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Legal and Regulatory Mechanisms of Protecting Intellectual Property (IP) Rights in Sri Lanka: Challenges and Adaptation in the AI Era

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Abstract: This study comprehensively analyses the legal and regulatory frameworks governing intellectual property rights (IPRs) in Sri Lanka, with a particular focus on the Sri Lankan Intellectual Property Act, No. 36 of 2003. This Act is the primary legislation governing the acquisition, management and enforcement of intellectual property. The analysis elucidates the foundational elements of this Act, including its alignment with international conventions such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS). Previous studies identify several critical deficiencies within the current legal landscape, especially when compared to the more dynamic intellectual property regimes of developed nations. These shortcomings encompass challenges in enforcement, ambiguities in patentability standards, and an urgent need for adaptation to address the complexities introduced by emerging technologies, notably artificial intelligence-generated content. The discussion underscores that the Act, while robust for its time, faces increasing pressure to evolve to remain effective in a rapidly changing global technological environment. This study proposes necessary amendments and strategic adjustments to enhance the safeguarding of intellectual property rights against infringement and intellectual theft, ensuring Sri Lanka's framework remains relevant and equitable in the digital era.

Keywords: Sri Lankan Intellectual Property Act; National Intellectual Property Office of Sri Lanka; geographical indication; IPRs; TRIPs

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1. Introduction

Intellectual property, often referred to as the creations of the human mind, encompasses a diverse range of intangible assets (Fernández-Molina et al. 2022). These include literary and artistic works such as novels, films, and musical compositions, as well as inventions, industrial designs, trademarks, and geographical indications (WIPO 2016). The recognition and protection of these creations are fundamental to fostering innovation and creativity within a society (Pravesh 2024). By granting creators exclusive rights for a limited period, intellectual property laws enable them to derive economic benefits from their work, which in turn encourages further creative endeavors, stimulates investment, facilitates technology transfer, and ultimately contributes to the economic growth and overall development of a nation (Saujan et al. 2023). The intellectual property system traditionally categorizes these rights into two main areas: industrial property, which covers patents, trademarks, industrial designs, and geographical indications (GIs), and copyright, which protects literary and artistic works, along with related rights for performers and broadcasters (Hasbullah et al. 2022; Khan 2024). The fundamental purpose of intellectual property law, as articulated by the National Intellectual Property Office of Sri Lanka, is to establish a delicate balance between the rights of creators and the broader interests of society (Mahingoda 2023). This equilibrium is crucial for cultivating an environment where human creativity can flourish across all fields, benefiting everyone. This underlying principle guides the entire analysis within this paper, particularly when examining the current framework's shortcomings and proposing future adjustments, as these discussions often revolve around reassessing where this balance currently stands and how it might need to shift to remain effective.

In Sri Lanka, the rights to intellectual property are mainly established by the Intellectual Property Act No. 36 of 2003 (Saujan et al. 2022). The legislation itself has provided the legal basis of the acquisition, management as well as the enforcement of the different intellectual property rights in the country (Parliament 2003). The National Intellectual Property Office of Sri Lanka (NIPO), which was established under this Act, can be deemed as the only governmental organization that carries out and

controls intellectual property system in the country (Mahingoda 2024). Sri Lanka is a World Intellectual Property Organization (WIPO) member country and complies with most important international conventions, such as the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement) further testifies the commitment of the country to international intellectual property standards (Hirimuthugodage 2011). This harmonization on the international level implies that the system of intellectual property regulations in Sri Lanka is aligned with the international standards.

The establishment of NIPO under the 2003 Act represents a systematic arrangement of intellectual property administration in the country which is centralized (Mahingoda 2024). Such an organizational clarity is set to ease the intellectual property right acquisition and management Although there are structural improvements some deficiencies still exist in the implementation of protection of intellectual property. This shows that there is a possible mismatch between the intentions of the lawmakers to establish workable framework and the practical feasibilities in terms of effectiveness of the same which may be limited by lack of resources to the administration unit or other general system matters that influence proactive enforcement in this case.

Current study provides critical evaluation of statutory and regulatory measures that exists in Sri Lanka to safeguard intellectual property rights. It examines the existing framework, formulate opinion on its practical utility, indicate and underscore the gaps that exclusively exist due to its current form, and recommend the much-needed amendments in dealing with the elasticity of the new technological world and the intricate challenges surrounding the issue regarding artificial intelligence-generated material. The methodology used in the study is literature review and conceptual study methodology basing entirely on the research materials provided as a source of analysis and conclusions drawn.

