

Basic Concept of Intellectual property Rights (IPRs)

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Abstract: Intellectual property Rights (IPRs) is protected by different systems of laws. Journals must choose a definitive form of systems. Some Blackwell journals use copyright system and some Blackwell use license from authors. Now a days online journals are using creative common licenses. Under creative common license journals are open access, allowed to download, copy, distribute, and display derivative works with proper attribution to author or owner for noncommercial purpose at a free cost. Education on IPRs will support to comprehend ones rights, professional code of conduct and the doctrine of "fair use" in publication. One cannot do anything with once writing. Researchers, academic, editors and readers must have the basic knowledge on who owns the rights in a publication and what users can do with the publication by law.

Key words: IPRs, publication ethics, copy rights

Introduction: Journals are protected by intellectual property Rights (IPRs). Therefore, journals are required to implement a system of law of IPRs that is best ensembles their philosophy and purpose ¹. Some Blackwell journals use copyright system where authors need to surrender their rights to publishers to reproduce and distribute for commercial purpose for a period of time ². Other Blackwell journals use creative common license from authors, where authors permit to publishers to reproduce and distribution of their work at a free of cost if their work is properly cited. Most of the online open-access journals are under creative commons licenses ¹.

According to Bethesda Statement, in Open Access Publishing system, all published works in

open access journal are freely available to anyone; anyone can copy, distribute, and display the work at a free of cost for noncommercial purpose provided proper attribution to authors. Violate of copyright / license is illegal and subjected to imprisonment ².

Education on IPRs will assist anyone to understand professional code of conduct and their rights and prevent everybody from embarrassment.

Definition: "Intellectual property rights (IPRs) are legal and institutional devices to protect creations of the mind" e.g. inventions or innovations ³. Any artistic works (music, art, video and literature), discoveries or inventions of symbols, designs, monograph, words, axioms, and expression

are protected by IPRs⁴. Researchers or the inventors can get incentive in return of their investment of knowledge by IPRs through Patents, copyrights, trademarks etc.⁵

Copyrights is denoted as ©. Copy rights sign is followed by year and the name of the owner. Example: © 2011 John Doe. Creative Commons attribution is denoted as CC BY. e.g, CC BY 2011 John Doe².

“IPRs have been justified on basis of both consequentialist approach and rights-based grounds in order to appreciate their importance intellectual works in return of monetary benefit for sustainable economic growth and development of the global economy”³.

Classification of IPRs: IPRs can be classified in to patent, copy rights, license, trade mark, trade dress and trade secret. Non-material objective e.g. ideas, inventions and procedures are protected by patent law whereas material objects e.g. publications, literature, music, arts, film are protected by copyrights. The words, names or symbols are protected by trademark law and business information e.g. customer lists is protected by trade secret law⁶.

Patent: “A patent is a form of rights to an inventor granted by the government to gain material benefits from an invention for a limited period of time”³. It provide protection to owner of invention not to exploit by other to copied, sale, use, offer for sale, or import without authorization of the owner of the patent for 20 years of time⁷.

Although patent rights was evident in Sybaris, an ancient city of Greece but the first came in statutory as Venetian Patent Statute in Vanice in 1450 to protect industrial innovation⁴.

First, an inventor need to apply provisional or short term patent giving the outline of the tentative invention at the concept stage to restrict other to use the innovation. Then they need to apply again to complete application within one year period from the date of the provisional application after completion of the work to claim the rights to the innovation. Work is scrutinized and approved upon final application⁸.

Patent are three type e.g. utility patents, design patents and plant patents⁹.

Utility patent or rights: It is granted the rights of material benefits to the inventor for novel procedure or functionality of a product. Utility patent protects working of a machine even in improvement than previously designed product⁹.

Design patent or rights: It is the rights to inventors of material benefits who discover a new industrial design or product (e.g. shape, configuration or color, or two- or three-dimensional pattern, composition of pattern)⁹.

