

Navigating Copyright Issues in the Digital Age

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Abstract

The growth of the amazing world of the Internet and computers has created a new world in cyberspace which also played a role in giving rise to various legal challenges. The Internet has facilitated global connectivity, but it has also resulted in the emergence of copyright concerns, along with numerous hurdles that impede the resolution of this issue. The changing environment also demands more convenient and affirmative protective laws to tackle intended and unintended infringements and violations. This study explicitly discusses various challenges and legal aspects of the protection of copyright in cyberspace or electronic media.

Keywords: Cyberspace, copyright, legal aspect, internet, content

INTRODUCTION

Development in the IT sector has drawn the attention of society toward intellectual property laws [1]. Cyberspace is a virtual computer world; nowadays, research has become very easy and people-friendly because of cyberspace. Every piece of information is available on a virtual platform which helps in easy research and a better understanding of various subjects.

In cyberspace, authors publish their manuscripts for helping students in research as well as understanding the concepts clearly. In return authors' work should be treated with respect and not be copied; in case the material suits your research, then it should be used with proper reference and citation. Even the court has taken various steps in protecting authors' original work. In *University of London press ltd. v. University of tutorial press Ltd* [2], Justice Peterson supported "...what is worth copying is the prima facie worth protecting [3]."

One of the significant drawbacks of cyberspace is the ease with which copyrighted projects, including images, can be found and copied through search engines like Google. This infringement of copyright leads to repeated content and is considered a major violation. The researcher will analyse few of the issues that are concerning copyright in the cyberspace; well, there are a lot of issues that are evolving and emerging every day, there would be one or the other issue concerning copyright and cyberspace.

The researcher has tried to cover all the aspects of copyright protection and infringement in cyberspace that have been followed in India for many years, but many questions are yet to be answered. The researcher will also discuss the importance and laws protecting cyberspace and also discuss copyright challenges faced by the authors.

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AIM AND OBJECTIVE

- To list out challenges faced by the authors in copyright.
- To highlight laws related to copyright.
- To find out most about copyright challenges and cyberspace.

RESEARCH METHODOLOGY

The researcher follows the doctrinal method of research throughout the project by extensively

reading the cases. The researcher also uses the internet to gain an idea of various related concepts and then moulds these ideas into their sentences to well articulate his understanding. With regards to these views, the researcher has referred to some databases, internet sites as well as some books to add to the knowledge as well as the research work.

Research Questions

- a. What are copyright challenges?
- b. What challenges are faced by authors in cyberspace?
- c. What measures can be taken to protect the originality of content?

COPYRIGHT

Copyright Laws in India

The Copyright Act 1957 gives the right to original creators of music, drama, literature, artwork, cinematography film, and audio recording. This right includes the right of reproduction of the work, communication of the work, adoption of the work, and translation of the work. These rights are different from the rights like the right to equality, right to freedom etc. These rights are negative rights that prohibit others from reproducing, communicating, adopting, or making unauthorized use of the work. Any unfair use of this work would constitute copyright infringement.

Infringement of Copyright

Copyright gives the owner both financial and originality rights. Financial rights encompass the rights to copy, distribute, rent, adapt, or perform a "work," while moral rights include the right to be recognized as the author and to prevent false attribution of the work, as well as the right to object to any derogatory treatment of the work. In addition to understanding copyright and the protection it offers, it is also important to explore the concept of piracy and its defining characteristics.

It is a copyright infringement to do the following for copyrighted content:

- Copy it;
- Issue the copy to the public;
- Rent or lend to the public;
- Perform or publish; and
- Communication to the public.

Secondary infringement can occur if someone imports, owns, or trades in an infringing copy, or provides a means to create it without proper permission.

In the event of an infringement, the copyright owner can not only seek civil relief but also file a criminal prosecution. Civil remedies include injunction requests to prevent further breaches, delivery of all infringing items to the owner, the right to seize a copy of an item that infringes such right, and claim damages from the infringer's interest's account. In connection with criminal charges, *u/s 63 of the Copyright Act (1957)* states that any person who knowingly infringes or promotes the copyright of work or any other right granted by the Copyright Act, the punishment is 6 months of imprisonment or more and can be extended to 3 years. There is a fine of over Rs. 50,000 rupees, which can be extended to Rs. 2,00,000. If you are re-convicted of copyright infringement, the deadline is 1 year or more and the fine is Rs. 1,000,000 or more.

Case Laws

Certain acts do not amount to copyright infringement which I had covered under **section 52** of the Copyright Act.