2. Problem Statement

Although there is a detailed Intellectual Property Act, No. 36 of 2003, as well as compliance with international agreements, there are certain weaknesses associated with the current system in relation to the trend in new forms of technologies. The poor enforcement of intellectual property protection is also an issue of concern as the increased levels of counterfeit products and rare action to combat them is shown by the fact that authorities take very little action in themselves but only when contacted by victims of infringement. This means there is a mismatch between the law and practice. The legal environment has certain gaps that hinder effective protection, such as the weakness of the patent system because of the lack of clarity in determining the content of an inventive step, resulting in inconsistency with granting patents. Anti-circumvention has been incorporated in copyright laws which are criticized though as a use of behavior more in favor of rights holders than user demands with exemptions of fair use failing to cope with today's technological reality. One of the urgent issues is that the Act cannot overcome the complexities of artificial intelligence. The slight acknowledged authors mentioned in the Act underline the presence of the existence only of human authors, which creates legal uncertainty about the possibility of AI-generated content and the identities of authors, owners, and e.g., patentability of AI inventions. These concerns demonstrate the gap between the purpose of the law and its real-life application, and even the outdated nature of the legal framework that is still trying to accommodate technological progress. The ambiguity regarding AI authorship threatens to douse innovation and investment in Sri Lanka since lack of protection given to works produced by AI puts individuals off investing in the technology. An intellectual property environment in Sri Lanka must be critically reviewed to determine the aspects that should be improved in formulation and enforcement of legislative needs to realize an intellectual property environment that is viable and attractive to innovation and economic growth.

3. Methodology

Literature is analyzed to present and discuss the intellectual property rights through legal and regulatory mechanisms by using qualitative research design in Sri Lanka. The study relies on secondary information in the form of academic writings, legislations, case law, and legal reviews and evaluations. This relates mostly to the Intellectual Property Act, No. 36 of 2003, and its amendments and this is the basis upon which the protection of intellectual property lies. The court decisions in Sri Lanka are looked at to show how these laws are put into practice. The process of data collection revolved around the study of major laws concerning the intellectual property in Sri Lanka, its advantages and drawbacks along with its functionality. The comparison in the study comprises legal frameworks in the developed countries such as the United States, United Kingdom, and Singapore, especially in the view of artificial intelligence issues. The data about the effects of AI to intellectual property rights were obtained in academic research papers and legal commentaries. The legal, comparative and conceptual modes of analysis were provided. The Intellectual Property Act and meaningful courts were reviewed through legal analysis. A comparative study was performed to compare the intellectual property regime of Sri Lanka against the developed nations so as to come up with gaps or shortfalls in the area of patentability, copyright exception, and internet infringement reporting systems. The correlation between the new technologies and classical principles of intellectual property, especially as they apply to AI-generated content, was the subject of a conceptual analysis. This framework was designed to provide the loopholes that exist in the present legal framework in Sri Lanka, and how it can be improved in face of a changing technology.

4. Legal mechanisms to protect Intellectual Property

In Sri Lanka, the rights to protect intellectual property are mainly regulated by the Intellectual Property Act, No. 36 of 2003. The Act is the foundation of intellectual property law of the country, having replaced the intellectual property Code, which is Act No. 52 of 1979. The aim of its provisions is to enhance the obtaining, regulating, and enforcement of a diverse range of intellectual property rights. In the administration of this Act, the National Intellectual Property Office (NIPO) plays a pivotal role since the department is the only government department charged with the responsibility of addressing the intellectual property system in Sri Lanka (Mahingoda 2024). The Act deals with a wide range of intellectual property rights such as patents, trademarks, copyright, industrial designs, layout designs of integrated circuits, geographical indications and protection throughout unfair competition and unlawful disclosure of undisclosed information characterized as trade secrets (Parliament 2003). The particular clauses in the Act indicate the extent and the terms in which various types of intellectual property have to be secured.

Patent

The protection of invention by patents in Sri Lanka is granted to inventions where three basic requirements have been met, that is, they must be new, must have an inventive step, and must be industrially applicable (Fernando 2023). Nevertheless, some types are expressly in-patentable, such as the discoveries, scientific theories, mathematical methods, plants, animals (except transgenic microorganisms), and particular methods of business or medical approach (Siri et al. 2020). A patent once granted remains valid up to a tenant of 20 years at the time of its filing under the condition that an annual fee may be paid after the second year has run its course (Tenni et al. 2023). A patent is usually owned by the person who comes forth with a new creation (Laperche 2021). However, where an invention is invented by an employee in the line of duty or on the basis of a commission, the rights of the patent are normally vested to the employer or the person commissioning the employee and unless otherwise agreed upon (Perera 2024). Generally, entitlement to a patent is based on adhering to the principle of first to file, however there are some exceptions in the case of an invention whose rights are appropriated due to unscrupulous means to obtain the exclusive rights of another. The procedure of registering a patent includes submission of an application to NIPO, followed by examination formal and substantive (Osabe 2024). The application is thereafter posted in the Gazette and a three-month window is given, during which an interested party can petition the Court to remedy the situation in the event that the application did not come with an international search report (Perera 2024).

The 20 years duration of the patent and the yearly need to renew it show a concerted effort to reconcile the need to promote ideation with the overall benefit of society to obtain access to the knowledge after a certain amount of time in which the innovator may enjoy monopolistic rights (Kim & Valentine 2021). Nevertheless, the current critiques of the alleged inefficiencies of the patent regime and the reported lack of comprehensive rules on the evaluation of the "inventive step" indicate that the actual practicability of the statutory arrangement might be somewhat incomplete. Such failures could ultimately make the innovation it seeks to encourage much more challenging, by discouraging those inventors and investors where provision of, and security in, patent protection is onerous or uncertain.

