



INTERNATIONAL JOURNAL OF CREATIVE RESEARCH THOUGHTS (IJCRT)

An International Open Access, Peer-reviewed, Refereed Journal

The Limitations Of Copyright Societies And The Copyright System In Addressing Digitalization And Potential Solutions

Author: Ms. Akansha Yadav

Co-Author – Dr. Rakesh k.singh

Abstract

The expansion of digital technology, as well as the circulation of copyrighted information on the internet, has resulted in a significant shift in the pre-existing legal framework. Using copyrighted information without permission and illegally obtaining it, such as software, films, and songs, has grown into a huge problem in the digital world. To address these issues, a variety of technological as well as legal measures have been implemented, including the development of techniques such as encryption, digital signatures, and watermarks, as well as the drafting of various international treaties and agreements, such as the TRIPS Agreement, the Anti-counterfeiting Trade Agreement (ACTA), the World Intellectual Property Organization's Copyright Treaty (WCT), the World Intellectual Property Organization's Performance and Phonogram Treaty (WPPT), and others. As a result of the 2012 amendments to the Indian Copyright Act, it appears to be more effective enough to resolve the issues associated with infringements in the digital domain. As a result, there is ongoing debate as to whether India should sign the World Copyright Treaty and the World Patent and Trademark Treaty, and the matter is still under evaluation by the Government of India. The advent of the digital world has shifted the bounds within which copyright holders must consider the protection of copyrighted information using a variety of measures in order to maintain their rights. There are several international copyright treaties and limits and exceptions offered by TRIPS that are discussed in this article, which also considers whether or not various treaties available for the digital realm are valuable or not. Furthermore, the procedures that should be taken to prevent the abuse of copyrighted content are explored. The article finishes with some thoughts and ideas that may be effective in controlling the unlawful use of copyrighted content as well as the unlawful distribution of that material without permission.

Keywords: Copyright, Copyright Infringement, Piracy, TRIPS, Protection, Digital Era.

Introduction

The fresh digital world has altered many aspects of our daily lives. Computers and the Internet introduced us to new possibilities as well as previously unknown difficulties and responsibilities. Since electronic communications have become popular and accessible to the majority of people all over the world, governmental and regulatory forces have been attempting to find the most appropriate and effective way to limit the new cyberspace. The most difficult issue with electronic data interchange is its regulation and control. Unfortunately, the tools for controlling the information flow are inadequate, and it is simply impossible to monitor the worldwide on-line world.

Technological advances have always had an impact on copyright law. Digitization is purely the most recent novel technology, and it will undoubtedly have, and has already had, a significant impact. Digital technology enables the easy, low-cost, and perfect data redundancy of copyrighted works, as well as the rapid, global, "one-to-many" allocation of that content via digital networks.

Intellectual property has become more important as a result of new technology. This new technology could be in the field of patents, trademarks, copyright, and so on. When we think of copyright protection, we think of artistic or literary, songs, dramatic, or artistic works. However, the advancement of new innovation has given rise to new concepts such as computer programmes, computer database systems, computer layouts, various web-based works, and so on.

As a result, understanding copyright in relation to computer programs/software, computer databases, and various works in cyberspace is critical. In the digital age, copyright is a critical issue in property rights.

India's Digital Sphere and Piracy Issues

Due to the emergence of new categories and types of works such as software, electronic music and videos, etc., copyright protection has become a significant challenge in the twenty-first century. The distribution and quantity of content that must be distributed are related concerns in the digital domain. In the digital realm, copyright violations can be committed cheaply, easily, and without compromising the quality of the work. In addition, counterfeit websites and e-commerce, as well as the online piracy of songs and videos, are among the most pressing issues of this era. Replicating content and bringing in a new website is becoming a new form of fraud in the digital realm, resulting in high revenue loss for the owner and a large profit for the infringer, as each click on the fake website benefits the infringer. There are numerous causes of infringement, but the internet's accessibility and ease of use are the most prevalent. E-commerce, on the other hand, is facilitated by the Internet.

The high cost of original CDs, DVDs, and software may be inferred from observations of day-to-day living. Pirated DVDs of movies, videos, games, and music are readily available at low prices, which encourages individuals to buy pirated DVDs rather than pay higher prices for the original digital items, and so piracy develops as a forest fire. Despite the fact that pirated CDs of games, music, movies, and videos are readily available, unlawful downloads of web connections are equally commonplace on the internet. Because of

the widespread availability of the internet, illicit downloading has become easier and more cost-effective. Technology is now freely accessible to the general population due to the growth in the number of people using cell phones and other similar devices, which is a major cause for concern given the rapid advancements being made in the digital realm. In addition to the previously mentioned challenges, the internet transmission of a formerly private work into the public domain raises additional concerns. It's getting harder and harder to go ahead in today's world.

In today's world, signals piracy is a continuing crime that is being carried out. Copyright violations and signal piracy would be the consequence of original material intended for a certain platform, such as cable TV, being made available on other platforms, such as the internet.

