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ANALYSING LEGAL CONSEQUENCES **UNDER THE IT ACT FOR COPYRIGHT** **INFRINGEMENT IN DIGITAL ERA**

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Abstract

In recent years, digital copyright has become a critical issue in India due to the widespread use of digital content across various industries. With the rise of the internet and digital technologies, the ease of copying, distributing, and sharing digital content has led to an increase in copyright infringement. In response, the Indian government has introduced various laws and regulations to protect digital copyright, with the IT Act being the most prominent legislation.

The IT Act was first introduced in 2000 and has since undergone several amendments to address issues related to digital copyright. The Act provides for the legal recognition of electronic documents and digital signatures, and includes provisions related to copyright infringement in the digital realm.

Despite the IT Act's provisions, digital copyright infringement remains a significant issue in India. One of the challenges is the lack of clarity in defining copyright infringement in the digital context. Many digital platforms, such as social media and file-sharing websites, operate in a legal gray area, and the distinction between legitimate use and copyright infringement is often unclear. Moreover, the enforcement of digital copyright laws in India remains weak due to the inadequate resources and technical expertise of law enforcement agencies.

To address these challenges, there is a need for a comprehensive and nuanced approach to digital copyright in India. The Indian government must prioritize the strengthening of the IT Act and other relevant laws to improve the legal framework for digital copyright protection. There is also a need to raise public awareness of digital copyright laws and their implications for content creators and consumers. Stakeholders must work together to strike a balance between protecting digital copyright and promoting access to digital content for the public interest.

Keywords

Copyright

Information technology

IT Act

Infringement

Remedies

Introduction

Digital technologies have revolutionized the way we create, distribute, and consume content. With the rise of the internet and digital platforms, the ease of copying, sharing, and accessing digital content has raised significant concerns about copyright infringement. In India, the issue of digital copyright has become a critical challenge for policymakers, content creators, and consumers alike. The Indian government has introduced several laws and regulations to address the issue of digital copyright, with the IT Act being the most prominent legislation. The Act provides a legal framework for digital transactions, digital signatures, and electronic records, and it includes provisions related to copyright infringement in the digital realm. However, the effectiveness of the IT Act in protecting digital copyright in India remains a matter of debate, with concerns about the clarity of the law and its enforcement mechanisms.

The IT Act was first introduced in 2000 and has since been amended several times to address issues related to digital copyright. The Act recognizes the legal validity of electronic documents and digital signatures, and it includes provisions related to copyright infringement in the digital realm. However, the effectiveness of the IT Act in protecting digital copyright in India remains a matter of debate, with concerns regarding the clarity of the law, the enforcement mechanisms, and the need for a comprehensive approach to digital copyright.

An analysis of the IT Act and its provisions related to digital copyright has been done. It seeks to highlight the challenges and limitations of the legal framework for digital copyright in India and identify areas for improvement. It will also examine the impact of digital technologies on copyright laws, including issues related to digital piracy, fair use, and the protection of digital rights.

What is Copyright?

A subset of intellectual property law known as copyright protects original works of authorship, such as software and digital content as well as literary, artistic, musical, and dramatic works. According to copyright laws, the creator of the original work has the exclusive right to reproduce, distribute, perform, and exhibit it as well as to inspire derivative works.

The importance of copyright law has grown in the digital era as more and more content is produced and shared online. Software, video games, websites, music, and movies are all examples of digital content. More stringent digital copyright regulations are required as a result of how easily digital content may be copied and circulated, increasing its vulnerability to copyright infringement.

Types of Copyright

The following are the different types of Copyrights available in India:'

Artistic Works

Works that use first- or novel-making in their composition are protected by copyrights under this category. These literary works might be novels, plays, biographies, theses, technical texts, or even television shows. Regardless of the literary value, style, or caliber, they might be asserted as copyrights. The copyright for literary works grants exclusive rights.

- To create modifications of a work.
- To perform a work in front of an audience.
- For distributing free copies of the work to the public.
- To duplicate the work.
- To translate the manuscript.

Dramatic Works

This is a type of literature as well. The process of getting ready for a play, a silly show, drama, choreography, or fixed literary labour is all covered. On the other hand, cinematic films are not regarded as dramatic works.

