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Transformation of Intellectual Property Trends in Cyberspace Inspecting Modern Day Infringements

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ABSTRACT

The ultimate goal of intellectual property rights is protecting the intellect that has a commercial value which applies to cyber space as well. However, this particular objective of IP has not been successful in all its ventures especially when there is a lack of efficient laws. Cyber space is nevertheless a prominent world-wide phenomenon that has attracted users of all age groups and for a variety of purposes. The role of IP in cyber space appears to be a fast growing matter due to the commercialization of numerous online entities. At the same time, it is crucial to have efficient laws to guide the same so as to reduce and avoid infringements which in one way or the other affect the e-commerce. The kind of IP infringements that has occurred in cyber forum in recent times reflect the change in trends. This posts a huge challenge to the judiciary who are the sole dictators of law in the absence of appropriate legal framework. Because regulation of commercial productions ultimately requires the backing of specific laws. Thus this paper prioritizes the analysis of contemporary online infringements to justify the need for specific regulations in place. In order to address all these existing glitches, this paper highlights modern day IP infringements in cyber space which has turned into a commercial platform. Apart from that, this paper attempts to understand the root cause of such infringements. This paper tries to bring out the need of the hour to tackle these anomalies.

Keywords: *Intellectual property, Cyber space, Infringement, Piracy, Liability.*

I. INTRODUCTION

Intellectual Property (IP) and Cyber space constitute a remarkable interface appropriated by law. The IP issues in the cyber space has simultaneously evolved with its advancements. Cyber space in India has nevertheless improved its laws through the Information Technology Act (IT Act), 2000. However the act lacks a very efficient legal framework to attract the advancements that happened at a later point of times. Presently, the cyber space has evolved as a platform for e-commerce and digital products such as Artificial intelligence. Observing

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the evolving trends of cyber space, a user is more powerful in the cyber space than the authorities. This has clearly increased the types and methods of IP infringements in the cyber space. As undisputed, every infringement is settled by placing liability on the appropriate person. But, with the existing cyber space forum, it has become very tough to identify the offender due to the easy cover behind anonymity. The IT Act seems like an outdated legislation when considering the nature of cases in day-to-day life as a result of cyberspace. This article attempts to identify various IP infringements in cyber space, especially the ones that have come out in recent times. These latest trends are not yet covered by the cyber laws and the only resort is to approach the courts in case of infringements. Secondly, this paper tries to bring out the IP issues that are left unnoticed in the laws. Finally, the paper tries to bring out the possible IP issues which are likely to arise in the future due to the lack of legal provisions.

II. EVOLUTION OF CYBERSPACE IN PAR WITH IP:

The common IP issues in the cyber world which can be otherwise named as infringements are copyright and trademark infringements. These issues have been arising since the establishment of cyberspace which happened in 1960s. Now if we trace back the term 'cyberspace' it was coined in a science fictional book[2] to refer to a technological setup that would be accessed throughout the world. The intention and motive to establish cyber space was primarily communication, secondarily to act as a commercial and educational platform for all individuals. These intentions however lacked prior security at the time of establishment which led to complications in protection of IP subsequently. After the establishment of cyber space, the movement carried out in that forum had to be monitored and ensured protection as well. Thus most of the movements were offered protection through copyright such as computer software[3] that includes object and source code.[4] The same logic extended to the protection of computer database[5] as a whole. This can be further confirmed by section 13(1) (a) of Copyrights act, 1957. Thus initially the protection offered to the cyber space movements were copyright. But this view went through modifications when the commercial use of cyber space grew up drastically through the e-commerce. After this, the law had to deal with the infringements in cyber space too in addition to protection which wasn't the case earlier.

