

Protection against Piracy in India with Reference to Copyright

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Abstract

In INDIA the law relating to copyright is imbibed under the Copyright Act 1957. It extends to whole of India. Basically, the law of copyright is for the protection of original work from the unlawful exploitation by other. Because, the copyrighted work is the result of the hard work, skills and labour of an individual known as creator in this context. Therefore, all the rights like right to use, sell, transfer and reproduction should also belong to him. Copyright is a form of intellectual property. The major objective behind passing this Act was to protect piracy of Copyright. Copyright law protect the Idea in forms not ideas themselves. Indian copyright law is at parity with the international standards as contained in TRIPS. The (Indian) Copyright Act, 1957, pursuant to the amendments in 1999, 2002 and 2012, fully reflects the Berne Convention for Protection of Literary and Artistic Works, 1886 and the Universal Copyrights Convention, to which India is a party. India is also a party to the Geneva Convention for the Protection of Rights of Producers of Phonograms and is an active member of the World Intellectual Property Organization (WIPO) and United Nations Educational, Scientific and Cultural Organization (UNESCO). The present paper tries to critically evaluate the policies regarding protection of Copyright Piracy in various countries like UK, USA, FRANCE, EUROPEAN UNION and INDIA. The paper further elaborates on the policy guidelines with regards to privacy issues and its protection as specified under various Convention. The paper concludes that although laws have been made for adequately meeting the piracy issues of Copyright work yet, because of the advancement in technology there is always a threat to its protection. Further, the ever-conflicting laws make the issue of piracy technical and multidimensional.

Keywords- Copyright, Piracy, Convention, Directives & Copy Right Act.

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INTRODUCTION

Piracy has turned into a worldwide issue because of the fast advances in novelty. It has assumed disturbing extents everywhere throughout the world and all the nations are endeavoring to address the difficulty by taking stringent administrative and authorization measures. The issue of piracy and the need for taking adequate hostile to theft measures were additionally voiced by Members of Parliament at the season of the Bill to change the Copyright Act, 1957. It was at last lost by parliament and turn out to be a piece of the Act.

There are three types of piracy. These are as follows:

- Piracy of the printed word,
- Piracy of sound recordings,

- Piracy of cinematograph films.

Generally, it is perceived that copyright theft is a genuine wrong doing which not just critically influences the original capability of the general public by denying the makers their honest to goodness duty; it likewise makes monetary misfortunes each one of the individuals who had put their cash in bringing out copyright materials in different structures for use by end-clients. Globalization constrained the copyright issues to the cutting edge because countless items are exchange universally. Safety of copyright, in this way, is a need matter with in the national inspiration of numerous nations particularly from the creating scene. Without a doubt, it likewise has developed as a critical factor overseeing worldwide relations.

In unkindness of the fact that Piracy was considered before the finish of the fifteenth century, it was just in 1710 the main law on copyright in the innovative feeling of the term appeared in England. The law which was known as 'Ruler Anne's Statute' given writers the license to republish their books for a specific number of years. The 1710 law was restricted to the privileges of writers of books just, and more especially the privilege to reproduce. It did exclude other imaginative works, for example, interpretations, artworks and so on which, likewise at that point progressed toward becoming focuses of Piracy, notwithstanding different perspectives identifying with books (e.g. interpretation, performance and so on.) To overcome this issue another order in particular 'Etchers Act' appeared in 1735. There took after a couple of more establishments in the ensuing time frames and eventually Copyright Act 1911 saw the light of the day.

The Study depends on hypnotic, systematic and doctrinal techniques. In these techniques there are some different strategies have been connected by the need of the examination. Where things are preparatory and building in nature, the technique connected is revealing. Concerning of lawful arrangements, of the Copyright Piracy, the strategy connected is methodical. The enquiry manages one of the Controversial issues of the general public, hence, to break down the issue this work will be founded on the enquiry of books, Journals, national and International level-headed discussions, national and worldwide Judicial choices, UN reports and other Copyright related materials. In Such case, the technique connected is doctrinal.