Exclusive rights are granted by the dramatic work copyright.

- To create any modifications to the work.

- To copy the artwork.
- To enable the public to see the work.
- To include the work in any film with a cinematic component.

Musical Works

Music pieces themselves are protected by copyright. Verse or sound are not permitted in musical works. Despite the fact that music is frequently a component of work connected to sound recordings, musical compositions must be protected through a separate application to the Copyright Office. Any musical composition is eligible for copyright protection, even if it is not recorded.

Exclusive rights are granted under the Copyright for Songs in India under musical works.

- To make the musical piece available to the public;
- To reproduce the musical work.
- Adding any type of modification to the work.
- To present the musical composition to an audience.
- To give the general public copies of the work.
- To produce a sound recording or a film in relation to the musical piece.¹

Cinematograph Films

Most recorded works are included in cinematographic films together with moving images and sights. It comprises video films and any other visual recording that combines analogue or digital sound recordings. It could encompass any method and any format for storing visual records.

The cinematograph film work copyright grants the following exclusive rights:

- To rent, sell, or provide a copy of the movie.
- For distributing the cinematograph film to the general audience.
- For producing a duplicate or modified version of the movie.

Sound Recording

Any type of recording, regardless of the storage medium employed, is referred to as a "sound recording". Any song, with or without music, a podcast, or a recording of a singer's voice could be used. Sound recordings contain music, so in order to preserve them under copyright, the

¹ "What are the different types of Copyright" by Akash Varadaraj <https://vakilsearch.com/blog/what-are-the-different-types-of-copyright/>

composer or author of the music must provide their consent.

Exclusive rights are granted under the copyright for sound recording works.

- To make copies of the sound recording available for purchase or rental.
- To produce any other sound recording that serves as a symbol for it.
- To communicate the sound recordings to the general audience.

History of Copyright Act, 1957

India's first copyright law was enacted in 1914, under British colonial rule. This law was replaced by the Copyright Act, 1957, which is the current governing law on copyright in India. The 1957 Act was amended in 1983, 1984, 1992, 1994, 1999, 2012, and 2018 to keep pace with technological advancements and changing international standards.

The 1957 Act was based on the United Kingdom's Copyright Act of 1956, which was itself based on the Berne Convention for the Protection of Literary and Artistic Works of 1886. India became a signatory to the Berne Convention in 1928, and the principles of the Convention were incorporated into the 1957 Act.

Objectives

Copyright is basically expected to propel science and valuable workmanship and to remunerate creators for their work. Copyright gives authors the right to express themselves creatively while also allowing others to freely expand on the ideas and information in a work. There are two primary objectives of copyright law. Writers, songwriters, designers, artists, and other creatives, as well as film and sound recording producers who risked their money to present their works to the public, are the primary beneficiaries of copyright laws.²

Second, copyright laws allow others to freely expand on a work's information and suggestions. Additionally, copyrighted content can be used in a variety of ways without restriction. The scope of these permitted uses is outlined in the Copyright Act of 1957. Measures pertaining to free use are included in the Act in order to achieve the greatest possible harmony between the rights of the copyright owner and the welfare of individuals in the interest of society.

² "Copyright Act, 1957" by Sneha Mahawar <https://blog.ipleaders.in/an-overview-of-the-copyright-act-1957/>

Features and scope of Copyright Act, 1957

The Copyright Act, 1957 is an Indian law that governs copyright protection in India. The Act was amended in 2012 and 2018 to keep up with the changing times and technological advancements.

The essential features and scope of the Copyright Act, 1957 are as follows:

- **Protection of original works:** The Act offers protection to those who produce original works, such as books, plays, songs, artwork, films, and sound recordings.
- **Exclusive rights:** Owners of copyrights have exclusive control over their works, and these rights include the ability to reproduce, distribute, share with the public, and alter their creations.
- **Duration:** Depending on the nature of the work, the duration of protection varies. The term "authorship" for literary, theatrical, musical, or artistic works is the author's lifetime plus 60 years. The duration is 60 years from the date of publication for cinematograph films. The timeframe for sound recordings is 60 years following the year of the recording's initial publication.
- **Fair use:** The Act permits certain uses of copyrighted works without the owner's consent, such as those required for news reporting, research, criticism, and education. Fair usage is what we call this.
- **Moral rights:** The Act acknowledges writers' moral rights, such as the right to claim authorship of their works, the right to object to any distortion or modification of their works, and the right to remove their works from circulation.
- **Infringement:** Any unauthorized use of a work protected by copyright is regarded as an infringement and is punishable by law.
- **Remedies:** The Act offers a number of options for dealing with copyright violations, including injunctions, financial penalties, and an account of earnings.³