At this point, the laws had to incorporate a legislative framework as an addition to section.79

[2] Lawrence Gomes, "Cyber Crimes", (2001) Criminal Law Journal, 4 Vol. 185.
[3] Section 2(o) of Copyrights Act, 1957 protects computer program under the pretext of literary works.
[4] *Ibcos Computer v Barclays* 1994 FSR 275.
[5] *British Horseracing Board vs William hill* 2001 RPC 612.

of IT act[6] that would uphold the protection against the infringements too. To be precise, the World Wide Web also has a lot of service providers who are otherwise intermediaries such as social media. In order to regulate the intermediaries, the intermediaries' guidelines 2011 were issued. This was also in furtherance with the Delhi High court's case *SCIL v. Myspace*[7] in 2011 that upheld the intermediaries liable for copyright infringements S.51 and the safe harbor exception under S.79 would not stop them from that liability. But this decision was reversed in 2016 in the case *MySpace Inc. v. Super Cassettes Industries Ltd*[8]., by a division bench of the same court by allowing the protection to intermediaries who have taken due diligence according to the intermediaries' guidelines 2011. This has been a huge turning point in the court's approach towards intermediaries who constitute a large portion in the cyber space.

In 2018 the IT rules[9] were amended with a more efficient framework of due diligence to be followed by the intermediaries. Apart from this the common trademark infringements in cyber space take place in the e-commerce platform in the form of SEO infringements with respect to domain names. This has arisen in a huge number after the rise of players in the digital market that includes digital products which are majorly used with the help of technology and not human effort such as AI. These latest trends have not yet received legal regulation that imposes a huge risk of IP violations simultaneously.

III. COPYRIGHT INFRINGEMENTS IN CYBER SPACE:

The copyright infringement is the most common issue in the cyber space. Copyright infringement can be classified into two. First being circulation of copyrighted work without the author's consent in cyber space. Second being the infringement of digital works that are copyrighted in any form. The first kind of infringement happens more often. It can happen through uploading or sharing a copyrighted work which may or may not be available in the cyber space previously with the author's consent. This kind involved the role of intermediaries too. The serious threats with this kind are that in social media or other online platforms there is a huge rate of anonymous users which makes it tough to trace the source of the infringement, secondly the intermediaries guidelines and other exceptions provided to copyright infringement under the act have not covered every situation specifically which again limits the scrutiny, thirdly these infringements can be trivial in nature such as memes

[6] Section 79 of the Information Technology Act, 2000 offers safe harbor protection to intermediaries by imposing due diligence.
[7] *Super Cassettes Industries Ltd. v. MySpace Inc. and Another*, on 29 July, 2011
[8] 2016 SCC OnLine Del 6382
[9] The Information Technology [Intermediaries Guidelines (Amendment) Rules] 2018.

that which haven't received the recognition of law yet.

These threats clearly makes it tough for the owners of copyright to seek legal remedy. Looking at the second type of copyright infringement, it is pertinent to note that digital products are generally protected under the heads of computer software and rarely as patents such as in the cases of innovations of new products like a robot using AI. The second kind of infringement has so far limited its scope to copyright protection for which lack of specific laws can be a reason. The threat associated with this kind of infringements is that the creator of the work has not been provided with the clear legal protection for her innovation that makes it tough to seek legal remedy in cases of infringements.

IV. INTERFACE BETWEEN ARTIFICIAL INTELLIGENCE AND INTELLECTUAL PROPERTY:

Artificial intelligence (AI) that has created a massive change in the operations of e-commerce and digital world as a whole. AI and machine learning has been incorporated in various fields ranging from science to medicine. Machines using AI has even received the recognition of medical device.[10] Besides this, the competition act that makes an exception for IP in section 3(5) has recognized the algorithms used in pricing strategy as eligible to be copyrighted. But the confusion is copyrights are granted to works that are man-made, in other words the innovations which require a human effort to operate. This is not the case with AI such as robots or other devices that has been structured with machine learning technologies which can self-update and thus not require the human help at all.[11]

Apart from these type of technologies, there are also AI products that involves a human help to survive such as the machines used in the medical field. The medical liability in these cases is much more complicated since there are three such as the liability on the inventor of the machine, the operator and the doctor under whose direction the test was conducted. Most of these medical devices are patented and used through the issue of license. "In India for patenting an AI backed technology one needs to follow the Computer-related Inventions (CRIs) guidelines which excludes a computer program or algorithms from being patented."[12]Though algorithms and any machine learning technology is ignored of patent protection under the competition act, there are two patents granted to a proactive user

