



COPYRIGHTS IN CYBER LAW : THE INDIAN PERSPECTIVE

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ABSTRACT

Law is a response to a problem, which can be social, economic, or technological in nature. This general rule applies to copyright law as well. Like patent protection, copyright protection is based on the idea that "the public benefits from authors' creative activities, and that the copyright monopoly is a necessary condition for such creative activities." However, technological advancements have always posed a threat to the fundamental principles of copyright law. Copyright law's application to digital information has become critical. One of them is the infringement of copy rights over the Internet. This paper's goal is to discuss copy rights infringement on the Internet in the context of the Indian situation.

KEYWORDS: Copyright, Technology, Digital Information, Internet Laws.

INTRODUCTION:

In the digital era, copyright is a critical issue for Intellectual Property Rights (I.P.R). Though the term "Copyright" is not new, modern technology has given intellectual property, particularly copyright, a greater relevance, which has manifested itself in new concepts such as computer programmes, databases, computer design, and websites.

The link between copyright and cyberspace is traced with great care, with the readers getting glimpses of database history and software intricacies, which establishes a ground truth on the subject and settles the concerns without a shred of doubt.

The internet has evolved to the point where it now affects everyone's lives. We can't deny the internet's benefits; nonetheless, its anonymity permits criminals to engage in a variety of cybercrimes.

CONCEPT OF CYBERSPACE AND CYBER SECURITY:

People, software, and services interact in cyberspace, which can be defined as a complicated environment.

Cyber security refers to the technologies and procedures used to protect computer networks and data from cyber criminals using the internet to introduce vulnerabilities and attacks.

Intellectual property refers to human mind creations such as a tale, a song, a painting, a design, a programme, and so on. Cyber law covers the aspects of intellectual property that are related to cyberspace, including as:

- Copyright Law
- Trademark Law
- Semiconductor Law
- Patent Law

Data protection and privacy regulations strive to strike a fair balance between an individual's privacy rights and the interests of data controllers including banks, hospitals, and e-mail service providers, among others.

Several cyber-crimes are punishable under the Indian Penal Code (I.P.C) (as amended by the Information Technology Act). Forgery of electronic records, cyber scams, and the destruction of electronic evidence are only a few examples.

According to the Indian Evidence Act, digital evidence must be collected and proven in a court of law (as amended by the I.T. Act 2000).

Every new technological advancement is met with a slew of challenges. The Internet is one such huge threat that has engulfed the physical industry and transformed it into a virtual market. The time has come to deploy severe measures to develop and implement a safe internet that protects copyright owners from the clutches of wrongdoers.

Copyright is currently used to safeguard digital content. It safeguards original work as well as work that has been fixed in a tangible media, such as writing, typ-

ing, or recording. Copyright legislation for the internet is not very clear and straightforward because it was not meant for it.

Cyberspace is a virtual environment that, while theoretically simply existing in computer memory, is interactive and alive. In fact, cyberspace is a living creature that evolves on a regular basis due to the constant downloading and uploading of information and the enormous number of individuals that utilise it. In the same way that a person can come on the internet and talk to people from all over the world, read, publish, research, listen to music, watch video, look at art, buy and sell things, access government documents, send e-mails, download software, and get technical support, cyberspace is linked to copyright. Copyright is now facing its toughest test on the internet. The benefit of digital media is that it does not degrade with repeated copies. The scenario of transmission and various uses is another significant aspect of digital media. The internet presents two main issues to I.P.R administrators: what to administer and how to administer it. And how do you go about doing it? Copyright is a fairly specific set of rights designed to stimulate creation in the public good, rather than granting its possessor exclusive ownership over their works.

Since the emergence of internet and the development of related information technologies, copyright breaches have been rampant. Copyright violations aren't restricted to a few blockbusters; they're pervasive in cyberspace and damage a wide spectrum of digital products. Furthermore, severe copyright violations are only the tip of the iceberg when it comes to the many issues of Intellectual Property Rights (I.P.R) threats on the internet. The emergence and spread of the internet has resulted in the establishment of cyberspace, an unruly and anarchic realm that poses grave challenges to copyrights. Copyright owners have developed technological protection measures such as E.C.M.S. to restrict the spread and duplication of works.

INTERNET AND THE COPYRIGHT:

Until now, international copyright law was founded on the Berne Convention for the protection of literary and artistic works, as well as the T.R.I.P.S (Trade Related Aspects of Intellectual Property Rights) of 1995. Since 1974, a special United Nations agency known as W.I.P.O. has been in charge of the international copyright instruments (World Intellectual Property Organisation).

According to the treaty, the W.I.P.O.'s goal is to promote intellectual property protection around the world by cooperation among governments and, where appropriate, collaboration with other international organisations. W.I.P.O. now has 180 member states. The World Intellectual Property Organization (WIPO) oversees six copyright treaties and strives to "homogenise national intellectual property laws with the ultimate goal of creating a uniform, cohesive body of world-wide international law."

COPYRIGHT PROBLEMS:

For I.P.R administrators, the internet presents two main issues. What should I do? and how do you go about doing it? Determining the line between private and public use is one of the most basic copyright challenges on the internet. The Indian Copyright Act, 1957 (as revised in 1994, 2012) distinguishes between reproduction for public use, which requires the consent of the right holder, and reproduction for private use, research, criticism, or review, which is permitted under the law.

