



Implementation and Impact of Intellectual Property Rights in Perspective of Bangladesh

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ABSTRACT

Intellectual Property (IP) eludes the formation of mind which relies on upon one's Intellectual Property. Intellectual Property Right (IPR) is a right that is owned by a man or by an organization to have select rights to utilize its own particular arrangements, thoughts, or other immaterial resources without the stress of rivalry, in any event for a particular timeframe. Patent, Copyright, Industrial Design Rights and Trademark are being utilized as a part of Bangladesh as Intellectual Property Rights. IP Rights gives security to one's Intellectual Property and shields one's elite advancement from illicit utilizations. It urges individuals to new advancements and guarantees the purchasers to get unique items. IP Rights serves to monetary and social improvements. Be that as it may, many individuals in Bangladesh are defying the IP Rights on account of shamelessness and obviousness about the implement impact of Intellectual Property Rights. Along these lines, we ought to make cognizant the general population of Bangladesh about the IP Rights. The legislature ought to find a way to secure Intellectual Properties and ought to make the IP laws more enforceable and ought to make simple the procedures of applying for IP Rights.

Keywords: Impact, Intellectual Property, Patents, Trademark, Copyright

1. INTRODUCTION

Intellectual Property (IP) is a legitimate idea which alludes to manifestations of the psyche for which exclusive rights are perceived. Under intellectual property law, proprietors are conceded sure selective rights to an assortment of elusive resources, for example, musical, literary, and aesthetic works; disclosures and developments; and words, expressions, images, and outlines. Basic sorts of intellectual property rights incorporate copyrights, trademarks, patents, industrial design rights, trade dress, and in a few words trade secrets. In the time of globalization and digitalization, the Intellectual Property Rights turns into a smoldering inquiry. Electronic media like the web make simple to duplicate one's intellectual property by another. The impersonation of intellectual property makes concern the creator of the new advancement. For securing the privileges of intellectual property copyrights, trademarks, patents, industrial design rights,

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trade dress, and in a few locales trade secrets facts are set up. This research is to examine on how the intellectual properties are uncovered and replicated, how the laws for securing intellectual property are executed and can be made more viable, and the effects of intellectual property rights.

1.1 History of Intellectual Property Rights

Although a number of the lawful standards administering principles governing intellectual property rights have advanced over hundreds of years, it was not until the nineteenth century that the term principles governing intellectual property started to be utilized, and not until the late twentieth century that it got to be distinctly typical in most of the world. The British Statute of Anne 1710 and the Statute of Monopolies 1623 are presently observed as the inceptions of copyright and patent law separately. Present day utilization of the term intellectual property backpedals at any rate the extent that 1867 with the establishing of the North German Confederation whose constitution allowed authoritative control over the assurance of intellectual property to the confederation. At the point when the managerial secretariats built up by the Paris Convention (1883) and the Berne Convention (1886) converged in 1893, they situated in Berne, furthermore embraced the term intellectual property in their new joined title, the United International Bureaux for the Protection of Intellectual Property. The association in this manner moved to Geneva in 1960 and was prevailing in 1967 with the foundation of the World Intellectual Property Organization (WIPO) by settlement as an office of the United Nations. As per Lemley, it was just now that the term truly started to be utilized as a part of the United States (which hosted not been a get-together to the Berne Convention), it didn't enter well known use until entry of the Bayh-Dole Act in 1980.

The historical backdrop of patents does not start with developments, but instead with regal allows by Queen Elizabeth I (1558–1603) for imposing business model benefits. Around 200 years after the ending of Elizabeth's rule, nonetheless, a patent speaks to a legitimate right acquired by a creator accommodating selective control over the generation and offer of his mechanical or logical development exhibiting the advancement of licenses from illustrious privilege to customary-law tenet. In 1818 accumulation of his compositions, the French liberal scholar, Benjamin Constant, contended against the as of late presented thought of "property which has been called intellectual." The term intellectual property can be discovered utilized as a part of an October 1845 Massachusetts Circuit Court governing in the patent case *Davoll et al. v. Brown*, in which Justice Charles L. Woodbury composed that "exclusive thusly would we be able to ensure intellectual property, the works of the brain, creations and interests are as much a man's own particular as the wheat he develops, or the groups he raises." The announcement that "disclosures are property" backtracks prior. Section 1 of the French law of 1791 expressed, "All new disclosures are the property of the creator; to guarantee the designer the property and

impermanant delight in his revelation, there should be conveyed to him a patent for five, ten or fifteen years." In Europe, French creator A. Nion said *proprieteintellectuelle* in his *Droitscivils des auteurs, artistes etinventeurs*, distributed in 1846.