[10] Section 3(b) Drugs and Cosmetics Act 1940

[11] See also, Andres Guadamuz, Artificial intelligence and copyright [2017] October WIPO magazine available at https://www.wipo.int/wipo_magazine/en/2017/05/article_0003.html

[12] Guidelines for Examination of Computer Related Inventions (CRIs) visit http://www.sric.iitkgp.ac.in/Patent_portal_v3/Downloads/cri.pdf

interface for a computational device[13] and a system that facilitates displaying objects.[14] India has taken the UK's approach[15] in granting IP protection to artificial intelligence where it does not grant any right with the user but with the creator. So the programmer of AI will have the copyright over that creation according to our Indian approach.

> *"Today with the use of AI tools, the line determining liability has become blurry considering that other than the Doctor there is another entity which might have caused the harm, i.e., the algorithm's output which the physician followed."*[16]

This might create complications only when the machine commits a data breach or other such issues with the use of machine learning also called as data feeding. In such a situation, the copyright owner would be held liable though the participation in such activity is not yet confirmed. This can cause serious risks with medical devices especially while deciding the liability for the failure of a medical procedure such as a scan that has resulted in wrong or miscalculations. In such a situation, the doctor and the created of the device are at the risks of being held liable. But the failure of the machine does not have any active connection to the medical practitioner or the copyright owner which can again reject the granting of copyright itself due to the uncertainty of imposing liability.

V. CONTEMPORARY IP VIOLATIONS THROUGH SOCIAL MEDIA:

The modern day IP violations takes place at a very large number in the social media. As discussed earlier most of the social media are just intermediaries that were created for the purpose of advanced communication such as twitter, instagram, Facebook, snapchat, WhatsApp etc. It is very easy to have a face of anonymity in these platforms that paves the

[13] IN239319, this is considered to be "A proactive user interface for a computational device having an operating system, the proactive user interface comprising: (a) an interface unit for communicating between a user of the proactive user interface and said operating system, said interface unit including an emotional agent for communicating with the user; (b) at least one software application controlled by the operating system; (c) an artificial intelligence (Al) framework for supporting said at least one software application, communicating with a host platform having the operating system, detecting at least one pattern of interaction of the user with said interface unit, and actively suggesting, to the user, options for altering at least one function of the user interface according to said detected pattern, wherein said agent expresses at least one emotion according to a reaction of the user to said suggestion"

[14] IN228347, that is seen as "A system that facilitates displaying objects comprising: an input component that receives an input regarding a first object; a relationship component that receives data regarding the first object and determines a plurality of other objects related to the first object and arranges the related objects into a plurality of clusters around the first object, the respective clusters being organized based at least in part upon common metadata shared between the related objects ; and a display component that concurrently displays the first object with a subset of the other objects, the subset of the other objects having metadata in common with the first object and the system as claimed comprising an artificial intelligence component that infers an appropriate subset of related objects to display"

[15] Section 9(3) of the Copyright, Designs and Patents Act (CDPA) enumerates "In the case of a literary, dramatic, musical or artistic work which is computer-generated, the author shall be taken to be the person by whom the arrangements necessary for the creation of the work are undertaken."

[16] Andoulsi, Isabelle and Wilson, Petra op cit., p. 165

way for constant IP infringements which are tough to trace. Secondly, this platform provides space for uploading works that infringes IP rights of the original owner that are not so easy to claim such as music covers, posting the photographs or videos without the consent of the owner as well as the participants, parody in the name of memes. These violations are likely to seek the exception of fair use. But the case with memes are even more interesting since the memes can in itself violate a copyrighted work such as a movie scene or a song and also the meme can claim copyright since it is a creation which has artistic work involved such as the captions in it.

