

A STUDY OF MANAGEMENT OF INTELLECTUAL PROPERTY RIGHTS-

SPECIAL REFERENCE TO MUSIC INDUSTRY

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Abstracts

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Intellectual Property is a strategic asset for industry and public health. It is a key element needed to maintain a competitive edge in the market. For Business growth of any enterprise, it is important to protect the innovation and ensure that IP rights of any third party are not infringed. At one time it was easy for the music industry and artists to keep control of their intellectual property. Records were sold and Royalties could be taken from a share in that sale. Radio broadcasts were easy to monitor and royalties were received whenever a certain track was aired. As technology has progressed, legal questions have been raised as how to enforce copyright law. The growth of the internet and digital communications has fundamentally changed the way we acquire and listen to music. This paper is simply an attempt to study how the music industry is abled to stop the piracy or not?.

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Introduction:-

Intellectual Property is a key element needed to maintain a competitive edge in the market. For business growth of any enterprise, it is important to protect the innovation and ensure that IP rights of any third party are not infringed.

In simple way how can we understand the term Intellectual Property?. The term “Intellectual Property” as the name suggest, means creation of mind or the intellect. Further, we can understand the term Intellectual Property as “any property that is the product of an individual’s mind, e.g.- books, software’s, movies, music etc. It comprises two distinct forms- Literary and Artistic Works and

Industrial Property.

Books, Paintings, Musical Compositions, Plays Movies, etc., are the examples of Literary and Artistic Works are such type of works protected through Copy Rights. While the Industrial Property describes Physical matter that is the product of an idea or concept of commercial purposes. They are protected through Patented Objects, by Trade Marks, by Industrial Designs, by Lay out Designs etc.

Objective of the Study:-

To know the Intellectual Property Rights and How the Intellectual Property Rights are managed or protected specially in Music Industry?

Music is the Line that connects all the dots. Individuals of different cultural background perform together and music is heard by people no matter the language or any other cultural barrier. At one time it was easy for the music industry to keep control of their intellectual property. Records were sold and royalties could be taken from a share in that sale. Radio broadcasts were easy to monitor and royalties were received whenever a certain track was aired. As technology has progressed, legal questions have been raised as to how to enforce copyright law. The growth of the Internet and digital communications has fundamentally changed the way we acquire and listen to music. Copyright infringement causes damage to the music industry. How the music

industry finds the solution to stop the damage. This paper will certainly help little bit to highlight the solutions for such questions.

It is important that something as precious as music should be protected and concerned. Intellectual Property rights helps in doing that. Two aspects of IPR related to music and they are:- Copyright

Trademark.

The main source of income for a musicians or for the producers is via sales. The sale of the music CDs generates the most income. Other than that musicians earn via performing live and touring. This is how they earn the money. So what role does IPR play in this?.

Copyright helps in protecting the musicians and the producers from being robbed. The recording studios usually hold the rights over the materials and as they have the distribution rights etc., the major share is earned by them.

No person or body can copy, an artist's creation unless authorized by the musician himself or in some cases the recording studios. IPR awards them this security which helps them protect their music. The music industry faces 3 types of piracy. First, there is a simple way by which songs from different legitimate casattees/ Cd are copied and put in a single casattee/ CD. These are then packaged to look different from the original products and sold in the market.

Second there is counterfeiting, when songs are copied into and packaged to look as close to the original as possible using the same label, logos, etc. These products are misleading in the sense that ordinary end. Users think that they are buying original products.

The Third form of music piracy is bootlegging, where unauthorized recordings of performance by artists are made and subsequently reproduced and sold in the market. All these happen without the knowledge of the performers, composer or the recording company.

Govt. policy put music industry in the small scale sector category and volume of a record, company's casattees production was restricted to 3,00,000 units per annum. This led to a wide gap in the demand supply front which was ultimately bridged by the pirates.

For the musicians, copyrights can protect both songs and recordings. Copyrights protected many kinds of created works such as musical compositions or songs, lyrics, records, etc.

Now what are the rights a owner has through copyright? They are:-

The right to make copies of the work, such as the right to manufacture Compact Discs containing copyrighted sound recordings.

The right to distribute and sell copies of the work to the public.

Copyright owners control the rights to have their song performed publicly.

Copyright makes derivative works such as remix of a previous song or a parody lyric set to a well-known song.

One more right of copyright introduced by the Congress Govt. is a right that gives owners in sound recordings to perform a work by means of a digital audio transmission.

No one can do any of the above without the permission or authorization of the owner of the copyright.

Trademarks-

Distinctive motto, mark, or emblem that is stamped or affixed to a product so that it can be identified in the market. Is Trademark. A trademark can be registered if already in use or will be used within 6 months. So in music industry, the trademarks of every music company is different, e.g Tips, Venus, Eros etc have a different logo registered in their names and nobody can use their trademark which they have registered themselves. Copy rights protect creative, original works, such as sound recordings and musical compositions. But trademark protects things like names, logos and slogans. With the music business making a paradigm shift from a focus on selling records to branding artists, the value of copy rights have been decreasing and trademarks have become the money makers.

The title song as a registered trade mark in India was unprecedented for many years. The first song to acquire trade mark protection on a song title in India is “ why this Kolaveri Di?” a viral block buster hit song. This Tamil English mix song became an International youtube, face book and twitter hit as it gained 4.10 million views in just 4 days of its official release. Sony Music Entertainment India one of the biggest revenue generation music company in India recorded this song and filed for registration of a trade mark (Application No. 2246257, Dec. 8, 2011) “ Why this kolaveri Di?”(the first line of the song). An application for trade mark was sought under class 9 class 41 logo was word mark respectively for protection of song lyrics.

Conclusion:-

Many laws have been made to prevent copyrights and trademarks. In India, it does not get the attention at the national level due to more engaging issues at hand.

However, the Industry, specially the Music Industry, has been taking interest in stemming the root. These Organisations identify sources of music piracy and then conduct raids with the help of Police. Thus, we can say that copyrights and trademarks, in some way protected the rights of intellectual property.

References:-

- Brown,J (2006) “ Track doen the cheaper ways to buy music “ the Sunday Times, 21 May, 2010.
- Christopher, (2007) “Digital Rights Management- The problem of expanding ownership rights, Oxford, Chandos Publishing.
- Frith, Simon, (1987) “Copyright and the music business”, Popular Music 7, 1:57-75.
- Vishal, Dutta, Sony music entertainment files trademark for “ Kolaveri Di”, The Economic Times, Jan.13, 2012.
- Mehul, S Thackkar, “Who’s Jai ho” is it? The Times of IndiaEntertainment (Mumbai Mirror), Dec. 19, 2013.
- Anchita, Sharma, Trademarks: Case study-Trade Mark for film Titles, (last updated June 27, 2014).
- #Thoda Magic V. Thoda Life (CS (OS))266/2008 Delhi HC order dated, Feb. 6, 2008.