

International Conference on Intellectual Capital Management IICM2009

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 6466, 48156 Tehran, Iran

Studying and comparison Intellectual property rights in software protection between Iran and International Laws on the cyber environment

Sara Yadollahi
Amineh Maghsudi
Ali Fadavinia
Ebrahim Abdipoor

your@email.com

International Conference on Intellectual Capital Management IICM2009

Intellectual Property

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 6466, 48156 Tehran, Iran

- Intellectual property is the right and legitimacy rules by which the owner is granted his benefits and activities and presented ideas.
- the subject of Intellectual property is not material .
- Some groups literally name it as immaterial property rights.

International Conference on Intellectual Capital Management IICM2009

Types of Intellectual Property

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 6466, 48156 Tehran, Iran

- Industrial property
- Artistic-literary property (copyright)

International Conference on Intellectual Capital Management ICM2009

Software

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 19394
Jeddah, Saudi Arabia

- Software is the collection of computer programs , procedures , commands and documents related to them and the information for operation of a computer system which has a specific usage and is recorded in one types of disks.

International Conference on Intellectual Capital Management ICM2009

Legal rights for protection of software

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 19394
Jeddah, Saudi Arabia



- Copyright Protection
- Patent Protection
- Creating a dedicated discipline in protection of software rights

International Conference on Intellectual Capital Management ICM2009

International conventions and software protection


INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 19394
Jeddah, Saudi Arabia

- The Berne Convention
- TRIPS agreement

 International Conference on Intellectual Capital Management ICM/2009  INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES

The Berne Convention and software protection

- Berne convention protect from software under copyright law .
- 7th part of convention states the duration of protection that shall be copyrighted for at least 50 years after the author's death.

 International Conference on Intellectual Capital Management ICM/2009  INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES

TRIPS agreement and software protection

- Protection of software by copyright
- Protection of software as patent law

 International Conference on Intellectual Capital Management ICM/2009  INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES

Software protection in Iran

- After the establishment and activity of software companies for few years in Iran, by complaining the first software argument in Iranian courts in 1993, suddenly the attention of the juries was paid to this circumstance.

International Conference on Intellectual Capital Management IICM2009

Software protection in Iran

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 485-193
Tehran, Iran

- In 90 s by referring to reasons, some attorneys recognized software as an artistic-literary work and known it as “the rights of the writers and artists” acted in 1969
- another group recognized software as an industrial product. They protect it under the “patent law and trademarks” acted in 1931.
- in 2000, the law of protecting software creators was acted.

International Conference on Intellectual Capital Management IICM2009

the law of protecting software in 2000

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 485-193
Tehran, Iran


- That is combination of Industrial property and copyright
- The 1st part of this law states: “publication rights, presentation, execution and the right to making profit (materially and intellectually) from computer software belongs to the software creator and protects both material and intellectual rights.

International Conference on Intellectual Capital Management IICM2009

Material rights


INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 485-193
Tehran, Iran

- All economical revenues and material benefits from software belong to creator. Material rights could be both, transferable and temporally.
- In the rights for computer software protection, the period of material right has been set to 30 years after the creation of the product.



International Conference on Intellectual Capital Management IICM2009

Intellectual rights



INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 485-193
Tehran, Iran

- Intellectual rights originates from the character of owner and ignites as soon as the work is created
- the 4th section for protection of computer software creators indicates " the intellectual rights of software are assigning to the creator and is not limited to a particular time or place and it is none-transferable.



International Conference on Intellectual Capital Management IICM2009

Penal and civil rights for software creators



INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 485-193
Tehran, Iran

- most international agreements pass the duty of applying punishments to internal countries' rights
- the status in countries which are members in international conventions such as Berne convention is slightly different. Countries act roles as an international authority.



