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‘RIGHT TO COMMUNICATION TO PUBLIC’ & THE ‘REPRODUCTION RIGHT’ IN THE DIGITAL AGE

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Abstract

In this paper ‘Right to Communication to Public’ and ‘Reproduction Right’ under the Copyright Act has been kept in focus due to the fast advancement of the Digital Age. It has been tried to research upon the rights available to copyright holders and the challenges that Indian Legal system faces with the reforms that could be adopted or looked at to improve the position.

Keywords: Copyright Act, Right to Reproduction, Digital Age, etc.

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Introduction

Due to the emergence of high-tech Digital era, a huge demand has been put on our existing Intellectual Property Laws. As a known fact, a law system must adapt as per the need of current and future conditions, our Copyright Act, 1957 must also adapt accordingly to the needs of Digital advancement.¹ Till that adaption of law with technology, many predictions were pointing towards unwillingness of others in protecting their respective Copyrights in the rapid advancing of the Digital world. The changing realities of the digital era have made the Copyright Act, 1957 insufficient to prevent legitimate copying of original work and it incentivize copyright holders to put into practise, that is unacceptable to safeguard their rights.

Copyright Law in Digital Era: Reproduction Right

India had Copyright Act, 1847 earlier, which applied largely with book printing & distribution & printing or sales, without the agreement of the owner. It also addressed the issue of granting a compulsory licence if public books are deleted. Section 52 of the copyright, 1957 superseded the 1847 Act, which permits some free use of work for purposes like education. This restricts the copyright owner's right to reproduce. This limits the right of reproduction of the owner of the copyright. Section 52 (1) (a) allows the fair treatment of any work for private or personal uses for non-computer purposes. It is necessary for the courts to determine whether the usage constitutes to fair treatment depending on the facts and circumstances of the case. With regard to Section 52 (1) (i), the question arises as to whether this provision complies with the Berne

Convention. Certain unrestricted uses are permitted by the Berne convention. One of them is the use of TRIPS and WCT for teaching or education purposes under the Article 10 (2). Section 52(1)(i) restricts just an exclusive reproductive right, and there are no restrictions on teaching kind and level that are likewise permitted in Berne. In Bern, the sole restriction is 'as warranted' and 'consistent with fair practise.' The length and quantity of copies to be produced is not limited. In the case of *Autodesk, Inc. & Microsoft v Prashant Deshmukh & others*² the bench held that, any replication of computer software without authorisation shall breach the author's exclusive rights.

Right to communication to Public

The copyright holder's public performance and exhibition rights are also invoked when works are distributed over Internet.

The transient recollections of the receivers would reproduce, If its receivers comprised "the public," they would be transmitted to the mailing list by methods of transmission. The Copyright Act does not specify the meaning of the term "public," but, it does ensure that a work is performed or shown "publicly" whenever a large number of people beyond a regular family circle and their social conquests are collected."³

A federal district court ruled in *on command video Corporation. v. Columbia pictures industries*,⁴ that a hotel multimedia program that enables customers to digitally purchase the communication of video tape films to their house tv sets "publicly performed" the films, although no screenplay would have been sent to more than one house's television at a moment.

Public communication right is when there is right to make available the works the public for seeing, listening or otherwise enjoying. The online scenario offers theatrical and musical works in digital form and has become more important in the way the work is communicated. The role and difficulties for the ISP have also become more important. An ISP must be accountable and liable to ensure that copyright work is infringed.

Challenges in Legal Framework in India

The Internet is a huge copier that allows for perfect, comprehensive replication and also a detectable infringement of copyright. CD burners' personal computers are used for encoding and saving films on drive that can be accessed without sacrificing considerable value. Hacking has gotten so widespread that before its official release an unauthorized version of the film could become available, which is a big issue for this Digital field.⁵

Reproduction without Losing Quality

The copyright owners have long been concerned about their work. This was an increasingly tough task in the digital age. As noted, there are several reasons why the work may be easily reproduced and immediately made available without diminishing the quality of such work by creating the exact copy. Digital reproduction has allowed for faster copying without sacrificing quality, as well as the ability to duplicate numbers as needed in real time.⁶

Major role plays the Internet service providers (ISPs), who engage in the distribution and the dissemination of the copyright content. ISP's role, obligations and responsibilities in digital domains, in particular the safeguarding of copyright and infringements have been increasingly emphasized. Not just the individual who uses the copyright content unlawfully, but the ISP also have responsibility for contravened work in cyber-spaces. If a work by the ISP is duplicated or made available to the public without the authorization of the owner, it may be responsible. It is the responsibility of the ISP. In violation of the copyright work the ISP may support or assist. There is increased involvement among nations on the topic of ISP responsibility. The IT Act, 2000 (IT Act, India) establishes, as much as possible, for an ISP's rights and responsibilities.⁷

Minimal Costs for Communication & Reproduction

Contrary to making Hard copies of video cassettes, periodicals, books, CDs or music cassettes, software, available for sell, disseminating these copies and reproducing extra copies hardly cost anything on the

Internet. If the website owner (the present situation of the market) is not subject to any per-byte or other volume fees, infringement may be almost without any marginal cost.