As of not long ago, the reason for intellectual property law was to provide major security conceivable keeping in mind the end goal to support development. Truly, hence, they were allowed just when they were important to support creation, restricted in time and degreeJewish law incorporates a few contemplations whose impacts are like those of present day intellectual property laws, however the idea of intellectual manifestations as property does not appear to exist – eminently the rule of HasagatGe'vul (uncalled for infringement) was utilized to legitimize constrained term distributor (yet not the creator) copyright in the sixteenth century. In 500 BCE, the legislature of the Greek condition of Sybaris offered one year's patent "to all who ought to find any new refinement in extravagance."

1.2 Relevant Problems Identified

It is expected that there is a positive connection between both the IPR framework and development, and amongst advancement and financial development. Also, it is expected that the IPR framework positively affects, or if nothings else doesn't hinder financial development, thus generally impacts the societal monetary development. I discover two sorts of issues identified with licensed innovation rights - one is the danger to securing IPR and another is issues made by IPR:

1.2.1 The major problems/threats to Intellectual Property Rights are:

Piracy: (a) Piracy is the demonstration of illicitly replicating somebody's item or creation without authorization. (b) Piracy refers the unapproved utilization of another's generation, innovation, or origination particularly in encroachment of a copyright. Piracy is the significant risk for ensuring intellectual property. Books, music, programming, recordings are incomprehensibly pilfered in Bangladesh.

Internet Challenges: Some product, observing devices, treats, internet bugs are accustomed to checking and examining one's PC and catch, grabbing data from the PC by utilizing the internet. That improves robbery or replicating one's intellectual property.

Immorality: Immoral people distribute other's development or work as their own advancement or work. This issue is for the most part happening in writing and logical advancements like as new theory or formula.

The Tendency to make Profits: Some untrustworthy specialists duplicating or privateer the items without authorization of creator or designer for making

benefits. This inclination denies the first associations or innovators from the real benefits which they could acquire.

The Cost for IPR: In many jurisdictions, the IPR holder must bear the cost of upholding rights. This will more often than not include connecting with lawful representation, managerial and/or court costs. These expenses including time ought to be contemplated while assessing the advantages of upholding the rights.

Other than these issues the Intellectual Property laws in Bangladesh are not rich and solid. The current laws are not actualized legitimately. So the Intellectual Property Rights are broken numerous ways. Presently, Copying turns into a typical business in Bangladesh.

1.2.2 The problems created by the intellectual property rights are:

Monopoly Business: IPR helps the people to do monopoly business. By giving the majority of the control over an item to a man, IPR expands the cost of the item. For this reasons, many individuals get to be distinctly not able to buy the item and denied of the advantages of the items or administrations. For instance, the extravagant programming couldn't be utilized by the general population of slightest created nations.

Hindering's Development: Intellectual property rights upset the instructive and mechanical advancement of low financial and undeveloped nations. The first programming and books are expensive which are unendurable for needy individuals.

2. INTELLECTUAL PROPERTY RIGHTS

Intellectual Property Right is a right that is owned by a man or by an organization to have restrictive rights to utilize its own particular arrangements, thoughts, or other impalpable resources without the stress of rivalry, at any rate for a particular timeframe. These rights can incorporate copyrights, patents, trademarks, and trade secrets. These rights might be authorized by a court by means of a claim. The idea for intellectual property is to support development without the dread that a contender will take the thought and/or assume the acknowledgment for it. Here we discuss about the laws that are utilized in a part of Bangladesh for Intellectual Property Rights. The regular sorts of intellectual property rights utilized incorporate patents, copyright, industrial design rights, trademarks, trade dress, and in a few locales exchange insider facts.

Patents: A patent concedes innovator restrictive rights to make, utilize, offer, and import a development for a constrained timeframe, in return for general society exposure of the creation. An innovation is an answer for a particular mechanical issue, which might be an item or a procedure. The strategy for giving licenses,

necessities set on the patentee and the degree of the selective rights shift generally between nations as indicated by national laws and universal agreements. Regularly, be that as it may, a patent application must incorporate at least one case that characterizes the innovation. These cases must meet pertinent patentability necessities, for example, curiosity and non-conspicuousness. The elite right allowed to a patentee in many nations are the privilege to keep others from making, utilizing, offering, or dispersing the protected innovation without consent. The privilege is given to the proprietor of selective development for a long time.