³ "Salient features of the Copyright Act, 1957" by Law Corner <https://lawcorner.in/salient-features-of-the-copyright-act-1957/>

Information Technology Act, 2000

The Information Technology Act, 2000 (IT Act) is a legislation enacted by the Indian government to provide legal recognition to electronic transactions and digital documents. The IT Act is based on the United Nations Commission on International Trade Law's (UNCITRAL) Model Law on Electronic Commerce and provides a legal framework for electronic commerce in India.

The scope of the IT Act is vast, and it covers various aspects of electronic commerce, including electronic contracts, digital signatures, electronic evidence, and cybercrime. The Act also provides for the establishment of the Cyber Appellate Tribunal and the Indian Computer Emergency Response Team.

Objectives

The objectives of the IT Act, 2000 are:

- Provide legal recognition to electronic transactions and digital documents.
- Facilitate electronic filing of documents with government agencies.
- Ensure security and confidentiality of electronic transactions and digital documents.
- Provide a legal framework for electronic commerce and electronic governance.
- Establish an institutional framework to deal with cybercrime and cyber security issues.

Section 14 of the Act provides for the exclusive rights of copyright owners. It states that the owner of a copyright in any work has the exclusive right to do or authorize the doing of any of the following:

- Reproduce the work in any material form.
- Publish the work.
- Perform the work in public.
- Communicate the work to the public.
- Make any cinematograph film or sound recording in respect of the work.

The IT Act plays a significant role in regulating digital copyright in India. The Act provides a legal framework for electronic commerce and recognizes the importance of protecting copyright in the digital age. The Act has several provisions that deal specifically with copyright infringement in the digital realm.

The Act also provides for the establishment of the Cyber Appellate Tribunal, which is responsible for hearing appeals against orders passed by the Controller of Certifying Authorities, and the Adjudicating Officer under the Act. The Tribunal has the power to adjudicate on matters related to electronic commerce, electronic governance, and cybercrime, including copyright infringement.⁴

Copyright Infringement

Copyright infringement in the digital context refers to the unauthorized use, reproduction, distribution, or display of copyrighted materials, including text, images, videos, music, and software, on the internet or other digital platforms. In other words, it is the violation of the exclusive rights granted to copyright owners under the Copyright Act, without obtaining their permission.⁵

Types of Copyright infringement

- **Piracy:** This involves the unauthorized reproduction, distribution, or sale of copyrighted works, such as movies, music, or software, without the owner's permission.
- **Plagiarism:** This is the act of using another person's work or ideas without proper attribution or permission and passing them off as one's own.
- **Copying:** This involves making an exact or substantially similar copy of a copyrighted work, such as a text or image, without the owner's permission.
- **Digital rights management (DRM) circumvention:** This involves the removal or bypassing of technological measures used by copyright owners to protect their works from unauthorized use or distribution.

⁴ "Information Technology Act, 2000" by Siddhi <https://www.geeksforgeeks.org/information-technology-act-2000-india/>

⁵ "Copyright Infringement" by Dheeraj Vaidya <https://www.wallstreetmojo.com/copyright-infringement/>

- **Online streaming:** This refers to the unauthorized broadcasting or transmission of copyrighted works, such as movies or TV shows, over the internet without the owner's permission.⁶

Consequences of Copyright infringement

Under the Information Technology (IT) Act, 2000, copyright infringement is a criminal offense that can result in severe penalties and consequences, including:

- **Imprisonment:** The Act provides for imprisonment for a term of up to three years and a fine of up to Rs. 2 lakhs for copyright infringement.
- **Damages:** The owner of the copyrighted work can claim damages from the infringer for any loss suffered due to the infringement, including lost profits and reputational damage.
- **Injunction:** The court can issue an injunction order directing the infringer to stop using or distributing the copyrighted work immediately.
- **Seizure and destruction of infringing material:** The court can order the seizure and destruction of all infringing copies of the copyrighted work.
- **Statutory damages:** The owner of the copyrighted work can claim statutory damages from the infringer, which can range from Rs. 50,000 to Rs. 2 lakhs, depending on the nature and extent of the infringement.

