

INTELLECTUAL PROPERTY RIGHTS: A COMPREHENSIVE GUIDE FOR THE SOCIAL MEDIA ERA

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ABSTRACT

The emergence of social media has brought about a tremendous transformation in the creation, sharing, and consumption of content, which has presented major challenges for the safeguarding of intellectual property rights (IPR). This article explores how social media affects intellectual property rights (IPR), emphasizing the difficulties and strategies for safeguarding IPR in the digital era. It covers the main types of intellectual property rights (IPRs) and their importance in preserving creative works and fostering innovation, including patents, copyrights, trademarks, designs, trade secrets, etc. It highlights the significance of IPR in fostering creativity and innovation. The article examines the IPR legal framework in India, covering relevant statutes such as the Trade Marks Act, the Copyright Act, and the Indian Patent Act. It also examines India's involvement in international treaties and agreements, including the Paris Convention, Berne Convention, and the Patent Cooperation Treaty, which facilitate global IPR protection. It identifies challenges in the social media landscape, such as content copying, user-generated content, jurisdictional issues, and commercialization by influencers. This article also proposes solutions including technological tools like automated content ID systems, digital watermarking, and blockchain technology, alongside proactive monitoring and the development of clear social media policies. The article advocates for raising IPR awareness through educational programs, community outreach, and partnerships with influencers. Overall, it emphasizes a strategic, multi-dimensional approach to effectively protect intellectual property in the digital era.

Keywords: Intellectual Property Rights (IPR), Social Media Impact, Content Protection, Legal Framework, Technological Solutions, Awareness Strategies.

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INTRODUCTION

What is Intellectual Property?

As per WIPO¹, “Intellectual property (IP) refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names, and images used in commerce”.

In simple words, "Intellectual property rights" (IPR) are rights that refer to legal protection granted to the creators for their innovative projects. These projects include inventions, literary, and artistic works, in addition to symbols, names, images, and designs used for commercial purposes. Creators and owners of these works often use IPRs to protect their rights from unauthorized use or infringement. Copyright, trademark, and patent laws are all examples of intellectual property rights.

There Are Different Kinds of Intellectual Property Rights

Patent

A patent protects an invention. It gives the holder an exclusive right to prevent others from selling, making, and using the patented invention for a certain period

Copyrights

Copyrights protect original literary, artistic, and musical works, etc., providing creators with exclusive rights to reproduce, distribute & display their creations which can safeguard their expressions of ideas, fostering creativity, & innovation.

Designs

This protects designs, such as drawings or computer models

Trade Marks

This protects signs, symbols, logos, words, or sounds that distinguish your products and services from those of your competitors.

¹ <https://www.wipo.int/about-ip/en/>

Trade Secret

A trade secret is a formula, practice, process, design, or compilation of information used by a business to obtain an advantage over competitors. Trade secrets are not disclosed to the world at large as it can hamper the Business.

SIGNIFICANCE OF INTELLECTUAL PROPERTY RIGHTS

Both the human mind and the abundance of physical and biological resources in our environment are amazing gifts from God. The use of man's intellect or mind, in addition to the utilization of these natural resources, marked the start of his process of creating the universe. Man has two gifts: inventiveness and originality. He has made a wide range of goods or products using his imagination and creativity to fulfill his goals and wants for comfort, ease, and convenience. His creations—including ideas and inventions—were once regarded as belonging to the public domain. These were the traits they all had in common. These ideas and works were available to everyone for use and duplication without any limitations, reservations, or costs.

INTELLECTUAL PROPERTY RIGHTS IN INDIA

India has multiple laws that safeguard intellectual property rights, such as the Trade Marks Act, the Copyright Act, the Indian Patent Act, and the Design Act. These laws permit the registration and protection of patents, trademarks, industrial designs, and copyrights. Furthermore, the Department of Industrial Policy & Promotion (DIPP) of the Indian government is a specialized agency that oversees and carries out the country's intellectual property regulations. In addition, India also ratifies a number of international agreements and treaties related to intellectual property rights. India has promised to abide by the TRIPS Agreement, which covers trade-related aspects of intellectual property. India is one of the member nations of the World Intellectual Property Organization (WIPO). The World Intellectual Property Organization (WIPO) guarantees the global protection of intellectual property rights. India has also signed the "Berne Convention for the Protection of Literary and Artistic Works," the "Paris Convention for the Protection of Industrial Property", and the "Budapest Treaty on the International Recognition of the Deposit of Microorganisms for Patent Procedure".