However, if we look at the legal remedy against parody, there is no explicit protection or rejection. So it would be decided on a case to case basis where the purpose, amount of originality and other such criteria are looked into by the courts. But there are precedents with respect to protection of memes from western countries such as the grumpy cat[17] and "Awkward Penguin"[18]. "Grumpy Cat" was made a meme that later went viral in social media and also turned into a business. The business here was carried out through the selling of books, posters, mugs, etc. organized by a website by the very same name "Grumpycats.com" and was granted a trademark for the same.[19] In a similar incident of a meme by the name "Awkward penguin" was later copyrighted. "Getty Images, which is an American agency that supplies images and illustrations was the owner of this image."[20] Upon the viral trending of the meme, the agency sent letters demanding license fees to those who exploited their copyrighted content which is the image of "Awkward Penguin." This was a photograph taken by "George Moberly, who is a National Geographic photographer, for which Getty enjoys the licensing."[21] Thus going by this logic, the owner of the template will have the copyright over it. This can happen in cases of photographs acting as templates. These photographs can either be a trademark or But when the template involves an already copyrighted work such as movies, books or other literary works, then the decision regarding the infringement and legal remedy would be more complex.

VI. INFRINGEMENT OF DOMAIN NAME, TRADEMARK AND COPYRIGHT THROUGH META TAGS:

Meta tags are not defined under the Indian laws including the IT Act. So in general, Meta

[17] *Grumpy Cat Limited v. Grenade Beverage LLC,* et al.
[18] See Socially Awkward Penguin, KNOw YOUR MEME, Oct. 2012, http://knowyourmeme.com/memes/socially-awkward-penguin (detailing the evolution of the "Socially Awkward Penguin" meme).
[19] See https://www.loeb.com/en/insights/publications/2018/04/grumpy-cat-limited-v-grenade-beverage-llc-et-al
[20] See Patel, Ronak, First World Problems:' A Fair Use Analysis of Internet Memes, (2013) UCLA Entertainment Law Review, 20(2) Ed 163.
[21] Ibid

tags are invisible tags that could be in the form of words or symbols or numbers which is invisible to the users. Only the search engine with the help of the Meta data can view the Meta tags of the particular websites. It appears in the HTML of the website that lists out the contents of the website. Basically when a user does a Google search with the keywords and reaches the SERP these Meta tag of the website guides the user to their site. Meta tags was first defined by the Indian courts in a 2014 judgment[22] by the Bombay HC as *"Special lines of code embedded in web pages. All HTML (hypertext markup language), used in coding web pages, uses tags. Meta tags are a special type of tag. They do not affect page display. Instead, they provide additional information: the author of the web page, the frequency of updating, a general description of the contents, keywords, copyright notices and so on. They provide structured data (actually, meta-data) about the web page in question. Meta tags are always used in web-pages '<head>…</head>' section, before the display section that begins with the tag '<body>…</body>'."* Going by this definition, it is clear even by the courts that the Meta tags are not restricted to the usage of keywords but any content that might be of other websites'.

"The SEO (Search engine Optimization) is the basic element that a website conducting business online should take into consideration for improved trade. This is done by the usage of Meta Tags that works along with the key words used in the search in every search engine."[23] Meta tags are used in the source code by which the users cannot see it which is also copyrightable under the copyrights act.[24] The Meta tags of the website thus enjoys the chance of infringing the trademarks, copyrights and domain names of other websites. The very first case that discussed infringement by usage of Meta tags in 1997 "*stopped the defendants from using the said terms in their Meta tags without authorization as it resulted to unfair us*."[25] In this case the defendants used terms that was the trademark of the plaintiff in their Meta tags by which the infringement happened.

