to the firm value at going-public companies in Indonesia from 2007 to 2009. Although they have a positive and considerable impact on financial performance ROA and firm value, intangible assets have little impact on financial policies.

Sagar Kishor Saval and Varsha Kishor Savale (2018). This application is crucial for protecting the inventor's invention and upholding the inventor's high standards of quality and performance. The objectives of IPR, types of IPR (Patents, Trademarks, Copyrights And Related Rights, Geographical Indications, Industrial Designs, Trade Secrets, Layout Designs For Integrated Circuits, Protection of New Plant Varieties), duration of IPR, and concept-related patents (Types of Patent, Tangible And Intangible Property, Novelty, Non-Obviousness, Utility, Anticipation).

SIGNIFICANCE OF THE STUDY.

The majority of businesses worldwide consider their intellectual property to be a much more valuable asset than any physical property they may hold. This is due to the fact that intellectual property laws shield businesses against unfair competition as well as the disclosure of their trade secrets. The primary goal of intellectual property legislation is to promote the production of several different intellectual goods. To do this, the law grants individuals and organisations ownership rights to the knowledge and intellectual products they produce, typically for a finite amount of time. Because it enables people to make money from the knowledge and intellectual products they produce, this provides an economic incentive for their creation. Depending on the level of protection provided to innovators, these economic incentives are anticipated to encourage innovation and advance technology in countries.

The modern digital economy makes the importance of IPR in E-commerce particularly obvious. In addition to preserving the creator's labour, the existence of regulations and procedures that govern the operation of IP laws has promoted new creations. The law forbids people from stealing intellectual property (IP) and utilising it for their own financial gain without compensating the inventor for their labour and ingenuity. This study concentrates on the importance of intellectual property rights in E-commerce.

OBJECTIVES OF THE STUDY

- To comprehend the history and overview of intellectual property rights.
- To know the role of intellectual property rights in E-Commerce.
- To identify the e-commerce components covered by IPR.
- To Study the various type of intellectual property Rights.

RESEARCH METHODOLOGY

In order to achieve the above objectives information was collected from the secondary sources readily available. Various reports, research papers, case studies regarding role of intellectual property right were referred to, apart from numerous journals and articles. The in-depth analysis of various literature had helped the authors to frame the idea about intellectual property rights and its significance for e-commerce. This research paper is descriptive and conceptual in nature. It is descriptive in the sense that it tries to identify various characteristics of research objectives and it is conceptual since it examines literature review of past studies conducted in these fields.

DISCUSSION

HISTORY OF INTELLECTUAL PROPERTY RIGHTS.

Origin of Patents, Copyright and Trademark.

Origin and History of Patents

Origin in India: The Act VI of 1856 was the country's first piece of law pertaining to patents. The goal was to promote inventions and get innovators to divulge their inventions' secrets. Act XV of 1859, a new piece of legislation, was afterwards introduced to provide exclusive privilege. The measure was renamed The Patterns and Designs Protection Act in 1872, nevertheless. The 1883 amendment was the only change made to the law during its 30-year lifespan.

All prior laws in India were repealed by the Indian Patents and Design Act. This act created provisions for the granting of secret patents, patents for additions, and extending the duration of a patent from 14 to 16 years. Following independence, several committees were established to look at the changes to the law, and as a result, a bill was tabled in the Lok Sabha in 1965 but failed to pass. Although it expired in 1965, a revised measure was filed in 1967, and on the committee's final suggestion, the Patents Act, 1970, which is currently in use in India, was enacted.

Origin and History of Copyright

In India, copyright law was first established in 1847 as a result of an East India Company-era ordinance. The copyright's term at the time was 42 years + 7 years post-mortem. If the copyright holder refused to allow the publication of a work after the author's passing, the government might issue a compulsory licence. In order to enforce rights under this act, copyright registration was required.

