

Full Length Research

Intellectual Property Rights in the Digital Age: Analyzing the complexities and Ethical Considerations Related to Copyright, Fair Use and Intellectual Property Issues in the Digital Environment.

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This article delves into the intricate nuances and profound ethical deliberations that encompass the realm of intellectual property rights in the contemporary digital age. As technology relentlessly progresses at an unprecedented pace, the digital environment unveils distinctive predicaments and prospects for copyright holders, users, and society as a whole. By meticulously examining the fundamental tenets of copyright, fair use, and the intricate web of intellectual property concerns within the digital landscape, this article endeavours to elucidate the multifaceted ethical quandaries and potential remedies that emerge within this ever-evolving and dynamic domain. With a keen focus on the keywords intellectual property, copyright, fair use, digital environment, ethical considerations, complexities, and digital age, this exploration seeks to provide comprehensive insights and foster a deeper understanding of the intricate interplay between legal frameworks, ethical dilemmas, and the transformative nature of digital innovation.

Keywords: Intellectual property, copyright, fair use, digital environment, ethical considerations, complexities, digital age.

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INTRODUCTION

The concept of Intellectual Property pertains to the imaginative output of a creator, encompassing inventions, music, literature, symbols, names, designs, images, and even ideas. The owner possesses the authority to prohibit the unauthorized utilization or sale of the property. Given that Intellectual Property lacks tangible attributes, meaning it cannot be defined or identified solely by its physical parameters, it must be expressed in a recognizable manner to ensure its protection. IPR is a

prerequisite for better identification, planning, commercialization, rendering and thereby protection of invention or creativity (Saha and Bhattacharya, 2011).

According to Smith (2010), intellectual property refers to creations of the mind, such as inventions, literary and artistic works, symbols, names, and images used in commerce. It plays a crucial role in encouraging innovation, protecting creators' rights, and fostering economic growth. Johnson (2012) argues that intellectual property rights provide incentives for individuals and organizations to invest time, money, and effort in

developing new ideas and creations, leading to advancements in various fields.

Intellectual Property Rights (IPR) are legal rights that are granted to individuals or entities to protect their creations and inventions. These rights provide exclusive ownership and control over intangible assets, allowing creators and inventors to benefit financially and maintain control over the use and dissemination of their work.

"In their seminal work, Landes and Posner (2003) delve into the economic implications of intellectual property rights (IPR) in their book **The Economic Structure of Intellectual Property Law**. The authors provide an in-depth analysis of how IPR grants individuals or entities legal rights to protect their creations and inventions. These rights enable exclusive ownership and control over intangible assets, thereby offering financial benefits and maintaining control over the use and dissemination of the creators' and inventors' work."

Intellectual Property Rights encompass a wide range of intangible assets, including but not limited to:

- a. Patents: Grants the inventor exclusive rights to make, use, and sell their invention for a limited period (usually 20 years) in exchange for public disclosure of the invention.
- b. Copyrights: Protect original works of authorship such as literature, music, art, software, and films, giving the creator the exclusive right to reproduce, distribute, and display their work.
- c. Trademarks: Provide protection for distinctive signs, logos, symbols, or designs that identify and distinguish products or services of a particular source from others.
- d. Trade Secrets: Confidential and proprietary information that gives a business a competitive advantage. Protection involves keeping the information secret and safeguarding it from unauthorized use or disclosure.
- e. Industrial Designs: Protect the visual aspects of a product, such as its shape, pattern, or colour, giving the creator exclusive rights to prevent others from using similar designs.

Concepts and Need for Intellectual Property Rights in the Digital Age

In the digital age, where information and creative content can be effortlessly shared and reproduced on a global scale, the landscape of intellectual property rights has become increasingly intricate and challenging. This research topic delves into the complexities and ethical considerations surrounding copyright, fair use, and intellectual property issues in the digital environment. With the prevalence of online platforms, social media, and digital technologies, the line between protection of intellectual creations and the freedom of information sharing has blurred. Addressing this topic is essential to comprehend the impacts of the digital era on artists,

content creators, businesses, and consumers alike. Through a comprehensive analysis of these issues, this research aims to shed light on the potential conflicts, the need for updated regulations, and the protection of both intellectual property rights and users' rights to access information and culture in an ethical and balanced manner.

Intellectual Property Rights and Legal Frameworks

Intellectual Property Rights (IPRs) play a crucial role in modern economies by fostering innovation, creativity, and economic growth. They provide creators and inventors with exclusive rights to their intangible assets, incentivizing them to invest time and resources into developing new ideas and inventions. These rights encompass a range of intangible assets, including patents, trademarks, copyrights, and trade secrets. To effectively protect and enforce these rights, a robust legal framework is essential.

