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ISSUES RELATING TO THE COPYRIGHT : AN OVERVIEW

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I. ABSTRACT

Under the Indian law copyright related issues provide a variety of difficulties and complexity. An outline of these problems and possible fixes is given in this abstract. This research paper discusses about the history and evolution of copyright ,Term period of copyright and the issues relating to the copyright. The Enforcement and piracy, fair use and exceptions ,orphan works, licensing, and collective management, digital rights management, technical protection measures and international harmonization are the main topics of conferencing enforcement procedures, making fair use clauses ,having a clear framework for the orphan works helps to strengthen the copyright. Copyright is facing unprecedented problems on the digital era where the material can be freely shared and replicated with a single click. The development of the technology and the fast growing of the internet and the online platforms has completely changed that how creative works are produced, shared and consumed. The developments have opened up new avenues for the artists to reach the worldwide audience but also at the same time it have led to complicated copyright problems including illegal sharing, piracy and the challenge of enforcing copyright laws internationally.

II. KEYWORDS

Copyright, IPR, literary, Term of copyright, Technology

III. INTRODUCTION

A kind of intellectual property right is copyright which prevents others from copying the original work without the permission of the author. The work must be created independently without copying it from different sources. Below the Indian law the work includes such as musical compositions, artistic works, tables, computer datasets which are expressed In words schemes ,codes, audio recordings. The copyright

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protects the representative of the idea and not the idea itself. The protection of ideas are covered under the patent which is a different branch of the intellectual property rights. In today's quickly changing digital worlds. It gives the creators and owners an exclusive right to preserve the intellectual property right. It promotes the innovation. The creators and owners of the original work made profits out of their original work and by that they promote the advancement of the humanities, sciences and technology

IV. RESEARCH OBJECTIVES

1. To discuss the history and evolution of copyright.
2. To discuss about the term of copyright
3. To discuss about the issues relating to copyright

V. RESEARCH QUESTIONS

What effects do the new technologies have on the balance between the user rights and the copyright protection as well as the copyright enforcement?

VI. RESEARCH HYPOTHESES:

The fast development of digital technologies has led to new challenges related to enforcing copyright laws and concerns about striking a balance between user rights and copyright protection. A greater incidence of copyright infringement is anticipated as digital platforms and online sharing acquire popularity due to the straightforwardness with which copyrighted content may be reproduced, distributed and accessed. Furthermore, it is expected that the adoption of digital rights systems and technical protection measures may affect the user rights, fair use, access to cultural and academic materials.

VII. RESEARCH METHODOLOGY

The research methodology adopted in this paper is purely doctrinal in nature. Doctrinal research, also known as library-based research, is a distinctive method of conducting legal research that involves the study and analysis of existing legal provisions, case laws, and scholarly works. This methodology is well-suited for examining the theoretical and conceptual aspects of law and for providing a

systematic exposition of legal doctrines and principles. The primary sources relied upon in doctrinal research include statutory materials, judicial precedents, and authoritative texts, while secondary sources such as commentaries, articles and legal digests are also consulted. The research process involves the identification, collection, and critical analysis of these sources to draw logical conclusions and offer insights into the legal issues under investigation. Through doctrinal research, this paper seeks to provide a comprehensive and coherent understanding of the legal framework governing the subject matter at hand.

VIII. LITERATURE REVIEW

Dr. Suneet (2022) has authored a research paper on the topic “A review on copyright²” This paper explains about the copyright. A works wording, picture placement, colour scheme and text organization are protected under copyright. Characters and concepts are often not protected under copyright. Books, scripts, movies, and music are examples of works which can be shielded by copyright. Although official registration not necessary copyright starts soon when the work is created and it can have specific advantages. And this paper also discusses about that the copyright laws vary from country to country and are usually confined within the nation’s borders.

IX. HISTORY AND EVOLUTION OF COPYRIGHT:

The growth of the copyright has been mirrored worldwide trends while also taking into account the country’s own cultural and creative milieu. Over time copyright laws have changed to reflect improvements in technology, and the global responsibilities and the growing range of creative works. The following discussed are the major turning points and advancements in the Indian copyright law which emphasizing its legislative revisions and historical foundations. In the colonial period the Copyright Act of 1847 was introduced.