Plant Patent: It is the rights of material benefits of an inventors to discover some new variety of plant⁹.

Copyright: Copyright law protects the intellectual creation of original author of mass communication e.g. publication, literature, music,

arts, film to prevent from other to reproduce/ distribute/ sale/ rental/ leasing/ lending in the form of copies, phonorecords to the public without authorization of original author ⁷.

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Work for hire: When a work has been done within the opportunity of employment or commissioned for a specific project, the constructed work is belonged to the employer not for the writer ⁹. Therefore, in "works for hire", employee is the author ², e.g. "comedy writer of the David Letterman Show writes many jokes for the monologue. The jokes are the property of the employer, not for the comedy writer because they were written within the scope of the writer's employment. The writer does not own the copyright to those jokes" ⁹. In entertainment industries and ghostwriting arrangements in pharmaceutical companies the "work for hire" are very common. In a freelance situation work for hire" are also seen when the authors are commissioned for a specific work, e.g. presidential speech, news of a newspaper etc⁶.

Time: Date of the copyrights automatically start when the intellectual work is first fixed in a copy or phonorecord and ends till author's death plus an additional 70 years after the author's death. Copies are material objects e.g. books, articles, music, photograph, film, videotape, or microfilm. "Phonorecords" are cassette tapes, CDs, or vinyl disks ⁶. Duration of copyrights for "works for hire" last for 75 years from the date of first publication or 100 years from the date of creation⁶.

License: Copyright says who "owns" the rights in a publication but the license says what users can do with the publication. License are two types e.g. a restricted or open license, Open Access (OA) license says that the article can be reused for any

purpose without asking permission. Publisher can choose what license they want to publish.

Trademarks: Trademark is a sign, which indicates the products of a specific trader and distinguishes from parallel products of other traders⁷. Trademarks was existed date back 3,000 years ago, when Indian craftsmen exported their artistic product to Iran engraving with their signatures. It had only had the identity of the originator of the product but did not have economic importance in that time ⁷. However, with the growing of trade, the Paris Convention denotes a trademark by registration to distinguish the goods from their competitor's goods. Over one hundred and fifty states are the signatory of the Paris Convention ⁷.

Trade dress: Trade dress are the physical appearance, 'packaging, trade policy, marketing techniques, advertisement themes" of a products to distinguish from other similar product that prevent the consumers from buying similar products⁴. For example, chocolate packet, magazine cover, chain of Mexican/ Chinese style restaurants. Similar appearance may cause the confusion to public and it is subject to infringement of trade dress⁴.

Trade secrets: For economic growth of the business over competitors and customers sometimes formula or practice or information is kept secret from public is considered as trade secret. Trade secret is not protected by law, business shall have own methods to guard its own trade secrets e.g., Formula of Coca-Cola, KFC recipe etc ⁴.

Difference between copyrights and patent: 7

Patent	Copyrights
Patent protects new and useful inventions	Copyright protects authorship of literary, musical and dramatic work.
Patent are science-based protections	Copyrights are arts based
New, useful and non-obvious.	Authorship must be original and real medium.
Rights is not confer unless apply	Copyright begins when work is created
Patent provides protection for 10-20 years from the date of application.	Copyright is issued to the author until his/her life plus 50-70 years.
Patent is much difficult as the checking process of invention is lengthy and costly.	A copyright is easy and less complicated.

Conclusion: Intellectual property Rights (IPRs) are protected by different systems of law. Journal should choose one form of licensing system that are the greatest benefit for their purpose and ethos. Journals should have policy of IPRs to

protect from plagiarism. This ethics education on IPRs will help to understand ones rights, codes of conduct in profession writing and the doctrine of fair use in publication. One cannot do anything with once writing. Research, academic, editors

and readers must have the basic knowledge who owns the rights in a publication and what users can do with the publication by law to prevent embarrassment and harassment.

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