



INTELLECTUAL PROPERTY IN THE WORLD OF ENTERTAINMENT

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Abstract :

"Is there anyone who hates entertainment?" The media has never failed to entertain us. It plays a crucial part in our lives, from entertaining us with films to providing our brains with up-to-date information on current events. Through media, we may learn about what is going on in another area of the world from where we are. In this internet age, we may access any information or view films on our phones from anywhere and at any time. Because the media is such a vast field that plays such an essential part in our lives, it need some form of safeguard for the work of its members. Intellectual property can provide such protection to media. Intellectual property is applicable to various sectors. Intellectual property right (IPR) is a legal right that protects a person's or enterprise's production generated by the brain or intellect. This right grants the creator control over his or her own invention to explore advantages if utilized by others. These rewards might take the form of admiration and acknowledgment, monetary or material benefits, or a combination of the two. In the current economic and corporate climate, intellectual property rights (IPR) have arisen as a serious problem. Globalization and open market policies have aided the growth of intellectual property rights and their impact on economic activity during the last three decades. Copyright is one of the main IPR rights that protects the rights of producers of creative works, literary works, music, films, and similar things. Copyright is a broad area that encompasses innovations, creative works, intellectual products in print, audio-visual, sign & symbol, and digital formats. Copyright is a tremendous stimulant for the media industry, which is full of invention and innovation. Social media platforms, for example, employ fresh ideas, pictures, sounds, scripts, and a variety of other means and ways of communication for professional, commercial, and personal goals. All of these forms, which are generated by individuals and businesses with rigorous efforts in design, research, and development, need a significant expenditure. These masterpieces, built with effort and money, must provide dividends to the creators and serve as a source of inspiration for everybody. Copyright laws aid in the preservation of such creators'

interests. The current article attempts to highlight copyright and related concerns in the Indian context, with a focus on the Indian media and entertainment industries.

Introduction :

In May 2016, the Indian government issued the National Intellectual Property Rights (IPR) Policy, which emphasized the economic, social, and cultural advantages of IPRs to all segments of society. The primary goal of the strategy was to improve the low level of IPR knowledge, particularly in rural and isolated regions. The government launched several awareness activities in educational institutions as part of the implementation of the IPR Policy 2016. The unveiling of the IPR Policy-making Process and Policy Implementation drew media interest. The unveiling of the IPR Policy-making Process and its Implementation drew media interest. In this regard, it would be useful to examine media coverage of IPR during the policy formulation and implementation processes. CIPAM (Cell for IPR Promotion and Management) identifies the problem in its "scheme of IPR awareness" as "inadequate knowledge about individuals' rights to protect their ideas and low awareness about the procedures involved in obtaining an IPR has hampered India's growth in Intellectual Property." However, India has 1.39 billion people and accounts for 18% of the world's population. A nation's economy may be considered as being driven by its people. However, India ranks 48th in the world in terms of intellectual property. 5th Innovation Index In India, patent filing is similarly less common than in other key emerging countries. The majority of the funding goes to government-sponsored educational institutions. patents, and individual engagement is encouraged considerably less.

According to the research "Intellectual Property: Rights, Need, and Awareness," students, academics, professors, and management from 203 educational institutions in Karnataka, Tamil Nadu, Kerala, and Telangana were among the states. not entirely aware of the advantages of IP a scarcity of Awareness may contribute to the violation. difficulty since individuals supposedly would not recognize the work of others. The violation is a greater danger to global industry as a result of the counterfeited and pirated items, which account for representing 3.3% of total global commerce. It may be anticipated that when the public is informed, they will respect the works of others. In addition to this viewpoint, the media can play a role. At all levels of society, IPR knowledge is critical. One powerful approach for the media to influence public opinion is to frame the news in a precise way with the intention of influence readers. What the media frame can explain folks are acquiring from a crucial source of information The channel of communication. The investigation of IPR protection would be relevant in this scenario since The goal of IPR policy is more focused on Public awareness, innovation, and economic progress are all important.

History and evolution of intellectual property laws:

Following independence, the government of India felt compelled to enact laws to protect and govern new technologies and innovations created by the people of India, as well as to licence the work and place restrictions on unauthorized use of the innovations without the permission of the original owner. The first piece of law was "The Copyright Act of 1957," which has since been revised six times.

The statute expressly states that no one else may publish or perform any literary work of art, innovation, design, or other production without the consent of the owner who has a copyright license. The "Patents Act of 1970" was also passed in 1970, and it allowed the right to get a patent by following the standards outlined in the preceding act. Section 3 of the act also includes a list of innovations or compositions that are not patent-able.¹ There are several more laws relating to people's intellectual rights, but the main objective underlying all IP laws is to encourage people's intellectual works and to give them with a platform where they may grow and reap advantages from their own innovations or ideas. IP laws serve an important role in protecting and maintaining people's ideas in a variety of industries, including fashion design, industrial development, ads, the sports business, and many more. In recent years, intellectual property (IP) in the film business has grown tremendously, safeguarding and giving legal rights to producers, filmmakers, and musicians from screenplay to screen. It protects the creators' inventions and their rights by not allowing anybody else to take credit or monetary advantages from the owner's original work.