This law primarily aimed to protect the British authors and publishers rather than the Indian creators. The copyright Act of 1914 introduced the thorough copyright laws and important copyright clauses were also introduced which extended the protection

² A review on copyright written by Dr. Suneet(2022)

of the copyright. It was a significant milestone to the India's copyright history. Comprehensive copyright legislation was brought in which replaced the inadequate laws which was provided earlier. India's ratification of the Berne convention complied with the international copyright norms.

The Berne convention required the member countries to provide automatic protection in copyright to the works created in the other member countries of the important changes in the clauses are the protection extended to not to artistic, dramatic, musical, literary works. But also to sound recordings and cinematographic films. There was adoption of the surrounding rights such as the broadcasters' rights and the performers rights. And there was also an extension in the period of the copyright which is lifetime of authors plus 60 years. In response to the international treaties and accords India's copyright legislation is still changing.

In further conformity with the international standards may be taken into account in the future by keeping up with the new developments in the modern technology and arising difficulties. One of the greatest issue that the copyright enforcement is facing that it is extremely challenging. Ongoing debates and changes could centre on fortifying legal frameworks, combating digital theft and confronting new challenges like AI and machine learning.

X. TERM PERIOD OF COPYRIGHT:

A. Works in Literature, Drama, Music and Art

For the duration of the authors life plus 60 years after the author passing. When determining the longevity of a joint authorship the work, lifespan of the last living author is taken into account together with 60 years from their year of the demise.

Works published under pseudonyms or without the name have a 60-year window from the year of the publication after the author demise and the period of time is 60 years.

B. Period for Cinematographic Motion Pictures

Cinematographic films are protected by the copyright for 60 years from the year of release. The period begins to run from the year of creation of the film if it remains unreleased.

C. Sound Recordings

The copyright protection is valid for 60 years from the year of publication. If the sound recording is not published, then the term is counted from the year of its creation of the recording.

D. Photographs

The photographs are safeguarded by the copyright with the same time as of the artistic works.

E. Works of Government

The works produced by the government or as a part of the public project are protected by the copyright for 60 years from the year of publication.

F. International Organizations works

The international organizations work are protected by the copyright for 60 years from the date of publication.

The copyright protection ends after the legally stipulated period of time passes. A work is no longer protected by the copyright when it enters the public domain and can be used, disseminated and altered without any kind of restriction.

XI. ISSUES RELATING TO COPYRIGHT:

A. Law enforcement and piracy:

The Indian motion picture producers association (IMPPA), the Indian Music industry, The Indian Performing Rights Society are few examples of copyright enforcement organizations that fight for the copyright infringement and piracy. To bolster enforcement the government has established specialist teams to combat intellectual property crimes, raided private hotspots and the blocked websites that violate the intellectual rights.

To successfully combat copyright infringement there needs to be better stakeholder collaboration, more public awareness and enforcement tools are also required. Piracy is a chronic problem.

B. Reasonable Use and exclusions:

Research, criticism, reviews, reporting, teaching and private use of copyrighted works are permitted under the Indian Copyrighted Act, which also includes provisions for the fair dealing and special exceptions. There may be subjectively involved in the interpretation and execution of fair dealing principles, which might result in ambiguity and legal issues. In order to maintain a balance between copyright protection and user rights there must be application of fair use exceptions. It would be advantageous to make clearer the extent.

C. Orphan works:

For cultural organizations ,libraries and scholars who want to digitalize and make these works accessible orphan work poses obstacles. Under the specific restrictions cultural and educational organizations are now authorized to exploit orphan works for non-commercial purposes according to Copyright(amendment) Act 2012.The potential contribution of orphan works to have creative endeavours and cultural legacy is limited die to the lack of a comprehensive framework for their utilization which also consists of economic exploitation.

