CHAPTER: SIX

OBSERVATIONS AND SUGGESTIONS
Observation and Suggestions for Amending the Copy Right Act, 1957 for the protection of Electronic Information are as following:

1) For works in digital format, without incurring a charge or seeking permission all user of a library should be able to:
   i) Browse publicly available copyright material.
   ii) Read, listen to, or view publicly marketed copyright material privately, on site or remotely.
   iii) Copy or have copied for them by library and Information staff, a reasonable portion of digital work in copyright for personal, or educational use.

2) Providing access to digital format of a protected work to user for a legitimate purpose, such as research or study should be permitted under copyright Law.

3) The lending of published physical format digital material (i.e, CD-ROMs) by libraries should not be restricted by legislation.

4) Contractual provisions, for example, within licensing agreement, should not over side reasonable lending of electronic resources by library staff.

5) Legislation should give libraries and archives permission to convert copyright protected materials into digital format for preservation and conservation related purpose.

6) Legislation should also cover the legal deposit of electronic media.

7) National copyright legislation should render invalid any terms of a license that restrict or override exceptions or limitations embodied in copyright Law.
where the license is established unilaterally by the right holders without the opportunity for negotiations of the terms of the license by the users.

8) National copyright Law should aim for a balance between the rights of copyright owners to protect their interest through technical means and the rights of users to circumvent such measures for legitimate, non-infringing purpose.

9) Copyright Law should enunciate clear limitations on liability of third parties in circumstances where compliances cannot practically or reasonably be enforced.

10) Scanning of photographs in GIF formats (these are usually copyrightable images; for instance a common usenet practice is to scan in playboy photographs, but these images are protected by copyright.

11) ‘Firstsale’ rules for works transmitted digitally be abolished.

12) Copyright infringement could be constructed if technological devices are used to circumvent copy-protection schemes that copyright owners have created.

13) Anti-piracy provisions were incorporated by the Amending Act of 1984 to check widespread piracy of books at it has been made a cognizable and non-bailable offence. But, there is still no permanent relief to the publishing industry due to lack of effective execution. There should be penal provision against the people, institution, libraries who are either possessing or patronizing copies of pirated edition, once the general public became aware of such penal provisions/there will be effective curb on such piracy activities.
14) Arbitration and Alternative Dispute Resolution (ADR) mechanism should be introduced within the culture of Arbitration for speedy disposal of dispute between author and publisher. Online panel of Arbitrators may be appointed under the jurisdiction of existing copyright Board or any other body like Intellectual Property Appellate Board (IPAB) on the line of World Intellectual Property Organization (WIPO).

15) Copyright office was established under the immediate control of Registrar of copyrights. He is kept under superintendent of the Central Government. He has to maintain Register of copyrights.

16) International copyright relations, which are based on treaties to be regulated by specific orders of the Central Government.

17) Problem of piracy in copyright should first discussed in the Lok Sabha and measurers were suggested by the members. Accordingly, punishment for infringement of copyright was increased upto imprisonment upto three years and fine up to Rs. 2 Lakhs, with minimum of imprisonment upto six months and fine up to Rs. 50,000/-. Thus, no court can award sentence less than imprisonment upto six months and fine upto Rs. 50,000/-. Similarly, for second subsequent offences the punishment provided is more than the first offence. At the same time, offence of infringement of copy right is now considered as economic offences, by virtue of this amendment. Therefore, the limitation for taking cognizance of offence provided in Sec. 469 of criminal procedure code is now not applicable to the offence.

18) The copyright Act has undergone several changes taking into consideration the need of the people and International conventions. Now it has become again necessary to amend it taking into consideration of Information and technology faculty. Piracy in respect of computer software has increased. There is no protection to the software prepared and one can easily pirate the
same pictures and programmes loaded in computers can also be downloaded easily.

19) Computer hardware, equipment functional components have been traditionally protected by granting patents. But field of software is considered to be a field of literary work and therefore it is protected by copyright. Copyright is granted to the creators of original works of authorship. In our country, recently, Information and Technology Act, 2000 has been enacted to authenticate the Information received by the use of the computers or to regulate the e-commerce. It has suitably amended Indian Penal code. However, the Act is not providing for protecting softwares. Thus, to protect software by copyright and also to recognize the rights of intellectuals as Intellectual property is a need of todays.

20) The term of copyright for computer programme has not been mentioned in the IT Act, 2000.

21) In the Act, the author of the literary work shall not be the owner of the copyright as ownership rests with proprietor of periodical, newspapers in such cases the author becomes defacto owner of the copyright.

22) Due to the impact of IT and telecommunication system further amendments suggested by National Law School of India University (NLSIU) should be made clear as per WIPO copyright Treaty (Geneva) 1996.

