

A Research on Copyright Law and Digital Technologies: Emerging Trends and Challenges

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Abstract – The copyright law in verifiable records is known to be the legacy of technology. It has experienced methodical changes keeping in see the nature, degree and area of technology required to secure the public enthusiasm of innovativeness, development and inventiveness. Its primary purpose is to give satisfactory incentives to creators and makers of differing copyright works, from one viewpoint, and make such works available to the public then again. The copyright law needed to change itself between the need to grant the maker and the allure of making such works public. With the omnipresence of the Internet as a one of a kind and completely new medium of worldwide human communication everywhere throughout the world, contracted into a digital global village, the insurance of copyright works has turned into a genuine worry for lawyers, and additionally, alternate partners. The Internet together with P2P PC systems makes it workable for an inexorably bigger number of people to take an interest in shared information generation, in this manner enfeeble the endeavors to give incentives to unique makers of intellectual property. The Internet empowers the almost quick, unique quality reproduction of and extensive, helping speed scattering of copyrighted works.

The copyright law has crossed a long voyage from the Guttenberg to Information age. A tremendous change could be found in the copyright since its initiation. The Statute of Anne was the principal law, which has set the parameters and rules for the publication and misuse of crafted by a creator for economic advantages. From that point forward, there was no thinking back. India was then a state of Britain and henceforth the law of UK was material here as well. The main Copyright Act of India was enacted in the year of 1957 and from that point forward it has been altered five times, to acquire it similarity with the progressions times and technology. The latest being in 2012, which was not exclusively to get the law congruity with the Information age yet too to affirm to the WIPO copyright Treaty(WCT) and WIPO Phonograms Treaty (WPPT).

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INTRODUCTION

Law is a reaction to social difficulties. Law while reacting, answers such difficulties and in the process creates itself. Copyright is the finest illustration one achieves while diving upon the connection amongst law and technology. From one viewpoint technology was the begetter of copyright and copyright based industries; then again, every new technology has represented a potential risk to the copyright-based industries. The industry thus has put each new innovation further bolstering its good fortune as far as making more current types of misuse of craftsmanship, broadening markets and expanding benefits. Digital technology is the most recent one in the field at the international scale. The digital Age being the sign of the present thousand years is an observer to yet another age spread out by the Internet and this intersection is, from various perspectives, a vital turning point in the long and checkered history of copyright. The digital technology is an extraordinary impact on copyright works-its creation, dispersal, and

insurance. Digitization has made it significantly less demanding to control, duplicate, and circulate protected works. Digital substance can be consolidated, modified, blended, and controlled effortlessly. By empowering the making of ideal duplicates of copyrighted works for little cost, digital technology debilitates to undermine the appropriation frameworks and increment unapproved utilization of copyright works. The Internet encounter shows that customary actors in the communications process (information maker, supplier, distributor, mediator client) go up against new parts in the digital arranged environment. The Internet is organized as an 'open stage demonstrate' instead of the 'telecom display' of most existing media. On the Internet creators may unreservedly spread their works without the mediation of conventional distributors: writers are getting to be 'distributors'. Additionally, digital technology empowers clients to actively look and control information accessible on the system: clients are getting to be 'creators'. Besides, customary mediators, for example, college libraries, may go up

against new parts as information suppliers: go-betweens are getting to be distributors too. This joining of parts may in the end influence the current arrangement of rights designation in copyright and neighboring rights legislation. In this manner, in a way the Internet has mixed the perfectly organized, fanatically appropriately characterized and advocated picture of duplicate related and non-duplicate related rights under the Berne Convention. Digital interactive transmissions deliver a specific half breed type of influencing accessible to a unidentified number of people and let them to devour the substance whenever as they want (Ficsor, 2002).

In the contemporary age, the general public has comprehended the value and need of the copyright law and on account of this each country, be it vast or little, created or developing has encircled its own particular copyright law and are bit by bit correcting it to get it congruity with the changing needs of the general public. Because of the headway of technology, the spread of the innovative work has turned out to be boundless and thus the need to make law in congruity with the progressions. Accordingly, the countries are endeavoring hard to make such copyright laws, which can take into account these evolving needs. This paper is an endeavor to follow the root and development of the present Indian law. Copyright is a one of a kind and intriguing subject in itself. Like patents, copyright is likewise a sort of intellectual property right. It is a restrictive right of the craftsman, creator or maker and appears when the work is made. It is the select right to do or approve others to do certain acts in connection to sensational, melodic and masterful works, artistic works, cinematograph film, sound accounts, PC databases and so forth i.e. it is the right to duplicate or imitate the work in which copyright subsists.

