

Lecture- 40



Copyright law and cyberspace

The more technological advancements, the more threats to Copyright in Cyberspace. Intellectual property has become increasingly important in today's world of entertainment, information and technology. The magnitude and diversity of IPR violations are increasing as network and Internet technologies advance. Copyright is one of the most important kinds of intellectual property rights, and technology and the Internet have had a big effect on it. The Internet is unavoidable in various aspects of life, including business operations and giving up on cyberspace cannot be an option to deal with copyright problems.

Copyright laws have been evolving in response to technological advancements since their inception. Like many advancements, these technologies are both hopeful and potentially damaging to diverse parties involved in the usage and exploitation of works of authorship, including books and music to films and web pages. Without a doubt, the challenges of striking the right balance between these interests in the light of recent developments are daunting, and they can rightfully be described as "new" or "unique."

In this article, the author has tried to highlight the Copyright Issues in Cyberspace. As the number of content creators is increasing, this is an effort to make them aware of the challenges that exist in protecting the content.

Copyright in cyberspace

Copyright is similar to other property rights, such as land, in that the landowner owns everything on the land, from the sky to the ground. Copyright works on the same basis, but with several constraints. Copyright enforcement in cyberspace is hampered by the usage of computers, and the internet, including downloading, uploading, copy-cut-paste, deep linking, and peer-to-peer file sharing. New forms of creative expression in the creative arts have emerged as a result of the progress of information, all of which have been subjected to copyright protection. The fundamental principles of copyright law are constantly challenged in the digital context by copyright work protection. The infringement of copyrights via the Internet is one of them. Law is a response to a problem, whether it is social, economic, or technological. This general rule also applies to copyright law.

Because of its ease of transmission from creator to viewer, and then from viewer to viewer, the Internet is an ideal medium for artists and authors to advertise their work. At the same time, technology allows any of these viewers to edit, alter, distort, or disseminate an original work quickly and readily without the author's permission. The internet and digital technology have produced a copyright dilemma known as the "digital problem." Users can use digital technology to create an infinite number of perfect digital copies of music, books, or videos, and then distribute them around the world at the speed of light via the internet. As a result of digitalization, the question of copyright on the internet has taken on a new dimension. It makes it easy, cheap, and quick to make high-quality copies, which can then be sent to potentially millions of people in seconds.

It was rightly stated in the case of Religious Technology Center v. Netcom Online Communication Services Inc., that because of the Internet, piracy is much more of a silent and

private activity than it is in a bookstore. Since the Internet has reached PCs and even mobile phones, preventing such infringements has become increasingly challenging. Authors of copyrighted materials on the internet encounter several hurdles. Internet policing is at the top of the priority list. According to the Copyright Act, infringement happens when someone uses another's copyrighted work without permission.

Allows the illegal use of another's copyrighted work with knowledge;

Makes a profit from an activity that involves the use of another's property as well as

Makes use of any of the copyright rights that are only available to the copyright owner.

Thus, a copyright is only infringed when someone else conducts any of the countless actions that the copyright owner has exclusive rights to, such as producing the work in any tangible form, including storing it in any medium via technological means. Digitising a work without the permission of the copyright owner is an infringement. The internet is a global system for sending and copying information. This makes it possible for copyright to be disturbed in ways that no one could have thought of before and poses several problems for copyright law.

Characteristics of digital technologies with copyright implications

Digital storage and transmission of works are the technologies that are currently causing concern for copyright law. The following are some of the elements of these technologies that have significance for copyright law:

Reproduction ease

Once a work has been rendered in digital form, it may be replicated quickly, cheaply, and without sacrificing quality. Each duplicate can then be reproduced multiple times without losing quality. In this way, a single digital copy of a work can meet the needs of millions of people.

Ease of dissemination

The rise of global digital networks has enabled the quick and global dissemination of digital creations. Digital networks, like social media platforms, allow information to be distributed to many people from a single location (although, unlike broadcasting, digitised materials need not reach each individual simultaneously). Digital networks, on the other hand, allow each recipient on the network to participate in further transmission of the work, allowing it to spread at a geometric (often referred to as "viral") rate. Because of this, and the ease with which works can be reproduced, a single digital copy of a work can be duplicated thousands of times all over the world in a matter of hours.

Ease of storage

Digital storage is dense, and it's getting denser every year. Increasingly large amounts of material can be stored in a decreasing quantity of space.