Trademarks

In Sri Lanka, statutory protection encompasses registered trademarks, service marks, collective marks, certification marks, and geographical indications (Punchihewa 2021). Importantly, trade names receive protection even in the absence of formal registration (Akram Somrat 2022). To be eligible for registration, a mark must be a visible and distinctive sign capable of differentiating the goods or services of various enterprises (Bohaczewski 2020). A registered trademark is protected for an initial period of ten years from its filing date, with the option for unlimited renewal terms (Punchihewa 2021). In cases where a trademark is unregistered, protection against unauthorized use can still be sought through common law actions for passing off (Bohaczewski 2020). The registration process involves an internal examination by the National Intellectual Property Office (NIPO), followed by publication in the Gazette, which triggers a three-month period during which third parties may file an opposition.

The unregistered trademarks that are protected by the common law passing off are essential protection to the owners of brands as it proves that Sri Lanka adopts a two-level protection of trademarks. The fluidity is especially convenient to small companies or others whose intellectual property is still getting formalized. However, it further increases the burden on the claimant to demonstrate the existence of reputation and misrepresentation in court, potentially leading to a more resource-intensive litigation process than those required for enforcing statutorily registered rights.

Copyright

Copyright law in Sri Lanka extends protection to original literary, artistic, and scientific works, including computer programs, databases, and audiovisual works (Saujan et al. 2022). A notable aspect of copyright protection in Sri Lanka is its automatic inception upon the creation of the work, obviating the need for formal registration procedures (Dias 2020). The duration of copyright protection generally extends for the author's lifetime plus an additional seventy years following their death (Saujan et al. 2023). Exceptions apply to collective works, audiovisual works, and works of unknown authorship, which are protected for seventy years from the date of first publication or creation (Perera 2024). Works of applied art receive protection for twenty-five years from their creation date (Walther & Whitty 2021). Copyright owners are endowed with both economic rights, such as the rights of reproduction, translation, public distribution, performance, and broadcasting, and moral rights, which include the right to be acknowledged as the author and the right to object to any distortion or mutilation of their work (Saujan et al. 2023). The Act also incorporates fair use exceptions, allowing unauthorized use for purposes such as private study, criticism, commentary, news reporting, teaching, and research (Amaan, 2024).

Copyright laws of automatic protection that does not involve registration help simplify the protection and process of the creators, which is also considered in the international standards like Berne Convention. Yet, lacking a registered system can be quite problematic as evidence in case of infringement of rights. Lack of public records making it easy to prove ownership or the exact date of creation may complicate the enforcement of rights in a court of law and may make it cumbersome on the side of the rights holder.

Industrial Designs

In Sri Lanka, the protection of industrial designs encompasses the ornamental or aesthetic features of an article, rather than its functional attributes (Sandanayaka 2025). For a design to qualify for protection, it must be novel and must not contain scandalous elements or contravene morality or public order. Protection is conferred upon registration with the National Intellectual Property Office (Perera 2024). A registered design is initially protected for a term of five years, which may be renewed for two additional five-year terms, resulting in a maximum protection period of 15 years (Punchihewa 2021). Typically, ownership of an industrial design resides with its creator. However, akin to patents, if a design is developed by an employee during their employment or under a commission, ownership generally belongs to the employer or the commissioning party, unless an alternative agreement exists. The 15-year maximum term of industrial design protection in Sri Lanka provides a reasonable timeframe for creators to commercialize

their aesthetic innovations (ALshubiri & Al Ani 2024). The requirements for novelty and a non-scandalous nature serve as a gatekeeping mechanism, ensuring that only designs meeting specific quality and public interest standards receive protection (Punchihewa 2021). This structured protection is intended to encourage investment in design, which is a crucial component for product differentiation and marketability, thereby contributing to economic value.

Geographical Indications (GIs)

Geographical Indications are distinctive signs used to identify goods as originating from a specific territory, region, or locality within that territory, where a particular quality, reputation, or other characteristic of the good is essentially attributable to its geographical origin (WIPO 2016). Notable examples in Sri Lanka include Ceylon Tea, Ceylon Cinnamon, and Ceylon Sapphire (Kamardeen 2006). Legal protection for GIs functions by prohibiting their use for goods that do not genuinely originate from the specified geographical areas (Pathiraja 2018). Historically, GIs in Sri Lanka were protected under existing trademark registrations, specifically as collective marks and certification marks, and through laws related to unfair competition (Perera 2020). A significant recent development in this domain is the enactment of the Intellectual Property Amendment Act, No. 08 of 2022, which introduced a dedicated national registration system for Geographical Indications (Marsoof 2023). Following this legislative change, regulations governing GI registration were published in an Extraordinary Gazette on October 22, 2024 (Perera 2014), culminating in the launch of Sri Lanka's first Local Geographical Indications Registry by NIPO on February 27, 2025. Like trademarks, the duration of protection for GIs is 10 years from the filing date, subject to an unlimited number of renewal terms.

