ISSN: 2616-7956 (Print) and Open Access

Scholars International Journal of Law, Crime and Justice
Abbreviated key title: Sch. Int. J. Law Crime Justice.
A Publication by "Scholars Middle East Publishers"
Dubai, United Arab Emirates

The Development and international protection in the formation of copyright law

Dr. Samia Hassan
Assistant Professor, Prince Mohammed bin Fahd University, Dhahran 34754, Saudi Arabia

***Corresponding author**
Dr. Samia Hassan

Email: shassan@pmu.edu.sa

Article History
Received: 04.03.2018
Accepted: 23.03.2018
Published: 30.03.2018

Abstract: This paper will trace the history of copyrights from the beginning of awareness to the stage of modern law and economics movements. It gives comprehensive overview of the fundamentals of copyrights as an important form of intellectual property. It explains the basic history of copyright from the printing press to the photocopying machine. It also examines the Trade Related Aspects of Intellectual Property (Trips) era in the context of the technological advances. The Trade Related Aspects of Intellectual Property Rights (TRIPS) is considered to be one of the most important agreements in the intellectual property protection regime. A product of the Uruguay Round that established the World Trade Organization (WTO), the TRIPS agreement helped to develop the intellectual property from the national level to the international level, and from its purely conventional intellectual property (IP) perspective that was enacted in the two previous conventions of Paris and Berne to the world trade domain. It therefor laid down the minimum standard of protection that should be maintained by the countries adhering to the agreement Here we are faced with the question core point of this paper: Is future of copyrights law will be as the context as the past? is Trips era is better than the past? Is the Trips agreements is the final improvement to intellectual property rights? How can the states parties deal with the provisions of the TRIPS? Do they adopt or adapt these provisions to their national laws? How can they strike a balance between the national interests and the international obligations dictated by the Marrakesh agreement? Here I explain relation between the national legislation and the norms of globalization triggered by the Marrakesh Agreement of 1994 which concluded the Uruguay Round.
Keywords: copyrights, Intellectual Property, World Trade Organization (WTO)

INTRODUCTION

The Concept of Intellectual Property

Intellectual property is defined by different systems of laws. It relates to the commercial value of ideas and information incorporated in tangible or physical forms in an unlimited number of copies anywhere in the world. The property is in the expression of idea and information reflected in those copies. Hence, the word intellectual property. Several researchers define the concept intellectual property in their own ways. Although there is no uniform definition of intellectual property, it is a familiar concept and substantially statutory dynamic expression responding to the significant changes in technologies and is trying to reconcile the competing interests of the owner and users of protected work. It is designed to reward inventors for their intellectual effort. It is an asset like other types of personal property.

Basically, intellectual property is a statutory right, but it has also developed through common law and equity. Bainbridge (1996) defines intellectual property law as" that area of law concerning legal rights related to creative effort or commercial reputation and good will'. The Convention establishing the World Intellectual Property Organization (WIPO) defines intellectual property as "legal rights which result from intellectual activity in the industrial and artistic fields'. Cornish (2000) defines intellectual property law "as the branch of law protecting some of finer manifestations of human performance that are of commercial value'. Phillips (2001) defines intellectual property as "the legal rights which may be asserted in respect of the product of human intellect or the rights and powers which one may enjoy over another's work". Most importantly, it is clear from different definitions that intellectual property has two aspects; one colloquial and the other legal. The colloquial description of intellectual property is that it consists of things resulting from the exercise of human reason; while the legal description of intellectual property relates to the rights of the production of the mind rather than the production itself. Based on the colloquial nature of intellectual property, it would be interesting to study and see how a country like Saudi Arabia, a Muslim country that practices Sharia law (which will be described in detail in the section that

follows) deals with the effects and implications of intellectual property especially if it affects the international interest.

