

Intellectual Property Rights and The Digital World

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I. INTRODUCTION

Inhering defines rights as “legally protected interests”² it is an interest that the law recognises and protects and for the violation of which certain legal remedies arise. Property, on the other hand, is the land one person owns or debts a person owes, basically corporeal property. But the definition of property has evolved with the intellect of man and a new form of property vis-à-vis intellectual property is identified under it. Intellectual property is a certain intangible property owned by a man as a result of creation by his/her intellect. The rights arising out of the ownership of this property and the remedies for its violation constitutes the Intellectual Property Rights. With the ever-growing technological advancements, different avenues for infringement of Intellectual Property laws have come to surface and these advancements although positive pose as a potential threat when it comes to protecting intellectual property rights.

II. TYPES OF INTELLECTUAL PROPERTY

WIPO identifies intellectual property in seven distinct groups. These includes:

- Copyright
- Trademark
- Geographical Indication
- Patent
- Industrial Designs
- Layout Designs of Integrated Circuits
- Undisclosed information

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²Dr. S.R MYNENI, LAW OF INTELLECTUAL PROPERTY 02-03 (9th ed., 2019)

The digital space wherein most of the information is just a click away, every song a person downloads or every piece of information that person copies knowingly or unknowingly is a direct violation of copyright of the owner. The increase in the number of users of the digital environment has left the rights of copyright owners at stake and the prevention of it is a daunting issue. The authors in this article will look into Intellectual Property right violation in the context of copyright due to restraint in the word count.

III. ISSUES OF COPYRIGHT IN DIGITAL WORLD

With the appearance of the computerized condition, the entrance, use, duplication or alteration of the first work has turned out to be extremely simple. This creates copyright issues in the computerized period which can be ordered into three gatherings:-

- **GROUP 1:** Issues identifying with an entirely different arrangement of work in particular PC projects, databases and sight and sound works.
- **GROUP 2:** Issues relating generation, dissemination and correspondence to the general population of work through advanced media
- **GROUP 3:** Issues identifying with the board and organization of copyright in the advanced condition

The advanced condition has made a stage for individuals for far-reaching financially savvy dispersion of the first works, presenting genuine dangers to the enthusiasm of the maker. Dangers presented by the advanced condition to the copyrighted work are excessively not the same as that in the typical course of the physical world. To counter these dangers incalculable systems have been created to make advanced works hard to duplicate, convey and access without vital consent. In an exertion to counter piracy, the media industry, including entertainment and Publishing is depending on its innovative fixes, for example, Digital Rights Management, Technological Protection Measures, etc.

IV. IMPACT OF DIGITAL WORLD ON COPYRIGHT

1. Plagiarism- This is one of the main issues and reason for copyright violation in the digital space, plagiarism is the act of copying someone's work and claiming it to be one's own. Although plagiarism is a moral wrong and is different from copyright violation which is a technical issue, most of the cases of plagiarism also include copyright violation. In the digital space where data is a tap away, protecting the intellectual property of the owner from being plagiarised and thus violated is a huge issue.

Doctrine of *Sweat of the brow* and Originality-According to the doctrine of the sweat of the brow an author gains rights through simple diligence during the creation of work. The creator of the copyrighted work, even if the work is completely unoriginal he is entitled to have his efforts and expression protected but must recreate

the work by independent research and effort. This doctrine originated in the UK in the case of *Walter v Lane*³ where an oral speech was reproduced in the same way in a newspaper, the question was whether such reproduction would give rise to copyright in the work. The court held that as reporter expounded skill and labour to reproduce the speech, the work merited copyright protection. The Indian Judiciary also has been following this doctrine until recently it shifted while dealing with a case of copyright violation in the digital world, i.e. *Eastern Book Co. v D.B Modak*⁴ wherein the Supreme Court Case Reporter was aggrieved as other companies were launching judgments edited by SCC, the court shifted to the doctrine of Modicum of Creativity and stated that the inputs given by SCC editors can be protected because it has originality and creativity, however, judgment being in public domain anybody can use them and therefore no case of violation was there. Therefore, in this case, no issue of plagiarism arose due to the concept of its availability in the public domain, however, otherwise it would.