The creation of the specific national GI registration system in the IP Amendment Act No. 08 of 2022 and the actual start of the registry operations in 2025 are quite active and proactive steps toward the future of Sri Lanka. The fact that such development was aided by bodies like UNIDO means that they are viewing GIs as having a distinct economic worth other than mere generic trademark protection (Marsoof 2023). It aims at promoting awareness of the global market and increasing economic opportunities of those who produce these special Sri Lankan goods. This instance of intellectual property reform is notable given the fact that it is one of the focused and effective adaptation to the intellectual property situation, when compared to the reactive approach exhibited by other areas of intellectual property.

5. Landmark Cases related to IP

Judicial decisions are pivotal in interpreting and applying statutory provisions, thereby shaping the practical landscape of intellectual property enforcement. Several landmark cases in Sri Lanka exemplify the courts' approach to safeguarding intellectual property rights.

St. Regis Packaging (Pvt) Ltd. v. Ceylon Paper Sacks Ltd. (2001)[1]

In this Supreme Court case, the issue was of patent infringement of a certain container related to tea packaging. St. Regis packaging, the plaintiff moved to claim its proprietary rights on the registered ownership of the patent. The decision of the Supreme Court held a lot of light on several legal issues. It held that in case a patent has been duly registered in the register, the assignee obtains all the privileges of the former owner belonging to the original proprietor such as granting an injunction on an infringement. In addition, the Court made it clear that infringement of intellectual property is a continuing process, hence an attempt to launch any legal action on a case of infringement may not be the basis of an exclusion of relief because every subsequent action or conduct of an infringement is a new cause of action. The ruling plays a vital role in granting assignments intellectual property rights their place in the court and sets a significant legal precedent of the rights holder who always may require redress against recalcitrant violators. The legal clarity offering by this case supports the holders of intellectual property rights in their litigation in the sense that a clear legal provision to seek injunctive relief to an act of incessant infringement can thereby be pursued.

Dharmapala v. Officer-in-Charge, Colombo Special Crimes Division (2021)[2]

The case in the Supreme Court was a criminal case over a copyright infringement, in particular the reproducing and distributing of pirated copies of a music record. The Supreme Court supported the conviction, asserting that the prosecution had proved both *actus reus* (criminal act, the act of possession of pirated copies with the intention to sell these copies) and *mens rea* (guilty mind, which is also found based on the knowledge that the copies are pirated or on the reason to believe that they are pirated). The case has reaffirmed the 10-year-old principle that copyright protection, automatically, extends to original works that are literature, of arts and audio-visual works, as well as directly, bars the unauthorized reproduction and distribution of the works. It also made it clear that although the creators of audiovisual works can obtain economic rights over incorporated works (songs in films, etc.), the moral rights of the authors of such underlying works nevertheless remain with their creators. The case illustrates how criminal sanctions against breaching of copyright in Sri Lanka are effectively implemented. The fact that the Supreme Court affirmed the presence of *actus reus* and *mens rea* is a clear guideline in the prosecution of the intellectual property crimes as a sign of the judiciary focusing on the economic and moral rights of the creators even in the age of the digital piracy.

Sarasavi Publishers (Pvt) Ltd v. Dharma S. Samaranayake (2023)[3]

This landmark decision of the Supreme Court answered a copyright case that involved ownership over the authorship of a cookbook. An editor called Dharma S. Samaranayake declared himself the author and demanded royalty, whereas the publisher stated that Chef Publis Silva wrote it. The Supreme Court was able to reverse an earlier decision of a lower court as it was unequivocal that the right of people who were the first authors, Chef Publis Silva, had been unjustly denied. This decision is taken as a

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1 St. Regis Packaging (Pvt) Ltd. v. Ceylon Paper Sacks Ltd. (2001)

2 Copyright and Related Rights (Neighboring Rights). (2021)

3 Sarasavi Publishers (Pvt) Ltd v. Dharma S. Samaranayake (2023)

major triumph within the authorship rights in Sri Lanka, the vitality of transparency, hard work, and ethical behaviour in the intellectual property regime. It initiates the improved identification and acknowledgement of the efforts of the authors. This case shows the importance of the judiciary in determining and protecting the very essence of human authorship in the law of copyright even in a complicated situation of joint or editorial input. This reinforces the conventional copyright values, but in the process calls into question the inflexibility of the definition of an author in the face of non-human authors, artificial intelligence among them, where the idea of human creation is less obvious.

6. Deficiencies in the current IP Law

Although Sri Lanka has developed basic intellectual property system in the form of a statute, otherwise known as the Intellectual Property Act, No. 36 of 2003, and through a practice that is in line with the international standards, a comparative analysis to more established countries, demonstrates that it largely has some gaps in its legal institutional and regulatory arrangements. It is these weaknesses which unfavourably affect the complete achievement of the protection of intellectual property and oppose innovation. Let's look at those in the following detailed manner.

