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Computer Programs Copyright And Need Of "Adequate" Intellectual Protection

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Abstract

Scientific and technological knowledge is built up over time, the advancement of scientific and technological knowledge is dependent on the timely and widespread disclosure of new findings, which allows them to be quickly discarded if they are found to be unreliable, or confirmed and brought into productive collaboration with other bodies of reliable knowledge. Traditional intellectual property protection for computer programmes was provided by copyright rather than through patents. The law of copyright, which was originally intended to protect literary property, has now been extended to cover other forms of artistic expression. Besides providing protection against unauthorized duplication of books, the Act also faces new and unexpected difficulties as a result of the rapid speed of technological progress. As India's social well-being and economic development progresses, the software industry in general and software services in particular will play a major role. No matter how big or little it is Indian's software industry has been a vital force in the spectacular expansion of computer software. A computer programme is an example of an intellectual work that does not fall within the standard types of intellectual property protection. On top of all this, it has been suggested that widespread Internet use and digitalization of information have led to the death of copyright protection for computer programmes.

Keywords: intellectual, protection, computer, program, copyright, etc.

1. INTRODUCTION

Scientific and technological knowledge is built up over time, the advancement of scientific and technological knowledge is dependent on the timely and widespread disclosure of new findings, which allows them to be quickly discarded if they are found to be unreliable, or confirmed and brought into productive collaboration with other bodies of reliable knowledge. To put it another way, wealth accrued via the use of information inherently implies the presence of a legal framework that protects non-material property rights and comparable legal positions; the related 'titles' derive from

and are governed by intellectual property law [16, 18]. Innovation can be both sequential and complementary at the same time. The term "sequential" refers to the fact that each succeeding invention builds on the previous one. For example, the Lotus 1-2-3 spreadsheet, which is based on VisiCalc, and Microsoft's Excel, which is based on Lotus, is complementary in that each potential innovator pursues a different research path, increasing the overall likelihood that a specific goal will be achieved within a specified time frame. Incentives for innovation and competition are inextricably linked. The level of competition in the market is critical in terms of providing an incentive to innovate. The nature and subject matter of computer programmes play an important influence in determining which type of intellectual property protection is most suited for them. Software differs from earlier inventions in that it is a functional hybrid that can be read by both computers and people in a variety of formats, and that it has a unique mathematical structure that can be copied at no cost. Furthermore, it is the functionality of the computer programme, rather than its manner of representation, that distinguishes it as being valuable. Another protection is whether certain parts of computer programmes, such as menu command hierarchies in the user interface, have sufficient uniqueness and ingenuity to be protected by a patent grant. As a result, whatever level of protection is devised in the case of software cannot ignore the special nature of software applications [15].

Traditional intellectual property protection for computer programmes was provided by copyright rather than through patents. Graphic works, such as the screen displays of the user interface, fall under the jurisdiction of copyright, whereas operational procedures, such as the command hierarchies in the menus of the user interface, may fall under the jurisdiction of intellectual property law [16]. Patent law [19] could not be applied to computer-related inventions according to conventional thinking, according to experts. Even in the United States, it was a contentious issue. However, it has now become widely accepted that computer-related inventions are valuable tools, and that patenting them does not intrinsically exclude the patenting of abstract concepts, mental activities, or mathematical operations. It is widely acknowledged that technological advancement [13], the promotion of which is the direct goal of the patent system, has most likely been the most important determinant of economic progress throughout history. This does not imply that the problem has been resolved. Different points of view have evolved in the global debate over whether software patents are beneficial or detrimental to the growth of the software industry. Because of this, the software industry lobbies for improved protection of software's characteristics that make it valuable but are not protected by copyright, which would in turn encourage innovation by assuring investors of their profits and ensuring economic growth. Organizations such as the Free Software Foundations (FSF) and the League for Programming Freedom (LPF) have, on the other hand, spoken out against software patents in their respective fields [15].