The infringement of trade mark happened in various cases such as the *North American Medical Corp. v. Axion*[26], where the court stated that *"evidence in this case indicated that, before Axion removed these Meta tags from its website, if a computer user entered the trademarked terms into Google's Internet search engine, Google listed Axion's website as the*

[22] *People Interactive (I) Pvt. Ltd. v. Gaurav Jerry & ors.,* NMS (L) NO. 1504 of 2014 in SUIT (L) NO. 622 OF 2014
[23] See also, Anita Bharathi A.S.E, Complexities in ensuring cyber security to avoid SEO infringements, 2020, Juscholars –Vol - I, Issue III.
[24] Indian Copyright Act, 1957.
[25] *Oppedahl & Larson v. Advanced Concepts,* Civ. No. 97-Z-1592 (D.C. Colo., July 23, 1997)
[26] 2008 WL 918411 (11th Cir. April 7, 2008)

second most relevant search result. In addition, Google provided the searcher with a brief description of Axion's website, and the description included these terms and highlighted them"[27] and accordingly ruled that *"this was trademark infringement because using a trademark in Meta tags to influence engines was a "use in commerce" and likely to cause consumer confusion."*[28]

The infringement of domain names in Meta tags was discussed in the case *People Interactive (I) Pvt. Ltd. v. Gaurav Jerry & ors.*[29] *where* a Single Judge Bench at the Bombay High Court found that the defendant was using "Shadi.com", which was the Plaintiff's domain name. The Hon'ble Court while addressing a domain name infringement of the plaintiff's domain name "Shadi.com" by the defendants' "ShadiHiShadi.com", used meta-tags to identify malafide intention. The copyright infringement by the usage of meta tags was also decided by the federal court in the case of *Red Label Vacations Inc. (redtag.ca) v. 411 Travel Buys Limited*[30]. In this case the issue was the copying of Meta tags of one website by the other. Since Meta tags belong to the source code, it is copyrightable under law. But in this case, the court held that the Meta tags infringement was not copyrightable as the contents of the plaintiff's website was not entirely copyrightable. But this case made it clear that any website with entirely original work will be copyrightable for its Meta tag usage.

VII. DOCTRINE OF INITIAL INTEREST CONFUSION AND FAIR USE EXCEPTION

The doctrine of initial interest confusion states that confusion exists for purposes of the Lanham Act when potential customers initially are attracted to a junior user's mark by virtue of its similarity to a senior user's mark, even though these consumers are not actually confused at the time of purchase.[31] This doctrine acts as a defense for the plaintiff even if the Meta tags of the infringing website is likely to cause confusion in the minds of the users. This doctrine was later applied in the case of *Grotrian v Steinway & Sons*[32], where the Court believed that the advertisements in the defendant's name of "Steinway" would mislead the consumer into *"an initial interest, a potential Steinway buyer may satisfy himself that the less expensive Grotrian-Steinweg is at least as good, if not better, than a Steinway".* This doctrine was proposed with the sole intention to be applied for trademarks law but later it is used in

[27] Ibid North American Case.
[28] Ibid para 24.
[29] n 6.
[30] *Red Label Vacations Inc. (redtag.ca) v. 411 Travel Buys Limited* (411 travelbuys.ca), 2015 FC19
[31] Lanham Act, also known as the Trademark Act of 1946.
[32] *Grotrian v Steinway & Sons*, 365 F. Supp. 707 (1973)

the Meta Tags infringements too.[33]

"This doctrine is more controversial since the keywords entered during the search is totally in the hands of the user and not the liability of the website owners. Secondly this doctrine not only applies to the same Meta tags but also the similar ones that increases the chance of more accusations."[34] This doctrine was firstly used by the courts[35] in the internet context in the year 1999 where the trademark infringement was confirmed by the courts as both the plaintiff's and the defendant's links to pop up in the search result thus causing confusions. This case gave a wider ambit to the doctrine in the usage of Meta tags but it was narrowed down in another case.[36] This case thus introduced an exception to the doctrine by the term *fair use*. The court thus held that *"while a finding of initial interest confusion can be a basis for finding a likelihood of confusion, initial interest confusion does not lead ipso facto to a finding of likelihood of confusion."*[37] By this the doctrine's usage in Meta tags was narrowed down and thus not all confusions could be identified as infringement before the courts if they appear to fall within the ambit of fair use which was held in other cases also.[38]