General Enforcement Challenges

The most crucial sector of consideration in the intellectual property regime in Sri Lanka is the expressed alleged insufficiency in enforcement. Although the government strives to meet international standards and tends to modernize the National Intellectual Property Office (NIPO), the absence of effective protection of intellectual property is often criticized by local agents of international brands (Brandl et al. 2019). This has been largely due to the reactive enforcement environment where in most cases police and customs agencies do not go out of their way to investigate intellectual property infringers (Bird 2006). As opposed to this, they usually wait to have direct complaints filed by victims and would need the active participation of the victims in the enforcement efforts (Adolph 2024). Such dependence on the action of the victims is a stark contrast with the more proactive strategies used in most of the developed states. As an example, the jurisdiction of the USA, the UK, and Singapore frequently use well-developed units dealing with intellectual property violations, enhance border protection, and require internet service providers (ISPs) to take action against online infringement (Sattiraju et al. 2023). An example is the Digital Millennium Copyright Act (DMCA) of the US, which offers safe harbours to online service providers that voluntarily cooperate with the copyright owners in removing the infringing content upon receipt of suitable takedown notifications (Fahleni 2024). The UK with its Digital Economy Act 2010 equally imposes the primary responsibility on ISPs to inform the subscribers of the illegal action (Quinton et al. 2018). Singapore Copyright Act 2021 incorporates elaborate measures aimed at providing remedy against the network service providers and penalties designed to curb crimes against copyright involving substantial criminal broadcasts (Gaffar & Albarashdi 2025). Reactive enforcement environment in Sri Lanka, which lets the sale of counterfeit products be an open activity despite the wide availability of the fake products is an indication of a weakness in the system enabling infringement to take place, defeating the very purpose of the law enacted to prevent infringement by providing deterrence.

Lack of Formal Copyright and Trade Secret Registration

Although the copyright protection is enjoyed automatically upon creation and without formalities in Sri Lanka, there are no laws to govern the formal registration of copyrights and to cover trade secrets, but they are covered by unfair competition which is the protection of a trade secret as undisclosed information. Although this eases the obligation on the initial protection stage of creators, the lack of a registration system may pose some serious evidentiary issues during the infringement litigation. Proving the rights in court may be more complicated and expensive when there is no such means to prove the ownership or the exact date of creation in a so-called way of truth. This is unlike what is done in most of the developed countries. In the USA, copyright protection does not require any registration, but the benefits thereof are strong, such as the right to implement an infringement suit, prima facie evidence of validity, availability of statutory damages and counsel fee, a public record creation that helps in licenses and customs enforcement (Park et al. 2020). The UK offers automatic copyright protection as well but there are services supplied by a third-party to have the rights registered and ownership strengthened and the legal process become easier (Hugenholtz & Quintais 2021). Singapore too offers the automatic copyright protection, but it does offer the deterrence and proof of copyright services (Say 2020). Under the concept of trade secrets, it is not generally required that any country require registration in order to provide confidentiality on the information; but developed countries highlight that it is the need of the owners of the information to take reasonable measures that help in ensuring the confidentiality. This is usually realized in form of explicit confidentiality contracts and exhaustive in-house security systems. Copyright does not provide any benefit of formal registration, no specific legal framework (in the context of trade secrets) exists in Sri Lanka, as some analyses suggest, which might lead to practical difficulties in proving its ownership (or, rather, authorship), as well as to enforcement of rights in case of a dispute. This may complicate, and the high costs of litigation as opposed to those in jurisdictions that offer optional registration benefits.

Inventive Step Assessment in Patent Law

As far as evaluation of the element of this "inventive step" in patent law is concerned, a major deficit of the patent law in Sri Lanka can be clearly observed. An unsophisticated statutory definition of intellectual property is provided by the Intellectual Property Act but, on the other hand, there is conspicuous lack of detailed statutory principles and lengthy judicial rulings to provide a proper guideline on whether an invention should have an inventive step that is not found in the prior knowledge. Such ambiguity can create uncertainty in the process of granting patent and may lead to granting of the same to trivial, non-incremental inventions which do not form a significant technical improvement. This situation differs with the advanced methodologies applied in developed nations.

In the United States, the "non-obviousness" standard is applied (Park et al. 2020). The Supreme Court's landmark verdict in KSR International Co. v. Teleflex Inc. (2007)[4] departed from a rigid application of the "teaching, suggestion, or motivation" (TSM) test, advocating for a more flexible and comprehensive analysis based on the factors established in Graham v. John Deere Co., 383 U.S. 1 (1966).[5] These factors encompass the scope and content of prior art, the differences between the prior art and the claimed invention, the level of ordinary skill in the pertinent art, and secondary considerations such as commercial success or long-felt but unresolved needs. This approach aims to mitigate hindsight bias and ensure that only genuinely inventive ideas are patented.

The United Kingdom employs the "inventive step" standard, utilizing the "Windsurfing/Pozzoli approach" as a structured, four-step objective test to assess obviousness from the perspective of a "person skilled in the art" (Hugenholtz & Quintais 2021). This test systematically identifies the notional skilled person, their common general knowledge, the inventive concept of the claim, and the differences from prior art, ultimately determining if these differences would have been obvious. Singapore has also explicitly adopted the "Windsurfing/Pozzoli approach" in its patent examination guidelines and judicial practice (Say 2020).