Of great importance to this research is the connection between the implementation of the Trade Related Aspects of Intellectual Property Rights (TRIPs) requirements and other laws especially countries that have strong religious beliefs of their own. This purpose will be achieved by first, looking at both the historical background and the requirements of the TRIPs at the global level and then look at Sharia law and its impact and implications on TRIPs. In other words, the researcher will be investigating how the Saudi legislators dealt with the TRIPs provisions. Thirdly, the study will look at how they adapted their laws that are based on the Sharia law to the general principles of the TRIPs. It is extremely important at this stage to highlight the relation between the national legislation and the norms of globalization triggered by the Marrakesh agreement of 1994 which concluded the Uruguay round. Finally, the study will compare and contrast between the two kinds of laws and then draw conclusions on whether KSA can achieve both the national and international obligations of TRIPs.

RESEARCH METHODOLOGY

The research methodology used in this study is qualitative by nature. This research used mostly documents and publications. Babbie (2004) suggests that one must obtain data from a variety of sources representing different points of view. He recommends that researchers "examine the official documents, charters, policy statements, speeches by leaders and so on…" (p. 335). This study utilized many sources including books, journal articles, websites and various conventions documents and written laws concerning intellectual property and Islamic law. The scholarly publications were used to explore the emerging legal trends in the international context. Such publications may reveal things that have taken place before this study started. It was anticipated that the qualitative approach to the study allowed the researcher to do proper analysis of written laws and texts of various countries and conventions to evaluate how they are implemented in different contexts. The section that follows will provide the historical background and requirements of TRIPs internationally

Historical Development of Copyrights

This area reviews historical roots and development of copyrights

In European countries and USA earlier legislations focused on books and other written works. Hence the original meaning of copyright is the right to make copies or reproduce the work and as corollary the right to prevent other persons from making copies. Gradually, the subject matter protected by copyright was broadly construed, extended to include records of music, works of fine art, painting, cinema and TV films, artistic performance, broadcast, or cable transmission works. These new matters of copyright could be exploited with or without making copies e.g. public performance. Hence languages other than English use the phrase "author's right" (Id, p.128). There is also apparent distinction between common law and civil law with regard to the basis of protection of intellectual property. Common law protects a work aiming not to be copied with undesirable results, while civil law aims to protect natural author's right not only for his economic interest but also for his moral entitlement to control and exploit the product of his natural intellectual labour.

In England, for historical reasons, the contemporary technological revolution affects the use of the term "copyright" i.e. the right to make copies. Earlier it was difficult to define film, but now the film is considered as a single work "cinematographic work". In France, the right of the author to his work is called author's right "droit d`author" (Bentley, p.28). In England, a change to author's right might symbolize some preference of creator over entrepreneur. Also, the relation between author and exploiter offers many opportunities for tensions and disagreement. In Continental Europe, author was given moral right. In Britain, the relation between author and exploiter was organized by contractual agreement supported by such terms as the court might imply in the name of business efficacy and subject to the tort of defamation, injurious falsehood or passing off (Cornish, p.343). Since 1988 moral rights have been given protection under legislation passed in that year.

Evolution of Copyright in Earlier Civilizations

In the beginnings of civilization, the dominant principle was the eagerness to profit from the work of others. The technique of printing had been recognized earlier in China and Korea in1048-1401 (Kanan, 1987).

The idea of owning the result of intellectual work similarly existed in ancient Greece and Rome in fourth century B.C. Plagiarism was treated as shameful or disgraceful, and Greece and Rome were powerful to curb literary piracy (Foster, 1993). Their governors issued patent for invention to protect their intellectual rights in consideration for depositing certain copies in national library, especially famous plays aiming not to be pirated or misused. These libraries opened for the public but the books were permitted for borrowing (Kanan, p.12).

The Romans did not recognize the modern sense of the term "intellectual property". The publishers contracted with author for their original books and copied them. Thus, authors lost their intellectual efforts. The Roman thought for a solution for the illegal copying, henceforth they had given authors the right to injurious action (Id, p.18). The Roman literature

reflected that the earlier authors were not satisfied with their moral rights, and they aspired to gain some profit from their manuscripts (UNESCO, p.12).

Going back to the earliest historical time, we find some notion of literary property. In ancient times, the idea of the author to protect literary creation was not well established. Nonetheless, moral rights were recognized because most of the authors were teachers (Bainbridge, p.31).

In medieval times, the numbers of copies were limited due to hand- rewritten manuscripts. Future use of a work would not reflect economic interests of the author, because they were not based on the reproduction and dissemination of a large number of copies. Public opinion prohibited imitation of sculptures and paintings or plagiarism (UNESCO, p.13).