Governing IP Laws:

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Role of copyright law:

Copyright is defined in Section 14 of the Copyright Act of 1957 as the exclusive right over the content or work, as well as the right to do or authorise the doing of specific actions in a work. The copyright remedy safeguards literary, musical, dramatic, and creative works such as poetry, books, films, and songs. Because of the fierce rivalry in the entertainment sector, it has become very important to avoid plagiarism of the creator's original work. However, in India, registration for copyright is not required to acquire protection, although it does make it simpler for the plaintiff to seek rapid remedy in the event of a legal dispute. Copyright protects the original work on which the owner has exclusive rights in the media and entertainment industries. However, the scope of copyright protection cannot be limited to a concept alone. The work must be expressed in a tangible form in order to profit from copyright law. To be liable in court for infringement, the copy must be significant and not small. Finally, there would be no infringement

¹ Flora Patalane, 'Intellectual Property in media and entertainment' (6th October 2023), [Intellectual Property in media and entertainment \(franklins-sols.co.uk\)](https://www.franklins-sols.co.uk)

² Diksha Shastri, 'Intellectual Property Rights for Social Media Influencers' (Legal Wiz, 7 March 2022) <https://www.legalwiz.in/blog/intellectual-property-rights-for-social-media-influencers>

if the two works' themes were the same but presented in different ways.³The absence of copyright in work represents a significant loss to the owner, who has invested time and effort in developing the material. Copyright registration has become extremely vital in today's reality, when copyright infringement is so rampant. According to legal precedents, copyright registration is required to enforce civil and criminal remedies in the event of infringement. *Dhiraj Dharamdas v. M/s Sonal Info Systems Pvt Ltd*(2012) is a case in point. The Bombay High Court ruled that unless the infringer is aware that there is a specific owner of a copyright in India or that such owner of a copyright has registered his work under Section 44 of the Act before he did, attributing intentional or unintentional infringement by him or on his part would be absurd.

Role of trademark law

Trademarks are signs, symbols, or expressions that are used to differentiate one person's goods or services from those of another. Subject to specific restrictions, the Trademark Act of 1999 protects the names of songs, movie titles, music albums, movies, and renowned personalities.⁴The title must be distinctive and creative; otherwise, it will not be protected if it is just general in nature. The entertainment sector makes extensive use of trademarks. The movie studios utilise trademarks to develop a distinct brand and to differentiate themselves in the market. The film business is not immune to legal difficulties such as misleading song titles, unauthorised use of film titles, and passing off; nonetheless, remedies for trademark infringement are available under the Trademark Act.

Celebrity Rights:

Celebrity rights are an important part of the entertainment business in which intellectual property rights play a key role. Celebrities have the right to exploit their celebrity and profit from it. In order to capitalise on their celebrity, they frequently lend their voices and faces to commercial and non-commercial entities; however, there are instances where the celebrity's identity has been used without their permission, leaving them aware of the issue of privacy and abuse they face in exchange for monetary benefits. Several international treaties, including the Universal Declaration of Human Rights, have acknowledged these rights. Furthermore, copyright and trademark play an important role in protecting celebrity rights in India. Although the term "celebrity" is not defined in the Copyright Act, in terms of their protection, Section 38 of the Act grants the performer's right to any performer in connection to his performance for a period of fifty years. Section 39 of the same Act specifies that anybody who records a performance without the performer's authorization is responsible for infringement of the performer's right. The courts have made significant rulings concerning celebrities' rights from time to time. Copyright protects images, novels, and any adaptations

³ Jessica.aggarwal , ‘ Protecting Intellectual Property in Media And Entertainment’, [‘https://www.legalserviceindia.com/legal/article-8885-protecting-intellectual-property-in-media-and-entertainment.html#google_vignette](https://www.legalserviceindia.com/legal/article-8885-protecting-intellectual-property-in-media-and-entertainment.html#google_vignette)

⁴ Sristi Choudhary, IP for Social Media Influencers and Content Creators, *Jus Corpus Law Journal* (24 August 2022) <https://www.juscorpus.com/wp-content/uploads/2022/09/211.-Sristi-Choudhary.pdf>

involving celebrities. However, it should be remembered that the celebrity's name or picture does not have copyright protection in India.

Personality Rights:

An individual's personality reflects their life, which has been shaped by their considerable efforts and personal problems. When it comes to superstars, the preservation and maintenance of their image and personality becomes even more vital. Celebrities are incredibly valuable in India, and by performing endorsements in numerous advertising, they become the faces of the companies. Endorsements like this demonstrate the celebrities' trust in the product as well as their belief in the love and devotion of the public, who will purchase these things based on the celebrities' endorsement. The process of gaining recognition and fame from others is referred to as personality. This personality of an individual is shaped by the people in order to showcase it to the society and their intended conduct is recognised. Just as not all fingers on a hand are equal, each individual's personality contributes to society in a unique way that is aligned with their abilities. Celebrities frequently face a recurring issue in which their image is utilised without their agreement, resulting in a breach of their rights. At this point, our laws come into play as a saviour of these celebrities' interests. The rights of these celebrities are protected by laws such as the Indian Copyright Act of 1957 and the Trademark Act of 1999. As an example. Section 38 of the Indian Copyright Act, 1957 ensures that authors and performers will be given credit for the great effort they have displayed via their work and reputation. On the other hand, the Trademark Act serves to prohibit the unlicensed use of a celebrity's name by someone who is not legally permitted to do so. The fact that both statutes discuss the protection of authors and performers cannot be overlooked, which creates a divide between celebrity rights. In today's world, when technology is advancing at a rapid pace, the rules that govern celebrity protection may fall short of completely safeguarding and resolving the issues that occur.