TREATIES AND RECIPROCAL AGREEMENTS

India is also a signatory to the following international IP agreements-

- The Paris Convention grants any individual from a signatory state the same enforcement rights and status as a national of that state when they apply for a patent or trademark in any other signatory state;
- The Berne Convention, which es that each member state respects other members' authors' copyrights in the same manner as its own citizens' copyrights;
- The Patent Cooperation Treaty is a central system for obtaining a "bundle" of national patent applications in various jurisdictions through a single application.
- The Madrid Protocol allows an individual to file a single trademark application at their national office that will provide protection in multiple countries.

REGISTERING AND ENFORCING INTELLECTUAL PROPERTY RIGHTS IN INDIA

It is necessary to register most forms of intellectual property (IP) rights in India in order to use them. Individual registrations are required for patents in India; nevertheless, the Patent Cooperation Treaty allows for faster and easier application processes for rights other than industrial designs.

It is recommended that trademarks be registered in India using either the Madrid system or the domestic trademark system.

While copyright registration is not necessary When original work is created, it is automatically protected by copyright law, giving the creator exclusive rights to that work. Registration is not required for copyright to exist, although it can offer certain benefits and legal advantages, it is advised to register copyrights with the copyright authorities.

If filed within a certain amount of time, "priority rights" under the Paris Convention enable rights that have already been registered overseas to become effective in India, aiding in the local registration of trademark designs and patents.

IP ENFORCEMENT IN INDIA

Intellectual property rights can be upheld by filing lawsuits in civil courts or by pursuing criminal charges. Both the Competition Act and India's intellectual property laws specify the stages involved in both civil and criminal cases. Infringements on patents and designs are exempt from criminal prosecution.

One drawback of civil litigation is that punitive damages against an infringer are uncommon and big damages are unlikely to be recovered. But, if you have identified the infringer, it could be wise to file a civil lawsuit so that, in the event that an interim injunction is granted, the infringement can be stopped while you wait for the case to resolve. In instances of trademark infringement and copyright piracy (which fall under criminal action), damages are frequently granted; this is not always the case in patent suits.

Just as in other nations, the Indian government files criminal complaints; though, most of the time, these are the result of complaints made by property owners to magistrates or police authorities. Infringers facing criminal charges face the possibility of far penalties, such as fines and jail time. Negotiation or mediation with the infringer might also be a successful alternative dispute resolution process. A formal mediation procedure is provided by the Civil Procedure Code.²

INTELLECTUAL PROPERTY LEGISLATIONS IN INDIA

In India, there are multiple types of intellectual property rights that safeguard different kinds of creative and innovative works in their original forms. They are as follows:

- The Copyright Act³ provides protection for original works of literature, drama, music, and art, as well as audio recordings and motion pictures.
- The Trademarks Act⁴ provides protection that helps businesses identify and set themselves apart from one another through the use of names, marks, and logos.
- The 1970 Patent Act, as modified in 2005⁵: This offers valuable and novel innovations including products, and provides temporary protection.

² <https://Assets.Publishing.Service.Gov.Uk/Media/6297762dd3bf7f036750b01f/IP-Rights-In-India.Pdf>

³ The Copyright Act, 1957 (14 Of 1957)

⁴ The Trade Marks Act, 1999 (47 Of 1999)

⁵ The Patents (Amendment) Act, 2005 (No. 15 Of 2005)

- The Geographical Indications Act⁶: This protects the name of a geographical area used to identify a product that originates in that area and has unique characteristics, as well as a brand that is exclusive to that area.
- The Integrated Circuit Layout Designs Act⁷ protects the original layout design of the integrated circuit.
- The Industrial Design Act⁸ protects items' visual designs that are not only functional but also aesthetic.
- The Plant Varieties Act⁹ provides protection for recently produced, reliable, and identifiable plant varieties.

CHALLENGES TO IPR IN THE SOCIAL MEDIA ERA

Protecting intellectual property rights in the social media age poses a number of challenges. Trade secret theft, copyright infringement, and trademark infringement are a few of these worries.