There are various issues relating to Copyright Piracy. These are as follow:

- 1.To protect of copyright against piracy.
- 2.To study the limitations to enact a law of copyright and suggest strategies to control the piracy.
- 3.To study the new challenges by putting in place a workable copyright regime in our national attention.
- 4.To keep the interest of innocent users who are not aware of the infringing activities in their usage.

- 5.To make awareness among academic and research fraternity relating to complication of copyright piracy.

MEANING OF COPYRIGHT

The word 'copyright', according to Black's Law Dictionary is the right in literary property as recognized and sanctioned by positive law. An elusive ethereal right conceded to the creator or originator of certain abstract or aesthetic generation, whereby, he is contributed for a predetermined period with the sole and restrictive benefit of duplicating duplicates of the same and distributing and offering them. Law relating to copyright deals with the protection of rights on certain types of works resulting from the intellectual labor of human being. According to the Orissa High Court in the case of *B. Rajendra Subudhi v. Brundaban Sahu* [1], "copyright does not essentially mean a right to do something, but only the right to exclude others from doing of those acts and things which are expressly mentioned in the section."

NATURE OF COPYRIGHT

The law does not permit one to appropriate to himself what has been produced by the labour, skill and capital of another. This is very foundation of copyright. 'Copinger and Stoke James on Copyright' [2] have expressed themselves on the nature of copyright as under:

"Copyright law is concerned with the negative right of preventing the copying of physical material. It is not concerned with the reproduction of ideas, but with the reproduction of the form in which ideas are expressed. Originally copyright law was concerned with the field of literature and the arts, but in seeking to keep up with advances in technology, the protection given by copyright law has been considerably expanded over the years. Thus, today, not only is protection given to literary, dramatic, musical, and artistic works (but also) computer program being protected as literary works, sound recordings, films, broadcasts, cable programmers and the typographical arrangements of published editions."

MEANING OF COPYRIGHT PIRACY

Copyright piracy is an occurrence dominant worldwide. Piracy means unauthorized

duplication. Importing or distribution either of the whole or of an extensive part of works protected by copyright. The author of a copyrighted effort, being the titleholder, enjoys certain exclusive rights with respect to his or her works. These include right to reproduce, to publish, to adopt, to translate and to perform in public. The titleholder can also sell, assign, license or leave the copyright to another party if he requirements so. If any person other than the copyright owner or his authorized party assumes any of the above-mentioned activities with respect to a copyrighted product, it quantifies to breach of the copyright. Copyright piracy is thus like any other stealing which leads to loss to the proprietors of the property. Besides economic loss, piracy also adversely affects the creative potential of a society as it denies creative people such as authors and artists their legitimate dues.

There are different ways through which piracy takes place. A computer software is pirated by simply copying it onto another machine not authorized for its use. Book piracy takes place when a book is reproduced by someone other than the real publisher and sold in the market. A performer's right is violated when a live performance of an artist is recorded or telecasted live without his/her permission. In a cinematographic work piracy generally takes place through unauthorized reproduction of the film in video forms and/or displaying the video through cable networks without taking proper authorization from the film producer (the right holder). In fact. There are numerous other ways through which piracy of copyrighted works take place. The nature and extent of piracy also varies across the segments of the copyright industry.

THE CONCEPT OF PIRACY

"Piracy" gets from a removed Indo-European root signifying "trial" or "endeavor" or by augmentation, "try." By the season of Thucydides, privateers, who had in the past been decent, came to imply maritime criminals, or adversaries of humankind. The word 'piracy' was used as the illegal "capture" of printed materials, or other methods of intellectual property, as a metaphorical extension [3]. Not pending the printing

uprising and the golden age of Caribbean buccaneering in the early modern period, however, did the term "piracy" come to mean intellectual Robbery [4]. Today, the term is universal and is employed not just in relation to books but also in relative to music, movies, software, pharmaceuticals and inventions as well as other intellectual properties [5].