Copyright: Copyright is a lawful idea, instituted by most governments, giving the maker of unique work selective rights to it, as a rule temporarily. By large, it is "the privilege to duplicate", additionally gives the copyright holder the privilege to be credited for the work, to figure out who may adjust the work to different structures, which may play out the work, which may fiscally profit by it, and other related rights. It is a type of intellectual property (like the patent, the trademark, and the trade secret) relevant to any expressible type of a thought or data that is substantive and discrete. Copyright may apply to an extensive variety of imaginative, intellectual, or masterful structures, or works. Specifics differ by locale; however, these can incorporate lyrics, proposals, plays, other abstract works, motion pictures, moves, melodic pieces, sound recordings, canvases, drawings, models, photos, programming, radio and transmissions, and mechanical outlines. Realistic outlines and modern plans may have independent or cover laws connected to them in a few locales. Copyright does not cover thoughts and data themselves, just the shape or way in which they are communicated.

Industrial Design Rights: An industrial design right is an intellectual property right that ensures the visual plan of items that are not simply utilitarian. A modern plan comprises of the making of a shape, design or organization of example or shading, or a mix of example and shading in three-dimensional structures containing a tasteful esteem. A modern outline can be a few dimensional example used to create an item, mechanical ware or workmanship.

Trademark: A trademark is a conspicuous sign, plan or expression which recognizes items or administrations of a specific source from those of others. The trademark proprietor can be an individual, business association, or any legitimate element. A trademark might be situated on a bundle, a name, a voucher or on the item itself. Trademarks are utilized to claim elite properties of items or administrations. A trademark might be situated on a bundle, a name, a voucher or on the item itself. The use of trademarks by its proprietor can bring about legitimate issues if this use makes him liable of false promoting or if the trademark is hostile. Trademarks can be claimed additionally authorized. Trademarks can be purchased from trademark proprietors and agents. For

instance, Banoful and Co. Ltd. is authorizing numerous providers as a licensee to trade by utilizing its name and logo.

Trade Dress: Trade dress is a legitimate term of workmanship that for the most part alludes to attributes of the visual appearance of an item or its bundling (or even the plan of a building) that connote the wellspring of the item to buyers. Trade dress might be enrolled with the United States Patent and Trademark Office (PTO) on either the Principal Register or the Supplemental Register. Despite the fact that enlistment is not required for legitimate security, enrollment offers a few points of interest. In the Principal Register, a registrant increases across the country valuable utilize and useful notice, which keeps others from utilizing or enlisting that registrant's trade dress (without challenging the enrollment).

Trade Secrets: A trade secret is a recipe, hone, prepare, outline, instrument, example, or gathering of data which is not by and large known or sensibly ascertainable, by which a business can acquire a monetary preferred standpoint over contenders or clients. In a few locales, such insider facts are alluded to as "secret data", however, ought not to be alluded to as "grouped data", because of the way of "characterized" in the USA. Above are the regular sorts of Intellectual Property Rights. Patents, copyright, industrial design rights, and trademarks are currently utilizing as a part of Bangladesh. The greater parts of the four rights are enlisted by DPDT (Department of Patents, Designs, and Trademarks.) in Bangladesh.

2.1 Implement and Impact of Intellectual Property Rights

Why Intellectual Property Rights or laws are set up? The expressed answer will be that the most intellectual property laws are set up for advancing advancement in development and rivalry. That quickens the modern haggle. The effects of protected innovation rights are as per the following:

Motivate the Individuals for new Creations: Intellectual property rights support people for new developments. IPR guarantees that the select creations of an individual won't be replicated without authorization.

Providing due Recognition to the Creators and Inventors: IPR gives the aggregate control over another development to its maker and grants to utilize innovator's name on the creation.

The Ensuring Material Reward for Intellectual Property: IPR has remunerated the intellectual property of a person. IPR gives the office to the innovator to do restraining infrastructure business of his select development or creation.

Ensure the Availability of the Genuine and Original Products: IP rights are encouraging the client or buyers to get/purchase the bona fide and unique items.

Maintaining Differentiation: Trademark, logo, simple etc. forth regular components of IPR are guaranteeing to separate an individual's or association's items from the contenders' items. Clients can without much of a stretch recognize the favored source's items.

Financial Incentive: The selective rights permit proprietors of intellectual property to appreciate profits by the property they have made and giving a budgetary motivating force to the formation of an interest in intellectual property.

Economic Growth: The WIPO settlement and a few related universal agreement are started on the thought that the securities of intellectual property rights are basic to keeping up financial development. IPR impacts the people to another creation that guarantee the general public to get new items, administrations, thoughts, speculations which will build the monetary development.

To Stop Copying: IP rights confine replicating other's plan, thought, item and behaviors business by duplicating other's intellectual property. That different one to new manifestations.