The Ease of Copying and Sharing Content

Social media sites have been designed in order to make it simple to share and distribute material. People can easily distribute text, video, and image content on social media platforms, frequently without giving credit or permission. Since sharing is so simple, there is a risk of widespread copyright infringement, which makes it harder for the original artists to manage how their work is distributed.

Example: A photographer posts an Instagram photo that is protected by copyright. Users are able to take screenshots, repost, or utilize the image without obtaining permission, which could result in unauthorized distribution and financial loss for the photographer.

User-Generated Content

The rise of websites and social media platforms like YouTube has enabled people to create and share their own material, known as user-generated content.

⁶ The Geographical Indications Of Goods (Registration And Protection) Act, 1999 (Act No. 48 Of 1999)

⁷ The Semiconductor Integrated Circuits Layout-Design Act, 2000 (Act No. 37 Of 2000)

⁸ The Designs Act, 2000 (Act No. 16 Of 2000)

⁹ The Protection Of Plant Varieties And Farmers' Rights Act, 2001 (Act No. 53 Of 2001)

User-generated content (UGC), which can include everything from original photographs and videos to memes and parodies, is what makes social media so powerful. Since UGC encourages innovation and community involvement, it also brings up significant IPR violations. For Example, If TikTok is well-known music in a video without getting the required permissions. This video may go viral, resulting in millions of views and illicit usage of the copyrighted music.

Jurisdictional Challenges

Social media networks function internationally and across national borders. This worldwide reach presents legal issues because of the wide variations in IPR legislation across different nations. Navigating a complicated network of international laws and treaties is necessary to enforce intellectual property rights (IPR) across legal systems.

Example: A social media network in the United States shares an unapproved video owned by a European corporation on its platform. To protect its rights, the business must comply with both American and European copyright regulations.

The Commercialization And Influencers

Many social media users, particularly influencers, generate revenue therefrom r content with sponsorships, advertising, and product placements. This commercial side poses additional IPR concerns, such as the unauthorized exploitation of copyrighted material for profit.

For example, an influencer might use copyrighted photographs without authorization in sponsored posts. The original inventors may not only lose money but also have their work connected with brands that they do not support.

Anonymous And Fake Accounts

Social media's anonymity or pseudonymity might make it difficult to enforce intellectual property rights. Infringers can quickly open new accounts to continue their actions after being reported or banned, making it difficult for copyright holders to track down and hold violators accountable.

For example, an anonymous Twitter user regularly shares pirated movies. Even if the account is suspended, the user can open a new account and continue infringing.

STRATEGIES TO PROTECT INTELLECTUAL PROPERTY RIGHTS IN THE AGE OF SOCIAL MEDIA

The rapid evolution of social media has presented both opportunities and challenges for safeguarding intellectual property rights (IPR). Here are extensive solutions for protecting intellectual property rights in the age of social media:

Technological Solutions

Automated Content ID Systems

Use advanced content identification systems like YouTube's Content ID, which checks uploaded content for matches against a database of copyrighted works. Rights holders have the authority to establish guidelines for matches, including those pertaining to removal or monetization.

Digital Watermarking

To trace illicit usage and establish ownership, add invisible markers to digital information using digital watermarking.

Reverse Image Search Tools

To find instances of unlawful use of photos and graphics on social networking sites, make use of reverse image search tools.

DMCA.com

Tools for preventing and defending against online copyright theft are available at DMCA.com. In the event of a theft, DMCA.com provides a full-service takedown solution, promising to remove illegally stored content from a website regardless of the location of the infringing website. To prevent content thieves from taking your work, display a DMCA badge¹⁰ on your website. If a badge is used to safeguard your content and it is stolen, DMCA.com will remove it at no cost to you. Moreover, DMCA.com safeguards your photos by including a watermark with your company brand and copyright details.

¹⁰ <https://www.practicalecommerce.com/15-tools-to-protect-content-from-theft-plagiarism>

Google Alerts

It is a user-friendly, free search alert tool that summarizes activities related to search phrases through automated messages. Enter a sample of your content and choose whether you want alerts to be sent out daily, weekly, or as soon as something happens to trigger an alert when your content is stolen. Make as many alerts as necessary.