VIII. SCOPE OF THE TERM 'PIRACY'

Piracy in India has always been a grey area. The illegality of the same is thus measured by the gravity of the issue in each case. Fight against the music piracy has existed in the US since 1960's.[39] But unfortunately, piracy is not even defined under any Indian law except certain court decisions. On the other hand, TRIPS has made a close observation to the term by defining pirated copyright goods under Article 51. Here, it defines the term as "any goods which are copies made without the consent of the right holder or person duly authorized by the right holder in the country of production and which are made directly or indirectly from an article where the making of that copy would have constituted an infringement of a copyright or a related right under the law of the country of importation."[40] Going by this definition, an act of producing pirated copyright goods can be considered as piracy. This definition thus provides a very broader scope for the definition. In the context of music piracy, we can very much arrive at a conclusion that any act of reproducing or copying an

[33] See also David M. Klein and Daniel C. Glazier, *Reconsidering initial interest confusions on the internet*, Vol 93 TMR.
[34] See Supra 19.
[35] *Brookfield Communications v. West Coast Entertainment*, 174 F.3d 1036 (9th Cir. 1999).
[36] *Playboy Enterprises v. Welles*, 78 F. Supp. 2d 1066 (S.D. Cal. 1999).
[37] Id at 1094.
[38] *Bally Total Fitness v. Faber*, 29 F.Supp.2d 1161 (C.D. Cal. 1998)
[39] Cummings, Alex S, From Monopoly to Intellectual Property: Music Piracy and the Remaking of American Copyright 1909-1971, (2010) The Journal of American History, 97 Vol, 3 Ed 659.
[40] See Footnote 14 in TRIPS.

original music work without the consent of the composer or the copyright holder in this regard amounts to piracy.

Music piracy however covers a variety of acts not limited to the definition under TRIPS. For instance, a remix of a song amounts to music piracy unless or until the original creator and copyright holder of the work has consented to the same. An unlicensed concert by the singer of the original work also amounts to music piracy. To understand the relationship between copyrights, music piracy and fair use exception, one has to study the prevailing rights guaranteed over a musical work. The recent mode of music piracy is stream ripping services which are basically services that provide downloadable form of music which is available online. For example, there are numerous sites that enables an individual to download a YouTube video. In this case, we should remember that YouTube per se does not provide any space for downloading its content except in offline mode which again is restricted to the usage of the act. Here, stream ripping enables a user to download the YouTube video and watch it without the app.[41] The Indian courts have not yet looked into the stream ripping performed through software that makes it tough for the determination of copyright liability.

IX. A BRIEF STUDY OF MUSIC PIRACY IN CYBER SPACE

A recent survey by IPSOS shows that 94% of the internet users access unlicensed music content.[42] Indian law defines musical work as "a work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music."[43] Music piracy in simple terms denotes the copying of work without lawful permission. Music piracy has risen enormously in the recent times along with the development of media and commercialization of art forms. A Music album has its royalties vested with the producer and performance rights with the composer/lyricist. An interesting fact here is that. Music industry has now grown rapidly to invite trademarks for its protection. *'Why this kolaveri di?'* was the first song to have its title trademarked by *Sony music* which was the producer. Certain sound marks such as Pitbull's rap[44] also received trademark in 2020.

As much as the industry grows, the piracy of the same grows side by side. This includes a range of activities such as cover songs, downloadable websites, selling of cassettes, usage of

[41] Mokyr, Joel, The Intellectual Origins of Modern Economic Growth (2005) The Journal of Economic History 65 Vol, 2 Ed 285.
[42] See Survey conducted by IPSOS in 2017.
[43] Section 2(p) of the Copyrights Act, 1957.
[44] Pitbull's *'EEEEEEEYOOOOOO'* yell received sound mark under the trademark act in US. Registered under U.S. Reg. Nos. 5877076 and 5877077 issued by USPTO.

songs in concerts/live performances, usage of songs in short films/movies/YouTube videos etc. Music piracy is regulated mainly under Copyrights act of 1957 and also under Information Technology Act of 2002. In most cases, the defense taken by the infringer is fair use. In order to place a check on the same, the copyrights amendment act 2012 has brought in stricter legislations in this regard through expansion of the scope of copyright under section 14, introduction of 38A and 38B which are exclusive rights to the performer, fair use in digital media etc. To understand the relationship between copyrights, music piracy and fair use exception, one has to study the prevailing rights guaranteed over a musical work.