In addition to granting the right to govern the use of digital matter, the Indian Copyright Act contains provisions that address copyright breaches in digital matter. The Copyright Act has to deal with conflicts involving the unauthorised downloading of films, music, games, and so on in the digital realm. The Copyright Act also applies directly to other items, such as computer software, file transmission, and peer-to-peer networks. In actuality, protecting online content and limiting who has access to it are becoming increasingly challenging tasks.

Huge losses have been sustained globally as a result of illicit downloading and online piracy in a variety of businesses, including the film, software, and music industries. Furthermore, there is a critical issue relating to the idea of first sale of books. The doctrine of the first purchase in the Indian Copyright Act states unequivocally that anybody can resale a copy without the owner's permission but cannot offer a copy even without owner's consent. However, it has been observed that most individuals sell a copy and keep the monetary returns; this creates a contradiction between the rights to own and distribute a copy and makes it hard for the owner to recover the economic benefit from the exploitation of a copy disseminated without his agreement.

Several more difficulties include fake websites, which are websites with identical domain names in order to boost access to these false websites, which benefits the offender, for example, different phoney retail websites with similar domain names. When clients spend money to buy a product online and do not receive it because the website is false, the buyer is inconvenienced and loses money as a result of these internet scams. The Copyright Act only protects software, however website domains and scams on phoney shopping websites are not covered by the Copyright Act and are dealt with under Cyber Law and IT Law.

Copyright infringement has a number of negative repercussions on property rights as well as on the economy.

Economy, including substantial income loss to the owner of the IP, drop in digital product sales, inclusion of extra costs in litigation process, wasting of time dealing with litigation process, and, most importantly, influence on the increase in the cost of unique digital products.

International Digital Realm Scenario

In conjunction with technical advancements and the digital revolution, a number of digital challenges have risen to the forefront. In order to control the use of copyrighted content, various international treaties have been drafted, each of which specifies the degree to which copyrighted work may be used, as well as limits and exceptions. In addition to numerous other organisations, the World Intellectual Property Organization (WIPO) is in charge of regulating various worldwide copyright treaties. It is often necessary to copy or display the same original work for specified non-profit objectives in order to fulfil the requirements of the law. In order to address this, the Indian Copyright Act contains some exceptions that apply to specific types of work, including work intended for review or criticism, research studies (Section 52 of the Indian Copyright Act), reporting current events, and participation in jurisdictional proceedings, among other things.

According to the Indian Copyright Law, there are several exceptions to the use of content, such as for educational and research reasons, which are acceptable, but not for the sake of amusement or commercial gain. Because the information available on the internet can be downloaded fast and readily at a cheap cost, it allows for the rapid dissemination of copyrighted material in a centralised location. As a result, owners of copyright are concerned about the possibility of unlawful dissemination of their work.

Reproduction rights became a concern with the evolution of digital technology since the dissemination of protected work via the internet is coupled with the reproduction of work because the matter is immediately stored in the Random Access Memory of the locally connected computer (RAM). Since the original text of the Berne Convention does not contain any provision for reproductive control, India is a signatory to the agreement but it is deficient in terms of extent and content of rights. Reproduction rights are not adequately protected by the Berne Convention, according to a new study. This information or material is protected under WCT and WPPT as 'right to reproduction' since it is permanently kept in 'read only memory' or floppy discs. The nations that are signatories (members) have the authority to control the use of copyrighted works and impose restrictions or exceptions on such use.

Another concern is the unlawful use or misuse of certain works, such as photographs, illustrations, computer programmes, and so on.

The Berne Convention was unable to address these challenges because of the prevalence of online piracy. The Rome Convention governs the rights and administration of broadcast companies. Since its inception, no further revisions have been made to the Rome Convention's basic criteria and rights for broadcast transmissions. The Rome Convention's requirement applies to the TRIPS Agreement as well, and there are no additional rights granted by the agreement.

Lacunas in the present Copyright system

There are certain lacunas in the current copyright system. They are as follows:

a. Enforcement of the legislation

Copyright law enforcement is a big concern in the digital era. The digital era was not fully developed when the Copyright Act was drafted, hence digital infringement remedies were not considered. With the advent of Virtual Portable Network, pinpointing the origins of infringement has become more complex.

Another key difficulty with copyright enforcement is the recognition of privacy as a basic right. As filming and sending of copyrighted material would primarily be performed within the four walls of one's own home, privacy interests will impede with impartial inquiry, thereby hindering the Copyright Law.

b. Attitude of the Public

The inquiry and public opinion on piracy and copyrighted works go hand in hand. The public's participation is so vital in dealing with copyright infringement situations. In fact, public opinion can work against dealing with copyright violations.