Sri Lanka's current lack of developed guidelines for assessing the inventive step creates an ambiguity that can lead to inconsistent patent grants and potentially hinders genuine innovation by failing to clearly distinguish between truly inventive and obvious advancements. This stands in contrast to developed nations that employ structured, judicially refined tests to ensure that only significant inventions are granted patent protection.

Fair Use/Fair Dealing in the Digital Environment

Sri Lanka's existing copyright legislation, despite incorporating fair use exceptions, is deemed inadequate for effectively supporting users of works within the digital environment. This legal framework is perceived as disproportionately favoring rights holders, potentially inhibiting legitimate educational and research applications. Consequently, this approach results in a less balanced environment compared to developed nations that have implemented more adaptable or specifically tailored provisions for digital content.

In the United States, the "fair use" doctrine is a flexible legal principle, assessed through a four-factor analysis: 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 (Park et al. 2020). This flexibility has enabled courts to apply fair use to various digital contexts, including Google Books, the HathiTrust Digital Library, caching websites, and the use of short excerpts in news reporting or criticism.

The United Kingdom operates under "fair dealing" exceptions, which, while more specific than US fair use, still accommodate digital uses. These exceptions encompass non-commercial research and private study, criticism or review, reporting current events, quotation, and parody, caricature, or pastiche. These uses often necessitate "sufficient acknowledgement" and consideration of their commercial impact on the original work.

Singapore has notably modernized its approach. Its Copyright Act 2021 transitioned from "fair dealing" to the generally broader concept of "fair use." Significantly, Singapore introduced a "computational data analysis" (CDA) exception, explicitly permitting the use of copyrighted works for purposes such as training artificial intelligence systems, even for commercial uses, provided there is "lawful access" to the material. This proactive measure was implemented to support Singapore's technology industry and data-driven innovation. Sri Lanka's comparatively restrictive fair use provisions, particularly in the digital context, create an imbalance that may impede legitimate uses for education, research, and innovation, potentially hindering knowledge dissemination and technological progress. Singapore's proactive CDA exception for AI training exemplifies a modern approach that Sri Lanka could consider to better balance creator incentives with public interest in the digital age.

Challenges Posed by AI to Traditional IP Concepts

The upcoming development of the technology of artificial intelligence (AI) is a unique threat to the established notions of intellectual property that requires profound changes in the state regulatory system of Sri Lanka. The existing Intellectual Property Act, the No. 36 of 2003 has been drafted at the time when the use of generative AI was uncommon, and its provisions are ill-furnished to sustain the difficulties that the AI-created content entails. Among the basic questions that AI presents lies the question of authorship and possession of pieces of AI-generated content. The Intellectual Property Act of Sri Lanka notes that only the human being can be considered an author of work and author is thereby defined as a physical person who has created work. This anthropocentric definition leaves a big gap in the law in the face of autonomously created work by AI systems because it is not clear who should be the owner of the created work, the developer, user, the AI itself, or nobody. The resulting state of doubt does not only make the problem of ownership troublesome but also threatens the development and investment in artificial intelligence (AI), since the future authors and beneficiaries of works aided or generated by an AI do not have clear legal coverage.

The concept of originality is also distorted by the works produced with the help of AI. A traditional copyright law also requires that the work is a product of an original intellectual creation which employs either skill, labor or judgment of the author. It is questionable whether the output generated by AI can meet this requirement since it is made through the hundreds of interpersonal processing involved or requires little human involvement other than simple input via prompts. The copyright law in general treats a lack of originality as something not recognized in circumstances where human effort is a minor, or an insignificant factor. Moreover, training models of AI often requires using large volumes of already existing works that are placed under copyright rights. This begs complex questions of whether the use is copyright infringement especially in the consideration of the fair use and in paying original creators whose works have been used as basis of the training data. AI training using text and data mining (TDM) applications is one of many debates around the world legal system whether such operations should be allowed and with what restrictions. There is yet another issue that relates to the length of intellectual protection under the AI-created works. Conventional terms of copyright usually

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4 KSR International Co. v. Teleflex Inc. et al., 550 U.S. 398 (2007).

5 Graham v. John Deere Co., 383 U.S. 1 (1966)

relate to the life of the author (e.g. lifetime plus 70 years). But such a system is not finite and therefore this conventional model is not healthy in reference to autonomously produced content.

7. Proposed Amendments and New Legal Frameworks

To eliminate these alarming problems, the necessary decisions must be made to arrange multiple corrections and introduce new legal standards so that to make the Sri Lankan intellectual property law correspond to the facts of AI world.