X. RULES AVERTING PIRACY HITHERTO

After Myspace[45] a proper set of guidelines on due diligence was imposed on the intermediaries that allows user to upload/download media. A website that has not complied with the due diligence under the IT act and the intermediaries guidelines will be liable for music piracy and cannot claim the safe harbor defense[46] under the IT act. Looking at the copyright act, the 2012 amendment brought in certain provisions in the nature of guidelines to deal with digital piracy. This is in confirmation with the WCT[47]. The act also mandates the license from Phonographic Performance Limited (PPL) for every website that has music. PPL is affiliated to the International Federation of the Phonographic Industry (IFPI). Other than websites, any event or place or a gathering that plays songs should get a license from PPL and Indian Performing Rights Society though there are few events exempted. South Indian Music Companies Association (SIMCA) which is a joint federation of the four south Indian cine industries signed up with PPL recently to combat music piracy and to monetize licensed music. Music streaming services like *Spotify, Gaana* and *Wynk* have taken a huge step forward towards monetizing licensed music by which music piracy is restricted to a good extent. These services though offers free service initially are likely to charge the users at a later point of time so that there is no unauthorized use of copyrighted work. Though it is an undisputed fact that online piracy is impossible to eradicate, these measures reduce the spread of uninformed users.

XI. CONCLUSION

The major root cause of the infringements discussed above is user friendly nature of the cyber space. A lot of websites functioning online have set their primary approach to attract audience as user friendly nature. By analyzing the user friendly websites, we should look into

[45] *Myspace Inc. v. Super cassettes Industries Ltd*, 2011 (48) PTC 49 Del.
[46] See Section 79 of the Information Technology Act, 2002.
[47] WIPO Copyright Treaty.

how easy the access to the website happens when a user looks for a product or any service online. This also encourage SEO infringements undoubtedly since most of the websites resort to this technique. The SEO professionals do not have a definite say on either the investments on SEO or the security which clearly proves that it is an unsure take. The cyber security that is ought to protect the IP in the internet should be more focused in order to bring a clear picture for the users as well as the owners. India lacking such clear legislations in this regard is in a place where it should totally rely on the precedents[48] that are not so clear[49] when it comes to SEO infringements[50] in spite of the changing situations in the cyber space. SEO infringements does not only affect the IP but also puts the cyber space in danger as it creates the fear of one's registered contents being used by others. While looking into the investment aspect, only the large business online consider the SEO investment and not the other ones.[51] As this paper suggests, the SEO security is still a dilemma as it does not and cannot favor both sides for an expected end result that is the improved business. With respect to memes, AI and IP interface also, it would be more complex to rely on precedents that have not yet laid down a clear rule to understand the structure. This dilemma cannot be ignored by the legislations as it is important for the users to get access to legitimate websites which eventually brings down the data of the website accessible, that is totally risky for the website as it creates a huge chance for the infringement of data. Thus a clear and proper legislation is the only viable option for the courts as well the cyber users to go ahead with tackling these IP infringements.

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[48] *Mattel, Inc. and Others vs. Jayant Agarwalla and Others*, 2008 (38) PTC 416;
[49] *Consim Info Pvt. Ltd. Vs. Google India Pvt. Ltd. & Ors*, 2013(54)PTC578(Mad);
[50] *Samsung Electronics Company Limited & Anr. vs. Kapil Wadhwa & Ors.*, C.S. (OS). No.1155/2011
[51] See generally, https://clutch.co/seo-firms/resources/small-business-seo-investments-benefits-2018 accessed on 13th October, 2019.