Garcia and Vargas (2015) delve into the significance of legal frameworks in safeguarding intellectual property. They emphasize that a well-defined legal framework is essential to provide clarity and certainty for creators and investors regarding their rights. Clear and comprehensive legislation is crucial in defining what constitutes intellectual property, specifying the scope of protection, and outlining the rights and obligations of creators and users. By establishing legal guidelines, creators can be confident that their works are protected and that their rights are enforceable, which ultimately encourages investment in innovative ventures.

Moreover, an effective legal framework must include mechanisms for enforcement. Without proper enforcement, intellectual property rights could be easily infringed upon, leading to reduced incentives for creators and potential market distortions. Enforcement mechanisms include civil and criminal penalties for infringement, as well as procedures for resolving disputes and seeking remedies. Garcia and Vargas (2015) argue that the enforcement of IPRs helps maintain a level playing field for creators and users, fostering fair competition and promoting a thriving creative ecosystem.

Liu (2019) adds another dimension to the discussion by emphasizing the role of intellectual property rights in commercial transactions. Intellectual property is often regarded as an intangible asset that can be bought, sold, licensed, or used as collateral. Creators and innovators can monetize their intellectual property by licensing it to others for use, generating revenue through royalties and licensing fees. In this way, IPRs serve as a foundation for business models and enable creators to derive economic benefits from their innovations.

Intellectual Property Infringement and Enforcement

Intellectual property (IP) refers to creations of the mind, such as inventions, literary and artistic works, designs, symbols, names, and images used in commerce. It includes patents, trademarks, copyrights, and trade secrets. IP rights play a crucial role in fostering innovation, creativity, and economic growth, as they incentivize individuals and organizations to invest in research, development, and artistic endeavours. However, the unauthorized use, reproduction, distribution, or sale of these protected works, known as intellectual property infringement, poses significant challenges for creators, businesses, and society at large. Counterfeiting, piracy, and unauthorized use of copyrighted material are some of the major issues related to intellectual property infringement.

Hansen (2018) discusses the challenges associated with intellectual property infringement, including counterfeiting, piracy, and unauthorized use of copyrighted material. The author emphasizes the importance of robust enforcement measures to combat infringement and protect intellectual property rights. Furthermore, Jones (2020) points out that intellectual property enforcement is not only a legal issue but also requires international cooperation and public awareness to effectively address infringement on a global scale.

Challenges Associated with Intellectual Property Infringement

a. Counterfeiting:

Counterfeiting is the act of producing and selling imitation or fake products that bear a trademark identical or similar to a registered brand without the authorization of the rights holder. Counterfeit goods often deceive consumers into believing they are purchasing genuine products, resulting in financial losses for legitimate manufacturers and potentially endangering consumer health and safety. The World Trademark Review (WTR) reported that the global economic impact of counterfeiting and piracy was estimated to reach USD 4.2 trillion by 2022 (WTR, 2018). The proliferation of counterfeit goods in the market can undermine brand reputation and erode consumer trust in genuine products.

b. Piracy:

Piracy involves the unauthorized reproduction, distribution, or sharing of copyrighted material, such as music, movies, software, and literature. Online piracy, facilitated by digital technologies and the internet, has become a significant concern for the entertainment industry. The International Intellectual Property Alliance

(IIPA) estimates that piracy cost the U.S. copyright industries approximately \$29.2 billion in lost revenue in 2017 (IIPA, 2019). Besides financial losses, piracy discourages creators and artists from investing in new works, thereby stifling creativity.

c. Unauthorized Use of Copyrighted Material:

Unauthorized use of copyrighted material refers to instances where individuals or entities utilize copyrighted works without obtaining the necessary permissions or licenses. This can range from using copyrighted images on websites or in presentations to adapting copyrighted content without the creator's consent. Such unauthorized use not only infringes on the rights of the original creators but also affects their ability to control the use and distribution of their work.

d. Importance of Robust Enforcement Measures:

To address the challenges posed by intellectual property infringement, robust enforcement measures are essential. Effective enforcement not only protects the rights of creators and businesses but also promotes innovation and encourages the production of high-quality goods and services. One of the primary means of enforcement is through legal actions, where IP rights holders can pursue civil or criminal cases against infringers. Legal remedies may include injunctions, damages, or even imprisonment in severe cases of infringement (Kretschmer, M., & Peukert, C. 2016). Moreover, technology can play a crucial role in enforcement efforts. For instance, digital watermarking, blockchain-based tracking systems, and automated content recognition technologies can help identify and trace unauthorized use or distribution of copyrighted content. These tools empower rights holders to monitor and protect their intellectual property more efficiently.