3. INTELLECTUAL PROPERTY RELATED LAWS ARE PREVAILING IN BANGLADESH

- The Patents and Designs Act -1911;
- The Trademarks Act – 2009;
- The Copyrights Act – 2000 (Amended in 2005).

In the perspectives of Bangladesh how the IP rights are defined and applied to the above Acts are:

A Patent is an elite right conceded for a creation, which is an item or a procedure that gives, by and large, another method for accomplishing something or offers another specialized answer for an issue. Under the Patents and Designs Act - 1911 licenses are allowed. Licenses give 16 years insurance from the date of documenting of the application. An Industrial Design is the elaborate or aesthetic part of an article. The outline may comprise of three-dimensional elements, for example, the shape or surface of an article, or of two-dimensional components, for example, examples, lines or shading. Modern outlines are ensured under The Patents and Designs Act - 1911. Enrollment of relegate is given for a long time. It could be re-established twice; every recharging stays legitimate for 5 years.

A Trademark is a particular sign which recognizes certain products or administrations as those created or gave by a particular individual or endeavor. The trademarks framework helps shoppers recognize and buy an item or administration on account of its tendency and quality, showed by its one of a kind trademark, addresses their issues. An enrolled trademark gives insurance to the proprietor of the check by guaranteeing the elite ideal to utilize it to distinguish products or benefits or to approve another to utilize it as an end-result of installment. In Bangladesh trademarks and administration, imprints are enlisted under The Trademarks Act-2009. Enrollment gives 7 years assurance; it can be restored like clockwork on an installment of restoration expenses.

Copyrights are ensured for unique intellectual work of writing, workmanship, music, programming, and so forth under the Copyrights Act – 2000 (Amended in 2005). Copyright exist up to 60 years after the demise of the copyright proprietor. These laws are not having any significant bearing unequivocally in Bangladesh for that piracy any duplicating are not be anticipated. Thus, the current laws in Bangladesh for ensuring protected intellectual property should be made more enforceable and relevant. The frameworks and conditions for applying IP rights ought to be simple and adaptable.

4. ANALYSIS

The information that are gathered are from different sources, categorized both for the sake of IPR and against IPR. For this paper, the greater parts of the sources are gathered for the sake of IPR. A large portion of the general population expresses their acceptance on the intellectual property rights. Creators, fashioners, business and modern business people, and different innovators specify that the IPR urges them to new advancement and provides security to their restrictive creation. The IPR that assists them to perform a long time imposing a business model and acquire a high/most extreme benefit for a specific timeframe. Little classes of individuals express their assessment against IPR in few cases. They are college understudies, some site proprietors, programming clients and a few shoppers. University students have said that it is not important to comply with the guidelines of IPR on account of books composed by outside writers for LDCs. Both University students and programming clients said that the international books and programming cost high value which is terrible for the general population of LDCs like Bangladesh. They said, in these cases, piracy ought to be allowed. Purchasers offer the data which is a restrictive item or the solely planned result of single proprietor needs high cost since they can impose business model business, if his item or configuration is replicated by others then the cost will be less. After the above examination, we can state that the intellectual properties of national individuals of a nation ought to be emphatically secured by implementing laws of IPR.

4.1 Positive Impacts of Intellectual Property Rights

Intellectual Property frameworks can be essential in helping new pursuits change their development potential and innovativeness into market esteem and intensity. Intellectual Property rights urge individual's development to secure their creations. Intellectual Property ensures more than only a thought or an idea – it secures authentic business resources that might be fundamental to the center administrations of the business and general long haul suitability. Intellectual monopoly may both increase and diminish advancement and contribute more incomes to those that are advance. Advancements by large expand on existing developments. While every individual trend-setter may acquire increasingly in the event that they have an Intellectual monopoly, different monopolists owning rights to existing developments. Impalpable resources speak to over 80% of Fortune 500 market esteem – and this pattern is developing all around. Subsequently, removing most extreme incentive from their intellectual resources is developing as a need for an ever increasing number of organizations. Intellectual property is a dynamic, requesting process. A proactive authorizing administration program is regularly basic to achievement. Expanded incomes, enhanced consistence, renegotiated contracts, more precise revealing, and now and again, new incremental pay streams. Licensed innovation legitimately keeping up the quality and guarantee the first items. Intellectual property rights (IP rights) are not naturally significant. Their esteem is the vital preferred standpoint picked up by barring others from utilizing the Intellectual property. To be profitable, exclusionary rights ought to be deliberately adjusted to business destinations. Without a key arrangement, might squander venture and missing chances to catch important market focal points. The most profitable IP rights are those that give an upper hand over contenders and assemble value in the brand. Regardless of whether items give exceptional usefulness, enhanced effectiveness or alluring style, the attractive esteem is in having brand perceived as the elite wellspring of these offerings.