Redefining Authorship and Ownership for AI-Generated Content

The most important change will be defusing the rules of authorship or ownership of the content produced by AI. The first possible step is to create a unique form of authorship that will be called the AI authorship or to create a system that will give an opportunity to share the ownership between a human inventor and an AI system. This would accept the creativity of the AI systems as well as uphold the relevance of human interaction and decision-making. There is also the more control feeding approach, like that of the US stance, which clearly declines copyright protection of purely AI-generated work, rendering them effectively in the public domain. States adopting this approach would only accord copyright in the inventions of AI-assisted derivative works that are both highly human-involved and have a significant human influence on the resulting product. Another model can also be found in the Copyright, Designs and Patents Act 1988 (CDPA) of the UK, where Section 9(3) provides the following authorship attribution when it comes to works that are produced with the help of a computer: that of authorship of so-called computer generated works goes to the person who makes the arrangements that are required to generate the work. This practical direction leads to its protectability with absence of traditional human author. Even in Sri Lanka, intellectual property professionals have already come up with the prospects of joint authorship to both the person giving the prompt and the machine. A definitive approach to this question would also effectively eliminate legal uncertainty and form a good groundwork towards subsequent innovation.

Addressing AI Training Data Use

Legislation needs to be introduced or amended to specifically permit text and data mining (TDM) of intellectual property-protected data for the purpose of training AI models. This is a highly debated topic globally, but countries such as Singapore and Japan have proactively introduced "computational data analysis" (CDA) exceptions that allow the use of copyrighted material for AI training, even for commercial purposes, provided the data was lawfully accessed. Implementing a similar exception in Sri Lanka would provide legal certainty for AI developers and foster data-driven innovation.

Patent Law for AI-Devised Inventions

The question of whether AI systems can be listed as inventors on patent applications is a subject of ongoing debate internationally. While US patent law traditionally requires human inventors, legal challenges are ongoing, and some believe the law may evolve to recognize AI's role in the inventive process. Sri Lanka's current Intellectual Property Act does not explicitly exclude computer programs from patent rights, suggesting there might be room to grant patent rights to software, including AI software, if they meet the criteria of novelty, inventive step, and industrial applicability. This would align Sri Lanka with practices in many East Asian countries that allow for software patents.

AI-Specific IP Frameworks and Legislation

Considering the extensive and fast-spreading scope of influence that AI has had, the full-scale solution may include issuing special legislation addressing questions of intellectual property and AI concerns exclusively, as is illustrated by the European Union with its " European Civil Law Rules on Robotics ". That kind of legislation would be able to have a comprehensive legal approach towards the matters of AI authorship, AI ownership, AI liability, and AI ethics. Additionally, policies need to emerge in terms of how AI helps in generation of brand names, logos, and slogans, and how the generated elements by AI are safeguarded through the trademark law.

8. Strengthening Enforcement Mechanisms

The amendments and new legal frameworks offered especially in combating the issues of artificial intelligence are very important to stiffen the intellectual property rights of Sri Lanka to counter infringement and intellectual theft. Such steps in legislature and policies would provide a stronger, transparent and aggressive intellectual property ecosystem. One of the basic ingredients of protecting intellectual property rights is to get out of the present property rights enforcement attitude as practiced in Sri Lanka of a being reactive. This is supported by arming the police and customs with the capacity to actively start a process of action against those who break intellectual property, as opposed to being reactive on the receipt of a complaint by the victim. This would change the enforcement environment so that instead of focusing only on enforcement actions to deal with reported violations, there would be a proactive deterrence and fight of intellectual property crimes. This active approach can be ensured by boosting the special anti-piracy and counterfeit unit of the police under the Criminal Investigation Division (CID). Such units need further training, resources and laws to carry out independent seizing and investigations.

Moreover, it is highly essential to involve technology in the process of enforcement. The preparation of a broad-based database on trademarks and names which is already being done by the Customs Department will really go a long way in protecting the intellectual property and the effective enforcement of the counterfeits at the border. In addition to the database, a discussion on possible implementation of AI tools in this field in the form of automatic identification and generation of notices that would lead to content removal could substantially speed up the process of detecting and eliminating infringing materials on Internet websites. That would give rights holders the chance to act forthwith, which would protect their reputation and limit additional losses. Even though there are some penalties to breaching intellectual property in Sri Lanka, which include imprisonment or fines, it is important to ensure such penalties are applicable to all and are enough to deter. In case minor fines are still the rule, the deterrence effect is lost, and the infringement can continue. To transform the reactive nature of Sri Lanka, proactive enforcement means, such as specialized

units and techno-ogy-assisted tools should be reinforced in Sri Lanka. This would provide a stronger deterrence against infringement and intellectual theft resulting in a stronger overall protective ability towards intellectual property.

Clarity in Rights and Ownership

The provision of precise legal definitions of authorship and ownership is one of the most important steps in the process of fighting against infringement, especially in the current situation of emerging technologies. In the case of AI-created materials, it would significantly decrease disagreements and serve as a strong legal ground on which enforcement measures could be taken. To the example, when the law clearly specifies that AI-only produced works enter the public domain, unless significant human creative influence is involved, the clarity would ensure that people would be less likely to claim that they are the original creators of AI works, which would make their actual use easier and theoretically result in less unwanted infringement. On the other hand, being given specific answers to what is encapsulated with the phrase of sufficient human creativity in the AI-assisted works would allow the creators to openly state their rights and take legal actions against the violators.

