



Protection Of Digital Content Under Indian Copyright Law

Ananya Srivastava, Ms. Juhi Saxena
Student, Asst. Professor

Abstract: This Abstract seeks to shed light on the copyright controversy surrounding digital content. As in India, digital content has been examined by students and researchers since it has made it easier for everyone to learn about the discovery, retrieval, and generation of new data in every sector. The Website's increased accessibility has also encouraged widespread individual publication of digital content as eBooks, blog posts, and even Facebook postings. As the availability of digital content grows, more people are abusing it and infringing the creators' and producers' rights. The purpose of copyright law is to establish a framework for the legal protection of any author's "artistic," "literary," or "musical work." Copyright is crucial for the businesses and people that rely on it for their livelihood, as well as for the general public because it has an impact on how people conduct their daily lives. But in the context of intellectual property rights, copyright has only recently been debated in India; in order to be effective, it requires a suitable framework. The author of digital content, such as a library manager, administrator, author, publisher, etc., can use this article to better understand copyright concerns with relation to their digital content.

Keywords: Digital Copyright, IPR, India, Data Protection

INTRODUCTION

When someone creates something that is seen as distinctive and that needed significant mental effort to create, that thing becomes licenced invention that has to be protected from unauthorised imitation. Examples of unique manifestations include computer programming, handiwork, poetry, realistic designs, melodic verses and groups, books, films, distinctive structural outlines, website content, and so on. Copyright is one defence that can be used to protect a unique creation.

Earlier, the Copyright and its protection across nations were more difficult due to a lack of technological advancements that made content sharing incredibly simple and inexpensive, as well as an exhilarating rise in the use of Websites. Legislators all around the world have been working to make a choice to construct a shield to safeguard the innovation from unauthorised use since the dawn of the Website Age in the late 1990s.

Most people believe that the Statute of Anne, which was issued by the British Parliament in 1710, was the first copyright regulation ever. In 1790, the United States enacted its first copyright law.¹ Early copyright rules in the United States mandated compliance with a number of practises (enrolment, copyright inspection, and restoration) as a condition of copyright insurance.

In India, the copyright law had to adapt to balance the desire to make such works available to the public with the necessity to compensate the creator. The assurance of copyright works has become a real concern for legal advisors as well as other partners due to the Website's universality as an unusual and entirely new middle of the road of comprehensive human report throughout the world, contracted into a digital global town. The Website and PC systems make it possible for a larger number of people to be interested in the development of aggregate data, which undermines efforts to show support for individual creators of protected innovation.

The current copyright laws are facing new challenges as a result of the advancement in innovation. These laws were originally designed to govern print media, but they have since expanded to include creative works like sketches, illustrations, and figures. They also now cover photography and film. To gain momentum in the area of digital society records, the deeply ingrained laws and their core principles in copyright law must be revived. Particularised copiers with the development of the web, recorders effectively made advanced data accessible. This could lead to control of the work in contrast to a free stream of data in public spaces, as the moment a digital record is posted in a public area on the web, the creator loses all control.²

The Digital Millennium Copyright Act, which updated copyright laws to address the rise of Digital Technology, was passed into law in India in 1998. The need for a Digital Copyright Law has become increasingly apparent throughout the world as a result of the development and expansion of technology, and particularly because of digitization. The current Copyright legislation was

¹ https://books.google.com/books?id=J_liBj22RokC

² M.Khlaif, M.Talb, Digital Data Security and Copyright Protection Using Cellular Automata, <https://arxiv.org/ftp/arxiv/papers/1307/1307.0082.pdf> accessed on 08 Dec, 2019 at 01:15

created in this way because the practise of maintaining records as digital data clearly necessitates insurance, a necessity that is felt globally.

DIGITAL COPYRIGHT

Digital data is any content that is stored and managed using modern digital devices, such as a computer or smartphone. Additionally, these data may communicate with written works, such as books and magazines, by speaking to voice data (such as melodies and so forth), visual data (such as photographs or videos), or PC programmes.

As previously stated, the term "digital data" refers to the collection of facts, works, data, or other autonomous substantial that is organised in a deliberate or orderly manner in accordance with some essential standards of collection. Digital data sought to be given copyright insurance regardless of whether they are the collection of non-unique fills in as they are the result of expertise and work utilised by the creator in creating the work.

Many countries have developed storage facilities for all of the works by academics that are protected by copyright, and if the work is original, copyright assurance has been transferred to digital data. Databases are protected by a number of copyright laws. In India, The Copyright Act, 1957, includes a definition of a literary work.