Under the British Raj, the Indian government of the time passed a new copyright law in 1914 that was remarkably similar to the United Kingdom Copyright Act of 1911. There weren't many significant differences, though. The most significant one is that it created sections 7 to 12 that established criminal penalties for copyright infringement. The 1911 Act was changed numerous times up to 1957, and as a result, independent India passed the Copyright Act that year in order to comply with the Berne Convention's rules. The most recent modification to the 1957 Act was made in 2012.

Origin and History of Trademark

The Trademark Act of 1940, which was adapted from the British Trademark Act of 1938, was the first trademark-related law in India. The Trade and Merchandise Act, 1958 was also passed after independence. Numerous changes were made up until December 30, 1999, when the Trade Mark Act, 1999, which is currently in effect in India, was established.

The two main needs met by this act are to: a) shield the owner from chaos and competitor mark duplication. b) protect the company, commerce, and goodwill that the trademark owner has built up.

THREE MAIN TYPES OF IPR

PATENTS

Researchers and inventors in the field of e-commerce and online enterprises receive a lot of incentives from patents. Patents facilitate licencing, outsourcing agreements, and the development of tactical alliances in e-commerce. Patents not only assist in capturing and creating new ideas for an E-Commerce business, but they also increase the sales of your items by granting them special qualities that set them apart from other online competitors.

One of the most significant forms of IPR is the patent. A government authorization or licence that grants a right or title for a s

pecific time period, particularly the exclusive right to prevent others from creating, utilising, or selling an invention, is what is meant by this definition. When individuals or organisations create new products or processes, they go to the patent office, describe the invention in detail, and pay a fee to have their "property" protected.

COPYRIGHTS

Copyrights are crucial in the current digital era for protecting the information and creative work on websites. Because of the fast digitization, the owners of the copyrights seek copyright protection to stop any illicit distribution or copying of their works that are displayed online. Additionally, a variety of technological safeguards, including encryption and watermarking, can be employed to protect the intellectual property rights of online enterprises.

Copyright describes the rights given to authors, painters, musicians, and other creators for their "original" works of creativity or to performers, artists, and broadcasters for the associated rights. Copyright regulations are monopolistic rights just like patent laws. Any literary, musical, dramatic, artistic, or architectural work created by the author is granted the exclusive right to be sold, published, and reproduced.

TRADEMARKS

Trademarks are extremely important in the internet world and e-commerce to develop a brand image by expanding or selling the enterprises. A registered trademark also makes it simpler to file lawsuits and initiate legal processes against companies that online infringe on your company's intellectual property.

A trademark is a recognisable symbol that aids consumers in determining the source of specific goods or services. It can take the shape of text, words, numbers, phrases, symbols, designs, smells, colours, shapes, sounds, packaging, textures, or any combination of these things. The purpose of a distinctive trademark is to enable consumers to connect a certain mark with a particular manufacturer of goods or service provider in the case of services. It aids in assuring the clients that the products are of a particular type and quality.

INTELLECTUAL PROPERTY RIGHTS AND ITS ROLE IN E- COMMERCE

Understanding the function of intellectual property in e-commerce is more crucial than ever thanks to ongoing advancements in the internet's technological infrastructure. IPR can be used in e-commerce in four different ways:

Protecting a company's business interests

In essence, intellectual property laws protect a company's and its entities' business interests from unfair competition. Particularly in this digital economy, the absence of IP practices and rules can lead to a number of IPR infractions. As a result, everything from software to design to music could be stolen, copied, and distributed everywhere, and the creators may not be compensated for their original works. However, businesses can protect their rights through rules governing IPR in e-commerce.

Protecting vital components

A company's vital digital and technical assets are protected by intellectual property law in e-commerce. These could include networks, routers, plans, applications, processors, and other things. These elements are all distinct types of intellectual property that need to be protected in order for the internet to work properly. IPR in e-commerce also protects crucial elements with this in mind.