Furthermore, there should be the introduction of optional copyright and trade secret registration system that is like those in the United States as far as evidentiary assistance to infringement actions are concerned. Although automatic protection is useful, the option to register and obtain prima facie evidence of ownership or to warrant statutory damages and even the attorney fees is much more useful to solidify the position of a rights holder in any litigation. Such clarity would help the holders of rights to be more confident in the enforcement of their intellectual property rights, lessening the possibility of the infringers to cash in on the legal loopholes, and the chances of getting relief in court on an infringing act.

Adapting Fair Use/Dealing Provisions

To reach a compromise by balancing the rights of the creators and promoting innovations and sharing knowledge, it is critical to reform the fair use provisions in order to adjust it to improve the provisions of the illegitimate uses in the digital world. A very tight fair use regime can necessarily suffocate creativity and research and a very loose one can jeopardize the economic incentive of creators. The law can address the unintentional violation by setting the boundary by those acceptable such as research, education, criticism, or parody, and this will maintain the dignity of intellectual proprieties of people.

More specifically, legal certainty to the AI developers could be gained by adopting an exception to AI training, like that in Singapore, called computational data analysis (CDA) exception. Such exception allows us to use copyrighted material to conduct data analysis and train machine learning, even in the case of commercial use, but, in case the material was accessed legally. In this way, the requirement to train AI and the rights of the copyright owners can be reconciled as wide-scale accusations of infringing the rights to data cannot be leveled against the developers of the AI, but instead, they have to obtain it in an accurate manner. Such delicate view of fair use in the digital world would provide the right balance between the incentives of creators with the interest of the general population, which would encourage innovation and sharing of knowledge. The law may minimize unintended violation by determining the acceptable uses clearly so that the integrity of the intellectual property rights is not undermined.

International Cooperation and Harmonization

As the global economy becomes more and more globalized, harmonization of the Sri Lankan intellectual property laws with global best practice and international treaties will play a pivotal role in meaningful cross-border enforcement and prevention of intellectual theft. Juris-dictional disparities, especially in new topics such as AI-generated content, give infringers a chance to pursue forum shopping and take advantage of the laxer jurisdiction. The convergence of national intellectual property regimes and particularly in such places where technology and information and knowledge are no longer national would help in international cooperation in fighting intellectual property crime and Intellectual property rights could be respected and enforced all over the world. Such international fighting unit would form a stronger position against theft of intellectual property safeguarding the Sri Lankan firms and individuals in foreign markets and bringing investments.

9. Conclusions

The state of the intellectual property protection in Sri Lanka has provided a basic structure in the form of its Intellectual Property Act of the year 2003, No. 36, which has been supported by both the government level management of the National Intellectual Property Office as well as international agreements on intellectual property agreements. This framework has availed fundamental legal processes of patent protection, trademark protection, copyright, industrial design, and of late, geographical indication. Courts have also aided in making these rights very clear and enforceable with examples of cases to this effect that have upheld the right of the assignee in the case of patent infringement and the criminalized state of copyright offenses, to highlight ownership of real authorship.Nevertheless, on a deeper examination, one would notice that though this framework is sound, considering the times it was developed, on the basis of practical application and adjustment to the ever-changing technological environment, it is very weak. The main gaps are the reactive climate of enforcement prone to responds to the complaints launched by the victims, which means that production of the fake goods is widespread. Lack of formal mechanisms of registering copyright, and trade secrets makes establishing ownership, and rights in case of disputes difficult, unlike the use of evident benefits of optional registration in most developed countries. Moreover, the absence of any specific statutory provisions and judicial interpretations to determine the inventive step in patent law adds a lot of uncertainty, which would hamper the safeguarding of true innovations.The evident one is the most urgent challenge that appears to be a demand of the new technological era closely connected with the emergence of artificial intelligence. The human nature-affirming definition of the concept of author in the current Act leaves a tremendous gap in the application of artificial intelligence to the creation of works that results in the ambiguities of authorship, ownership, and patentability of AI-conceived inventions. Also, current fair use laws lack the sophistication to handle such matters as digital content and AI training data, which has the risk of inhibiting innovative ideas and sharing of knowledge.In a bid to make a difference to maintain the intellectual property system relevant, equitable, and efficient in enhancing creativity and economic development, active legislative changes are necessary urgently in Sri Lanka. The reforms ought to serve to develop understanding of the intellectual property in AI which can be achieved by introducing new forms of authorship or establishing the position of AI-created works explicitly.

Improved proactive enforcement systems, such as special units and technology-aided tools, are a must toward preventing infringement. A fairer policy on fair use in the digital world is potentially able to embrace exceptions to allow computational data analysis, as well as support innovation, and would not undermine the rights of creators. Lastly, should the laws and laws of Sri Lankan intellectual property be adjusted to reflect the best practice of the world or even be changed to an international model, this will allow cross-border enforcement of these laws and give a greater fortification against intellectual pirating in a globalized world. Through these important points, Sri Lanka can restore the best equilibrium between the rights of the creators and the interests of the society so that its intellectual property regime would allow the nation to have a booming innovative economy in its digital era.

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