Current issues in the cyberspace

Since the emergence of the internet and the development of related information technologies, copyright breaches have been rampant. Copyright violations are not restricted to a few blockbusters; they are widespread in cyberspace and damage a variety of digital items. Furthermore, severe copyright violations are only the tip of the iceberg when it comes to the

many dangers to Intellectual Property Rights (I.P.R) on the internet. The emergence and spread of the internet have resulted in the creation of cyberspace, an unruly and anarchic realm that poses grave challenges to copyrights. Copyright owners have made technical protections like the Electronic Copyright Management System (ECMS) to stop works from being copied and spread.

Copyright violation

Caching

Determining the line between private and public use is one of the most basic copyright issues on the internet. The Indian Copyright Act, 1957 distinguishes between reproduction for public use and reproduction that can only be done with the permission of the right-holder. The right to reproduce on the internet raises some fundamental issues. Because of the fundamental nature of internet transmission, this is the case. Every stage of transmission involves reproduction. Temporary copying (also known as caching) is an important part of the internet transmission process without which messages would not be able to travel through the networks and reach their intended destinations. According to Indian law, reproduction must be in a physical form, but it also includes “storing it in any medium by electronic means,” making caching a copyright violation.

Plagiarism

Copying copyrighted content has become much easier because of technological advancements. As a result, copyright infringement has been difficult, if not impossible, to control. Books, movies, films, and music can all be easily reproduced, and thousands of copies can be generated and distributed. Digital technology has made it possible to copy content from one site, edit it, or simply reproduce it. I have thrown the usual way that the Copyright Act is used to protect individual rights and the rights of others into chaos.

Illegal use of database

Under Section 2(o) of the Indian Copyright Act 1957, “Databases” are protected as “Literary Works.” For the first time in the Information Technology Act of 2000, the phrase “computer database” was defined. A person who violates the copyright and online regulations can be fined up to one crore rupee under Section 43 of the IT Act of 2000. Section 43 of the Act criminalises a wide range of offences, including computer trespass, digital copying, invasion of privacy, data theft, and so on. The IT Act of 2000, Section 66, also has criminal penalties for this kind of thing.

Illegal use of computer software

A computer programme is defined as a “collection of instructions represented in words, codes, schemes, or any other form, including a machine-readable medium, capable of enabling a computer to do a certain task or accomplish a particular result,” according to Section 2(ffc) of the Copyright Act. The Copyright Act defines computer software as a “computer programme.” Computer programmes now qualify for copyright protection, as well as other types of Intellectual Property Rights protection, under the T.R.I.P.S (Trade-Related Aspects of Intellectual Property Rights) accord.

Under the Copyright Act, computer programmes are included in the definition of literary work. The owner of computer software has a variety of rights, including the ability to award software

licences. Freeware licences, open-source licences, demoware licences, and other forms of software licensing exist.

Actions that need to be protected in cyberspace

Uploading & downloading

Copyright infringement occurs when someone uploads copyrighted content without permission. The quality of illegally downloaded music, movies, and video games is low, and the act of illegal downloading or uploading without authority is punishable under India's Copyright Act. Even if no financial benefit has been received, the individual who uploaded the content is responsible. When an uploader uses his ingenuity to update, amend, or alter copyrighted information, he assumes responsibility. Illegal downloading is most common in the film, video, music, gaming, and software industries. Piracy is a major issue in India's media and entertainment business, with annual losses of over \$4 billion owing to copyright infringement. According to Justice Gautam Patel of the Bombay High Court, only when a user prejudicially distributes, exhibits, or lets for sale or hire copyrighted content without adequate authority does the user commit an offence.

Linking

Today's world is dominated by the internet. The website contains a wealth of information in the form of words, pictures, graphics, audio, and video, among other things. As a result, the copyright law protects the website. The site's focus is on the electronic publication of content. Designing or producing a website takes a lot of time, effort, money, and thought. Consequently, protecting a website's contact information from infringement is critical. Linking allows users to quickly move from one site to another and access information in a short amount of time. It informs people about the existence of work by providing a simple website address.

Linking is a feature that allows access to a third-party website by clicking on a location on the linking site without having to enter any location information or using a search engine. Links are usually highlighted, underlined, or prominent text or images. There are two types of linking:

Surface linking: Surface linking is when the site's home page is linked.

Deep linking: Deep linking is when a link skips the home page and goes straight to an internal page within a favourite website.

Only when it comes to 'Deep-linking,' which aids in the distribution of other people's creative material, do legal issues arise. Copyright infringement is defined as duplicating, releasing, or communicating work to the public without authority or permission. Deep linking sites are not directly accountable for infringement because the reproduction of work is done by the user who visits the linked page via the link, not by the linking site. Making any work available for the public to see, hear, or enjoy directly or through any means of display is considered communication to the public under Sec.2(ff). The Copyright Act does not expressly prohibit deep linking, but the term "by any means of display," as defined in Section 2(ff), includes communication of website contents over the internet.

