INTELLECTUAL PROPERTY LAW TEACHING IN PAKISTAN

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INTELLECTUAL PROPERTY LAWS

The legal rights which accrue from intellectual activities in the industrial, scientific, literary and artistic fields and include patents and designs, trade marks, copyrights and all other allied rights in the literary, musical, artistic and cinematographic works such as rights of films, records and broadcast are termed as "Intellectual Property". The laws concerning intellectual property in Pakistan are based on Statute. The Copyright Laws were originally introduced by the Copyright Act of 1914; new designs and inventions are covered and protected by Patents and Designs Act of 1911 and the Trade Marks are regulated by the Trade Marks Act of 1940. There is another legislation which also has a bearing on the subject of 'Intellectual Property' in Pakistan, namely, the Antiquities Act of 1976. The object of this Act is to preserve and protect, among other things, any ancient product of human activity, illustrative of art, architecture, craft, custom, literature, morality, politics, religion, warfare, science, civilization, culture or any ancient object of historical, ethnographic, anthropological, military or scientific interest. According to one of its provisions, no photograph, copy or reproduction falling under the definition of "antiquity" can be made or is permissible except with the consent of the owner of the object.

The courts in Pakistan do recognise various conventions including the Berne Convention of 1886 as revised in 1971 in Paris and amended in 1979; Copyright (Rome Convention) Order, 1933 and the Universal Copyright Convention, Geneva, 1952 revised in Paris in 1971 to which Pakistan is also a signatory. The Copyrights granted in foreign countries also get due protection in Pakistan under this Convention. Recently, the Copyrights Act 1914 has been superceded by a more comprehensive Statute, namely, the Copyright Ordinance of 1962. The Patents and Designs Act of 1911 has also been amended by an amending Ordinance of 1983 to provide for the making of reciprocal arrangements with foreign countries in the domain of Patents and Designs.

The above-referred Statutes provide full protection to the intellectual property if an aggrieved party resorts to legal remedy. It has been noticed, however, that there has not been a very strong tradition for the protection of these rights in the past but this situation is now changing. It appears that the awareness for the protection of these rights is coming with the development in industrialization and increasing contacts with other countries. The cases concerning intellectual property before the subordinate courts and the registrars of copyrights, trade marks etc. are no doubt gradually increasing but very few cases have reached the superior courts under

these Statutes. The number of reported cased published in the Law Reports in the area of intellectual property rights is very low indeed. For instance, I have been able to trace only 11 or so cases concerning Copyrights and about 17 cases concerning Patents and Designs and about a similar number on the infringements of Trade Marks which have been published in the Law Reports during the last 40 years. There could be various reasons for it, the discussion on which is perhaps outside the scope of this paper. However, it might be remarked that the tradition for protecting the inventions and trade marks is not as deep-rooted in this country as in the industrialized world where the business community is more conscious of their trade marks. Similarly, authors of books, works of art, music and other such material, perhaps, do not get as high returns in financial terms from their publication as elsewhere in the advanced countries. Therefore, less attention is paid to the protection of these rights.

TEACHING AND RESEARCH OF INTELLECTUAL PROPERTY LAWS

The teaching of a subject is directly related to the demands for its application in practical field. Law teaching is Pakistan is mainly to cater for the needs of the legal profession. There are 21 universities in the country out of which 15 have Faculties of Law and some of the Faculties have a number of Law Colleges or Law Departments in them. The first degree in Law in all the Universities of Pakistan is a professional degree, the holder of which is entitled to practice before the courts. The holder of an LL.B. (Bachelor of Laws) degree needs no other special training except six months apprenticeship with a senior lawyer before he is enrolled as an advocate of the courts. The Syllabi and Courses of Reading for a Law degree, therefore, include mostly those subject which are directly of maxium importance to a practicing lawyer. Naturally, all the enacted laws cannot be included in the normal syllabus of a law course. So far, the demand for the study of intellectual property laws has been minimal. These laws have therefore not found a place in the formal syllabus for teaching of law courses which are reserved for subjects with higher demand. However, some parts of law which concern this area is taught as part of the commercial law courses including the Law of Contract. In larger cities where cases concerning intellectual property laws have started coming up before the courts, lawyers are acquiring skill in these areas by their own efforts and experience.

As the awareness of the need for the protection of these rights is developing the importance thereof will gradually be appreciated more and more. Serious thought should be given to the teaching of these laws on a regular basis. A start can be made either by introducing diploma courses or by providing additional options in the existing scheme of syllabi. More important, however, is the need to make people aware of the importance of these laws, the value of these rights and the effective protection which can be provided by the courts. One cannot help remarking that the photocopiers of modern age have made it extremely difficult to protect the copyrights of the authors. Even when a copyright is infringed the aggrieved party is very reluctant to go to the courts due to high cost of spending more on law suits than the expected gain by its protection. This is more true of foreign copyright holders. To go into litigation in another country in the case of infringement of their rights will be very expensive and time consuming. Although the law provides full protection to these rights but the outcome of the law suits is always uncertain and the net material gain in the end may not be sufficient to justify the efforts undertaken by the aggrieved party.

SCOPE, CONTENT AND TEACHING MATERIAL

It is felt that people are becoming more aware of intellectual property and resort to various forums for their protection is also on the increase. It may, therefore, be desirable that formal teaching of these laws be introduced in the existing scheme of our legal studies. The contents of the syllabi and other teaching material could initally be based on the provisions of Statute Law of Pakistan and the cases decided by the courts in the country. To broaden the outlook of the students in this area and for the purpose of comparative study, the teaching material could also be drawn from "international conventions" on the subject and similar laws of some selected countries. Apart from fresh entrants, legal practitioners could also be encouraged to join these courses. In my view, there will be a reasonable response. Initially, such courses would be introduced in those law faculities which are situated in larger commercial cities where the awareness of these rights is likely to be more than other places and gradually it can be extended to other universities and institutions.

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