Decentralized Ledgers

Utilize blockchain technology to build an unchangeable, transparent ledger of transactions pertaining to intellectual property ownership. This makes it easier to trace the origin and application of digital content.

Smart Contracts

Make advantage of smart contracts to automate license arrangements and guarantee that content creators are paid fairly each time their work is used.

Proactive Monitoring and Enforcement

Social Media Monitoring Tools

To keep tabs on how intellectual property is used across platforms, make use of social media monitoring tools. In real-time, these tools can assist in detecting unlawful use.

Journal of Legal Research and Juridical Sciences

Manual Searches

Make sure your content isn't being used without authorization by regularly conducting manual searches for it.

Developing Robust Policies

Clear Guidelines

Social media platforms should develop clear guidelines regarding IPR and communicate them effectively to users. This includes explaining what constitutes infringement and the consequences of violating IPR.

User Agreements

Update user agreements to include clauses that require users to respect intellectual property rights and agree to the platform's enforcement mechanisms.

LEGAL STRATEGIES

Copyright registration

Having your work registered with the copyright office can make it simpler for you to enforce your legal rights. Legal evidence of ownership can be obtained by registering your work with the copyright office.

The Digital Millennium Copyright Act

It protects content producers from unauthorized infringement, in part through the notice-and-takedown system, which allows copyright holders to notify online service providers about infringing material so that it can be removed. After you've contacted the offending website and asked the staff to remove the content, notify the host, who provides a DMCA¹¹ notice form for hosted WordPress.com sites.

Lawsuit

Abstain and Withdraw Letters

As a preliminary step toward taking legal action, send cease and desist letters to violators. This frequently results in the removal of illegal material without the need for legal action.

Litigation

Be ready to bring a lawsuit to stop recurring or well-known infringers in order to establish a precedent and discourage behavior.

¹¹ THE DIGITAL MILLENNIUM COPYRIGHT ACT OF 1998

WAYS TO RAISE AWARENESS ABOUT IPR

Educational Initiatives

IPR Education Should Be Included in Curriculum

Include IPR-related subjects in school, college, and university curricula. This can be accomplished by taking specialized classes or modules within already-existing disciplines like business studies, law, and the arts.

Workshops and Seminars

To inform students, teachers, and budding entrepreneurs about the value of intellectual property rights (IPR) and the procedures involved in obtaining rights, educational institutions should regularly host workshops, seminars, and webinars.

Outreach using social media and Digital Platforms

Use of Social Media

Share information, success stories, and updates about IPR on social media sites like Facebook, Instagram, LinkedIn, and Twitter. Learning about IPR may be made more interesting with the use of interactive materials like films, infographics, and quizzes.

IPR-specific websites and applications

Provide thorough information about intellectual property rights (IPR), including how to register, protect, and enforce them, via specialized websites and mobile applications.

Community Outreach

Local Community Programs

To inform artists, craftspeople, and small business owners about the advantages of safeguarding their intellectual property, hold IPR awareness events at the local community level, particularly in rural areas.

Use of Local Languages

To reach a wider audience, make sure that IPR awareness activities and materials are offered in a number of local languages.

Collaborating with Influencers and Prominent Opinion Leaders

IPR Ambassadors

Collaborate with opinion leaders and influencers to serve as IPR ambassadors, educating their audience about the value of intellectual property protection.

Collaborative Content

Work with influencers to produce educational content that informs their audience about intellectual property rights and best practices.

Campaigns on social media

Start campaigns on social media to inform users about the value of upholding intellectual property rights and the moral and legal ramifications of infringement.

Providing Resources

Online Portals

Establish online portals that include information on how to register, safeguard, and enforce intellectual property rights, along with FAQs, tutorials, and instructions.

Helpdesks And Hotlines

Create help desks and hotlines to support people with questions and concerns about intellectual property rights.

CONCLUSION

The era of social media offers intellectual property rights tremendous opportunities as well as significant obstacles. Although social media platforms' widespread usage and accessibility of content sharing make intellectual property rights enforcement more difficult, these issues can be addressed using a mix of technological, legal, educational, and policy-based solutions. We

can establish an inventive digital environment that supports creativity and innovation while safeguarding the rights of creators by promoting a culture of respect for intellectual property and utilizing advanced technologies.