Communication of material without permission is considered a copyright violation under Section 51. Deep linking without the owner's permission is considered copyright infringement. Contributory Copyright Infringement occurs when someone creates a link that is likely to

promote unauthorised copying of copyrighted material, and the party who created the link had reason to know about the unauthorised copying. Some websites, such as Amazon.com, welcome linking or deep linking because it increases traffic, advertising rates, and revenue. Deep linking or linking is a technique for quickly accessing information. Deep linking without permission entails the electronic publication of contents, copying, and communicating to the public without permission, all of which constitute copyright infringement.

Peer to Peer (P2P) file sharing

In general, file sharing refers to the electronic sharing of digital files (music, audio recordings, movies, television shows, games, and computer software, for example). Peer-to-peer is a method of exchanging files without the use of a middleman server. P2P technology was not designed to facilitate copyright infringement, but it is increasingly being used to download illegally copyrighted materials. Some P2P technologies, such as Napster, Gnutella, and Kazaa, are well-known and allow users to share, transmit, and download files over the internet without sacrificing quality. MP3 technology involves compressing sound files to a small size and distributing them over the internet in a short period of time.

The growth of MP3 necessitated the creation of a system for transferring files over the internet, which led to the creation of Napster. Only music files, particularly MP3 files, were associated with Napster. The user gets automatically connected to Napster's central server after downloading the software, which contains only a list of music files available on Napster members' computers. Simply type the name of the song or artist to get a list of what's available, and then download music from another user's computer who is online in a matter of seconds. As a secondary infringer, the court ordered Napster to stop distributing copyrighted music and shut down its website.

In India, anyone operating a network similar to Napster is liable under Sections 14 and 51(a)(ii) of the Copyright Act, 1957. It resulted in the demise of Napster and the emergence of better P2P networks. Any person who allows any place to be used for public communication of the work where such communication constitutes an infringement is liable for copyright infringement under Sec.51(a)(ii). The term 'any place' also includes virtual locations. Infringement occurs when someone makes copies of a work or communicates the same work to the public, according to Sec.14.

The individual who downloads a copyrighted work file is reproducing the work without the permission of the copyright owner. As a result, he has committed copyright infringement. In short, P2P technology is a problem for the copyright sector, which includes the music, sound recording, and software industries, because it lets protected works be copied and shared over the internet.

Copyright infringement on social media

Not surprisingly, anything that could be considered copyright infringement in general, when a work is used or shared without the owner's permission is likely to be copyright infringement on social media. One can post almost anything on Twitter, Facebook, Instagram, Pinterest, and Tik Tok because they don't check posts for copyrighted material. This opens the door to all kinds of copyright violations in the digital world.

Many people see social media as a place where they can post whatever they want, but everyone needs to be aware that copyright violations can still happen on social media. Even though copyright is used in the digital world, it is still against the law and may be against the platform's terms of service. One can report if someone is using their content without their permission.

On the other hand, if one uses content to improve the image of their brand, this could be a violation of copyright, depending on where they got the content. Therefore it's best to use images that the individual took themselves or that are in the public domain. This will also keep the company from getting sued for copying someone else's work.

Remedies of violation of the copyright in cyberspace

When copyright is infringed, the owner of the copyright has the right to sue for damages, injunctions, profit of accounts, and delivery of infringing goods. Copyright holders whose rights have been violated can get their rights back in a number of ways from Indian courts. One of these steps is to order that all copies that don't follow the rules, even master copies, be taken away and destroyed.

Copyright holders can also get monetary compensation from the courts. This can come in the form of monetary damages, statutory damages, court costs, and attorney fees. The Copyright Act of 1957 gives three options for what to do if someone breaks the rights of others:

- Civil Remedies (Sections 54–62),
- Criminal Remedies (Sections 63 and 63B), and
- Administrative Remedies.

The Act gives the person who has been wronged the following legal options:

- Injunction
- Damages
- Account Conversion
- Restrictions
- Destruction of Infringing Copies

When Copyrighted contents are used without permission, the owner of the copyright has a number of options for civil remedies. He has the right to sue the person who broke his rights and ask for monetary damages. Damages for infringement are mostly based on how much the value of the copyright has dropped because of the infringement. Damages for conversion, on the other hand, are directly related to how much money the person who did the infringement made since the infringing copies are made by the copyright owner's property. Civil remedies are meant to make up for the loss that the copyright owner has suffered because of the infringement.

