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COPYRIGHT PROTECTION IN THE DIGITAL ERA

Abstract

Copyright Protection is an issue that has gripped the world in the recent era of digital advancement. The article focuses on properly defining what copyright infringement is and the subsets it includes. It further provides methods to ensure that content is always protected and builds awareness in users on how to avoid copyright infringement. The article also focuses on Copyright laws in India and highlights a case law pertaining to the same. Lastly, it includes suggestions to further better the copyright laws in the country and concludes on the note that it is the responsibility of every person on the internet to ensure that content is distributed with due credit being provided to the creator.

Introduction

Intellectual Property refers to property which are “creations of the mind”. It includes things such as literature, works of art in particular - paintings, designs, symbols, logos and so on. These creations when used in commerce have immense importance and if not protected has an effect on the morale of creators thereby disincentivizing them from further inventions and as a broader effect bringing to a halt the growth and development of modern society.

The world has seen a vast advancement of digital technology in the past era with internet access being available to everyone across the globe. This is however, where the grave problem of plagiarism and copyright infringement has come in. The access of the masses to the internet has provided a source of concern for the possibility of a work being stolen without the

permission of the creator and hence Copyright has become one of the most significant Intellectual Property Rights during these times.

What is Copyright?

Copyright is a right given by the law to creators of intellectual property. In fact, it is a bunch of rights including rights of reproduction, communication to the public, adaptation and translation of the work. Copyright lasts for a specific amount of time, depending upon the intellectual property being protected, before it enters the public domain.

Infringement of Copyright in Cyberspace

Downloading and uploading: The Internet has long served as a means of downloading software or files to one's computer's hard drive. Making a copy or replicating a copy of material available on the internet is known as downloading. However, there are several rules that must be followed, and failing to do so may result in a copyright infringement offence.

Derivative work: If two or more programmes are compiled to create a derivative work then in such cases it amounts to infringement or violation of Copyright.

Hot-linking: Hot-linking is a process of displaying an image in a website while linking the image to the website in question. This process counts as a method of copyright infringement.

Audio-video works: Copying an audio or video file through companies that are involved in Peer-to-Peer file sharing (P2P) of any digital music shall also amount to a violation.

Multimedia work: Multimedia is a broad notion that embraces a vast range of materials, including text, sounds, audio, video, photos, graphics, presentations, live videos of speeches and performances, and so on. Multimedia is typically protected under the literary (software Programme), artistic (images), cinematographic films (films or videos), dramatic (plays), sound recording (musical works), and photographic categories. The multiplicity of rights accessible to copyright owners under the purview of multimedia makes it difficult to protect the rights of authors and owners of copyright.

However, infringement in multimedia can be said to involve

- Copying the works of a creator without his permission
- Distributing multimedia product other than for educational purposes

- Creating prints of literary or artistic works without prior permission of the creators
- Dubbing and selling, through any of multimedia products a sound recording without the prior permission of its creator.

Software: A collection of computer programmes, procedures, and documentation that accomplish tasks on a computer system is known as computer software. One of the most common causes of copyright infringement is software piracy. It entails unauthorized copying and distribution of copyrighted software.

Software Piracy entails:

- Making a copy and selling it.
- Making a copy and exporting it.
- Renting the software.
- Selling computer hardware machines with pirated software pre-installed or pre-loaded.

Social Media: Nowadays, social media platforms have become one of the most popular ways to connect individuals all over the world. These services allow users to share works that may be protected by copyright. Copyright infringements have resulted from the popular habit of sharing items such as photos and photographs on social media. A major cause of such infringements is the incorrect belief that all information uploaded on social media is free, which is fueled by a lack of knowledge about the status of copyright in such works.

Copyright infringements on social media networks might take the following forms:

- Copyright-protected materials may not be re-posted, saved, or shared.
- Re-posting and reassuring ownership or production rights of previously protected works
- Using the authors work without their prior permission.

Remedies Against Copyright Infringement

Threats of Copyright infringement in the digital arena have prompted several preventative steps to ensure that the rights and interests of the owner or creators are safeguarded. The following are some of the most important treatments:¹

Blockchain Technology: It's a decentralized public ledger that records peer-to-peer transactions in a very secure manner. Each time a transaction takes place, the parties agree on the specifics

¹ Accessible at: <https://www.legalzoom.com/articles/how-to-avoid-copyright-infringement>, (Accessed on: 22.10.2021)

that will be encoded into a block of digital data that is uniquely signed or identifiable. It is regarded as an excellent technique for resolving the problem of copyright in the Digital Domain because of its functionality.

Watermarks in Digital Format: Watermark is one of the simplest ways to protect the creator's work since it allows the owner to trace his work and prevent it from being duplicated. A watermark is implanted in the author's original work in this technique, allowing unlawful duplication of the work to be detected.

Access Control and Copy Control: Access Control and Copy Control software can be utilized by users to check if the work is being used illegally in any platform without their prior permission.