Islamic Evaluation

The earlier Islamic principles indicated that the Prophet Mohamed's followers attributed all his saying and doing to him, thereafter, they conveyed them to their people and successors. Sidena Abu Baker El Seideyg is the first one who laid down this principle of copyright protection (Al-Najar, 2000). Historians thought that the initial protection of copyright began in the eighteenth century, due to the invention of the printing press. Islamic scholars recognized many concepts of Intellectual property before that time, for example, the intellectual creation, imitation of works, and the economical and moral right of the authors (Kanan, p.26). The best example of intellectual efforts of Islamic scholars is the writing of the Holy Quarans and reproduction of it. Also, Islam recognized the idea of duration of copyright protection and the reward to the author in consideration for his creative effort and exploitation of his work.

Concerning the duration of copyright, Islamic Philosophers made the maximum period of the protection to the inheritor of the deceased owner 60 years from the death of the copyright owners. In relation to moral right of the author, the Islamic scholars mentioned the name of El Hadeth`s authors. Also, in the earliest centuries Islamic scholars recognized the notion of the deposit of the works or books in place called 'Eltakhalid'. The major center for the books was called "Dar Elalem" or the "Educational House" in Bagdad (Kanan, p.28-30).

Accordingly, the rule of faith and honesty protect the creation of the mind in the Islamic history. Islam does not concern only the Arabs, but there are different civilizations which converged with Islam and had an input in its evolution.

Evolution in England and other European Countries

Before the late fifteenth century, two factors lessened the importance of protecting literary works. Most of works were mainly religious books written by scholarly monks for a limited period of time. Also, the lack of market for books due to the lack of education of the population at large, helped to lessen the need for protection (Bainbridge, p.32).

In 1483, an Act of Richard III of England enabled the circulation of books from abroad. In 1518, the royal printer was given the first privilege prohibiting the printing, for two years of a speech by any one else (Id). In 1534, Stationers imposed restrictions on importation of foreign books (Cornish, p.339).

Although there is a belief that the notion of literary property can be traced back to the earliest historical time (Unesco, p.12-15), it is the invention of printing press in the fifteenth century that led to the emergence of copyright. Thus, in England the earliest copyright protection took the form of printer's licenses under which the king granted privileges (Copinger and Skone, 1971). The year 1556 witnessed the issuing of original charter of Stationers Company imposing restrictions on the printing press until 1640. In 1556, the decree of star champers prohibited certain kinds of printing (1993).

In 1585 there was a law relating to books license as well as prevention of printing. This decree was enforced in 1623 determining the way of authorization of printing and the infringement of copyright was subjected to statutory penalties (Bainbridge, p.8). In 1637, the star chambers again limited the scope of printing. This decree was abolished in 1640. In 1662 the licensing Act was passed. Moreover, it prohibited any printing contrary to Christian faith, doctrine or discipline of the Church of England. This Act was abolished in 1679 (Id, p.11). In 1881, the stationer's company declared void all legislative protection by ordinance or by laws, and gave the sole right of printing to the registered proprietor of a book. The ordinance of 1881 imposed sanctions in case of violation.

The stationer's company requested copyright protection. The system of privileges was more criticized and the voice of authors asserting their rights for intellectual property began to be increasingly heard. Accordingly, on 11th January 1709 a draft bill was presented to the House of Commons" for the encouragement of learning, by vesting the copies of printed books in the authors or purchasers of such copies during the time therein mentioned" (UNESCO, p.14). The petitions presented to the House of Lords in support of applications to parliament in 1709, supporting the bill to protect copyright, the claim was that: "By common law, a book seller can recover no

more cost than he can prove damage; but it is impossible for him to prove the tenth, the hundredth part of the damage he suffers, …we therefore pray that confiscation of counterfeit copies be one of the penalties to be inflicted on offenders" (James, p.11). On the 10th of April 1710, this draft bill became the first true and modern copyright statute in the world recognizing individuals' rights and became known as the Statute of Anne (Id).