Challenges faced in making laws for copyright protection in cyberspace

Intermediary liability

When it comes to enforcing liability, it's critical to determine who is responsible: the party that gets the work, the Internet service provider, or the person who transmits the work. There is no responsibility under Section 79 of the Information Technology Act of 2000 if the subscriber establishes that the breach or crime was committed without the knowledge of a person or that a person had exercised all reasonable diligence to prevent the commission of such breach or

offence. To hold an Internet Service Provider (ISP) liable for the infringement or aiding in the infringement of another's copyright, the ISP must have knowledge of the infringement; otherwise, the ISP is immune from prosecution.

As the Internet is a worldwide phenomenon, a person will only be held accountable if any action on the internet is considered a crime under their respective local legislation, making it extremely difficult to govern, as the message would transit through several nations before reaching its intended recipient. As a result, the ISP may not be liable in the country of destination or origin but may be found liable in a transit country. Secondary liability theories of contributory or vicarious infringement make software creators potentially accountable for copyright infringement. A provider must either directly violate copyright or indirectly violate the copyright in some way, such as by contributing to or being a party to a violation.

The Delhi High Court held in *Super Cassettes Industries Ltd v. Myspace Inc and Anr.* that the provisions of section 79 of the Act had no effect on copyright infringements relating to internet wrongs where intermediaries are involved, and that the same provision, Section 81 of the IT Act, had no effect. As a result, even though an intermediary is protected under Section 79 of the Information Technology Act, the copyright owner may still sue the intermediary under the Copyright Act of 1957. Even though the Information Technology Act of 2000 doesn't talk about copyright or anything else related to intellectual property rights, it does try to control how intellectual property is shared.

Jurisdictional issues

In India, the laws do not shed enough light on Internet jurisdiction. A court's decision is useless and has no meaning if it doesn't have the power to make it. There are two types of jurisdictions: subject matter jurisdiction and personal jurisdiction. For a judgement to be made, these two things must be true at the same time. Without this authority, a court's decision would be questionable, to put it mildly. It doesn't help much or at all. It has been thought for a long time that jurisdiction is based on either where the defendant lives or where the cause of action happened. But it is said that this is not true for transactions on the Internet. It's not easy to prove that either of the two places is the right one. It has been thought for a long time that jurisdiction is based on either where the defendant lives or where the cause of action happened. But it is said that this is not true for transactions on the Internet. It's not easy to prove that either of the two places is the right one.

Evidentiary challenges

There are a lot of problems with how proof works on the Internet. Computers that can easily copy digital information aren't that expensive compared to the equipment needed to make a lot of physical copies of tapes and discs. This makes it very hard to get proof from the end-user of copyright violations on the Internet. Because of this, there is a lot of piracy. Also, it is hard to find the person who downloaded content that was protected by intellectual property rights and then made copies of it to sell. Copyright violations on the internet are hard to catch because, unlike in the real world, they happen behind closed doors in cyberspace. Section 64 of the Copyright Act says that the police can take action against copyright infringement even without a Magistrate's order. However, they don't do so, either because they don't know how to prosecute these crimes or because they don't care about them.

Conclusion

Copyright has changed over time because of changes in technology. With the growth of the Internet, especially the World Wide Web (WWW), copyrights are now being used in new cyberspace. When copyright in cyberspace is looked at, new opportunities and threats are found. But these new changes come with new risks, many of which also hurt the rights of people who own copyright. Most of the time, these threats are bigger than the opportunities that cyberspace offers. This means that cyberspace needs more rules to protect copyright.

As cyberspace is always changing, it makes it hard for the law to respond quickly. The major types of Intellectual Property Rights (IPR) in cyberspace, copyright seems to be the most important and controversial. This has led to calls for more regulation of cyberspace from international copyright regimes. There needs to be more international cooperation to regulate cyberspace and protect copyrights.

Also, it's up to society to teach people about why copyright protection is important so that any unauthorised use can be checked, controlled, and stopped. A lot of people today are making digital content that needs to be kept safe. Netizens need to learn a lot more about why copyright protection is important on all levels to stop people from using things without permission.

Suggestions

An individual cannot stop someone from taking and using their original content from the start, but they can report it if they see it being used somewhere else. An individual could add a copyright statement to their content when they put it out there to help protect it. It's important to tell someone right away if they see their content being used without their permission. Getting takedown requests quickly can help if they end up having to sue the person who did the wrong thing. But if they want to take legal action beyond a "takedown" request, their work must be officially registered as copyright protected.