"Copyright" is a term used to characterize the legal property right subsisting in different works which incorporates unique scholarly, sensational, melodic or imaginative works which result from the astuteness of the maker. The Copyright Act was acquainted with give legal assurance to the makers of such works so as to counteract misuse by others and to guarantee creators" moral rights. Copyright might be sold or given away by the writer (henceforth the copyright proprietor of a book can frequently be the distributor).

Potential endeavors of people prompt intellectual results, which thus have extensive value in economy. Moral rights are separate from the rights administering economic misuse, however are similarly critical. These have a place with the maker of the work and give them the right to be distinguished all things considered and with the right of honesty (i.e. not to be distorted, for instance, through misquotation or adjustment) (Goldstein, 2001).

The Copyright Act, 1957 is the most seasoned surviving intellectual property right legislation in India.

The Act has been corrected five times, preceding 2012. once each in the years 1983, 1984, 1992, 1994 and 1999 to meet with the national and international prerequisites.

The Act was altered widely in 1994, wherein it tended to the difficulties postured by digitization of works and the Internet, albeit halfway. The Act required just minor changes to agree to the commitments under the Trade-Related Aspects of Intellectual Property' Rights (TRIPS) through the amendment made in the year 1999. The amendments presented by the Copyright Amendment Act, 2012, are noteworthy as far as range as they address the difficulties postured by the Internet and go past these difficulties in their degree.

The 1990s saw the digital upset clearing the world and the coming of Internet over the world wide web. The global group reacted to the difficulties postured to the copyright framework by the Internet through two treaties confined there 1996, called WTPO Copyright Treaty (WCT) and WTPO Performances and Phonograms Treaty' (WPPT) together known as the 'Internet treaties'. The treaties deliver the difficulties important to the dispersal of protected material over digital systems, for example, the Internet. The WCT manages the insurance for the creators of abstract and masterful works. The WPPT stretches out copyright like assurance to entertainers and makers of phonograms. Numerous arrangements in these treaties like right of communication to the public have been accessible in the Indian copyright law since the 1994 amendment (Gulla, 2007).

The Copyright (Amendment) Act, 2012 acquainted amendments with fit the Copyright Act, 1957 with WCT and WPPT. The Amendment Act goes much past the Internet treaties and has presented numerous adjustments in the Copyright Act, 1957. The amendments can be sorted into:

- I. Amendments to rights in artistic works, cinematograph films and sound recordings.
- II. WCT and WPPT related amendments to rights.
- III. Author friendly amendments on mode of assignment and licenses to streamline business practices.
- IV. Amendments to facilitate access to works further sub-classified into:
 - (a). Grant of compulsory licenses
 - (b). Grant of statutory licenses
 - (c). Administration of copyright societies

- (d). Access to copyrighted works by the disabled
- (e). Relinquishment of copyright
- V. Strengthening enforcement and protecting against Internet piracy including WCT and WPPT related provisions
- VI. Reform of Copyright Board and other minor amendments

These changes made by the Copyright Amendment Act are discussed below in the above order. The purpose of this paper is to narrate the changes. Wherever possible a brief rationale for the amendment as culled out from the Notes 011 Clauses of the Copyright Amendment Bill¹ and from the Report of the Standing Committee of Parliament⁴, is provided.

HISTORICAL BACKGROUND

Copyright insurance developed with the creation of printing, which made the scholarly attempts to be copied by mechanical process. Earlier, to that hand replicating was the sole mean of reproduction. After, the creation of Guttenberg's printing press in Germany in 1436, a need to secure the printers and book retailers was perceived and along these lines certain benefits to printers, distributors and furthermore writers were allowed. The specialty of printing spread rapidly in Europe. After 1483, England developed as a noteworthy focus of printing trade in Europe. The spread of this technological advancement prompted formation of a class of go-betweens, who made beginning investment in drawing out the book, i.e., the printers, who served as book shops too. They were known as the "stationer's" in England². In 1557, Queen Mary I, allowed the benefit of managing the book trade to the Stationer's company of London³. In 1662, the Licensing Act was passed in England, which denied the printing of any book which was not authorized and registered with the Stationers' Company⁴. This was the main clear law which was gone for securing artistic copyright and checking theft. The permit period was brief. It was just with the death of the Queen Anne's Statute of 1709, that, the rights of the creators over their work came to be legally perceived, and the idea of 'public area' was set up, however not explicitly.