The Statute of Anne distinguished between the already published and unpublished books. In the former case, the term of protection was 21 years from the date of the enactment of the law, and in the latter case the term was 14 years. For more than half a century, the lower courts granted many injunctions, even after the expiration of the term fixed by the statute (Bainbridge, p.33). But in the famous case of Donaldson v. Beckets (Cornish, 1993), sooner after the expiry of the statutory term for previously published cases, there were challengers of common law. The dispute arose as to whether the author had, apart from the right conferred by the statute, a perpetual common law right to print or publish his work. This case related to copyright to Thomson's, the seasons which were published in four parts from 1726 t0 1730. Thomson' who was Scottish poet, died in 1748 and his copyright was sold by his executors to Beckets who took legal action against Donaldson. Donaldson obtained a legal permanent injunction from the Lord Chancellor. The House of Lords overruled a previous– five years of decision by the King's Bench Milar v. Taylor (1769), and determined that copyright i.e., the exclusive right to publish and sell copies had never existed as a right at common law. The full House of Lords thus rejected the divided decisions of the judicial branch of the House of Lords, which had ruled that copyright had existed at common law; that prior to adoption of the Statue of Anne, common law copyright existed in perpetuity even after publication of the work, but that – according to some reports of the decision- the Statute of Anne substituted a limited term of statutory protection with regard to published works.

The formalities imposed by this statute were the registration of books at the stationers Hall and deposit of nine copies for the use of the universities and libraries. The bookseller was the only person who benefited from this statute. This prerogative was, however, insufficient because there was no mention of public performance, dramatic versions and translations. The result was the Engraver's Act 1735 for the protection of artists, designers and painters. Still it was considered not to be enough to provide author with the right to print and distribute his work (James, p.13).

In 1774 a common law right for unpublished work was recognized (WIPO, p.424). In 1775 a perpetual copyright to copies belonging to the Universities of Oxford and Cambridge, and the colleges of Eton, Westminster and Winchester was conferred (Bainbridge, p.33). In 1814, the Sculpture Copyright Act was passed which provided for fourteen years' copyright protection. In 1833, a dramatic copy was protected by Bulwer-Lytton Act 1833 (James, p.13). In 1842, another important statute on copyright was issued (Literary Copyright Act, 1842). This Act made the period of copyright protection the life of the author and seven years after his death, or 42 years from the date of publication, whichever is longer. Performing rights was extended to musical works.

In 1862, the Fine Arts Copyright Act was passed protecting painting, drawings and photographs for the term of the life of the author and seven years after his death. In 1875, royal commission was appointed to examine number of Copyright Acts dealing with different branches for the purpose of consolidating the statutes. They criticized the fourteen Acts of parliament as intelligible and obscure and that their arrangements are often worth than their style (James, p.14).

Owing to the abuse concerning performing rights in musical works, Copyright (Musical Composition) Act 1882 was enacted with certain requirements imposed on public performance right e.g. printing of any musical composition on every published copy (Id, p.14-15). In 1885, Great Britain had signed the Berne Copyright Convention. In 1902 and 1906, owing to the practice of selling pirated copies of songs and music and the difficulty of ascertaining any substantial person to proceed against infringement, the Musical-Summary Proceedings-Act, 1902, and the Musical Copyright Act 1906 were passed.

In 1908, the international pressure obliged Britain to revise its copyright law to cope with the revised convention with the purpose of promoting greater uniformity in copyright law and giving copyright owners full protection in all members' states (Bainbridge, p.34). In 1909 a committee approved the revisions of the revised convention and recommended the passing of a consolidating and Amending Act within a single text. Accordingly, the Copyright Act 1911 was passed, influenced by the Berne revision and adding major changes to UK (Cornish, p.344). This Act repealed all the previous statutes with the exception of the Musical Copyright Acts of 1902 and 1906 and one section of the Fine Arts Copyright Act 1862. The Act widened the scope of copyright. The producer of sound recordings was granted the exclusive right to prevent unauthorized reproduction of his recordings (Torman, p.11), in Gampo Co. v. Cawardine (1934), the court later held that the producer could also prevent public performances of their recordings.