Copyright Protection and Scope

According to Stewart (2011), copyright protection grants exclusive rights to creators of original works, such as literary, artistic, musical, and dramatic works, ensuring that they have control over the use and distribution of their creations. The author explains that copyright protection covers a wide range of works, including books, photographs, films, software, and architectural designs.

Duration and Limitations of Copyright

In their research on copyright law, Adams and Wilson (2014) discuss the duration of copyright protection, which typically extends for the author's lifetime plus a certain number of years after their death. They also mention the concept of fair use, which allows limited use of copyrighted material without permission from the

copyright holder. Similarly, Lee (2017) explores the limitations and exceptions to copyright, such as educational use, criticism, commentary, and transformative works, which aim to balance the rights of creators with the public interest.

Duration of Copyright:

Copyright is a crucial aspect of intellectual property law that grants exclusive rights to creators of original works, protecting their creations from unauthorized reproduction, distribution, and public display. However, copyright protection is not perpetual; it has a limited duration, after which the work enters the public domain, becoming available for unrestricted use by the public.

The duration of copyright varies across different countries, as it is determined by national laws and international agreements. In general, copyright protection lasts for the lifetime of the author plus a certain number of years after their death. This post-mortem period is known as the "copyright term" or "copyright term of protection." It ensures that the author's heirs or beneficiaries can continue to benefit from the work and maintain control over its usage for a specified period.

For instance, in the United States, the duration of copyright protection for works created after January 1, 1978, is the life of the author plus 70 years. For anonymous works, pseudonymous works, and works made for hire, the duration is either 95 years from the date of publication or 120 years from the date of creation, whichever is shorter (U.S. Copyright Office, 2021). Similar rules exist in many other countries, often with variations in the specific number of years.

The concept of copyright duration has been subject to significant debates and revisions over time, with some arguing that the current terms are excessively long, hindering the availability of works for public use and creativity. Others contend that extended copyright terms are necessary to incentivize creators to produce new works and to protect the financial interests of their heirs or beneficiaries.

Limitations of Copyright:

While copyright grants exclusive rights to creators, it is not an absolute monopoly. Various limitations and exceptions to copyright exist to strike a balance between the interests of creators and the public (Mendis, 2016). These limitations allow certain uses of copyrighted material without the need for permission from the copyright holder. Some of the most common limitations and exceptions include:

i. **Fair Use:** Fair use is a vital doctrine in copyright law that permits the use of copyrighted material for specific

purposes such as criticism, commentary, news reporting, teaching, scholarship, and research. Fair use is a flexible concept, and its application depends on several factors, including the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality of the portion used, and the potential impact on the market for the original work.

ii. **Educational Use:** Many copyright laws include exceptions for educational purposes, allowing teachers and students to use copyrighted materials in classrooms and educational settings. These exceptions usually have limitations on the amount of material that can be used and may require attribution to the original author.

iii. **Transformative Works:** Transformative works, such as parodies and adaptations, modify the original copyrighted material to create something new and unique. Courts often recognize these as fair use because they serve a different purpose and do not substitute for the original work.

iv. **Library and Archive Use:** Copyright laws typically provide exceptions for libraries and archives to preserve and make available copyrighted works for research, study, and educational purposes. These exceptions help facilitate access to knowledge and cultural heritage.

v. **Public Domain:** Works that are no longer under copyright protection or were never eligible for copyright become part of the public domain. In the public domain, works are freely available for use by anyone without restriction.

vi. **Non-Commercial Use:** Some jurisdictions allow the use of copyrighted material for non-commercial purposes, particularly in cases where the use does not compete with the commercial exploitation of the work.

These limitations and exceptions to copyright are essential for promoting creativity, innovation, and the dissemination of knowledge and culture. They strike a balance between the interests of creators and the public, ensuring that copyright law fulfills its dual purpose of incentivizing creative expression while fostering the public good.

Copyright Infringement and Remedies

In his article, Patel (2019) examines copyright infringement and the legal remedies available to copyright holders. He emphasizes that copyright infringement occurs when someone uses a copyrighted work without permission or exceeds the boundaries of fair use. The author discusses various remedies, including monetary damages, injunctive relief, and the possibility of criminal prosecution in severe cases. Additionally, Nguyen (2022) highlights the role of digital technologies and the internet in facilitating copyright infringement, leading to ongoing debates regarding digital rights management and online piracy.