2. THE DEVELOPMENT OF TECHNOLOGY THAT TRANSFORMING THE PROPERTY

Increased debates over the emergence of a new form of economy, characterized by a shift away from tangible physical assets and toward intangible goods such as knowledge and information, have resulted from major structural changes driven by globalization as well as information and communications technology [13]. When the Industrial Revolution began, the fortunes of great businessmen like Pullman, Carnegie, and Morgan were based primarily on the accumulation of 'physical capital,' which included tangible assets such as railroads, oil, and real estate. Knowledge capital, rather than monetary capital, serves as the engine of modern economies such as Apple, Microsoft, and IBM, which are fueled by knowledge capital rather than physical capital. In the modern economy, knowledge is not only a source of power, but it is also a source of profit. Peter Drucker is correct in stating that "information is and will continue to be the fundamental economic source." Every legal system develops laws governing the possession, holding, and protection of property. It is necessary to give proper meaning to property in law to achieve these goals, and this meaning must be derived from the socioeconomic-political context in which it is situated. Locke considers the right to property to be the supreme inherent right of man, as well as a constraint on the power of the state. This state of nature was controlled by a natural law that compelled men to recognise that all humans were equal and independent, and that no one should injure another in his or her life, health, liberty, or property. Hegel considered property as a "necessity for the expression of man's personality," but Bentham regarded property as "the basis of man's expectations, which he enjoins on the government not to upset if it wishes to foster social pleasure." To be more specific, the right to property is an incentive that encourages man to work hard and be prudent. Consequently, the state should ensure that man is entitled to the fruits of his labour, not only to satisfy the demands of natural justice, but also to stimulate economic growth as a result of this assurance. The advancements in science and technology have had an impact on our understanding of what it means to be a property owner.

Intellectual property, in its most literal definition, refers to the things that are created as a result of the operation of the human brain. In other words, it is the outcome of a human being's intellectual labour, which involves the visual representation of a mental thought, the work of both the brain and the hand, and the effort of both. Keep in mind that there is a fundamental difference between intellectual property and the rights associated with that intellectual property. The term "intellectual property" refers to anything derived from the workings of the human brain, such as ideas, concepts, inventions, stories, and songs, among other things, whereas the term "intellectual property rights" refers to those aspects of the topic that are afforded some level of legal protection [18].

3. COMPUTER PROGRAMS: COPYRIGHT

The law of copyright [19], which was originally intended to protect literary property, has now been extended to cover other forms of artistic expression. Besides providing protection against unauthorized duplication of books, the Act also faces new and unexpected difficulties as a result of the rapid speed of technological progress [13, 17]. New technical advancements are pushing the boundaries of what comprises these assets, culminating in the acknowledgment of novel kinds of intellectual property as legitimate assets. Programs written in computer languages are one of them. Photographs, films, broadcasts, and sound recordings, as well as computer programmes and works stored in or generated by or with the use of a computer, are now included under the umbrella term of copyright, which also includes works stored in or produced by or with the aid of a computer. Copyright has been identified as the primary means of providing legal protection for technology advancements in recent years [14]. The enactment of the Copyright (Computer Software) Amendment Act, 1985, which revised the Copyright Act, 1956, is credited with the protection of computer programmes under copyright law in English law [19]. Despite the fact that computer programmes were not included in the 1956 Act, they were nonetheless deemed to be protected by copyright. H. Laddie proposed the following: "The 1956 Act defines a 'literary work' as one that is expressed in writing or in other notation on a sheet of paper and that is a computer programme. The work will be considered "original" if it was created as a consequence of substantial independent skill or valuable labour, and it will be eligible for copyright protection "..... Even the judicial rationale in favour of copyright protection for computer programmes has been signed by the court.

3.1 Computer Program for Broadening the Scope of Copyright Protection

A computer programme is made up of both programme text and programmebehaviour, and as a result, it contains both literal and non-literal elements, such as the program's source code and object code - a set of instructions that ensure that the computer hardware performs certain functions - as well as non-literal elements such as the structure, sequence, and organisation of software elements, or the "look and feel" of a computer programme, interfaces, and interface specifications (component algorithms). The average computer user has little or no contact with the literal elements, but is certainly interested in what he will see on the screen, i.e. the look and feel or the user interface of a programme, which in turn determines how easy the programme is to use, and this will have a significant impact on its popularity and subsequent commercial success. As a result, the program's behaviour is what makes it valuable. Copyright only protects the act of copying in its precise form. It is firmly established that the literal elements of computer programmes, such as the source and object codes, are eligible for copyright protection under intellectual property laws.