Remedies under IT Act, 2000

The IT Act provides several remedies to copyright owners to protect their rights and enforce their exclusive rights. Some of the key remedies available to copyright owners are:

- **Civil Remedies:** Copyright owners can seek civil remedies by filing a suit in a civil court against the infringer. The remedies available to copyright owners in civil suits include injunctions, damages, or an account of profits. An injunction is an order of the court that prohibits the infringer from using or distributing the copyrighted work without the owner's permission. Damages refer to monetary compensation that the infringer must pay to the

⁶ "The types of Copyright Infringement" by Anushka Saxena <https://corpbiz.io/learning/what-are-the-types-of-copyright-infringement-in-india/>

owner for the losses suffered due to the infringement. The owner can claim damages for the actual losses suffered as well as lost profits. An account of profits is an order requiring the infringer to pay over any profits made from the infringement to the copyright owner.

- **Criminal Remedies:** Copyright owners can also seek criminal remedies by filing a complaint with the police. The penalties for copyright infringement under the IT Act include imprisonment for up to three years and a fine of up to Rs. 2 lakh. The police can also seize infringing copies of the copyrighted work and initiate criminal proceedings against the infringer. In addition, the court can also order the seizure and destruction of all infringing copies of the copyrighted work.
- **Notice and Takedown:** The IT Act provides for a notice and takedown mechanism that enables copyright owners to request the removal of infringing content from the internet. Internet service providers (ISPs) and other intermediaries are required to remove or disable access to infringing content upon receipt of a notice from the copyright owner. The notice must provide evidence of ownership and infringement, and the intermediary must act expeditiously to remove the infringing content.
- **Alternative Dispute Resolution (ADR):** Copyright owners can also resolve disputes with infringers through alternative dispute resolution mechanisms such as mediation or arbitration. These mechanisms can provide a faster and less expensive resolution of disputes compared to civil or criminal litigation. In addition, the IT Act also provides for the establishment of an intellectual property rights (IPR) cell to facilitate the resolution of disputes related to copyright infringement.⁷

Enforcement of Digital Copyright

Enforcement of digital copyright is a complex and challenging issue that has become increasingly important in today's digital age. With the widespread use of the internet and digital technologies, it has become easier than ever before to copy and distribute digital content. However, this has also made it much more difficult for copyright owners to protect their rights and ensure that they are properly compensated for their work. In this context, law enforcement agencies play a crucial role in enforcing digital copyright laws and protecting the interests of copyright owners.

⁷ "Offences and Penalties under IT Act, 2000" by Pradnya
<https://www.legalservicesindia.com/article/439/Offences-&Penalties-under-the-IT-Act,-2000.html>

Role of law enforcement agencies in enforcing digital copyright

Law enforcement agencies play a crucial role in enforcing digital copyright laws and protecting the interests of copyright owners. Their primary role is to investigate and prosecute those who infringe copyright laws by illegally copying, distributing, or using copyrighted material without permission. This can include a range of activities, from illegal file-sharing to the sale of counterfeit DVDs and software.

To effectively enforce digital copyright laws, law enforcement agencies must work closely with other stakeholders, such as copyright owners, internet service providers (ISPs), and other government agencies. They must also stay up to date with the latest developments in digital technologies and internet-related issues, in order to effectively address new and emerging threats to copyright protection.

Challenges in enforcing digital copyright

Enforcing digital copyright presents several challenges for law enforcement agencies. One of the biggest challenges is the sheer scale of digital content that is available online, and the ease with which it can be copied and distributed. This makes it very difficult to track down and prosecute copyright infringers.

Another challenge is the fact that digital content can be easily duplicated and modified, making it difficult to determine the origin of the infringing content. Additionally, the global nature of the internet and the ease with which digital content can be distributed across national borders presents significant jurisdictional challenges for law enforcement agencies.