2. Piracy- Piracy is unauthorised distribution and reproduction of work protected under copyright. Piracy has been a problem in India ever since and it has subsequently increased with the advent of the internet. One of the first instances of piracy wherein individuals were arrested for the violation of copyright is *T-series v Guruji.com*⁵, in this case, a platform guruji.com that was a music search engine allowed unauthorised download of songs and it had infringed a number of copyrights of different movies and the engine was subsequently shut down. In *UTV Software Communications ltd v 1337X and others*⁶ in this case, the Delhi high court ordered ‘dynamic blocking’ injunctions of websites that mainly publish pirated films or songs. The court applied the qualitative approach to understand the rouge websites (websites that are overwhelmingly infringing of copyright) and put an injunction on all such websites.

V.DIGITAL RIGHT MANAGEMENT

Digital Right Management incorporates systems which have been created to control duplication, alteration and dissemination of unique works.⁷ The creators or the makers of the first works battle that DRM procedures are fundamental to ensure their enthusiasm by anticipating free and unapproved duplicating and dispersion of their work. A couple of DRM arrangements were presented in the Indian Copyright law by the method for an

³ Walter v Lane[1900] AC 539

⁴(2008) 1 SCC 1

⁵Sumathi Chandrashekhara & Prashant Reddy T, *The case of guruji.com : Why the question of liability for Internet intermediaries is complicated*, SCROLL.IN, Jun 14, 2017

⁶CS(COMM) 724/2017

⁷DIVYESH PRATAP, Is ‘Fair Use’ of Copyrighted Work a thing of the past?, LEXPRESS (July 11, 2018), <http://www.lexpress.in/law-development/digital-rights-management-provisions-and-indian-copyright-law>

amendment in 2012. Segment 65A and 65B were added to the Indian Copyright Act, 1957⁸. Some of the DRM techniques are as follows:

ENCRYPTION SCHEMES

Encryption Schemes enable makers to avert any unapproved access to their unique work. Encryption of substance is an approach to decide the approved client in the computerized condition. Encryption includes computerized scrambling of the bits that make up substance to keep the substance from being seen unmistakably until it is decoded. Just approved clients have the keys to decode the work.

ACCESS CONTROL AND COPY CONTROL

Access and duplicate control programming empowers the maker to keep in mind the free and unlawful abuse of their work. These procedures guarantee that solitary who pay must appreciate a directly over the item. Access controls are a classification of programming that is intended to keep a client from getting a first duplicate of work except if they have a permit to do as such. Duplicate controls are bits of programming that attempt to prevent open from causing a multiplication of work once they too have acquired a duplicate.⁹ Access controls are generally simple to execute. Case of this can be a site that expects clients to pay an expense before being offered a download.

DIGITAL WATERMARKS

Advanced Watermarks are the best methods that help creators to follow the wellspring of a work and any unapproved duplication or circulation of their unique work. The novel watermark installed in the first work can interface the utilization to the first work and any unapproved replicating or use can be followed. Exceptional highlights are installed into the substance that is not unmistakable all things considered, however, which can be perused by a location gadget so it knows whether the substance being played or utilized is approved and where the wellspring of the substance was begun. Such data can give information on the creator, rights, appropriation, and so on¹⁰. It can likewise contain duplicate control data and directions. There are different technological protection measures by method for which the encroachment of copyright work can be averted and the enthusiasm of the creators can be verified, but still, data is copied and distributed on the digital platforms.

⁸The Copyright (Amendment) Act, 2012

⁹KRISHNENDRA JOSHI, COPYRIGHT IN DIGITAL ERA, IPLEADERS (MAY 12, 2019), [HTTPS://BLOG.IPLEADERS.IN/COPYRIGHT-DIGITAL-ERA/](https://blog.ipleaders.in/copyright-digital-era/)

¹⁰Deepa Merin Jose, R.Karuppathal, A.Vincent Antony Kumar, Copyright Protection Using Digital Watermarking, IJCA, 24-26 (2012)

VI. CONCLUSION

Copyright being a shallow right has been neglected ever since but with the surfacing of the digital world, the significance of it is increasing day by day. As we advance with technology, the chances of infringement of this shallow right increases as well and the intellectual property of people are put at stake. The Copyright Act, 1957 being accused of the poor protection and requirement arrangements, it's about time that India ought to stringently pursue these arrangements of advanced rights of the board and keep aware of copyright encroachment in the computerized condition.