23) Application of copyright act in libraries and Information centres needs different legal basis as L & IC own documents to one where all they do is lease the use of Information and Communicate to the public which is otherwise violation of copyright and also infringement of Geneva treaty. For this problem there is requirement of certain amendments.
24) Attempt could be made to create awareness about intellectual property right and to alter the situation in the developing countries.

25) It should be cover to Internet with the changing technology and globalization communication.

26) Stopping users from directly logging on as root (super user) or administrator from remote.

27) Using passwords that are difficult to guess and regularly changing them.

28) Encrypting all the sensitive information and e-mails transmitted over the Internet.

29) Section 57 of the copyright Act. 1957 speaks of author's special right. It does not speak of publisher’s or owners special rights. There should be similar provision for publishers also to take effective step against person/agency committing any action prejudicial to their honour, reputation and interest.

30) Since there is no copyright in ideas, the author enjoys an unhindered right. He has liberty to approach various publishers at the same time even after reaching an agreement with a publisher for a work on similar subject. There should be a clause of “reasonable restriction” to prohibit the authors from indulging in such kind of unholy practice which creates unnecessary competition and ill will among the publishing fraternity and also spoils the reputation and goodwill of both author and publisher.

31) As a violation of copyright amounts to an act of piracy it must be proved by clear applying the various test laid down by the cases of Law.
CHAPTER: SEVEN

SUMMARY AND CONCLUSION
At the outset IPRs in digital age is acquiring an inseparable status and there is an urgent need to study the Laws related to printing and other media at different levels. If one has to make best use of all the media available, one has to surely learns, monitor and incorporate new developments, participate in consortia related to digital media continually update and validate digital content by coordinating with legal representatives and adopt appropriate strategies to limit risk factors.

The 21st century Libraries vis-a-vis Information Centres & the professionals find themselves at the threshold of an explosive revolution. The development in Communication Technology have triggered unprecedented changes in corporate activities. The purpose of ‘Internet’ is make its content economically viable for the benefit of the newly emerging information society. This would largely depend on how successfully one is able to resolve the issue related to IPRs.

Today we live in a world of instant global communications. It is an era of fast technological development and Information Technology. In recent times techniques for reproducing documents and access to documents through faster communication has become reality. New techniques for sound recording and visual images have increased. Simple, in expensive and readily available magnetic tape reproduction equipments with low cost tapes, cassettes have made copying of phonograph records
simple. New computer technology has brought a revolutionary change. These technologies are providing unlimited opportunities for communication between people and helped many people to reproduce documents and other materials illegally on a large scale causing problems to copyright owners and Government agencies. A number of laws are being enacted to protect copyrights.

The shift from “Wheels Revolution” to the “Information Technology” has element of uncertainty, challenging and interesting times. Attempt to apply yesterday’s concepts of tomorrow’s society appears to the futile. A few aspects of life will survive the cybernetics unscathed by this is itself a natural process that is set in. the parameters of e-commerce set by the IT Act, 2000 stands on four key cornerstones of trustworthy transaction integrity, authenticity, confidentiality and non repudiation, where the certification agencies will issue certificates to individuals, corporate and business entries. The IT Act, 2000 is wide enough to protect the rights of the web page owner. An uploaded material in the net satisfies the requirement of data under the IT Act, 2000 section 2 (0), which means, “Whoever downloads, copies or extracts any data or databases” or reduces the value of data shall be liable to pay damage under section 43 of IT Act and also liable for hacking under section 65 of the same Act. This is at the moment an extreme proposition and interpretation, but the changing times with market economy and many more erstwhile copyright aspects will find IT Act type damage which of course is not the real intent of the IT Act, 2000.
In India, the copyright law is governing the computer software generally. The copyright Act, 1957 is being described as one of the stringent protection law in the world. The layering process, as well as the opportunity for such advocacy for Intellectual property is just beginning. The validation of the existing copyright law and expansions made to encompass software protection appears as a more cosmetic approach. Ever time a consumer buys a computer loaded with unlicensed software products he is party to the crime. The menace of software piracy or violation of copyright affects not only the potential of software development in India but also our country’s economy, besides sending negative signals to potential investors. The potential rise and the phenomenal growth in software sector need to assure and ensure the knowledge workers with the economic benefits, which is the under current in new paradigm of “Online knowledge market”. In the make fit arrangement with the traditional plasticity and transmissibility of the digital creations. The convergence bill 2001 need to be better debate holistically to make it apt and synchronize the issues to meet the impeding challenges the country is likely to face the Internet, the generously generated software packages and applications. Care need to taken that there are no violation of IPR regime from with the country and at the same time to provide safeguard and security for the generated Intellectual property.

The changing concept of technology in electronic era made a substantive availability Information including the electronic products in various forms in libraries and Information centres. The librarians including the Information officer could spawn
scope to satisfy the varied interest of the user communities by providing the
Information in electronic form through Internet CD-ROM, Floppy etc. The technology
is racing ahead for a revolution to take place in the publishing industry, But it is not
possible to see the explosion of publishers on the net without putting the legal issue of
the copyright in the right place. Both the publishers and authors need protection from
digital copying and distribution to preserve the authenticity of their work.

