

ABSTRACT

**AN INSIGHT TO THE CRUCIAL ISSUE OF SOFTWARE PATENTING – THE
WAY OUT IN THE MODERN IPR RULED ERA**

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In cosmological terms, the software industry has gone supernova – the industry has exploded. If we look at it closely, we will find that software has permeated our consumer products, our business systems, and even our society. Software is no longer confined to the hulking mainframe computers tended by technicians in white coats, nor is it confined to the desktop computer. Software has broken free of its containment vessels and has leaked into everything ranging from our DVD players to the transmission of our cars and even to the air traffic control system guiding airplane's next landing.

No one can deny the importance of software. Yet there is a controversy raging. Who shall be permitted to own this important technology? As a matter of fact, granting patents for software is the best method for promoting the industry in the course of its development and prosperity. Creative use of information technology is critically needed to make a country like India, a meaningfully information rich society across all economic strata so that scarce resources are more effectively utilized in the economy. A self-reliant and effective software industry is congruent with a competitive domestic software industry.

In India, we don't grant patents for computer programs and software per se. Sec.3 (k) of Indian Patents Act, 1970 makes it clear that software is not patentable in India. The patent system in the countries like India needs to be strengthened as the picture of history depicts that with the advent of time and technology, the countries who are well equipped with the latest technology and the strong patent system have their own place through their flourishing IT Sector at the global front. If the skilled manpower and engineers in India will not be protected under the Indian Patent System especially through the Software patent system, then they will definitely move to the countries which protect their intellectual ingenuity.

The author expresses concern regarding the intellectual property of the country like India which possesses the greatest skill power, traditional knowledge and the notable growth in the IT Sector but faces the problems from the developed countries when it comes to lack of protection either it may be traditional knowledge or the subject like software patents.

This research paper will make attempt to lay down a special emphasis on the direct nexus between the intellectual property and the economic growth of the country which will lead one to believe that the developing country like India needs a patent system which protects the interest of their skilled citizens for converting developing country into a developed country. Adding to this, the authors analyzes the situation and emphasizes that there is a necessity in granting software patents in India so as to promote and encourage the Information Technology Industry.

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