Generally talking, piracy refers to unconstitutional use, or making copies, of creative works. Usually, in core, this means doing so without acknowledging the creator's copyrights in financial Terms [6]. The term 'piracy' is often related to including the idea of 'theft' and 'infringement' and it has negative meanings which rest on the expectations that the organization of private property rights exists and that such an institution is defensible, thereby any nonfulfillment is to be supposed negatively [7]. There is right now no lawful meaning of computerized robbery, which would be more precisely depicted as "advanced encroachment of copyright".

PIRACY IN THE DIGITAL ERA

Piracy always attracts the most attention from copyright holders when it comes to copyright law. National copyright laws used to work quite well in protecting creators and distributors' rights by the licensing regime. Online file sharing services and free downloads can be seen everywhere. The intellectual recourses can be obtained with a simple click of button. When a court takes down one piracy website, ten more have already appeared. As a result, piracy is no longer in the same form as it used to be, while international copyright conventions and national copyright laws still have no distinctive difference than before.

Digital piracy is the kind of illegal copying or downloading of digital material, such as software, music, videos, and audio books. And other copyrighted material. It is often performed by downloading software from sites that might contain illegal contents, and then using P2P technology to download movies and books in electronic format or using the torrent software to download one's favorite's Songs [8]. Indeed, piracy has become the largest transgression of the information age.

Due to the Internet having no boundary between nations and digital copy and dissemination could complete within a few seconds or minutes, means digital piracy could happen everywhere at any time. Besides the trait of being easily copied on the Internet, the works are also easily modified. It is very likely that the author's name is deleted, thus undermining the integrity of the work while reproducing on the network without Authorization [9].

SUBJECT MATTER OF COPYRIGHT PIRACY

Copyright is a package of exclusive rights which are: right to circulate, distribute, reproduce, perform, translate, to make any cinematograph film or sound recording, to make any adaptation of the work including right of rental for certain kinds of authorization [10]. Initially, only the authors of literary works were given copyright which was also confined to right to reproduction.

The Copyright Act also made it clear that the copyright shall not subsist if the cinematograph film or sound record is made by infringing any literary, dramatic or musical work. The Copyright in cinematographic film or sound record shall not affect the distinct copyright of the works from which the film was made [11].

COPYRIGHT PIRACY IN THE EARLY WORLD

During the ancient world of Greece and Rome, and even the middle Ages, there were no means for making multiple copies of manuscripts: these could only be copied by hand, one at a time. The possibilities of making multiple copies of artistic works were minimal. The least complex approach to control the appropriation of literature and ensure neighborhood printing businesses against theft and imported product, was to present control of the printing presses.

COPYRIGHT PIRACY IN ENGLAND

The first Copyright Decree in Britain was "The British Copyright Act, 1710". The position changed dramatically in England in the later seventeenth century. The political upheavals in

that country resulted in the dismantling of the whole structure of the system of control of printing and dissemination of works. The royal prerogatives, on which the royal printing privileges were founded, were abolished. The last of the Acts imposing licensing regulations on printing expired in 1695. Consequently, the established printing trade was left without effective protection against piracy and unauthorized imports. There were rights at common law for protection against illegal publication and printing, but these were ill defined, and, it was considered, ineffective.

COPYRIGHT PIRACY IN UNITED STATES OF AMERICA

America did not grant international copyright until 1891. Therefore, for the majority of the nineteenth century, remote works could be distributed in America, uninhibitedly and legitimately, without consent or installment. Given the gigantic size of the market in question, it is little pondering that outside creators and distributors challenged. Specifically, ownership of the ethical high ground does not rest unfailingly with the British. The two sides justify the 'privateer' identification, in various degrees at various circumstances. Global copyright (or its nonattendance) came to be seen and depicted as connected to a country's feeling of character and good standing.