The public has grown accustomed to filming copyrighted work and information. Moreover, some studies show that most people think unlawful copying is permissible to a degree. This is because these stolen works are freely accessible to the public. This habit has existed since the analogue period and is unlikely to alter in the digital future.

c. Using the work privately

As with every right, there are advantages and disadvantages to exercising it. The right to privacy is no exception. In several studies, the term "private use" refers to the use of all copyrighted items that are not intended for commercial or competitive purposes. While it is possible to receive economic advantage from a work that has been reproduced for personal use, it is far less likely, and in such cases, the Copyright Act would not be helpful to the owner of the Copyrighted work.

Furthermore, with the advent of the digital age, new possibilities have arisen for the general public to duplicate the work that has been copyrighted.

d. Identifying the protected work

What exactly is protected under the current copyright regime is not explicitly defined under the framework. The Copyright Act only guarantees protection for the original work, with no definition of what constitutes a work being provided. Consequently, it becomes essentially impossible for the courts to assess the scope of such effort, whether one's effort is deemed appropriate or not, and if one's work is included, whether duplicating the work constitutes Copyright infringement or not.

Emerging Trends in Copyright Protection

India is a signatory to the Universal Copyright Convention, the Rome Convention, the Berne Convention, and the WTO-TRIPS agreement, among others. The fact that India has not joined the WCT or WPPT may be owing to the severe copyright rules in the treaties, which contradict many of India's present accessibility initiatives. It's still up in the air whether or not India will agree on to these international accords, but it appears that these new modifications in the Indian Copyright Act appear to be the first steps toward doing so.

The Copyright Act contains a number of clauses pertaining to broadcast rights that are closely linked to the owners' rights to regulate broadcast material. Even in the face of new technical developments, the Indian Copyright Act is equal to the task. All the terms of the Rome Convention and the TRIPS Agreement are already included in the Indian Copyright Act, such as Section 14 and Section 37. Specifically, section 14 addresses the author's right to make his or her work available to the public by broadcast or other means, whereas Section 37 addresses the author's right to protect his or her work against signal theft. In order to create a monopoly of rights on transmission of the original work, the Copyright Act gives copyright to the author. However, WIPO is now debating whether or not this new treaty is necessary for India, which is presently debating whether or not this new treaty is necessary.

The sustainable development is regarded to be driven by culture. Copyright protection has becoming more difficult to enforce due to cultural shifts that are directly tied to technological advancements in the field of technology. The new development has made it difficult to respond in an acceptable and effective manner. Infringement and enforcement costs have risen to the point that it is vital to strike a balance between the two most critical parts of copyright. The difficulty with copyright infringement is that it results in a loss of income and further legal costs if the case goes to trial and fails.

A lot of work must be done to educate the public, especially the younger generation, about the importance of intellectual property rights so that problems like plagiarism and infringement can be avoided, as well as to recognise and reward individuals whose work has a positive impact on societies cultural, scientific, and economic well-being. As well as working on cutting down on copyright infringement, it is necessary to prevent unauthorised dissemination of acquired copyrighted content, for example. In addition, the development of high-copyright-standard technology, such as high-bandwidth digital content protection, can help decrease infringement (HDCP).

Conclusion

Infringement of copyrights in the digital world has become a major problem in recent years. An essay about copyright law in India and international treaties that can be used to address and fix these difficulties has been discussed in this research paper. There is still a great need for a well-trained and well-equipped police force that can identify and prohibit illicit use of digital content, while enforcing the legal protections in place.

Various efforts may be done by the government and people to tackle these concerns, such as creating awareness and inform stakeholders and the public about the violation and the safety precautions. As a result, new techniques of protecting software and other intellectual information are needed to keep innovation and creativity going. In addition, rigorous rules and procedures for efficient application of the law against infringement cases must be made, and the court and police agencies must be effectively trained for successful enforcement. This will help to strengthen IP enforcement. To prevent unauthorised use, software must be sold with a valid licence and have features that make it easy to identify the purchaser.

References

- Atanasova I., Copyright Infringement in Digital Environment, J of Eco. & law. 2019; 1: 13-22.
- Lawrance S., The Future of Copyright, T. L. Rev. 2005; 83: 2011.
- Lemley, Mark and Reese R., Reducing Digital Copyright Infringement without restricting innovation, Stanford L. Rev. 2004; 56.
- Rafiqi FA, Bhat I H., Copyright protection in digital environment: Emerging issues, Int'l J of Hum. and Soc. Sci. Invention 2013; 2: 2319-2420.
- Thomas Z, Overview of changes to the Indian Copyright law, J of Intellectual Prop. Rights 2012; 17: 324-334.
- Pamela S, Scotchmer S, DRM technologies by information industries and the subsequent circumvention of those technologies, Yale Law J. 2002; 111: 1631-1633.
- Bettini C, Jajodia S, Samarati P, Wang X S (eds). Privacy in location based applications. Springer Publications. 2009: 106-112.
- Forrest K. B., Copyright law and Artificial Intelligence: Emerging Issues, J. Copyright Soc'y USA 2018; 65: 355.