Further changes to Berne Convention in 1951 again prompted the United Kingdom to amend its

copyright law. Hence, the Act of 1911 was repealed by the Copyright Act, 1956 (Bainbridge, p.34). In 1958, this act in turn was repealed and enacted by the Performer Protection Act 1958-1972 which made the offences of non-private records films of performances, performing them in public, and broadcasting performances without performer's written consent (WIPO, p.7).

Attempts were made to persuade courts that the Acts conferred civil rights of action and the protection was much less satisfactory. Thus, the 1956 Act was repealed and re-enacted as the current Copyright, Designs and Patents Act, 1988 enabling Britain to meet development of post-war decade (Cornish, p.15). The 1988 Act enables the United Kingdom to ratify the Paris Revisions of 1971 of the Berne convention. Yet the 1988 Act may sooner become incapable of dealing with copyright in the new multimedia and the Internet. Thus, England must be forced to update copyright to meet the challenges of technology (Hart, p.131).

In France, the gradual replacement of the system of privileges by a system of copyright emerged when the revolution revoked the privileges of publishers in 1789 (Unesco, p.15). The foundation of the French copyright system was laid down by a decree passed by the Constituent Assembly in 1791. This decree gave the author a right of public performance for a limited period of time. Again another decree was passed in 1793 which provided for an exclusive right to author to reproduce his work.

The remaining European countries may be noted briefly together. In Germany, modern literary property appeared in the eighteenth century (Id, p.15). Before that time, natural law was recognized as the source of protection. The author's right was expressly provided for in Order No. 1686. On the other hand, the Prussian civil code of 1794 established protection of books for an author who was the king's subject. The first Federal law was enacted in 1887. In Denmark and Norway, a copyright ordinance was adopted in 1714 and remained in force until 1814, and in Spain the recognition of copyright was given the force of law in 1792. In Italy, on the other hand, the protection of modern copyright received legal sanction in many states. Finally, in Russia, the first law on copyright was enacted in 1930.

Evolution in USA

Until the enforcement of current United States Copyright Act, 1976 the copyright law in the United States resembled the English Statute of Anne (WIPO, p.25).

The first copyright law came to existence before the American Revolution. In 1476, and in response to printing press technology, a need was felt to protect the printer against piracy. The first step was a privilege to the printer from the author to have the sole right of reproduction specific works. The Star Chamber Decree of 1556 was the earliest copyright legislation granting the charter of stationers` company. In 1637 the decree of Star Chamber was passed providing for licence (Whale, p.3-4).

In 1640, the Star Chamber decree was abolished; and in 1643, an Act for redressing Disorders in printing was passed imposing restrictions on printing. In 1662, the Licensing Act was enacted affording statutory regulation of the printing right (Id, p.87).

In 1709, the Statute of Anne was passed with its new domain in copyright requiring registration and publication of published books (Id). The question whether common law copyright existed in the United States, and if it did, whether and to what extend the enactment of federal copyright Act abrogated common law copyright, was raised in Wheaton v. Peters (Gorman, 1834). Like Donaldson v. Becket (Supra), the plaintiff Wheaton was a former reporter for the United States Supreme Court. The defendant Peters, Wheaton's successor as reporter, sought to publish "Consolidate Reports" of the Supreme Court's decisions. Peter's work included decisions previously reported in published volumes by Wheaton. Wheaton alleged infringement of his federal statutory and common-law copyright in reports. The Supreme Court observed that while an author had the right at common law to prevent another form depriving him of his manuscript, and to prevent the unlawful publication of an unpublished work, the case raised different questions whether, once the work was published, the common law recognized a copyright in the form of a perpetual and exclusive property in the future publication of the work. The court held there was no federal common law copyright. Rather the question would be resolved under the law of the state where Wheaton's work was published, Pennsylvania. In determining whether Pennsylvania recognized common law copyright, the court held that two matters must be addressed: First, did England recognize common law copyright? Second, even if it did, did Pennsylvania adopt that aspect of English common law or alternatively, develop its own common law copyright? Reviewing Donaldson v. Becket, the Supreme Court determined that the existence and scope of common law copyright in England was -a question by no means free from doubt. The court then ruled that, regardless of the status of common law copyright in England, the concept had not been adopted in any form in England until after Pennsylvania had developed its own common law. The court concluded that English copyright law was not part of common law of Pennsylvania, and that Pennsylvania had not developed a common law copyright of its own. The court went on to state its view that common law copyright in published works had not existed in any state. Rather,

the right to copy and sell published works was entirely a creation of Congress. But Wheaton's federal statutory claim also failed because, upon publication of his work, Wheaton did not comply strictly with all requirements of the Copyright Act. The court also observed, in passing, that no one was entitled to copyright in the text of the court's decisions.