'PIRACY' AS A SYNONYM FOR 'INFRINGEMENT'

The American publisher Samuel Goodrich estimated that in 1820, 70 per cent of American book manufacture was the work of British authors (although this figure declined as the century progressed) [12]. Sir Walter Scott was one of the lucky few whose works were particularly sought. In the early 1820s Carey & Lea of Philadelphia paid Scott's publisher to send them early sheets from Edinburgh immediately they were printed. Scott was uneasy with this plan but was prepared to convey to Carey 'the exclusive right of publishing' in America this and all his future Works [13].

He told Cooper: the literature of both countries must always remain a common property to

both nor can anything tend better to support. At any rate if what I propose shall not be found of force to prevent piracy I cannot but think front the generosity and justice of American feeling that a considerable preference would be given in the market to the editions directly emanating from the publisher selected be the author and in the sale of which the author had some Interest [14].

Scott uses 'piracy' here in a neutral manner, consistent with its use in contemporary English legal treatises. An entire section of Robert Maugham's *Treatise on the Laws of Literary Property* (1828) is entitled 'Of Pirating Copyright', and the running header continues for over forty pages. 'Piracy' appears to carry no particular moral charge, and is used simply as a word meaning, 'infringement'. For example, Maugham writes:

A fair and bona tide abridgment of any book, is considered a new work; and however, it may injure the sale of the original, yet it is not deemed a piracy or violation of the author's Copyrights [15].

The usual modes of legal proceeding to prevent or punish the infringement of copyright, or, as it is more usually termed, piracy, are by action for damages, or for the penalties given by the statute; or more commonly still, by obtaining an injunction in equity to prohibit the unlawful publication, which affords immediate and summary redress.

COPYRIGHT PIRACY IN FRANCE

Before the French Revolution, authors had no specific statutory rights in France permitting them to control the printing or performance of their works. As in other countries, uses of authors' works were controlled by the state through the system of privileges. There had, since the sixteenth century, been claims for an author's right, but printing rights were generally granted to the publishers and performance rights to the theatre directors, the authors having to obtain their remuneration by contract with these right-holders.

Two laws of the Constituent Assembly laid the foundation of the French Law on author's right—that of January 13/19, 1791 on the right

of performance, and that of July 19/24, 1793 on the right of reproduction or copying.

Briefly summarized, the law of 1791 dealt with theatres and performance rights and provided, among their things, that:

1. Works of living authors could only be publicly performed with the written consent of the authors,
2. The term of the right was for the life of the author and five years after his death.

The Law of 1793 provided that first Authors, composers, painters and engravers enjoyed the exclusive right to sell and allocate their works in France. Second the term of the right was for the author's life and 10 years after his death.

During the nineteenth century, two categories of rights of authors were developed in French jurisprudence, economic rights (i.e., rights to control commercial or other exploitation of works) and moral rights (i.e. rights, associated with the author's personality and enabling him to ensure, among other things, recognition of his authorship and maintenance of the integrity of his work). The French law of author's right is still based on these two fundamental economic rights, together with the moral rights.

COPYRIGHT PIRACY UNDER THE BERNE CONVENTION, 1886

The Berne Convention is the oldest international treaty in the field of Copyright. By the middle of the nineteenth century, it was realized that some form of international co-operation was necessary so that common rules could be established for the protection of authors and their works. There was an International Congress on the subject in Brussels in 1858, but the international meetings held in Paris in 1878 provided the impetus which led to the acceptance of the first international convention in the field some eight years later. The Paris meetings of 1878 saw the founding of Association Litteraire ET Artistique International, the International Literary and Artistic Association (ALAI), under the Presidency of Victor Hugo. ALAI promoted conferences and studies which led to the preparation of a draft convention, considered in its various stages at Diplomatic

Conferences in Berne, Switzerland in 1884 and 1885. Finally, the new convention was adopted in Berne in 1886. Two basic principles of the convention were established in 1886 and have not been altered:

- The guideline of national treatment: every individual from the Union awards nationals of different Members States an indistinguishable treatment from it allows its own nationals.
- The standard of least rights: certain base rights can creators who are secured under the tradition.