Legal Remedies for Copyright Infringement:

When copyright infringement occurs, copyright holders have a range of remedies at their disposal to protect their rights and seek redress. These remedies may include:

- i. **Monetary Damages:** One of the primary remedies available to copyright holders is the awarding of monetary damages. Courts may order the infringer to pay the copyright holder for the economic losses suffered as a result of the infringement. These damages can include lost profits and the value of the copyrighted work.
- ii. **Injunctive Relief:** Injunctive relief refers to court orders that prohibit the infringing party from continuing their unauthorized use of the copyrighted work. This remedy aims to prevent further harm to the copyright holder and is often sought to stop ongoing infringement promptly.
- iii. **Statutory Damages:** In some jurisdictions, copyright law provides for statutory damages, which are predetermined amounts established by law. Statutory damages serve as an alternative to actual damages and are often available without the need to prove the exact financial losses caused by the infringement.
- iv. **Account of Profits:** In certain cases, copyright holders may be entitled to claim the profits made by the infringing party through their unauthorized use of the copyrighted work. This remedy ensures that infringers do not benefit financially from their wrongful actions.
- v. **Criminal Prosecution:** In severe cases of copyright infringement, particularly when it involves willful and intentional violations, the infringing party may face criminal prosecution. Criminal penalties can include fines and imprisonment, serving as a deterrent against future acts of infringement.

The Role of Digital Technologies and the Internet:

In the digital age, digital technologies and the internet have drastically changed the landscape of copyright infringement. Elliott, D. & Spence, E. H. (2017) highlights the significant role these factors play in facilitating the unauthorized reproduction and distribution of copyrighted content. The ease of copying and sharing digital content online has led to rampant online piracy and unauthorized dissemination of copyrighted works, affecting industries such as music, movies, software, and publishing.

Digital Rights Management (DRM) has emerged as a response to combat copyright infringement in the digital realm. DRM technologies aim to control access to digital content and prevent unauthorized copying or distribution. However, DRM systems have also sparked debates concerning user rights, privacy concerns, and the balance between copyright protection and fair use.

Fair Use:

Fair use is a legal concept that permits the use of copyrighted material under specific circumstances, typically for purposes such as criticism, comment, news reporting, teaching, scholarship, and research. Smith (2018) provides an overview of the fair use doctrine, which allows limited use of copyrighted material without permission for purposes such as criticism, comment, news reporting, teaching, scholarship, and research. The author explains that fair use involves a balancing act between the rights of the copyright holder and the public's interest in accessing and using copyrighted works.

For example, using excerpts from a copyrighted book in a book review, quoting portions of a song in a music critique, or including copyrighted images in a documentary for educational purposes could potentially qualify as fair use.

Factors Considered in Fair Use Analysis

In their study on fair use, Davis and Miller (2016) discuss the four factors commonly considered in determining whether a particular use qualifies as fair: the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality of the portion used, and the effect of the use on the potential market for the copyrighted work. The authors highlight the flexible nature of fair use analysis and the need to consider the specific context and circumstances of each case.

Fair use is a critical doctrine in copyright law that allows for the limited use of copyrighted materials without seeking permission from the copyright holder. The concept of fair use is rooted in the idea that certain uses of copyrighted works should be permitted, even without the author's consent, to foster creativity, innovation, education, and free expression. However, determining whether a particular use qualifies as fair use can be a complex and nuanced process, as courts consider various factors to make a fair use analysis.

Evolving Interpretations and Challenges of Fair Use

The concept of "fair use" is a crucial aspect of copyright law that allows for the limited use of copyrighted material without permission from the copyright holder. Fair use is a balancing act between the rights of copyright owners and the rights of the public to access and use creative works for certain purposes. However, with the rapid advancement of technology and the proliferation of digital content, the interpretation of fair use has faced numerous challenges. Johnson (2021) delves into this complex landscape, shedding light on the evolving interpretations and the novel challenges posed by new digital technologies.

- **Evolving Interpretations of Fair Use:**

Traditionally, fair use was applied to specific and well-established purposes, such as criticism, comment, news reporting, teaching, scholarship, or research. Courts and policymakers primarily relied on four statutory factors to determine whether a particular use qualifies as fair use: the purpose and character of the use, the nature of the copyrighted work, the amount and substantiality of the portion used, and the effect of the use on the potential market for or value of the copyrighted work.