International Conference on Intellectual Capital Management IICM2009

Penal and civil rights for software creators



INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. Box 485-193
Tehran, Iran

- The first column of 5th section in Berne convention, it is requested from countries members to treat the rights for countries members of convention as same as the ones which applied for their own country.
- In 61th section it is named that if the offence commitment be intentionally and in scale of business, the execution of punishment has to be done.

Penal and civil rights for software creators in Iran


- In Iran, according to 13th section law of computer software copyright (year: 2000), if anybody violate the rights of under protection of this law, not only he has to reimburse the loss but also will be imprisoned from 91 day to 6 months and fining cash between 10000000 and 50000000 REAL.

Software protection in electronic age

- By emerging the computer age new issues has been raised interpreting of copyright law.
- In internet by clicking the mouse bottom, computer provides to creating copies from documents, images, music, software that is impossible to recognize from original version.

Approaches and international laws


- In 1996 world organization of intellectual property acted WCT and WPPT pacts which developed the support of copyright in cyber environment and its transitions.
- WCT and WPPT generally are called "internet pacts".



International Conference on Intellectual Capital Management

Approaches and international laws


in the 11th section of WCT and 18th section of WPPT make the governs' members to support these rights, provide ways for Securing networks and guarantee when breaches of author rights occur in cyber environment are the measures of governments' members .



International Conference on Intellectual Capital Management

Approaches and international laws


- According to 12th section of WCT and 19th section of WPPT governments have to consider effective ways for compensation when an aware person violates the rights which acted in Berne convention by incitement.
- the measure of governments includes creating technologies against reproducing works such as coding devices, non-copying devices.




International Conference on Intellectual Capital Management

Available approaches and rights in United States


- software is protected under copyright and industrial property.
- The revision of copyright (acted in 1976, USA) has been categorized the computer programs under the title of qualified literary works for copyright.
- registration for media software is still under negotiation and discussion.

**Available approaches and rights in United States**

- Being or not being software to known as an invention is identified by court which this claim is acceptable according to 101st section of the law of registering the inventions of United States.
- United States of America acted WCT and WPPT as a part of DCMA in 1998 which recognizing copy of electronic works as a crime.

**Available approaches and rights in Europe**

- European Union Committee acted a new law for protecting the computer software and synchronizing copyright laws in government members in May, 1991.
- Parliament of Europe and European Union acted a motion with title " motion of European Union" in 2001 which executed in 2002 and the items of WCT, WPPT were included .

**Available approaches and rights in Iran**

- Before acting the ecommerce law (acted in 2003), protection of authors in digital environment was unclear and just has been paid attention to the laws for support of computer software creators .

International Conference on Intellectual Capital Management IICM2009

Ecommerce law in 2003

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. BOX 28766
DUBLIN, IRELAND

- According to 62nd section of this law “the copy, execution, distribution of the works is exclusively author’s right under support by the law of protection of authors, artists and composers’ right (1969) and the law of translation, copying the books, magazines and sound's works(1973) and the law of computer software creators (acted 2000) as “ Data message”.

International Conference on Intellectual Capital Management IICM2009

Solutions of software protection in Iran

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. BOX 28766
DUBLIN, IRELAND

- If our country accepts the Berne convention and copyright pact, it would be dedicated a specific code to each producers of works
- that code is the document for the person or organization. This code applies as a protector For products and criminals who commit reproducing, distribution or illegal copying, will be punished.

International Conference on Intellectual Capital Management IICM2009

Conclusion

INSTITUTE FOR ADVANCED STUDIES IN BASIC SCIENCES
P.O. BOX 28766
DUBLIN, IRELAND

- With attention on new need and limitation that observing in operation and speed of IT evolution that software is one of important tools, seem that is necessary to Review, correction and complete of law with goals of provide logical protection of copyright of software.
- This effort provide suitable base for reception of international Law of "copyright" protection .



International Conference on
Intellectual Capital Management
ICM2009



INSTITUTE FOR ADVANCED
STUDIES IN BASIC SCIENCES
P.O. Box 485-193
Tehran, Iran

Thank you!