COPYRIGHT PIRACY UNDER THE UNITED NATIONS THE UNIVERSAL COPYRIGHT CONVENTION, 1952

One of the major problems in international copyright law in the period preceding and immediately following the Second World War was the disharmony resulting from the fact that the United States was not a member state of the Berne Convention. The United Nations Educational Scientific and Cultural Organization (UNESCO) promoted the adoption of a convention which would provide reciprocal protection on conditions which could be accepted by the United States. Thus, the Universal Copyright Convention (UCC) came into being in Geneva in 1952.

The Berne Convention and the UCC still continue to exist, side by side. Recent trends indicate, however, that the UCC may largely have fulfilled its important role by providing a stepping-stone to greater international protection possibly the fact that China joined the Berne Convention (1992) and not the UCC is an indication of this. Furthermore, the Berne standard on protection of economic rights is now obligatory for all members of the World Trade Organization.

THE ROME CONVENTION, 1961

Sound recording producers, performers and broadcasting organizations increasingly found that they needed international protection like that enjoyed by authors. The proponents of the traditional views as to pre-eminent nature of authors' rights, however, would not accept the inclusion of related rights in the Berne

Convention. Nevertheless, the Brussels Revision Conference of the Berne Convention, 1948, passed resolutions that Governments of the Union should study ways in which sound recording makers, broadcasters and performers could be protected. This gave impetus to studies which had already begun, aimed at the formulation of an International Convention for related rights. Thus, it came about that, after years of negotiations, the Rome Convention 1961 was adopted, ensuring protection for performers, producers of phonograms (sound recording) and broadcasting organization.

GENEVA CONVENTION FOR THE PROTECTION OF PRODUCERS OF PHONOGRAMS AGAINST UNAUTHORIZED DUPLICATION OF THEIR PHONOGRAMS, 1971

The Geneva Convention for the Protection of Producers of Phonograms against Illegal Replication of their Phonograms (Phonogram Convention) was accepted in 1971 to stop illegal duplication of phonograms which was extensive in different parts of the world. Unlike the other Berne Convention, UCC and Rome Convention, the Phonogram Convention is not based on the principle of national treatment. The convention is based on the acceptance of mutual obligations between contracting states and does not provide for the minimum standard of protection like the Berne Convention [16].

Under the Phonogram Convention, the criterion of the nationality of the producer is the only criterion with an exception provided under art 7(4), which allows countries which already apply fixation as sole criterion to keep it. The coverage of the Phonogram Convention is wider than the Rome Convention, as the protection of phonogram under the former is available not only to the making but also to the importation and distribution of phonograms. Contracting states are free to protect the producers of phonograms either by the grant of a copyright; or specific right; or the law relating to unfair competition; or penal sanctions. India is a party to the Phonogram Convention 1971 and protects the producers of phonograms by conferring copyright on them

in respect of their phonograms (sound recordings).

WORLD INTELLECTUAL PROPERTY ORGANIZATION COPYRIGHT TREATY, 1996

This treaty was adopted by the Diplomatic Conference at Geneva on December 20, 1996. It is related to the digital technology and the Internet.

This treaty specifies that protection extends to expressions and not to ideas, procedures, and methods of operation or mathematical concepts. The Treaty recognizes the computer programmers as literary works. It also gives additional recognition to compilation of data or other material in any form and protection is provided to the intellectual creativity used in the selection and arrangement of their material.