Safeguarding goods and obtaining patent permits

Patent and product licencing is the normal foundation for all online and e-commerce firms. The majority of internet businesses opt to outsource the creation of a few components or share their technologies through licence agreements because it requires numerous different technologies to generate a single product. The agreement is basically a set of rules and guidelines for IPR protection.

Preserving patent and trademark holdings

The most important asset for a company operating in the e-commerce industry is intellectual property. A portfolio of patents and trademarks that they normally possess adds to their company's value. Thus, these patents, portfolios, and trademarks are protected by IPR rules in e-commerce.

Although it has the biggest value-bearing component in E-Commerce, Intellectual Property (IP) is arguably the most undervalued, either because it isn't well understood or because its significance in relation to E-Commerce isn't readily apparent. More than any other platform, e-commerce frequently involves the sale of products and services that are based on intellectual property and its licencing. Online firms should therefore make earnest efforts to guarantee that their operations are free of IP hazards that could hinder or even endanger their operations.

ELEMENTS PROTECTED UNDER IPR IN E- COMMERCE

IPR in retail and e-commerce pertains to the purchasing and selling of goods via a physical store and an online store, respectively. Owners of retail and online businesses must therefore safeguard a variety of intellectual properties. The items listed below are those that IPR in E-commerce covers under various models and legislation.

- Search engines, e-commerce platforms, and other crucial online technologies are covered by patents and utility models.
- Depending on the country's IPR rules, specific software, including the text-based HTML code used by websites, is protected under the Patent Law or the Copyrights Act.
- An e-commerce website's entire design is likewise shielded by copyright laws.
- The Copyright Law protects all of the information on the website, including any written or visual materials, films, images, or other graphics.
- Companies can use copyright laws or country-specific database legislation to protect their databases under e-commerce in IPR.
- Companies can use the Trademark Law to protect their brand names, product names, logos, domain names, and other similar identifying indications posted on their websites with reference to both IPR in retail and e-commerce.
- Under the appropriate Industrial Design Law in their nation, businesses are also allowed to protect their computer-generated displays, graphic signals, webpages, and graphical user interfaces.
- Websites frequently contain a number of hidden components that are protected by various trade secret laws, including secret visuals, object and source codes, algorithms, and programmes, technical descriptions, logic and data flow charts, user manuals, and the contents of their databases.

CONCLUSION

Without a doubt, intellectual property laws are necessary for the fair and ethical compliance of digital practices and operations, particularly in a sector as diverse and dynamic as e-commerce and retail. IPR in e-commerce aids in defending companies that use online platforms. Intellectual property rights assist businesses in preserving and protecting their covert business operations as the internet retail market expands exponentially. IPR owners are able to claim a portion of the company's revenues thanks to IP rights in e-commerce. As a result, it should be noted that IPR in e-commerce safeguards e-commerce activities. However, the practical application of IP Rights determines the success rate completely.

It is undeniable in the modern world that efficient application of intellectual property laws is necessary to ensure the fair and ethical compliance of online enterprises and operations. In addition to the growth of E-businesses, which has resulted in a sharp decline in retail activity, society is increasingly dependent on online commerce. Similar to the pandemic-hit economy, where E-commerce sparked rapid expansion in the online market increasing the variety and vitality of online platforms.

The expansion of online commerce makes it easier for businesses to monitor and defend their trade activities, especially those that require maintaining anonymity. IPR owners are able to claim a portion of the company's revenues thanks to IP rights in e-commerce. Intellectual property rights will be implemented with a focus on characteristics that are unique and unavailable to others, successfully enabling E-commerce activity in the public domain. The legal protection of intellectual property rights promotes sturdiness in the use of intellectual property, which aids not only in licencing, contracting, and outsourcing but also in developing new concepts and forming strategic alliances, all of which improve sales and e-commerce operations by introducing features that rivals cannot offer. This promotes healthy competition online and generates income for the rightful intellectual property owners. Because of this, intellectual property protects e-commerce and promotes economic justice while the appropriate safeguards for protecting intellectual property rights are taken.

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