Electronic publishing is a process for production of typeset quality document
containing text, graphics, pictures, equations, tables etc. that is used to mean any
information source published in electronic form. Further, the electronic publication
includes sources like magnetic tapes, videodiscs, and images.

In electronic era, electronic publishing is a decisive constituent to prove the
validity and the validity of technological efficacy of information sources in the most
appropriate and effectual manner, in the present century, the only option left out for
the Libraries and Information Centres to espouse the devices of accumulating the
electronic information in various forms and the creation of different database of their
own excluding the databases available in Internet will certainly bring a positive
accomplishment of the goal and aspiration of the user communities as the e-publishing
is more efficient .cost effectiveness, greater educational collision, better reach.
providing customizing at the student level, improved student exposure, enhancement
of research value.
Librarians have an important role in protecting the rights of the patent holders and others in the field of industrial designs, designers, trade secrets, layout designers of integrated circuit etc. the librarians should keep themselves aware with the latest changes in IPR and to oversee there proper implementation while purchasing books and other materials and also when these are used in the library. It is a social obligation that the librarians have to perform. In the curriculum of Library and Information science, keeping in view the importance of access to information it should include various issues related to IPRs been framed specially for the librarians. It should, thus, help the society to protect the IP owner from plagiarism, counterfeiting and other malpractices in time of growing information technology evolution of global media and communication revolution.

Librarians and Information professionals recognize and are committed to support the needs of their patrons to gain access to copyright works and the Information and ideas they contain. They also respect the need of authors and copyright owners to obtain a fair economic return to their Intellectual property. Effective access is essential in achieving copyrights objectives.

Copyright law impacts on most of what libraries do. It affects the services that libraries can provide to their users, and the conditions on which they can provide
access to copyright materials. It the way in which libraries can act as navigational agents and undertake effective archiving and preservation activities.

Libraries have crucial role to play in controlling as well as facilitating access to the increasing number of local and remote electronic information resources, librarians and information professionals promote respect for copyright and actively defend copyright works against piracy, unfair use and unauthorized exploitation in the digital environment, libraries have long acknowledged that they have a role in information and educating users about in encouraging compliance.

Today, it is widely believed that personal computers, cable television, the internet and the telephone system are covering into a giant hose that will spray huge amounts of data – Intellectual property. As this occurs, according to the conventional scenario, the economic winner will be those who own the zeros and ones not those who make equipment that copies, transmits and displays them. Because copyright is the mechanism for establishing ownership, it is increasingly seen as the key to wealth in Information of Intellectual property into electronic form creates new problems. If the cost of manufacturing and distributing a product falls, economic forces will drive down its price too. The net embodies this principle to an extreme degree.
In addition creators’ deals with piracy, which is vastly easier and more effective in the digital environment. People have long been able to photocopy texts, tape records music and videotape television shows. If the document (film) is digitized into a computer file, it can be e-mailed to millions of people in minutes, because strings of zeroes and ones can be reproduced with absolute fidelity the copies are perfect. And online pirates have no development costs. In other words even as a digital technology drives the potential value of copying to even greater heights, the same technology threatens to make it next to worthless.

The paradox has created two situations. One is to advocate eliminating copyright altogether. Anti copyrights believe that the increased ease of copying effectively obviates the © symbol and all it initials. In this view, copyright restricts what people can do with the intellectual property coming through the wires. It tries to fence the electronic the electronic frontier.

It unjustly creates monopolies in the basic commodity of the Information age. The other opposing recreation is to strengthen the hands of copy right owners.

The library Association copy right Alliance (LACA)) of U.K. supports the effective enforcement of copyright and recognizes that libraries, information services
and archives have a crucial role to play in controlling as well as facilitating access to the increasing number of local and remote electronic Information resources. LACA maintains that over protection of copyright could threaten democratic traditions and impact on social justice principles by unreasonably restricting access to information and knowledge. If copyright protection is too strong, competition and innovation is restricted and creativity is stifled.

The answers to the questions like: Does the nature of the technology require us to change the legal understanding or status of copyright as it stands now? What rights should be associated with to web content? And How should the rights be expressed, and should the expression of the rights be used for notification, enforcement or payment negotiation? Does not necessarily lie solely in technology nor policy, but the rational combination of both.

IPR is something that affects us every day. We should be conscious of its effects on our economy. It is not enough to have strong laws but strong mechanism to enforce, like the judiciary, police and the customs.

It remains to be seen whether strict adherence to copyright laws is possible. If it is going to be meaningful protection, it has to be done on a global basis through international treaties that all nations are prepared to recognize and follow.