WORLD INTELLECTUAL PROPERTY ORGANISATION PERFORMANCES AND PHONOGRAMS TREATY, 1996

This treaty was also adopted by the Diplomatic Conference at Geneva on December 20, 1996. The object of their Treaty is the protection of the rights of performers and producers of phonograms. Audio-visual performances are not within the scope of the Treaty. The Treaty establishes a 50 years term of protection granted to performers and producers of phonograms.

JUDICIAL APPROACH TOWARDS COPYRIGHT PIRACY

About the study of Copyright Piracy, the Judicial approach is very important because the Courts constitute a dispute resolving mechanism. The court provides protection against piracy in certain cases which are given as under:

"A copy is that which comes so near to the original as to give to every person seeing it the idea created by the original" [17]

In *Ladbroke (Football) Ltd. v. William Hill (Football) Ltd.* [18] Lord Reid observed:

In my view, that is only a short cut, and more correct method is first to control whether the plaintiffs work is 'original' and protected by copyright, and then to inquire whether the part

taken by the defendant is considerable. In *Harman Pictures N.V. v. Osborne*, [19] Goff, J. observed- There is no copyright in ideas or schemes or systems or methods; it is confined to their expression. In any case, there is a qualification between thoughts (which are not copyright) and circumstances and episodes, which might be One must, notwithstanding, be mindful so as not to hop to the conclusion that there has been duplicating simply on account of closeness of stock occurrences or of episodes which are to be found in chronicled, semi-verifiable and anecdotal writing about characters ever.

In *Otto Eischenzi v. Fawcett Publications*, [20] Dubby, Chief Judge observed:

An encroachment isn't kept to strict and correct reiteration or proliferation; it incorporates additionally the different modes in which the matter of any work might be embraced, imitated, exchanged, or replicated, with pretty much colorable changes to mask the robbery. Summarizing is duplicating and an encroachment, if conveyed to an adequate degree. The subject of encroachment of copyright isn't one of amount however of value and esteem.

LAW AND PRACTICE OF ONLINE SOFTWARE PIRACY IN INDIA

Software piracy is one of the most difficult, yet important, transnational problems in the twenty-first century. By the end of May 2013, worldwide value of unlicensed software touched \$59 billion. Indian revenue loss in turn is \$2,739 Million [21]. India ranks 4th in the economies with highest commercial value of pirated software though it is not in the list of top 30 countries having highest piracy rates, with 64% of the total software using in the country as Pirated [22].

ONLINE SOFTWARE PIRACY IN INDIA

Copyright is the most critical and complex area which is facing greatest challenge because of the technological developments. Countries like United States of America and Japan gives patent protection to the computer software. Software programs can get safeguarded by special coding, fingerprinting and other process and techniques, however none of these protection measures are competent or efficient

enough to defend against the internet infringers [23].

EVOLUTION OF SOFTWARE PIRACY

Stealing copyrighted software has never been easier in olden days. There it starts the problem of software piracy. But pirating a computer programs is not much prevalent and easy during those times, because the computer programs used in one company may not provide the similar results for another company. In 1970s, the illegal copying of a computer programs means only the literal and non-literal copying of codes of a program by its competitor. Copyright protection also covered the elements of the computer program-object code, source code and the documentation. There is no such a concept of piracy by the end-users.

This is the first form of software piracy which leads to a heavy economic loss to the software creators who had invested much in the field.

ORGANIZATIONS FIGHTING AGAINST SOFTWARE PIRACY

Before going deep into the legal provisions of different jurisdictions which give protection to the computer software, it will be better to have an overview of the international and national organizations which are working efficiently all over the world to curb software piracy. Infringement of software products by its member states.

Another significant association which is battling against programming theft through web is the Software Publishers Association which was established in 1984. In the year 1999 it converged with the Information Industry Association and turned into the Software and Information Industry Association.

In India, the National Association of Software and Service Companies has proposed the setting up of a National Cyber edit Committee to give assistance to government and private organizations to battle against digital hacking. NASSCOM runs an Anti-Piracy Hotline introduced at New Delhi. Revealed instances of robbery are examined by NASSCOM and

passed on to authorization specialists for important activity.