In today's world, when fraud is more likely to occur owing to technology, anything may be readily abused, there is a pressing need for more extensive rules to protect celebrities' personality rights. These restrictions should serve as a precaution against ruining celebrities' images and how their work should be used. This will assist to preserve a balanced legal framework that guarantees celebrities have ownership over the work they accomplish and that no one can ruin their sculpted image in this more dynamic media market.

Publicity Rights:

The notion of publicity rights is a mixture of privacy and personality rights; this combination serves as the foundation of publicity rights. Breach of privacy is a very common case scenario in India, and if we talk about celebrities, it is pretty clear that they are always in news bulletins. However, there is a negative side to this popularity and fame, and that is the image and untrue news that spreads, which has a very high chance of damaging the celebrity's personality.⁵

⁵ Prayank Khandelwal & Amandeep Kaur, 'Protect it, before you post it' (Mondaq, 1 December 2021)
<https://www.mondaq.com/india/social-media/1136590/protect-it-before-you-post-it>

All of these infractions have resulted in several judicial proceedings in the Indian Justice system aimed at eliminating such practices. The case of Titan Industries Ltd. vs. Ramkumar Jeweller is one such noteworthy example. The Delhi High Court ruled in this case that celebrities' or personalities' favouritism can be utilized in advertisements and for commercial reasons, but only with their agreement and approval. This right gained significance with the Supreme Court's recognition of the Right to Privacy as a fundamental right. Following the Supreme Court's acknowledgment, there is a greater emphasis on protecting persons' personal space and refraining from disclosing their private information. In today's world, where media outlets have a very broad reach. In the context of media and public exposure, all of these legal frameworks/laws play a critical part in preserving a celebrity's dignity and reputation.

Merchandising:

Character merchandising, which arises from the exploitation of characters based on a movie, is one way to earn supplementary money outside of cinemas. This is gaining popularity in India because to its commercial nature and the enormous income it may earn. Because of the broad scope of character merchandise, existing intellectual property regulations may not be adequate to protect the whole legality or vulnerability. However, trademark law protects the character's appearance, while copyright law protects the individual's creativity. In DM Entertainment v. Baby Gift House (2010), the Delhi High Court granted an injunction against a third party for the tort of passing off for the unlawful selling of dolls resembling a popular pop artist without their authorization owing to the risk of customers being misled.

Need to protect IP in media and entertainment:

Rapid technological innovation is having a huge influence on the entertainment business, making it increasingly vulnerable to infringement. Although the present legal structure may occasionally fail to safeguard the interests of this business, the courts have again and again adopted regulations that have addressed this vacuum.⁶ Television serials, films, radio, music, and OTT platforms such as Netflix and Amazon Prime are all examples of media and entertainment. Within this vast business, directors, producers, screenwriters, actors, artists, and technicians work tirelessly to get a picture from screenplay to screen. Given the effort and money involved, it is critical to safeguard this industry's intellectual property rights. Intellectual property protection safeguards unique ideas and inventions while also accelerating corporate growth.

⁶ Erika Lenkert, 'What Is a Content Creator and How To Become One' (Adobe Express, 12 September 2020) <https://www.adobe.com/express/learn/blog/content-creator>

Conclusion

Intellectual property regulations, particularly copyright and trademark laws, have traditionally played an important role in safeguarding creative brains. The copyright law primarily protects the author's literary work from abuse or unauthorised commercial usage. Trademark law, on the other hand, protects any marks, products, or services. Intellectual property is critical in the media and entertainment industries because it provides the required protection, prohibiting abuse of their work and boosting corporate growth. As more content is posted to the internet, issues such as copyright infringement are becoming more common. The work of authors and artists must be protected once it has been created in order to avoid abuse by others. At this point, intellectual property law enters the picture, which it has done admirably since its establishment. It has been updated from time to time to address difficulties about the creator's rights in the current period. In conclusion, digital media makers require intellectual property rights. They offer the legal foundation for digital content producers to earn an income, get recognition, and retain ownership over their creations. Writers, musicians, photographers, and other digital media producers require intellectual property rights in order to be protected and inspired. These pioneers spend their time, energy, and resources. Because of the extensive use of digital media and the simplicity with which it can be distributed, content producers require intellectual property rights to defend their interests. Copyrights, trademarks, and licences must be obtained by content creators to protect their creations. Recognising and protecting intellectual property rights assists digital media content providers in producing high-quality content that enriches our digital environment.