In the case of *the University of Oxford v. Rameshwari photocopy services* [4], the plaintiffs alleged that the study material is in violation of *section 51* of the Copyright Act and the book has no additional

material apart from photocopies of copyrighted publications and the photocopy services for operating commercially. However, High Court held that the “act of photocopying a part of a different book to make study material as given by the professors would not amount to infringement and laid down the right of the educational institute to use copyright material”.

In another case of *Kartar sing Ginai v. Ladha Singh* [5], it was held that “if copying is done with an unfair motive to compete and to derive profit from such competition then it would lead to infringement”.

Moreover, in *MRF limited v. Metro Tyre limited* [6], the plaintiffs alleged the other party’s advertisement was a substantial copy of the plaintiffs’ advertisement, the court held “that while considering similarities between two advertisements, the court must compare the substance, the foundation, and the kernel of both ads. Blatant copying of fundamental and essential advertisements on purpose would amount to copyright infringement”.

CYBERSPACE AND INFRINGEMENT

Cyberspace is a global environment where communication takes place between multiple computers or devices. In today’s digital world, people extensively use various internet-enabled electronic gadgets, including computers, mobile phones, iPhones, iPads, and more.

Cyberspace offers numerous advantages as well as disadvantages, making it an Internet medium with an equal number of both positive and negative aspects. Few of the advantages are: ease and speed of communication, such as sending emails and text messages, as well as the quick and effortless copying and delivery of information; there are other advantages as well such as dissemination of information or finding an offer for any information is very fast and very easy as well.

On the other hand, there are a lot of disadvantages and one of them is copyright infringement. It is very easy today for one to copy any information that is available online and process or send it across, or use it unfairly.

The researcher will be touching on some of the issues which are very important and have gained importance over a few years. Before actually getting into the various issues of copyright, we need to know the basics of copyright as a reputation. In the area of copyright law, one needs to understand the basics of copyright law, what is copyright and what is copyright law?

About what is the copyright, in very simple words, copyright is a legal right of a person over his or her creation. The objective of copyright mainly protects the creative works of authors such as writers, artists, photographers, film producers, etc. Looking into the objective of copyright, the main aim of the IPR is to promote the work of original creators and grant a strong right. So, this copyright is an exclusive right that a person or the author or the owner of the copyright gets over his/her work; here the word exclusive right means the right that he alone holds; the person has the exclusive right that means nobody else can exploit it or copy it without the permission of the owner of the copyright.

Copyright provides financial and moral incentives for creators to create original work for the welfare of this society, so on the other hand, it is also important that the society as such has to strive toward bringing in more and more creativity from an individual for the entire progress of the society, so this is one of the major objectives of copyright. To elaborate further on the objective of copyright, the copyright has a term which was in the copyright law says that if you have written and published a book or a story, in such cases, you have copyright over that for your lifetime plus 60 years and further then, the same copyright becomes available to the public and then it is available for the public to use without any restrictions.

The basic principle of copyright is popularly known as the idea/expression dichotomy. What is this idea-expression dichotomy mean? Copyright is available on an expression alone and not an idea.

Similar to many Bollywood movies, a common theme revolves around love stories where one character develops feelings for another, accompanied by familial conflicts. While the overall concept of the script may be unique, the specific expression and the complete storyline fall under copyright protection. It is crucial to understand that a mere idea itself is not eligible for copyright. Copyright protection comes into play when the idea is transformed into a tangible form, such as writing a script on paper or typing it in a word document, or even creating a painting. Imagine a painting, it is not copyrightable, when someone paints it on a canvas only then it is expressed in a tangible form, he is entitled to copyright protection. Over that now the major subject matter of the various works which have been recognized under the Copyright Act are literary works, musical works, artistic works, dramatic works, films that are cinematographic films, photographs and sound recordings. So, these are few of the categories or various kinds of works which are the subject matter of copyright protection.

CYBERSPACE, COPYRIGHT, AND ITS LAWS

Legal aspects of Copyright infringement in Cyberspace

A new world of creative and literary potential has emerged with the advent of the Internet. The Indian Copyright Law does not provide adequate protection against the unauthorized digital distribution and use of works protected by copyright. The rise of the internet, e-commerce, and the digital economy are all threatened by copyright infringement and piracy, which affect creative works everywhere. Through specified copyright social orders, Copyright law covers all rights groups for innovation licensing in cyberspace. Copyright owners need to play an active role in shaping these social structures. Only the copyright owner or a qualified civilian can initiate the usual criminal procedure for interference with his work. Common remedies include order and damage. Piracy is also a recognizable crime. Piracy is punished with imprisonment of 6 months to 3 years and a fine of Rs. 50,000 to 2 lakhs. The district court is provided with a place to file proceedings related to copyright infringement in the area where the copyright owner resides or operates. The reproduction of copyrighted works, including of music, drama, literature, artwork, cinematography film, audio recording, and other creative works are prohibited from being reproduced without the copyright holder's consent under “**Sections 13 and 63** of the Indian Copyright Act, 1957”. However, it is still uncertain the way copyright laws function or in the future will apply to these materials when they are published online [7].