PROTECTION OF COMPUTER SOFTWARE IN INDIA JUDICIAL APPROACH

In India, the courts have started providing proper protection to the intellectual property rights in computer program from the beginning of the 21th century even in the absence of specific legislation with respect to internet piracy. In 2006 for the first time, the Delhi High Court in an appeal filed by *Microsoft* [24] took into consideration, various forms of software piracy and gave an explanation to the term internet piracy' as stated by the plaintiff. The court after ascertaining the fact that the defendants have infringed plaintiff's copyright over their software applications such as Microsoft Windows 98, Microsoft Office 2000, Microsoft Visual Studio 6.0, and Windows XP Professional Version in various forms, analyzed the legal position prevailing in countries like USA, Australia, UK and China with respect to the question of damages. In the wake of inspecting the current lawful positions with the assistance of case laws, it was expressed by the Court that "Going to the legitimate position in India, a positive pattern has begun. Here additionally as Courts are getting to be touchy to the developing threat of theft and have begun conceding reformatory harms even in situations where because of nonattendance of the litigant's correct figures of offers by the respondents under the encroaching copyright and additionally exchange check, correct harms are not accessible."

The court in this case has formulated total damages at Rs. 1,28,23,200 based on three categories namely actual damages, exemplary damages and damage to goodwill and reputation. But based on actual suit damages claimed by Microsoft, it has limited the decree amount to Rs. 5,00,000 along with cost of the suit.

Very recently, Calcutta High Court also joined in hands with the High court of Delhi ip protecting copyright of the owners. In a particular period of 4 months, Calcutta high court has issued blocking order in different

cases against more than 300 ISPs to block around 200 websites for alleged copyright infringements [25]. Justice I. P. Mukerji of Calcutta. High Court, who has decided all these online piracy cases, framed three methods to be employed by the ISPs to block access to the websites.

1. Domain Name blocking
2. Internet Protocol blocking
3. Universal Resource Locator blocking

ACTION TAKEN AGAINST PIRACY

In India very few of national institutions established by the government are fighting against the online software piracy at the state level. At national level, the National Association of Software and Service Companies has proposed the setting up of a National Cyber edit Committee to give some assistance to government and private organizations to battle against robbery and digital hacking. NASSCOM runs an Anti-Piracy Hotline introduced at New Delhi with the help of BSA. Revealed instances of robbery are examined by NASSCOM and passed on to requirement specialists for vital activity. One famous legal action taken against the pirates after receiving information on the software piracy activities was in the case of *Adobe Systems, Inc Any v. Mr. Mahindra Saxena & Anr* [26]. The plaintiffs, upon receipt information of the defendants' infringing actions on BSA/NASSCOM anti-piracy hotline instituted the suit and later an investigation was carried out on the premises of defendants with a local commissioner appointed by the court.

In 2010, a criminal action was taken by the police officials over the executives of guruji.com' for alleged copyright infringement which was pending before the court of law and this is a consequential case in this regard. Website called guruji.com is a local search engine, founded in the year 2006 which allow its users to search like Google; and it was rated as most preferred music search engine by an Indian online market search company. When one user searches some song, it will provide the list of songs and subsequently allowed them to both listen and download, though those songs were not stored on guruji's servers.

T-series music production limited had issued number of notices to guruji.com for infringement of its copyright in the music Files [27]. On April 2010 the police officials arrested the executives and officials of the guruji.com in Bangalore and at present the case is in hearing stage before the local subordinate court. The main contention of the T-series is that the guruji.com. Was infringing their copyright under the character of a search engine and is liable for punishment under section 14 and 63 or the ICA.