4.2 Negative Impact of Intellectual Property Rights

- Cause of high price
- Affecting higher education of least developed countries
- Affecting the technological and medical development of LDCs
- Centralizing new innovation

The positive impact of IPR is more than negative effects. For ensuring the intellectual properties of a nation's and getting unique item intellectual property rights are must be obeyed even in remote items which must require keeping up defamed of designer/enlisted producer for enduring and well execution like Mobile handset. The costly remote item can be pilfered when it is important to the human advancement of a nation like Books and Software piracy.

5. RESULTS AND FINDINGS

Intellectual property rights are the center privileges of an innovator or creator or craftsman. Be that as it may, the mechanical improvement and other significant issues endlessly bother these rights from various perspectives. The rate of breaking IP rights in Bangladesh is high and it increments quickly. The arrangement of breaking IP rights is generally known as piracy. Bangladesh is in top position in the piracy of programming, music, recordings and books. The books of Bangladeshi writers are in for the most part not pilfered, but rather the books of the international writers are limitlessly pilfered. The majority of the university course books of advanced education are pilfered. Bangladesh is in the second position in programming robbery on the planet, 96% of its product are pilfered which showcase esteem is US\$167, Million. Music theft turns into a noteworthy risk for music ventures of Bangladesh. Music theft in Bangladesh causes misfortunes of US\$180 Million. Just 8% to 13% of the aggregate music showcase comprises of true blue deals. 85% course books in Bangladesh have pilfered for the most part the reading material for advanced education, in them, 89% are remote books. The market cost of these books is US\$650, Million. By the side of buyer/client areas including understudies, programming client, and others, the vast majority of them do not concur with intellectual property rights. From the study, I find that 51% of college understudies have bolstered the protected innovation rights on account of the reading material. Just 5% of programming clients bolster IP rights for forbidding programming theft where 99% programming clients are supporting programming piracy.

By the side of designers or lawful producer, every one of them bolster the intellectual property rights. They are informed that breaking of IP laws causes the enormous misfortune consistently. Craftsmen and creators verbalized that in light of the rupture of IPR, they couldn't get their normal criticism/benefits for that they endure much in their own life. Makers said that the unlawful utilization of their outline and trademarks and brand names causes to disable goodwill and diminishing the benefits. Musicians and music generation houses get just 44% of their normal benefits because of theft, consequently, parcel of music creation houses in Bangladesh are broke down in the most recent decade. Then again, exploitative people are illicitly utilizing the outline, name, trademarks and images of some notable organizations which influence the organization's' input, consumer loyalty and denied of their real getting and it denies clients of genuine items.

Intellectual property rights must be obeyed by all individuals of a nation. The breaking of IP rights is a reason for financial fall of any nation. The rate of rupturing IPR is high in Bangladesh which diminishes our monetary development and expanding dark cash in the nation. Intellectual property rights ensure people's selective advancement and their rights over the developments. IPR secure one's Intellectual work that empowers people for another creation, to produce new

thoughts and broadens individual's' Intellectual capacity. Intellectual property rights help to monetary advance and urge individuals to act as an ethical person. IPR ensures the privileges of creators, makers, providers, craftsmen, and purchasers of merchandise or administrations. IPR spares the clients from swindling. The laws of Intellectual property rights ought to be more enforceable in Bangladesh for the prosperity of the nation and the country.

6. CONCLUSION

The intellectual property is embroiled with individual's enthusiasm and also a nation's monetary, social and verifiable interests. In Bangladesh, the laws of intellectual property rights are not having any significant bearing and comply appropriately. Along these lines, the theft rate is high in Bangladesh. The administration of Bangladesh is focused on the security and so far as that is concerned to the requirement of the privileges of IP holders. With this end, it has embraced a few measures to reinforce the IP framework in Bangladesh. From one viewpoint, it has taken measures to fortify the IP Office; on the other, it has practically finished upgrading the current IP administering. Chip away at encircling IP laws on utility model and land signs have been embraced. In any activity to ensure and uphold the privileges of IP holders, the significance of open mindfulness and preparing of the authorities of the concerned division can scarcely be misrepresented.

The inclination of IP rights changes distinction cases at the same time, the advantages of IP rights are much and the security of intellectual property is a central right of a man. In this way, we ought to comply with the intellectual property rights and make them more enforceable. Bangladesh government ought to make appropriate strides for authorizing IP laws at any circumstance.

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