Later in 1802, the scope, term of protection and new subject like prints, were added. In 1831, musical compositions were extended and the term became twenty eight years with the privilege of renewal for fourteen years granted solely to author or his widow and children. In 1856, dramatic compositions were added with the right of public performance. In 1865, photographs were also added; and in 1870, copyrightable works was extended to include printing, statutes, paintings, drawings, sculpture and models or designs for works of the fine arts (Gorman, p.7).

In 1891 the International Copyright Act of 1891 was passed giving copyright privileges to foreigners with conditions of entry of title, notice and deposit of any book, photograph, chromo or lithography. In 1909, the Copyright Act 1909 was promulgated to be in force for the next sixty-eight years and delayed USA entry into Berne Convention for eighty years (Id). It added copyrightable subject matter in general to include all writings of an author, and the distinction between pre-publication and post publication right was made clear by the Act (Whale, p.4).

In 1940, a new step towards international copyright was taken. In 1954, USA adhered to the Universal Copyright Convention of 1952. Members of the two international copyright conventions have agreed to give national countries the same level of copyright protection which they give to their own nationals. Unpublished works are subject to copyright protection in the USA without regard to the nationality or domicile of the author.

Due to the failure of the Copyright Act of 1909 to conform to the terms of the then relatively new Berne Convention for the Protection of Literary and Artistic Works 1886, and to conform to technological changes, the copyright Act, 1976 was passed repealing the previous Act 1909. The 1976 Act is derivative from the Statute of Anne. In particular it prolonged the duration of protection to the life of the author and 50 years after his death (WIPO, p.25).

In 1980, there were many amendments to the 1974 Act: section 117 was added to the Act, granting protection for, and scope of rights in computer programmers; the Semi Conductor Chip Protection Act, 1984 was promulgated, banning the direct or indirect commercial rental of phonorecords (Joyce, p.17).

In October 1989, the United States ratified the Berne Convention. The result was amendments to the 1976 Act making notice of copyright optional rather than mandatory; elimination of the need, as a prerequisite to suit, to record transfer of rights, and initial substitution of negotiated licenses for the previous “compulsory license” (Id, p.13).

In 1990 and 1992, substantial amendments were made by Congress. In 1990 Congress enacted three acts: the Visual Artists Rights Act, the Architectural Works Copyright Protection Act, and the Computer Software Rental Amendments. The Visual Artists Rights Act confers authors of certain pictorial, sculptural and photography's work limited rights of attribution and integrity in the original physical copies of their works. The Architectural Works Copyright Protection Act affords protection to completed architectural structures, in addition to plans and models. The Computer Software Rental Amendment affords copyright owners of computer programs, the exclusive right to authorize rental copies, even after their first sale (Gorman, p.13).

Audio Home Recording Act, 1992 was passed imposing surcharge on digital audiotape (DAT) records and recording media to be distributed among song writers and publishers, and performers and producers of sound recordings (Id, p.13). In 1993, congress replaced old compulsory license and provided for negotiated license for juke boxes (Joyce, p.14).

International Evolution

By the early nineteenth century, many states issued national copyright laws, amending them from time to time to cope with technological development (Unesco, p.15-16). Nevertheless, the territorial character of copyright laws remained constant. Moreover, the grant of copyright protection by national laws is ineffective outside the national territories.

According to UNESCO publication (Id, p,16), “development of international relations, cultural exchanges and translation of works into other languages require protection of works of national origin outside national territories and of foreign author within national boundaries.” Historically, foreign works were originally accorded protection by establishment of special clauses in national laws providing for reciprocity. But these measures were inadequate to provide international protection.