Computer programmes, tables, and compilations that include computer digital data are all considered "literary work."³

The court in Telstra Corporation Ltd v. Desktop Marketing Systems Pty Ltd⁴ made it clear that only a minimal amount of originality and novelty is necessary for protection in Australia. The White Pages, Yellow Pages, and several unpublished Telstra headed books were the literary works in question in this instance.⁵

COPYRIGHT VIOLATION OF DIGITAL CONTENT

On the website, digital material is thriving according to a variety of indicators. Data also indicate that a significant portion of movement is expanding, despite the fact that the vast majority of the most well-known works are legitimately available online. Digital data are now available in advanced organisation (content, picture, voice, and video), thanks to the rapid development of interchanges, PC systems, the Internet, and the data insurgency. This opens up a lot of opportunities for innovation and the emergence of new challenges as well.

PC systems are defenceless against intrusion, therefore they take or modify sophisticated Data. For this, we need better data security, and finding a mechanism to protect the data's property rights has increased interest in developing new watermarking techniques. The goal of this investigation is to address the issue of data security and protection of advanced data's property rights by establishing a new model of intricate frameworks to combine advanced data and watermark.

Digital data is protected by the 1994-amended Indian Copyright Act as "abstract works," which includes, among other things, PC projects, tables and accumulations, and PC digital data.⁶ Regardless of how the thing appears, the creator's talent, labour, and capacity for judgement are guaranteed. The definition of "Digital Data" as "scholarly works" in Section 13 (1) (an) of the Act⁷ makes it abundantly obvious that work must endure across India in a distinctive abstract, emotional, musical, and artistic form. The definition of abstract works includes PC projects, tables, and aggregations, such as PC Data.

premise⁸. According to section 63B⁹, it is evident that anyone who intentionally copies computer-related materials while having knowledge of how to do so should face a minimum jail sentence of six months and a maximum of three years in prison. In the Viacom Int'l Inc. v. YouTube, Inc. lawsuit (S.D.N.Y. June 23, 2010), Viacom is the petitioner and YouTube is the defendant. Viacom claims that YouTube is displaying 79,000 audio-visual recordings in violation of its copyright. Viacom initiates a lawsuit against YouTube based on this precise information, claiming that YouTube is ineligible for DMCA protection because it is already known that Viacom owns the copyright to the relevant videos. The court ordered Viacom to remove the majority of the recordings within one business day after being informed. Although the Viacom court did not define "speedily" in its ruling, it is recommended that corporate entities remove infringing information within one business day of receiving a request, given the viral nature of online movement.¹⁰

DEFENCE OF DIGITAL CONTENT

The demand for copyright insurance there has also arisen as a result of the Website being more ubiquitous. The copyright law has been modified in the present to ensure Website-related items, just as it has been modified in the past to assure other forms. It

³ Section 2(o) of the Copyright Act, 1957

⁴ [2001] FCA 612.

⁵ ALOK KUMAR YADAV, COPYRIGHT IN DIGITAL ERA, http://www.rmlnl.ac.in/webj/alok_kumar_yadav.pdf accessed on 07 Dec, 2019 at 23:50.

⁶The Copyright Act, 1994

⁷ Ibid

⁸ Section 2(o) of Copyright Act, 1957

⁹ Indian Copyright Act, 1957

¹⁰ Bradley S. Shear, COPYRIGHT PROTECTION INDIGITAL AGE, <http://www.acc.com/legalresources/quickcounsel/icpituscaeu.cfm> accessed on 07 Dec, 2019 at 22:30.

guarantees that the work is original and that it is recorded or otherwise created in another medium. The law relating to copyright on the website was inappropriate because the content was not intended specifically for use on the Website and only in a few countries.

The TRIPS Agreement and the Berne Convention for the Security of "Literary and Artistic Works" both established universal copyright law. With 188 state members as of today, WIPO¹¹ is committed to "uniform national licenced innovation securities along with extreme focus towards the making which, taken together, take them, strong group of overall global law." WIPO administers six copyright arrangements.