D. Digital Rights Management (DRM) and Technological Protection measures (TPMs):

The Copyrighted content is shielded from illicit access, duplication and distribution via TPM and DRM systems. Although TPMs have valid uses there are risks that unduly tight regulations may impair the fair use rights, interoperability and access to works for transformative ,educational and research purposes. Also incredibly imperative to strike a balance between user rights and copyright protection and continual discussion assessment are required to make sure that TPMs and DRMs systems don't unnecessarily limit those rights.

E. Licencing and Group Administration:

In order to enable the proper use and distribution of works protected by the copyright ,licensing, and collective management organizations (CMOs) are essential. For the public performance and dissemination of works CMOs like the Indian Performing Right Society collect royalties on behalf of authors and copyright holders. Ensuring that the royalties are collected and distributed efficiently maintaining transparency and meeting the demands of emerging digital platforms and business models are some of the challenges associated with the collective management and licensing.

F. Global Harmonization and Digital Difficulties:

India is a participant to the international accords and treaties pertaining to copyright ,notably TRIPS(Trade Related Aspects of Intellectual Property Rights) and the Berne Convention. International Copyright law harmonization facilitates around the world license sing, tackles cross border concerns and safeguards the protection of the Indian works abroad. Additional difficulties in the digital sphere include the application of AI and machine learning which require careful consideration for the copyright ownership, responsibility and establishing a balance between innovation and protection.

XII. CASE LAWS

A. The Indian performing right society limited v. Eastern Indian motion pictures association:³

The above case addressed the issue of royalty collection and distribution for public performances of the copyrighted musical works. The court held that IPRS is entitled to collect royalties for the musical work performances done in the public and infringement of copyright for the non-payment of royalties.

B. Super Cassettes Industries ltd V Myspace Inc. (2016):⁴

The case deals with the liability of online platforms for the infringement of copyright committed by their users. The court held that Myspace who acted as an intermediary below section 79 of IT act 2000 could not claim safe harbour protection. And also it

³ The Indian Performing Right Society Limited v. Eastern Indian motion pictures association

⁴ Super Cassettes Industries ltd v. Myspace Inc. (2016)

had knowledge of specific infringing content and had failed to take done such content promptly. The case highlighted the online platforms responsibilities to bring in effective measures to address the copyright infringement and the importance of notice and takedown procedures.

C. R. G .Anand v Deluxe Films (1978)⁵

The case dealt with the copyright infringement in context to the adaptation of literary work into a film. The court held that substantial similarity between original work and the allegedly infringing work is required to establish copyright infringement. It emphasised in preserving the rights of the authors.

XIII. CONCLUSION, SUGGESTIONS & RECOMMENDATIONS:

Due to the complexity and diversity of copyright concerns in India ,it is crucial to strike a careful balance between advancing access to information and cultural expression and defending the rights of the artists. The key topics that require attention and change include enforcement and piracy, fair use and exceptions ,orphan works, licensing, and collective management ,digital rights management, technical protection measures and international harmonization. Even though these problems and challenges have been addressed more work has to be done to improve India's Copyright laws.

XIV. REFERENCES

1. Books / Commentaries / Journals Referred

- B.L Wadhwa on Patent, Trademarks, Copyright law⁶
- Copyright law in India-G.B Reddy⁷
- Intellectual Property Rights in India -Dr.Rajeev Babel⁸

⁵ R. G .Anand v Deluxe Films (1978)

⁶ B.L Wadhwa on patent, Trademarks, Copyright law

⁷ Copyright law in India-G.B Reddy

⁸Intellectual Property rights in India -Dr.Rajeev Babel

- Law of Copyright and Neighbouring Rights -V.K.Ahuja⁹

2. Online Articles / Sources Referred

- <https://iclg.com/practice-areas/copyright-laws-and-regulations/india>
- http://www.saprlaw.com/taxblog/copyright_final.pdf

3. Cases Referred

- The Indian performing right society limited v eastern indian motion pictures association:
- Super Cassettes Industries ltd V Myspace Inc.(2016):
- R.G .Anand v Delux Films (1978)

4. Statutes Referred

- Copyright Act 1957

⁹ Law of Copyright and Neighbouring Rights -V.K.Ahuja