Over the internet, the right to reproduce raises a number of fundamental issues.

Because of the fundamental nature of internet transmission, this is the case. Every stage of transmission involves reproduction. Temporary copying (also known as caching) is an important aspect of the internet transmission process without which messages would not be able to move across the networks and reach their intended destinations. According to Indian law, reproduction must take place in a physical form, but it also includes "storing it in any medium by electronic means." The temporary and permanent reproduction that occurs in online communications must be made abundantly evident in case laws.

W.I.P.O AND DIGITAL COPYRIGHTS:

The two principal international legal instruments dealing to cyberspace produced under the aegis of W.I.P.O. are the Copyright Treaty of 1996 and the Performances and Phonograms Treaty of 1996. A detailed examination of the World Intellectual Property Organization's Copyrights Treaty would disclose the scope and limitations of protection for digital copyrights.

The WIPO Copyright Treaty addresses certain specific rights, such as distribution, leasing, and public communication. The Treaty notably mentions Rights Management Information (R.M.I.), which is pertinent to the widely used Digital Rights Management (D.R.M)

COPYRIGHT IN CYBERSPACE:

The author of a work is granted a "bundle of rights" under copyright protection, which includes the exclusive right to reproduce the work in copies, to create derivative works based on the original work, and to perform or exhibit the work publicly.

INFORMATION TECHNOLOGY ACT 2000:

The author of a tangible thing has the right under copyright law to prevent others from using the finished product. A question: is copyright infringement covered under the Information Technology Act of 2000?

However, the Information Technology (Amendment) Act, 2008 incorporated a proviso to section 81 that prohibits any person from exercising any right conferred under the Copyright Act, 1957.¹⁷ However, it does not contain special provisions for the protection of IPRs such as copyrights, trademarks, and patents in the digital medium. This demonstrates that where copyright is violated in cyberspace, the author is entitled to all of the rights provided by these Acts.

COPYRIGHT INFRINGEMENT:

When a work's copyright is violated, the work is copied without the permission of the copyright owner. The form in which the work is expressed is the subject of a copyright law. It does not have a monopoly on the concept of information. Its use as a medium allows a person to view a vast amount of data and replicate it in the same format as it is shown.

ELECTRONIC COPYRIGHT MANAGEMENT SYSTEM (E.C.M.S):

Copyright holders have the option of utilising technology-based protective measures. E.C.M.S. is a legal framework that protects these systems from being circumvented by third parties.

Access control measures and copy control measures are two types of technology security measures. Passwords, encryption, and set-top boxes are examples of access control measures. Copyright owners can utilise E.C.M.S to track, control, and prevent copying of their work, such as through a digital watermarking system. The copyright owner can use this technique to trace and identify unauthorised copies of the original work.

LEGAL ASPECTS OF ELECTRONIC COPYRIGHT MANAGEMENT SYSTEM:

The following are the two important legal aspects:

(a) D.M.C.A (Digital Millennium Copyright Act 1998):

First, no individual shall evade a technological protection measure that effectively limits access to a work protected under the Act (D.M.C.A.). The second portion forbids the trafficking of devices or services for the purpose of evading access control technology. The third section forbids trafficking in equipment or services that are used to get around technology that protects a copyright owner's rights.

(b) E.U.C.D (Europe Union Copyright Directive):

The main focus was on the preparatory activities, because the real danger for Intellectual Property Rights will not be a single act of circumvention by individuals but preparatory activities to produce devices or offer services to circumvent.

PROTECTION OF DATABASE IN INDIA:

The Indian Copyright Act 1957 protects "Databases" as "Literary Works" under Section 13(1) (a) of the Act, which states that copyright in original literary, dramatic, musical, and artistic works shall exist throughout India. For the first time, the term "computer database" was defined in the Information Technology Act of 2000. A person who violates the copyright and cyberspace regulations is liable to pay compensation to the aggrieved party up to one crore rupees under Section 43 of the I.T. Act 2000. In addition, Section 66 of the Income Tax Act of 2000

imposes criminal penalties in such cases.

COPYRIGHT PROTECTION OF COMPUTER SOFTWARE / PROGRAM:

Computer programmes now qualify for copyright protection, as well as other types of intellectual property protection, under the T.R.I.P.S Agreement. Copyright is especially important in the computer software and off-the-shelf business applications industries. Under T.R.I.P.S, poor countries are given the freedom to allow software reverse engineering.

CONCLUSION:

The rise of the Internet has created a new arena for copyright exploitation. Infringement, distribution, circulation, and publication are all so easy and widespread in the electronic environment that anything in digital form has a higher risk of losing royalties than anything else. However, the Information Technology Act of 2000 does not address issues involving infringement of any Intellectual Property Rights, such as copyrights, trademarks, and patents. Because Cyberspace is borderless, this presents significant issues to Indian courts when it comes to copyright violations in cyberspace. As a result, the Copyright Act's provisions are broad enough to cover cyberspace violations, and the Act itself grants broad jurisdictional powers to Indian courts to take notice of the matter under Section 62(2) of the Act and Section 20 of the CPC.

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