Need was felt for multilateral instruments obliging contracting states to give protection to foreign works, on a large scale. The piracy of author's protected works abroad shifted the emphasis in copyright law to international level. Accordingly, international protection came about at the end of the nineteenth century, through the Berne Convention for Protection

of Literary and Artistic Works, 1886 (1971). The members' parties to this convention are called "unionist countries" but all members states are not governed by the same text of the convention. some countries did not ratify some revisions, so there may be no unity between the unionist countries because in each text there is a new law. Countries that ratified the revisions are only bound by it. Sudan ratified the Berne Convention in 2000, so it is governed by the last revision. USA did not join the Berne Convention until 1988.

There are many conventions protecting performers, phonogram producer and broadcasts and preventing unauthorized distribution of satellite transmission. The international Convention for Protection of Performers, Producers of Monograms and Broadcasting Organization, 1961 (the Rome Convention) ; the Convention for the Protection of Producers of phonograms against Unauthorized Duplication of Phonograms 1971 (The Phonogram Convention); Convention Relating to the distribution of phonogramme carrying signals transmitted by Satellite 1974 (The Satellites Convention). Related or Neighbouring Rights are partly covered by the Rome Convention for the Protection of Performers, Phonograms and Broadcasting Organizations of 1961 (Rome) (Cornich, p.27).

Trade Related Aspects of Intellectual Property (TRIPs) is the most important development in international intellectual property law, each member states is obliged to grant nationals of other members the same right as it accords to its own national i.e. national treatment. They may also introduce exceptions of national treatment. For the most part it demands members of the WTO to recognize the existing standard of protection within the Berne and other conventions (TRIPs, art.19). It requires substantive protection for rights neighboring copyright (TRIPs, art.14). Sudan is not party to TRIPs Agreement for the time being and shall remain as such until it joins the WTO.

After TRIPs, two new intellectual property treaties were promulgated through WIPO: the 1996 WIPO Copyright Treaty and 1996 WIPO Performers and Phonograms Treaty. "These reincorporated the Berne-plus element of TRIPs into exclusively intellectual property environment, as well as adding new TRIPs-plus elements" (Bentley, p.8).

Requirements of TRIPs Worldwide

There are many reasons for the importance of existence of intellectual property law; one is to grant statutory expression to rights of creators and to secure a fair return for them. Another reason is to protect creativity and application. Further, it stimulates fair-trading contribution to economic and social progress, thus advancing public welfare. In the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), which resulted from the General Agreement on Tariffs and Trade (GATT)'s Uruguay Round and established the World Trade Organization (WTO) in April, 1994, intellectual property is regarded as referring to the protection of authorship's works, copyright and related rights, trademarks, geographical indications, industrial designs, patents, layout-designs of integrated circuits and the protection of undisclosed information. Throughout the 19th century the owners of intellectual property demanded the international protection of intellectual property. This was done by way of bilateral treaties protecting their respective laws in each other's, by national treatment. By the end of nineteenth century, the Paris Convention for the Protection of Industrial Property 1883 and the Berne Convention for the Protection of Literary and Artistic Works of 1886 were adopted. In 1947, following the Second World War, the GATT was formed and a multilateral negotiation was launched in 1986, to be concluded in 1993, thus integrating the GATT into the World Trade Organization emanating from the Uruguay Round's conclusion agreement which was signed in Marrakech in April 1994. One of three schedules attached to that agreement dealt with TRIPs which conferred more protection compared to previous WIPO administered treaties or conventions. First, TRIPs broadens intellectual property rights within a framework making it obvious to the parties to accept stronger intellectual property protection while they considered it to be counter to their interests, although there might be other unforeseen advantages. Secondly, the GATT negotiations were widely conducted among countries because its treaty process includes non-governmental organizations and other organizations. The TRIPs Agreement covers in detail all areas of intellectual property.

The standard of protection within the Berne and Paris Conventions must be adhered to by all members of the WTO. The Berne Convention was established in 1886 to set minimum standards with respect to author rights and also contain a National Treatment most favored nation obligations (Trebilcock & Howse, 1998, p. 315). The Paris Convention on the other hand, was established in 1883 and dealt with the protection of Industrial property.