TRIPS AGREEMENT, 1994

As software was not specifically considered as a literary work, in the year 1978 the World Intellectual Property Organization has proposed to give a sui generis system of protection for software [28] but came out with no Success [29]. Afterwards, the concentration has changed its way and has converged exhaustively on copyright protection for computer programs. In February 1985, a joint Group of Experts from WIPO and UNESCO assembled in Geneva to discuss the copyright aspects of the protection for computer software. At the international level, since the last decade of twentieth century, there has been ordinance and regulation to protect the literary work in computer software.

For the first time as a documented international legislation, computer software was given copyright protection with the establishment of the Agreement on Trade-Related Aspects of Intellectual Property Rights which came into effect in 1995.

WIPO COPYRIGHT TREATY, 1996

The WIPO Copyright Treaty, 1996 is an express distinctive arrangement based on the Berne Convention and it reiterates that, as already established under the Berne Convention, the range of copyright protection also covers computer programs and Databases [30].

WCT failed to relate copyright with specific remarks on the internet transformations. WCT was specifically drafted to counter the challenges posted by the new phenomenon of the Internet, but at that time the negotiating

parties could not reach an understanding as to the liability of ISPs [31].

The major difference between Berne Convention and UGC is the term of copyright protection available which under UGC is less. Computer program has been eligible for protection as like the printed materials under both the conventions [32]. As like Berne convention, the main provision of the UGC is its national treatment facility, under which software twisted by an American author or first available in USA is protected in other UCC member countries to the degree that the member country's copyright laws protect Software [33].

EUROPEAN UNION DIRECTIVES (COPYRIGHT AND COMPUTER PROGRAMS)

In the year 1991, European Economic Council [34] has prepared a council directive on the protection of computer program (familiarily called as software directive) which defines the copyright protection also to be applied to computer Programs [35]. The Software Directive of 1991 was recently replaced in the year 2009 with a new directive on the legal protection of computer programs to make it more effective.

Moreover, the - provisions of the software directive, 2009 will not prevent the application of any other legal provisions concerning computer program.

Another EU Directive which provides safeguard measures to the software by the way of copyright protection is the Copyright Directive, 2001 [36] which in its title itself intends to provide copyright protection in the information society.

CONCLUSION

The different arrangements of Indian Copyright Act, 1957 adequately secure the copyright interests. Yet, on account of e-business, the site can be gotten to from anyplace on the planet and the infringement may happen in various regions. In such cases how to protect the copyright enthusiasm, since there is a circumstance of conflict of laws.

Digital programming can't completely fall under the copyright management. There is a thin line amongst thought and expression particularly on account of Digital program. Choices on this point are continually shifting.

Digital versions and upgrades turn out to be gradually troublesome in the present setting to decide if it is a substantive work or it fits into copyright law completely. This discussion i.e., debate amongst copyright and patent will surface more in not so distant future as a result of innovative advancements. In any case, larger piece of countries secures it as copyrighted material yet from time to time which has been discussed in starting at now, the law is missing, paying little heed to whether it is patentable or copyrightable. This discussion should be dealt with, so the development of Digital programming not influenced.

The principle purpose for the across the board utilization of pirated programming specifically lies with the high cost of the product. In any case, these days because of open mindfulness programs led by aggressive to stealing developments most people in general areas, including schools and colleges and bigger private parts began utilizing honest to goodness programming in their foundations. To hamper others from using pirated programming and to secure the energy of the proprietors and moreover the customers, law must be strict towards authority assemblies who are the key players of the framework correspondences, were seen to be the massive distributors of pirated programming. The demonstration of programming theft is having its immediate effect on the economy and the innovative improvement of the country.

Copyright promise for programming can't be realized in an indistinguishable speech from that of pharmaceutical licenses for which sure except for ones are given on the ground of general wellbeing as it should be secured to the imaginable degree to support the national economy.

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Cite this Article

Dr. Taru Mishra. Protection against Piracy in India with Reference to Copyright. *Journal of Intellectual Property Rights Law*. 2018; 1(2): 1–12p.