



The Challenges of Enforcing Intellectual Property Rights in the Digital Age.

ADITI MITTAL
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Under the Guidance of

Dr. Jyoti Panchal Mistri

Faculty of Law (SAGE UNIVERSITY)

Abstract

Digital technology has grown quickly and it has changed how intellectual property is created, shared, and enforced. Digital platforms have made it easier for people to access and share creative works but they also allow infringement to happen on a large scale. The Internet crosses national borders, people can share without showing who they are and content often spreads through various platforms, current intellectual property laws do not cover many situations that now come up in practice. This paper looks at the main difficulties in enforcing intellectual property rights in the digital age, focusing on how Indian law deals with those issues. This paper reviews the international framework set out in the TRIPS Agreement and other treaties and also the main gaps in enforcement of intellectual property rights.

Keywords: Intellectual Property, Digital Infringement, Enforcement, India, TRIPS, WIPO

Introduction

In knowledge based economics, intellectual property rights are of great importance as they provide creators and inventors legal protection for new ideas, which can encourage creative work, research, and financial support. In earlier time, enforcing these rights was largely linked to tangible goods and the legal framework of specific territories. The shift from analogue to digital ways of producing and sharing work has changed this framework in many ways. Digital platforms allow intellectual property to be copied instantly and shared worldwide at little to no cost. One unauthorised upload can reach millions of users in various countries within seconds. As pressures have grown, traditional enforcement tools have become harder to apply in practice. In developing nations such as India, where internet access and digital use are growing quickly, enforcement becomes especially difficult.

This paper analyses the legal issues and practical challenges of enforcing intellectual property rights in the digital age. It examines and compare India's domestic legal framework with international intellectual property regime.

This paper also review whether the current legal mechanisms are sufficient to address modern digital infringements.

Key Challenges

1. **Ease in Copying the Digital Content:-** One of the main problems with intellectual property rights in the digital world is how easy it is to copy digital content. Unlike physical goods, digital works can be copied infinitely without any loss in value. Things like music, movies, programs, e-books, and art can now be shared across the world instantly and very cheaply. Easy copying undermines the protection IP laws offer, leading to considerable financial losses for creators.

2. **Jurisdictional Limitations:-** Intellectual property laws apply locally, but digital infringement crosses borders. An infringing act can begin in one country and can cause damage in several places at once. Different national laws, enforcement, and court's speed create loopholes for infringers. The absence of consistent intellectual property laws worldwide complicates enforcement.
3. **Digital Piracy and Copyright Infringement:-** Digital piracy remains a threat to copyright. Streaming sites and peer-to-peer networks allow access to copyrighted material without permission. Even with laws and removal processes, content that infringes often resurfaces elsewhere. Because of internet anonymity, finding those who infringe is hard.
4. **Rapid growth of AI generated works:-** AI shows various intellectual property concerns. AI can create music, art, writing, and inventions with very little human input. This brings up important legal questions about who created something, who owns it and how original it is. Current IP laws often favour human creators, creating questions about the protection of AI-generated content and who owns the rights.

International Legal Framework

TRIPS AGREEMENT

Under the TRIPS Agreement, each WTO member must meet the minimum requirements set by the agreement for the protection and enforcement of intellectual property rights.

It requires member states to make civil and criminal remedies such as injunction and penalties available for the cases related to infringement of intellectual property rights.

TRIPS was drafted at a time when digital infringement was still an emerging issue. Although the enforcement provisions are broad, they do not expressly address issues such as online anonymity, infringement through intermediaries, or the cross-border distribution of digital content. Enforcement depends largely on how the measures are implemented under domestic law.

WIPO TREATIES

The WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) were created to handle copyright and related rights issues in digital networks.

India's decision to join these treaties shows its intent to update and strengthen its copyright laws. However, treaty obligations by themselves do not ensure that enforcement will occur in practice unless they are backed by capable domestic institutions and adequate technical capacity.

India's Legal Framework in relation to digital infringement

Copyright Act and Information Technology Act

- The Copyright Act, 1957, serves as the main legal framework for protecting digital works in India. It gives authors various rights and offers legal options and penalties for the cases of infringement. Recent amendments have extended protection to digital formats, but enforcement remains uneven.
- The Information Technology Act, 2000 also addresses cyber offences and regulates intermediary liability. Section 79 provides for intermediaries with conditional immunity for content posted by others, provided they exercise due diligence and adhere to takedown requests.

Need for Legal Reform and Policy Adaptation

India needs to pursue a balanced approach to manage the challenges that intellectual property rights face in the digital age.

Key measures include:

1. Updating intellectual property laws is important to address works created by artificial intelligence.
2. It is important to strengthen cyber enforcement mechanisms.
3. Strengthening global collaboration would be a vital step.
4. The law should place more responsibility on digital platforms.
5. The use of technology, specifically digital watermarking and automatic systems for detecting content can help in strengthening enforcement of rights related to intellectual property.

Conclusion

Digital technologies have changed the setting in which intellectual property rights are created, used, and enforced. Technology has expanded innovation and cross-border access, but it has also revealed serious gaps in traditional intellectual property frameworks. Digital piracy, artificial intelligence, jurisdictional limits, and online counterfeiting expose gaps in current laws.

A balanced and flexible approach is needed to protect creators' rights while ensuring that technological progress and public access are not restricted more than necessary.

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