

INTELLECTUAL PROPERTY RIGHTS PART-1

After privacy, the most controversial ethical, social, and political issue related to e-commerce is the fate of intellectual property rights. Intellectual property encompasses all the tangible and intangible products of the human mind. As a general rule, in the United States, the creator of intellectual property owns it. For instance, if you personally create an e-commerce site, it belongs entirely to you, and you have exclusive rights to use this "property" in any lawful way you see fit. But the Internet potentially changes things. Once intellectual works become digital, it becomes difficult to control access, use, distribution, and copying. These are precisely the areas that intellectual property seeks to control.

TYPES OF INTELLECTUAL PROPERTY PROTECTION

There are three main types of intellectual property protection: copyright, patent, and trademark law.

The goal of intellectual property law is to balance two competing interests—the public and the private. The public interest is served by the creation and distribution of inventions, works of art, music, literature, and other forms of intellectual expression. The private interest is served by rewarding people for creating these works through the creation of a time-limited monopoly granting exclusive use to the creator.

COPYRIGHT: THE PROBLEM OF PERFECT COPIES AND ENCRYPTION

Copyright law- protects original forms of expression such as writings, art, drawings, photographs, music, motion pictures, performances, and computer programs from being copied by others for a minimum of 70 years.

Look and Feel- "Look and feel" copyright infringement lawsuits are precisely about the distinction between an idea and its expression.

Fair Use Doctrine - under certain circumstances, permits use of copyrighted material without permission.

The Digital Millennium Copyright Act of 1998

DMCA- the first major effort to adjust the copyright laws to the Internet age.

SECTION	IMPORTANCE
Title I, WIPO Copyright and Performances and Phonograms Treaties Implementation	Makes it illegal to circumvent technological measures to protect works for either access or copying or to circumvent any electronic rights management information.
Title II, Online Copyright Infringement Liability Limitation	Requires ISPs to "take down" sites they host if they are infringing copyrights, and requires search engines to block access to infringing sites. Limits liability of ISPs and search engines.
Title III, Computer Maintenance Competition Assurance	Permits users to make a copy of a computer program for maintenance or repair of the computer.
Title IV, Miscellaneous Provisions	Requires the Copyright Office to report to Congress on the use of copyright materials for distance education; allows libraries to make digital copies of works for internal use only; extends musical copyrights to include "webcasting."

Cyberlocker -an online file storage service dedicated to sharing copyrighted material illegally.

PATENTS: BUSINESS METHODS AND PROCESSES

"Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefore, subject to the conditions and requirements of this title." —Section 101, U.S. Patent Act

Patent- grants the owner an exclusive monopoly on the ideas behind an invention for 20 years.

In order to be granted a patent, the applicant must show that the invention is new, original, novel, nonobvious, and not evident in prior arts and practice.

E-commerce Patents

Much of the Internet's infrastructure and software was developed under the auspices of publicly funded scientific and military programs in the United States and Europe. Unlike Samuel F. B. Morse, who patented the idea of Morse code and made the telegraph useful, most of the inventions that make the Internet and e-commerce possible were not patented by their inventors. The early Internet was characterized by a spirit of worldwide community development and sharing of ideas without consideration of personal wealth (Winston, 1998). This early Internet spirit changed in the mid-1990s with the commercial development of the World Wide Web.

Selected E-Commerce Patents

- Amazon attempted to use patent originally granted to it in 1999 to force changes to Barnes & Noble's Web site, but a federal court overturned a previously issued injunction. Eventually settled out of court. In September 2007, a USPTO panel rejected some of the patent because of evidence another patent predated it, sending it back to the patent examiner for reconsideration. Amazon amended the patent, and the revised version was confirmed in March 2010.
- Google PageRank patent was filed in 1998 and granted in 2001. Became nonexclusive in 2011 and expires in 2017.
- Google issued a patent in 2010 for a method of using location information in an advertising system
- Apple applied for a patent in 2010 that allows groups of friends attending events to stay in communication with each other and share reactions to live events as they are occurring.