

Necessity of Enhancing the Legal Protection for Software: A Sri Lankan Perspective.

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Abstract

In the era of knowledge based economy the nation's economic status mainly depends on the production, distribution, and use of knowledge and information. Intellectual property rights play an important role in this competitive world by protecting the one's own ideas, designs and products being copied or utilized without the proper authorization. With the development of the technological innovations across the world, the software industry has created the starting point of heated debates over the protection of software in the current intellectual property regime. According to the expanding trends in software industry it is difficult to identify the proper legal regime for its protection. Copyright or patent protection is the most effective way to protect such software and some legal systems suggest *sui generis* system of protection on software in the current context. Software as a literary work or innovation is mainly protected under the Intellectual Property Act no. 36 of 2003 in Sri Lanka. In the domestic scenario, throughout the last few years Sri Lanka has been experiencing high rate of increasing incidents regarding the misappropriation of software and software related inventions because of its vulnerability in the marketplaces. Therefore this paper discusses the problem of protecting the software in Sri Lanka by analyzing the debate on protecting software through copyrights and patent law and critically discuss the patentability of software under the existing Intellectual Property Law in Sri Lanka. Furthermore it examines the arguments on patenting software and expect to make suggestions to strengthen the existing law as an option. This is a qualitative research based on literature review and mainly carried out by the reference of primary and secondary sources such as statutes, International treaties, judicial decisions, academic writings, journal articles and e-sources. The comparative analysis of successful legal position in selected jurisdictions have been followed in reaching the conclusion.

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