International co-operation in enforcing digital copyright

Enforcing digital copyright requires a high degree of international cooperation, as copyright infringement often involves activities that take place across national borders. In this context, international treaties and agreements have been established to facilitate cooperation between countries in enforcing digital copyright laws.

One of the most important international treaties in this area is the World Intellectual Property Organization (WIPO) Copyright Treaty, which was adopted in 1996. The treaty establishes minimum standards for copyright protection and provides for international cooperation in enforcing copyright laws.

In addition to WIPO, there are several other international organizations that work to promote and enforce digital copyright laws, including the World Trade Organization (WTO) and the International Federation of the Phonographic Industry (IFPI). These organizations work to raise awareness of the importance of digital copyright protection, and to encourage countries to adopt effective legal frameworks for enforcing copyright laws.⁸

Analysis

Certainly, I can provide you with an analysis on the topic of digital copyright laws in India, specifically focusing on the Information Technology (IT) Act.

The Information Technology Act of 2000 was enacted by the Indian government to regulate electronic commerce and provide legal recognition to electronic records and digital signatures. The act has been amended several times since its inception, and one of the amendments in 2012 dealt with digital copyright laws.

Under the IT Act, copyright is defined as the exclusive right to reproduce, publish, perform, and communicate a work to the public. The act provides for the protection of digital works, including computer programs, databases, and sound recordings. The act also provides for the protection of the rights of performers, producers of sound recordings, and broadcasting organizations.

One of the key provisions of the IT Act relating to digital copyright is Section 65A, which deals with the punishment for infringement of copyright in a digital form. Under this section, a person who knowingly infringes or facilitates the infringement of any copyright in a digital form is liable to imprisonment for up to three years and a fine.

Another important provision is Section 66, which deals with the punishment for hacking and other

⁸ "The global digital enforcement of Intellectual Property" by WIPO
https://www.wipo.int/wipo_magazine/en/2018/si/article_0005.html

computer-related offenses. This provision is relevant to digital copyright as it can be used to prosecute individuals who illegally access and distribute copyrighted material online.

In addition to these provisions, the IT Act also provides for the establishment of a Digital Copyright Management Centre (DCMC) to facilitate the registration and licensing of digital works. The DCMC is responsible for maintaining a register of copyrighted works, granting licenses for the use of copyrighted works, and collecting royalties on behalf of copyright owners. However, despite the existence of these provisions, digital copyright infringement remains a prevalent issue in India. One of the challenges is the lack of awareness among the general public about copyright laws and the consequences of infringement. Additionally, there is a lack of effective enforcement mechanisms, which has resulted in a low rate of convictions for digital copyright offenses.

Conclusion

The Information Technology (IT) Act of 2000 in India provides legal recognition and protection to electronic records and digital signatures, including digital copyright laws. The Act has several provisions, such as Section 65A and 66, that deal with the punishment for infringement of copyright in digital form and computer-related offenses, respectively. Additionally, the establishment of a Digital Copyright Management Centre (DCMC) aims to facilitate the registration and licensing of digital works. However, despite these provisions, digital copyright infringement remains a prevalent issue in India due to a lack of awareness and effective enforcement mechanisms. To effectively combat infringement, there is a need for increased awareness about copyright laws and stronger enforcement mechanisms to protect the rights of creators and copyright owners in the digital age.

It is important to note that the rise of digital technology and the internet has brought significant changes to the way people create, distribute, and consume creative works. In this digital age, it is easier than ever before to reproduce, share and distribute digital content, which has led to an increase in digital copyright infringement cases worldwide, including in India.

There are still many challenges that need to be addressed in the Indian digital copyright landscape. One of the significant challenges is the lack of awareness and understanding of copyright laws among the general public. The digital age has made it easier for people to access and share content,

and many people do not realize that they may be infringing on someone else's copyright. Therefore, there is a need for more significant efforts to educate people about copyright laws and the consequences of infringement.

In conclusion, digital copyright is a vital issue in India's digital landscape, and the IT Act provides an important legal framework for the protection of digital works. However, there is a need for increased awareness about copyright laws, as well as stronger enforcement mechanisms, to protect the rights of creators and copyright owners in the digital age. The Indian government, along with stakeholders from the creative and technology sectors, needs to work together to find effective solutions to these challenges and ensure that digital copyright laws are enforced to protect creativity and innovation in the country.