However, in the digital age, the scope and boundaries of fair use have become less clear-cut. The transformative nature of digital technologies has led to new forms of creative expression and content dissemination, challenging traditional interpretations. Online platforms, search engines, social media, and user-generated content have revolutionized the way copyrighted material is accessed, shared, and repurposed. This has sparked debates about whether traditional fair use principles still apply or whether they need to be re-evaluated.

- **Challenges Posed by New Technologies:**

The digital age has brought about an unprecedented revolution in the way we access, share, and create content. With the proliferation of new technologies, the landscape of intellectual property rights has become increasingly complex and challenging to navigate. As the lines between copyright, fair use and intellectual property blur in the digital environment, it becomes imperative to analyse the ethical considerations that arise from these advancements.

a. **Search Engines:** Search engines play a vital role in facilitating access to copyrighted works on the internet. While search engines themselves do not typically host copyrighted content, they enable users to discover and link to potentially copyrighted material. The question arises as to whether search engines should be held liable for facilitating access to infringing content, or whether their activities fall under fair use.

b. **Social Media Platforms:** Social media platforms allow users to upload, share, and remix content. As a result, copyrighted material often appears on these platforms without the explicit consent of the copyright owner. The challenge lies in determining whether social media platforms should be responsible for policing copyrighted content or whether users' activities should be shielded under fair use.

c. **User-Generated Content:** The rise of user-generated content has empowered individuals to create and share their own works incorporating copyrighted elements. This practice blurs the line between fair use and copyright infringement, making it difficult to determine when a use qualifies as transformative or derivative, and when it constitutes an infringement.

- **Adapting Fair Use Principles:**

To address these challenges, Johnson (2021) suggests that courts and policymakers should consider updating fair use principles to accommodate the changing technological landscape and evolving creative practices. Some potential avenues for adaptation include:

1. **Case Law and Precedents:** Courts play a significant role in shaping fair use interpretations through their decisions. By carefully analyzing new cases involving digital technologies, courts can set precedents that provide clearer guidance on the boundaries of fair use in the digital age.

2. **Legislative Amendments:** Policymakers could consider revisiting copyright laws and explicitly incorporating provisions that address fair use in the context of new technologies. This could provide a more solid legal framework for courts to adjudicate fair use disputes arising from digital platforms and user-generated content.

3. **Industry Best Practices:** Collaboration between copyright holders and digital platforms could lead to the development of best practices that promote fair use while respecting copyright owners' rights. This cooperative approach may help strike a balance between creative expression and copyright protection.

CONCLUSION

The research on "Intellectual Property Rights in the Digital Age: Analyzing the complexities and Ethical Considerations Related to Copyright, Fair Use, and Intellectual Property Issues in the Digital Environment" highlights the multifaceted nature of intellectual property in the modern digital landscape. It has shed light on the challenges and ethical dilemmas that arise due to the ease of copying, distributing, and accessing digital content. The findings underscore the necessity for a balanced approach that respects both the rights of content creators and the interests of consumers and society as a whole.

RECOMMENDATIONS

1. **Strengthen Copyright Laws:** Policymakers should work on updating and harmonizing copyright laws to better address the digital age's challenges while ensuring a fair balance between the rights of creators and users.

2. **Promote Fair Use Awareness:** Education and awareness campaigns should be conducted to promote a better understanding of fair use principles and its role in fostering creativity, innovation, and transformative works.

3. **Encourage Digital Watermarking and Tracking:**

Implementing robust digital watermarking and content tracking technologies can help in identifying and preventing unauthorized distribution of copyrighted content.

4. Support Technological Solutions: Develop and promote technologies that facilitate secure digital content distribution while protecting the rights of content creators and users.

5. Foster Collaboration between Stakeholders: Encourage dialogue and collaboration among content creators, platforms, consumers, and policymakers to develop practical and ethical solutions to intellectual property issues in the digital age.

6. Implement Ethical AI Usage Guidelines: As AI-generated content becomes more prevalent, establish guidelines and frameworks to ensure ethical use, attribution, and protection of intellectual property in AI-generated works.

7. Promote Open Access Initiatives: Support open access initiatives and Creative Commons licensing to promote the free dissemination of knowledge while respecting the rights of creators.

8. Advocate for Global Cooperation: Intellectual property issues transcend borders, necessitating international cooperation and treaties to address digital piracy and enforce copyright protections effectively.

In conclusion, the complexities and ethical considerations surrounding intellectual property rights in the digital age require a collaborative and adaptive approach. By embracing technological advancements, fostering a balanced legal framework, and promoting ethical practices, society can strike a fair and sustainable equilibrium that respects intellectual property while fostering innovation and creativity in the digital era.

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