Copyright infringement is primarily when somebody else uses the original work of the copyright owner without his prior permission. In order to utilize someone else's copyrighted work, it is mandatory to obtain a license or assignment from the author, who is the rightful owner of the copyright. Without permission from the author, which may be granted through a license or assignment, using their work would constitute infringement. So, copyright infringement occurs when an unauthorized person does anything which is the exclusive right of the owner of the copyright which is guaranteed by the Copyright Act and this was stated in *Fateh Singh Methos vs. O. P Singhal* [8].

Primary infringement is stated under **Section 51a** and secondary infringement is stated under section 51 which is a posture now, we can say that primary infringement is a direct infringement by a person or an organization, so there is an original copyright-protected work. If someone copies particular work and circulates it and makes profits out of it, that is primary infringement.

Secondary infringement occurs when someone, who does not directly infringe a copyright-protected work, induces or encourages another person to make copies of that work. This includes influencing someone else to copy the copyrighted work, circulate it in the market, and profit from it. Such actions would be considered secondary infringement.

In Copyright Act it has been stated that the primary infringement is read with **section 17** of the Copyright Act. The first owner of copyright is defined as under: Subject to the provisions of this Act, so the author of any particular copyright work is the first owner of the copyright and it is stated under Section 17 that primary infringement is when you infringe or when you do something which is against section 17 of the Copyright Act, it is called direct infringement.

The Information Technology Act, which acknowledges digital signatures and electronic records as legal documents, was created by the Indian government to prevent cybercrime. The Act creates a framework of laws to support and protect electronic transactions. It is based on a model law on e-commerce adopted by UNICTRAL (the United Nations Commission on International Trade Law), which promotes a move from a paper-based to a computer-based environment. The IT Act of 2000 does not, however, provide any provisions for handling intellectual property problems. Intellectual property includes things like copyright, trademarks, patents, geographic indications, and integrated circuits.

CHALLENGES FACED

There are two main issues with cyberspace. Identifying the line between private and public use is one of them. The equivalent of works in digital form is digital media. All digital works are nothing more than a small amount of data that a computer can read. The copyright legislation classifies protective works of authorship as extremely specific types of works, with varying restrictions and exemptions applicable based on the nature of the work. While there are some hazy distinctions made between various subject matters, it is typically not too difficult to do so. The Indian Copyright Act also distinguishes between private and public uses of reproduction. The law permits fair dealing for private use, research, criticism, or review but prohibits reproduction for public use without the right holder's consent. This distinction is blurred by people's capacity to simultaneously transmit any copyright-eligible work to a large number of users over the Internet from the privacy of their homes and allow those users to download an exact copy of the item transmitted. Many believe that the vanishing of the fine line separating the public and private spheres necessitates the creation of new standards for copyright.

Service providers in India will struggle to determine who owns the copyright to the Internet's content because the definition is thought to be sufficiently inclusive of communication via the Internet. Additionally, it is feasible to intercept pornographic material under Section 69 of the IT Act, and this now includes the ability to prohibit websites. Pornographic websites could also be targeted by similar measures, which explains why no porn is housed in India. However, the Internet is too big and unstructured to be governed. When one blocks access to an illegal website, 100 more may appear in various locations. There is a vast amount of knowledge available on the Internet, and it is spread out across the entire world. Any government would find it impossible to censor it. When information sources are scarce, censorship is a possibility. Mass electronic media like television and radio and the Internet are very different from one another. While there is only one broadcaster and a small number of viewers or listeners in the former, there are many more "netizens" simultaneously contributing information and using it in the latter.

Among other difficulties, the problem with cyberspace arises from the fact that cyberspace is not a limited domain, making it highly challenging for judiciary to determine that jurisdiction. CPC and Copyright Act both are to be used to determine the diction for cyberspace copyright infringement cases [9].