- The Berne Agreement

As previously stated, the Berne Convention, which was convened in 1886, was the first attempt to harmonise copyright law on a global scale. The provisions of this Convention established a minimal level of copyright insurance for the countries that complied with them and received "national treatment arrangements" (where a state provides a similar level of assurance for some copyrighted information and says that other copyrighted information is covered by the provisions of its own specific laws). The agreement also stipulated that the ICJ¹² The Hague Conference would exercise jurisdiction over disputes between divided countries, but this Treaty allowed the divided nations to declare their immunity from the ward; in addition, such an act had been carried out by several states.¹³

- The TRIPS Agreement

In addition to WIPO, "GATT"—the TRIPS Agreement for Tariffs and Trade Related General Agreement—has a tendency to issue copyright. "Promote the diminishment of tax barriers to the global development of products" is the GATT's stated goal. The GATT has been updated and repeatedly reevaluated throughout international negotiations, or "Rounds." With the advent of the information culture, copyright was becoming increasingly important in shaping global exchange today. As a result, the Uruguay Round of GATT formed TRIPS in 1994. The WTO was also established during the same Round. The TRIPS clause incorporates specific provisions of the Rome, Paris, and Bern Conventions in outlining norms for licenced innovation regulations. People must agree to the appendix of the treaty as well as Articles 1 through 21,¹⁴ according to Article 9.1¹⁵. Therefore, it is clear that the progress made towards the TRIPS understanding's copyright arrangements is to accept the Bern Tradition's administration of copyright security. According to the Bern Convention, "PC programmes, whether in source code or question code, may be secured as artistic works"¹⁶ and "Compilation of Data or Other Material, whether in machine decipherable or Considering everything, it might be possible to secure another frame that qualifies as academic manifestations due to the choice or application of their substance."¹⁷

- WIPO is the World Intellectual Property Organisation.

A part of the United Nations (UN) is WIPO. The United International Bureaux for the Protection of Intellectual Property, also known as "BIRPI," is a group of associations that existed before the World Intellectual Property Organisation (WIPO) was founded. These associations included the Gathering of Paris Union, the Universal Bureau of Bern, and the Executive Committee. The WIPO engages in four different types of activities: registration, entombment advancement, legislative participation for the organisation of licenced invention rights, specific programme activities, and most recently, debate determination offices. Part nations realised in 1996 that it was crucial to create an agreement to control the security of technology with regard to copyright.

- 1996 WIPO Copyright Treaty

This WIPO agreement was signed at a diplomats' conference that took place in Geneva on December 20, 1996. This agreement is a noteworthy interpretation of Article 2 of the Bern Convention. that it is connected to the website and cutting-edge technologies. The WIPO copyright agreement is a special understanding between the participating countries that grants creators with extra rights than those permitted by the Bern Convention. As stated in Article 5's supplementary clause, "arrangements of information or other objects, in any frame, which by virtue of the choice or, on the other hand, game plan of their content creates academic expressions, are safeguarded as such. This insurance has no preference for any copyrights that may exist in the Data or material contained in the assemblage and does not apply to the Data or material itself.

THE PROTECTION OF DIGITAL COPYRIGHT IN INDIA

India is being covered by the website structure quite quickly. There are many problems with the internet. However, the security of academic research is one of the Website's most contentious topics. Scholarly works, sound chronicles, images, and all those unique works that are protected from any form of infringement are all protected under Section-13 and 63¹⁸. reproduced without the owner of the copyright's consent. The ability of copyright law to manage the risk of ISPs by any means is still a question, as is how it can protect, administrate, or oversee those pieces of material that are available on the internet.¹⁹

¹¹ World Intellectual Property Organization CREATED IN 1967.

¹² International Court of Justice

¹³ 4COPYRIGHT IN THE DIGITAL ERA: COUNTRY STUDIES, <https://www.oecd.org/sti/ieconomy/Chapter5-KBC2-IP.pdf> accessed on 02 Dec, 2019 17:55.

¹⁴ Bern Convention (1971)

¹⁵ Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1995

¹⁶ Article.10.1 of Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1995

¹⁷ Article10.2 of Trade-Related Aspects of Intellectual Property Rights (TRIPS) of 1995