Copyright Laws in India:

The Indian Copyright Act came into force in 1975 with the most recent amendment being the one in 2012. India is a party to the Geneva Convention for The Protection of The Rights and Production of Phonograms² and to the Universal Copyright Convention³. The country is also an active member of World Intellectual Property Organization (WIPO) and UNESCO. This act has also been frequently amended to keep up with the changing landscape of the world.

The Copyright (Amendment) Act 2012

The recent amendment which was introduced through the Copyright(Amendment) Act 2012 can be categorized into these following points:⁴

- Amendment to rights in artistic works, cinematographic films and sound recordings.
- WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT) related amendment to rights.⁵
- Author-friendly amendments on mode of Assignment and Licenses
- Amendments facilitating Access to Works
- Strengthening enforcement and protecting against Internet piracy

² Accessible at : <https://allindialegalforum.in/2020/11/10/an-overview-of-copyright-law-in-the-digital-era/>, (Accessed on: 22.10.21)

³ Accessible at: https://www.wipo.int/wipo_magazine/en/2018/si/article_0005.html, (Accessed on: 22.10.2021)

⁴ The Copyright (Amendment) Act, 2012, No. 27, Acts of Parliament, 2012 (India).

⁵ Accessible at: <https://www.wipo.int/treaties/en/ip/wct>, <https://www.wipo.int/treaties/en/ip/wppt/>, (Accessed on: 22.10.2021)

- Reform of Copyright Board and other minor amendments.

The amendment has also introduced the following changes of significance to prepare for the emerging need of Copyright protection in the Digital Era:

1. A few provisions of the previous copyright act were applicable only to works of a specific kind such as literary or artistic works. The scope of the act has now been considerably broadened to include all types of work including computer programs , databases, and multimedia works.
2. The reporting of current events in the news had been previously overlooked. Through this amendment a fair dealing exception has been brought into this sector including the reporting of a lecture delivered in public. This provision for fair dealing was earlier only limited to private or personal use including research and criticism or review of any other work.
3. The performances, in the course of the activities of an educational institution, of a literary, dramatic or musical work by the staff and students of the institution has also been granted protection under the new amendment.
4. The storage of a work in any medium by electronic means in a public library provided that they already were in possession of an original copy of the said work was also permitted.
5. The adaptation, reproduction, issue of copies or communication to the public of any work in a format, including sign language, specially designed only for the use of persons suffering from a visual, aural or other disability that prevents their enjoyment of such works in their normal forms was not considered to be Copyright violation according to the new amendment.
6. The amendment also highlighted the unlawful distribution copies of any literary or artistic work, such as labels, company logos or promotional or explanatory materials to the public and focused on the importance of preventing such misuse.

Case law pertaining to Copyright Issue in India

UTV Software Communication Ltd v/s 1337x and others on 10th April 2019-Delhi HC⁶

The plaintiffs in this action, which include UTV Software Communication Ltd, are companies that create, produce, and distribute cinematographic films all over the world, including in India. 30 websites, including some John Doe websites, the Ministry of Electronic and Information

⁶ Accessible at: <https://indiankanoon.org/doc/47479491/>, (Accessed on: 22.10.2021)

Technology, the Department of Telecom, and other ISPs were named as defendants. The plaintiff claimed that defendants' websites hosted and offered access to their intellectual work, resulting in infringement of the plaintiff's copyright. In this case, the Court appointed Mr. Hemant Singh as an "amicus curiae" to help the court in determining the legal issues in the case.

The issues raised in this case were:

- If an infringer of copyright in the internet is to be considered in a different manner as compared to an infringer of copyright in the actual world?
- If the blocking of pirate website which endorses copyright infringement curtails the access to a free and open internet?

It was held that this case was a case of copyright infringement and a decree of Permanent Injunction was passed against the defendants restraining the defendant websites.

Suggestions

When it comes to cyber piracy, India's current legislative structure is clearly insufficient. However, things appear to be improving at the moment. Enough awareness, along with the implementation of a few new policies, could help combat the growing threat of online copyright infringement. The following are a few suggestions which could help the cause:⁷

- In some situations, the courts have struggled to determine who will be held accountable in the event of copyright infringement via the internet. It is consequently critical to have clear standards governing liability in cases involving numerous jurisdictions.
- The legal architecture of Indian copyright law includes both criminal and civil laws to protect the rights of authors, but it is not without its own set of problems and roadblocks that must be overcome.
- The implementation of the provisions is a major worry, and there is an urgent need to establish better administrative machinery to enforce the legislation's provisions, which necessitates well-oiled judicial system.
- Lastly, since infringers are implementing modern technology to pirate copyright and other digital protection laws, hence the holders of the right shall also use technology to fight such criminal offences.

⁷ Accessible at: <https://allindialegalforum.in/2020/11/10/an-overview-of-copyright-law-in-the-digital-era/>, (Accessed on; 22.10.2021)

Conclusion:

Although digital technology and internet access has made it difficult for proper implementation of copyright laws given the vast expanse of the internet and the notion that everything on it is free yet there needs to be awareness surrounding the breaching of this right of users all around the globe relating to this issue. Every user on the internet needs to be responsible regarding what they share and give due credit to the original creator. It is only through building awareness and taking substantive measures that we can ensure that the creative wonders of the world never cease.



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