A. Anonymous Users over Cyberspace

Hackers are able to operate secretly digitally using unverified remailers and other current technology, without any traceability. In theory it permits pirates to inflict harm without danger of loss, therefore undermine the common premise that those producing harm may be compelled to internalise their costs. Anonymity poses a serious threat on the Internet. In the event that costs have been properly absorbed, additional violations are likely to occur.

B. Ignorants of Law Users

The present legal copyright structure is not known to many users. The digital era allows these users to spread the task very easily while the absence of user training applies both to physical sites and Internet. This publishing often unwittingly can affect, for example, the transmission to third parties of work. The consequence may be several very modest violations which, as a whole, may amount to substantial losses for copyright holders.⁸

Need of the Reform

There have recently been reports of data base theft, particularly in India. Employees in India from the (BPO) that means Business Processing Outsourcing. In no regulation is the protection of databases and data protection distinguished clearly, India. In India, data compilation is not sui generis protected unlike in industrialised countries such as the EU, laws. Protection is now possible done according to the Copyright Act, 1957 under the "literary work."

The World Intellectual Property Organization Copyright Treaty (or WCT) was agreed in 1996 and offers a far more effective basis for the establishment of a compatible violation enforcement facility for the realities of the digital era.⁹ Simplify and make publicly available the copyright act would be if those distinct exclusive rights were to be included in one overarching right of communication. In order to inform the public about copyright violations, copyright holders will be helped.¹⁰

Conclusion

Rights like Right to communication to public and Reproduction right under Copyright Act, 1957 as it exists, is an inappropriate tool to promote the growth of creativity and culture in relation to works that are public. Lawmakers should bring required reforms in the area as mentioned in this paper. This paper also attempts to

clarify the immediate reaction to the reproduction and distribution of artefacts that should be authorized first. This conception of the issue offers a strong reason to believe that the way the India copyright law treats public placement is unacceptable and also helps us to grasp the nature of the remedy necessary.

The job of the copyright holder is more difficult to monitor replication and limit the illegal use of the

work. The courts must take care and protect the owners in these situations and at the same time harmonize them with the interest of the public. The job of the copyright proprietor is more difficult to monitor replication and limit the illegal use of the work. The courts must take care and protect the owners in these situations and at the same time harmonize them with the interest of the public.

End Note

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¹ Palenski, R. (1995). Intellectual property and the national information infrastructure: A preliminary draft. *Government Information Quarterly*, 12(2), 234. [https://doi.org/10.1016/0740-624x\(95\)90067-5](https://doi.org/10.1016/0740-624x(95)90067-5)

² 2011(122) DRJ 606.

³ Ginsburg, J. (1995). Putting Cars on the "Information Superhighway": Authors, Exploiters, and Copyright in Cyberspace. *Columbia Law Review*, 95(6), 1466-1499.

⁴ 777 F. Supp. 787 (N.D. Cal. 1991).

⁵ *Ibcos Computers v. Barclays Mercantile Highland Finance*, (1994 FSR 275.)

⁶ Pavel, A. (2009). Reforming the Reproduction Right: The Case for Personal Use Copies. *Berkeley Technology Law Journal*, 24(4), 1615-1645. Retrieved August 18, 2021.

⁷ Hugener, J. (2014). Copyrights in Cyberspace: A Year in Review. *The Business Lawyer*, 70(1), 289-298. Retrieved August 18, 2021.

⁸ Schlachter, E. (1997). The Intellectual Property Renaissance in Cyberspace: Why Copyright Law Could Be Unimportant on The Internet. *Berkeley Technology Law Journal*, 12(1), 15-51. Retrieved August 19, 2021, From <http://www.jstor.org/stable/24115570>.

⁹ Rubens, J. (2015). Copyright in Cyberspace: Sword and Shield in the Dissemination of Online Content. *The Business Lawyer*, 71(1), 333-342. Retrieved August 18, 2021.

¹⁰ Antonelli, A. (2003). APPLICABLE LAW ASPECTS OF COPYRIGHT INFRINGEMENT ON THE INTERNET: WHAT PRINCIPLES SHOULD APPLY? *Singapore Journal of Legal Studies*, 147-177. Retrieved August 18, 2021.