¹⁸ Indian Copyright Act, 1957

¹⁹ Supra note 5

According to Section 2(o)²⁰, "data" is defined as a representation of data, realities, ideas, or directions that have been organised or are being organised in a specific way and are intended to be handled. This data may have been prepared in a PC, PC framework, or PC network and may take any form, including PC printouts, attractive or in the capacity of optical media, punched cards. According to Indian law's interpretation of Section 43 clarification (ii) without prior precedent, "PC information" is defined as "a portrayal of data, data, realities, ideas, or, on the other hand, directions in content, picture, sound, or videos being prepared or being set up in a formalised way." a computer setup or framework.²¹ In accordance with Section 43, a man who accesses a computer, a computer network, or a computer security system without the owner's or that person's permission, downloads information, copies or concentrates any data from those sources, or data related to a specific computer, computer network, or secure access to the materials, or downloads data or down any data held on or stored on removable capacity media from the aforementioned PC, PC framework, or PC arrangement is loaded, duplicated, or concentrated. The more comprehensive Section-43²² of the Act covers incidents like cracking PC codes, PC trespass, digital duplication, security breach, data theft, and so on. The term "hacking" is typically used to describe such violations. According to Section 66,²³ it accommodates reformatory liabilities to the individual who, with the intention of causing or intentionally that he is likely going to make wrong or misfortune or harm general society or any individual, changes or demolishes any data residing in the PC asset or lessens its esteem or utility or influences it negatively by any means.

THEORY OF FAIR USE

The limited use of copyrighted content without the owner's permission is taken into account under American fair use laws. Encroachment and acceptable use are often difficult to tell apart. To determine if encroachment has taken place, four factors are considered. The four factors are as follows: (1) the purpose and nature of the use, including whether it is commercial or for charitable educational purposes; (2) the characteristics of the copyrighted work; (3) the quantity and generosity of the part used in connection with the copyrighted work overall; and (4) the effect of the use on the potential market for or estimation of the copyrighted work.²⁴ Fair Use is not understood in Canada or the UK. Instead, these two countries view Fair Dealing as a regulation of legal safeguards that may be acceptable against copyright infringement activities. Every country that understands fair dealing has a somewhat different explanation. Along similar lines, ensure that an organization's online content is suitably protected in the country that may have jurisdiction over the work.

2012's Most Recent Copyright (Amendment) Act:

A reasonable managing exemption has been made applicable to a variety of work that was previously only relevant in connection to specific types of work, such as artistic, spectacular, and melodic works.

The disclosure of current events, including the listing of an openly communicated address, has been expanded into a suitable managerial special instance. Prior to this, the scope of the reasonably managing special instance was Private or individual use, including analysis, feedback, and auditing, whether of the work in question or of other works.

It has also been demonstrated that archiving any work in any electronic medium for the purposes listed in this assertion—including utilising the functionality of any PC programme that isn't an unauthorised duplicate—does not constitute invasion. temporary and unintentional

The execution or stockpiling of this task is unquestionably done using a specialised method of electronic transmission or correspondence to the overall public.²⁵

The temporary and unintentional storage of a work or introduction in order to provide electronic connections, access, or reconciliation when the right holder has not expressly restricted such connections, access, or reconciliation, unless the person in mind knows or has reasonable grounds to suspect that such storage is of an encroaching duplicate However, if the person in charge of the duplicate capacity, on a dissent from which any person has been prohibited, he may demand that person to provide a request from the expert court for the continued with anticipation of such stockpiling within fourteen days.

CONCLUSION

By amending their copyright rules, practically all countries have provided assurance to PC digital data and the web, it may be said. In any event, a lot of countries still don't seem to be able to change their copyright rules to cover PCs, digital data, and the internet. The owners of digital data and the internet have their own general and particular rights that are controlled by the owners of cinematograph films, abstract, sensational, and other works that are protected by copyright. Because websites and the internet are now used by people all over the world and because of social media, new security measures are needed. A national copyright law does not provide comprehensive protection for any author's or creator's work. No national borders have increased the need for international legislation and agreements that guarantee unique content as a result of technological innovation. To safeguard the rights of the author or creator, India's copyright laws must develop a corrective, clever, and comparable system. The problems and challenges with the copyright legislation as it is now should be eliminated. Additionally, the executive branch must support the law and step up for the copyright law's execution in order for it to function properly. The present changes to the legislation pertaining to copyright issues must leave room for the use of imaginative layering skills to enhance the structure, policy, schemes, law, and bill for successfully applicability and advancements.

²⁰ Information Technology Act, 2000

²¹ Alexander Herrigel, Secure Copyright Protection Techniques for Digital Images, <https://pdfs.semanticscholar.org/c97b/79a62a9bd4d4f651e797479ef00160a75130.pdf> accessed on 08 Dec, 2019 00:30.

²² Ibid

²³ Ibid

²⁴ DIGITAL COPYRIGHT PROTECTION AND INTECTUALL PROPERTY RIGHT, <https://www.locklizard.com/ipr-protection/> accessed on 08 Dec, 2019 at 01:10.

²⁵ Supra note 8.