4. COMPUTER PROGRAMS NEED OF "ADEQUATE" INTELLECTUAL PROTECTION

Information is king in the Information Age. Because of its importance, information has become both a valuable resource and a production element. The process of creating and assembling information is a time-consuming one. The history of intellectual property is closely linked to the history of information technology, and vice versa. The question of intellectual property ownership is complicated by technological advancements, which make it so easy and convenient to transfer information. There is a need for change in intellectual property protection due to rapid and unprecedented scientific and technical advances. A growing dependency of business value on both financial assets and intangibles with quickly shifting valuations has also generated dangers for investors. Investments in information infrastructure, particularly information and network-based service enterprises, are influenced by intellectual property protection. Intellectual property and information technology due diligence are also becoming increasingly important in the context of company divestitures and acquisitions, as well as reorganisations. Also required is a strong Intellectual Property Rights System, which will improve circumstances for employing knowledge and information. As the software industry grew, huge amounts of time and money were given to the building of general-purpose applications, rather than software-made programmes [15]. This is due to the vulnerability of the medium to replication and the resulting threat of widespread copying and piracy, which makes protection vital.

5. NEW LEGAL REGULATIONS NEEDED FOR COMPUTER PROGRAM PROTECTION

As India's social well-being and economic development progresses, the software industry in general and software services in particular will play a major role. No matter how big or little it is Indian’s software industry has been a vital force in the spectacular expansion of computer software. The Indian software industry can be divided into two categories: the domestic market and the export market. When it comes to software exports, however, the Indian software industry is booming. Indian Software Industry's amazing success and phenomenal expansion have been attributed to a variety of factors.

One of the first causes for the emergence of India's software industry was the availability of scientific and technical staff at reasonable prices, in addition to a huge English-speaking populace. Some of the most prominent authors have called the Indian Software Industry a "island of competitiveness" citing good governance policies as their second most important factor. "The software [sector] illustrates the success of liberalisation after government investment in human capital building during the previous two decades of import substitution," they wrote when examining the significance of good liberal policy in business growth. Because of an industrial policy plagued with several issues, Indian industry in the 1960's and 1970's was shackled. According to Ron Hira and Anil Hira, this is one of history's most glaring examples of how planning, red tape, and over-protection can stifle innovation and economic growth.

Especially after 1984-85, India's current position is the result of a shift in its policy. Here's what you need to know about the changes before 1984, 1984-1990, and 1990 and beyond. A more accurate description would be "License Raj" from 1950 to 1990; economic reforms through privatisation from 1991 to 2001; and acceleration from 2002 to the present.

A computer program's legal protection globally, digital technology has become a part of everyday life. This fact alone illustrates the importance of the computer software and the importance of determining the appropriate legal protection for it in the first place. Legal protection is necessary for the software industry's continued growth and development, though. Significant expenditures in hardware and software manufacturing should be protected and encouraged by relevant rules. In addition to providing legal protection for computer programme creators against unauthorised use of their programmes [17], it is often required to govern the relationship between programme authors and users by law. As a result, computer programme transmission needs to be regulated. Because electronic commerce and the technological society based on the Internet [12] are so important, the production and use of computer programmes will continue to grow, therefore the question of their sufficient legal protection in Europe is highly current. In Europe, the copyright protection of the computer programme is questioned because of the economic power of the software industry in the United States (US) and their stated intentions to attribute patent protection to computer programmes as well. Conflict over legal protection can have a negative impact on investment decisions and the free flow of commodities in the market. If a computer programme is protected by a copyright or a patent, the competitive climate for improvements will be very different. Due to the fact that computer programmes are intellectual creations, the topic of legal protection in international and comparative law is uncontested. There is a consensus that the legal protection of computer programmes should fall under the umbrella of intellectual property law. Whether legal protection should be granted for computer programmes on the basis of patent rights rules or copyright provisions is up for debate.

6. CONCLUSION

One of the most significant parts of the knowledge economy, the software sector, is responsible for the invention of new and innovative products that are used in business and daily life, resulting in increased revenue, employment, and a strengthening of the national and international economy. It is difficult to imagine a more beneficial and ingenious invention than software. A computer programme is an example of an intellectual work that does not fall within the standard types of intellectual property protection. On top of all this, it has been suggested that widespread Internet use and digitalization of information have led to the death of copyright protection for computer programmes. Access to digital information is increasingly important from a social and

economic perspective, and a heated debate rages over whether computer programmes should be given strong or inadequate protection in cyberspace. In addition, Software piracy is a serious problem.

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