The TRIPs Convention, which came after the Paris and Berne conventions, ordained the following rights to be protected in the countries that adhered to the agreement: Copyright including computer programs, related or neighboring rights, patents, industrial designs, trademarks, semiconductor topographies, trade secrets and bio diversity

The demand for international protection for intellectual property has increased as the market has internationalized. Intellectual property can be exploited

in national and international levels. There are two types of international co-operation treaties and conventions. Firstly, the treaties and conventions setting minimum uniform provisions and standards of protection, harmonizing the minimum standards and the basis underneath all intellectual property laws for each member and affording protection for works of foreign inventors. The second category of treaties and conventions are those which require the formality of registration in each country in which protection is sought. Many of them embody a single application and examination procedure or at least a certain level of co-operation between the national and international property authorities**.**

Conclusion

This paper reveals that the role of copyrights today is the result of long and complicated history. There are three important factors which had led to the development of copyrights: The first factor is the development of printing press and other technical devices of large scale copying which made it possible to produce books and other works on commercial scales. The second factor is the spread of education, which made it possible to find readers and thus markets for books and other works. The third factor is the change in the people's views that copying is the right to exploit into a belief that copying is a misappropriation of someone else's effort. Without these factors, the need for copyright laws would not have been properly felt, and consequently there would be no proper demand for it. Today, Copyright have been standardized through international agreements such as Berne Convention, Paris Conventions and Trips agreement. Trips is the most important and comprehensive international agreement on copyright.

References

1. Al Galioubi S, (2003.). *Industrial Property Law: Patents, Utility Model, Integrated Circuits, Undisclosed Information, Trade Marks, Geographical Indication, Industrial Design, Plant Varieties, Trade Names*, 4th ed. , Cairo : Dar Alnahda Al Arabia (in Arabic).
2. Al-Najar, (2000). *Moral Rights of the Author in Islam and Comparative Law,* Cairo (Arabic Version).
3. Bently, L & Sherman B, (2001). *Intellectual Property Law*, (1st ed). London: Oxford University Press.
4. Bainbridge D. (2000), *Introduction to Computer law*, 4th ed, England: Longman and Pearson Education Limited, Edinburgh Gate Harlow E Essex.
5. Joyce (1995), *Copyright Law*, 3rd ed ,England ,Carolina Academic Press.
6. Kanan Noaf (1987),*Copyright law*, Cairo, Egypt, :Dar Althagafa LLnashr Wa Altwzeey ,Arabic version
7. Copinger and Skone James (1971), *Copyright*, 11. Ed, London: Sweet and Maxwell.
8. Cornish, W. (1999). *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights*, 3rd ed. London: Sweet and Maxwell.
9. Foster, (1993), *Patent, Copyrights & Trade Marks*, 2nd ed , London: Sweet and Maxwell
10. Gervais D. (1998), *the Trips Agreement: Drafting History and Analysis*, London: Sweet and Maxwell.
11. Gorman (1993) , *Copyright for the Nineth Cases and Materials*, 4th ed , London: Sweet and Maxwell.
12. Madikoma , Adel.(2013,). Putting Discovery into Perspective: PMU's Core Competencies, Implementation and Assessment Process. Paper presented at the annual conference of, Athens.
13. Phillips, J., & Fisth A (2001), *Introduction to Intellectual Property Law*, (4th ed.). London: Butter Worth and Co. Publishers Ltd.
14. Schott J., (2000). *The WTO After Seattle*, Washington O.C, USA, Institute for International Economics
15. The World Facebook (2013). People and Society: Saudi Arabia. Accessed on April 4, 2013 from https://www.cia.gov/library/publications/the-world-factbook/geos/sa.html
16. Whale (1972), *Copyright Evolution, Theory and Practice*, Longman Group Limited , London.
17. WIPO. (2001) *Intellectual Property, Hand Book: Policy, Law and Use*, WIPO Publication, No, 489 ISBN 92, (pp. 805 – 1004). Geneva: WIPO.
18. WIPO, (1977), *Licensing Guide for Developing Countries*, Geneva: WIPO.
19. General Directorate for Intellectual Property, (2013, 22 April). Intellectual Property Rights Organizations in the Kingdom. Accessed on June 15, 2013, from http://www.mci.gov.sa/en/Agencies/TechnicalAffairs/Departments/Sharq/Pages/1-4-3.aspx