In *Casio India Co. Ltd. v. Ashita Tele Systems* [10], The Delhi High Court ruled that for a court in a certain location to exercise its territorial jurisdiction, it is sufficient if the website may be accessed from that location. In light of this supposition, the court issued an injunction order prohibiting the defendant from accessing the plaintiff's website. In the case of *Banyan Tree Holdings Ltd. V. Murali Krishna Reddy* [11], regarding the issue of a court's jurisdiction in the state, the plaintiff would have to allege this and provide evidence that, at least in part, demonstrates the other party was involved in monetary transactions with a user of its website within the forum state that caused the plaintiff's harm or injury within the forum state [12]. In addition, as per **sec 51a(ii)** "copyright in a work shall be deemed to be violated when any person without a license granted by the owner of the copyright or Registrar of Copyright under this act permits for profit any place to be used for communicating the work to the public where it constitutes a violation of the copyright unless was not aware and had no reasonable basis

for believing that such communication to the public would be a violation of copyright". The court determined that if a work violates copyright, it is unlawful for anybody to permit a location, including a website, for profit. In this approach, Section 51(a)(ii) holds Internet Service Providers accountable. When addressing the question of whether or not watching pirated content online is illegal in 2016, Justice G.S. Patel of the Bombay High Court noted that while viewing some pirated content online may not constitute a crime, disturbing, publishing, and communicating the illegal work may do so in violation of The Copyright Act, 1957 [13]. Everyone should have the right to privacy, free speech, and entertainment without unnecessary restrictions. The government should not intrude into people's bedrooms or personal lives and should not prevent them from engaging in various leisure activities. Watching pirated content may not be a crime under copyright law since there should be limits to checks and balances, according to the Bombay High Court.

CONCLUSION

The future of copyright in cyberspace is unpredictable since there is uncertainty about the future of the Internet. The aim of the Copyright is not really to grant complete control of their works, rather it is sort of a bunch of rights specifically designed to foster creativity for the public interest. A more suitable alternative would be to interpret fair use broadly to preclude infringement by non-commercial, harmful uses. With technology, it has become very easy to replicate certain work and distribute such infringing work. It is not that the government has not taken any step to conquer the problem of piracy and copyright violations, but just making laws and regulations is not the only solution. There is a need for various executive bodies to work in this direction of implementing Copyright laws in Cyberspace. One of the difficult parts of enforcing copyright in cyberspace is gathering evidence, as Internet rent and technologies are progressing, the law must catch up. Despite initiating infringement, the dilemma of the Copyright owners is not raised as several legal issues are blocking quick adjudication.

For the development of e-commerce, protecting intellectual property is vital. Brass bounded intellectual property protection regulations over time has been applied to Virtual network i.e., Cyberspace as well. However, due to the rudimentary design of the internet, several challenges have arisen, including online infringement of work available on the internet as well as jurisdictional issues and addressing conflict of legal issues that are also applicable in Cyberspace. Researchers have been advocating a combined approach for a social, technological, and judicial approach towards IP laws and infringements on original content. Infringement copyright in cyberspace is not easily traceable and cannot be legally enforced.

The issue of copyright challenge is the challenge of copyright in the context of digital medium specifically. The discussion throughout this week has revolved around the challenges of copyright in the digital medium. These challenges affect copyright owners, enforcement agencies, administration, management, and help in better utilization of copyrighted work. We started by understanding the concept of copyright and the various categories of works protected under it. We explored the criteria for obtaining copyright protection and the rights of authors and owners. The duration of copyright protection, typically life plus 60 years for literary and artistic works, was also discussed. We differentiated between different types of works, such as dramatic works, and touched upon related rights. Additionally, we delved into the topic of copyright infringement and the concept of fair use. While we did not delve into international copyright protection in detail; it is important to note that it is governed by the Berne Convention, of which India is a member. Overall, this knowledge is crucial for students, teachers, and users alike, as it sheds light on the significance and intricacies of copyright in the digital era.

So, if you create a work or publish a work in India, then your work should be protected in all Buoyant Convention member count or if the government creates some reciprocity arrangement for any other country, then your work also will be protected in that country, where Indian government has made a reciprocal arrangement. In terms of international copyright, it is important to note that once you create, register, or publish your work in India, it will be protected in all member countries of the Berne

Convention. This is part of the International Copyright Regime. Additionally, there are other treaties that focus on areas such as performances, phonographic works, and digital medium protection, such as the treaties related to the digital millennium and the Copyright Act. These topics are crucial and deserve careful reading and comprehension, as they encompass subjects that could span across two semesters of study. It is essential to have a thorough understanding of these aspects we have discussed throughout the week.

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