Present day copyright law created in India bit by bit, in a traverse of 150 years¹⁴. The main brush of India with copyright law occurred in 1847 through an enactment amid the East India Company's administration. The Act go by Governor-General of India asserted the relevance of English copyright law to India.¹⁵ According to the 1847 enactment, the term of copyright was for the lifetime of the creator in addition to seven years after death and couldn't surpass forty-two years all in all. In spite of the fact that

the creator denied publication after his passing, the Government had the specialist to give permit for its publication. The act of encroachment was comprehensive of unapproved printing of a copyright work for "deal, contract or send out", or "for offering , distributing or presenting to deal or contract". The suit for encroachment under this act could be established in the "most elevated neighborhood court practicing unique common purview". The Act additionally particularly gave that under a contract of service copyright in "any reference book, survey, magazine, periodical work or work distributed in a progression of books or parts" might vest in the "proprietor, projector, distributor or conductor". It was considered that the duplicates of the encroached work were the property of the proprietor of the copyrighted work for all reasons. Above all, the copyright in a work was not programmed not at all like today. Enrollment of the work with Home Office was obligatory for the security of rights under this enactment. In any case, the Act particularly held the subsistence of copyright in the creator, and his right to sue for its encroachment to the degree accessible in some other law with the exception of 1847 Act. At the season of its presentation in India, copyright law had just been in the developing stage in Britain for over a century and the arrangements of the 1847 enactment were reflected in the later enactments. The Copyright Act 1911, while canceling prior statues regarding the matter, was likewise made pertinent to all the British provinces including India. In 1914, the Indian Copyright Act was enacted which changed a portion of the arrangements of Copyright Act 1911 and added some new arrangements to it to make it material in India. The Indian Copyright Act 1914 stayed relevant in India until the point when it was supplanted by the Copyright Act 1957.

COPYRIGHT IN INDIA

The voyage of copyright In India might be followed back in the year 1847, when first copyright act was enacted. An adjusted rendition of the same was enacted in 1914. Various amendments to this act were influenced in 1983 to profit benefits emerging from the modification of Berne Convention and all inclusive Copyright tradition to which India is a supporter/follower. Amendments of 1992 broadened the term of Copyright assurance from the lifetime of the origin in addition to 50 years to the life time of the creation in addition to 60 years. Indian Copyright Act of 1957 supplanted the act of 1914. Act 1957 came into drive on 1958. The Copyright Act of 1957 further revised five times in the year 1983,1984,1992,1994 and 1999. With these amendments offense of encroachment of Copyright has been proclaimed as an economic offense. Presently the new Copyright charge 2010 go by the parliament on May 2012 is known as Copyright (Amended) Act 2012.

The two Internet treaties were consulted in 1996 under the protection of the world Intellectual property organization (WIPO). These treaties are known as the WIPO Copyright treaty (WCT) and the WIPO performances and phonograms treaty (WPPT). These treaties were arranged basically to accommodate assurance of the rights of Copyright holders, entertainers and makers of phonograms in the Internet and digital time. India isn't an individual from these treaties; amendments are being mooted to influence act in agreeable with the above treaties keeping in mind the end goal to give security to Copyright in Digital period. Despite the fact that India isn't an individual from the WCT and the WPPT, the Copyright act, 1957 is completely agreeable with the Rome tradition arrangements. The arrangements of the act is additionally in concordance with two other new WIPO treaties to be specific, the Beijing Audiovisual entertainers treaty, 2012 and the Marrakesh treaty to encourage access for distributed works by outwardly debilitated or generally print handicapped persons, 2013 (Dmytrenko & Dempsey, 2004).

DIGITAL TECHNOLOGY AND COPYRIGHT ISSUES

The decentralized idea of Internet makes it feasible for any client to disperse a work endlessly in the internet through an end number of outlets, in this manner offering ascend to global theft. Appraisals of global misfortunes from pilfered books, music and diversion programming range into billions of dollars. The Internet in a way shows a troublesome circumstance for copyright holders as the clients wind up mass disseminators of others copyright material and makes disequilibrium between the creators and clients. The coming of digital technology, thusly gives administrators a decision: either extend or change existing 'old media thoughts' or reclassify the index of confined acts, considering the eccentricities of the new environment in different features talked about in this under (Thomas, 2003).

1. The Right of Reproduction

Since the selection of the Statute of Anne, the mother of current copyright law, the reproduction right has been at the core of copyright law for in excess of three hundred years. In spite of the fact that perceived as a fundamental right agreed to creators, the reproduction right in essence has not been unambiguously delimited by the international instruments for copyright assurance. Because of the absence of agreement on the right's extension and substance, the first content for the Berne Convention did exclude any arrangement that explicitly protected the reproduction right. Under Article 9(1) of the Berne Convention, copyright proprietors are conceded "the selective right of approving the reproduction of these works, in any way or frame". Be that as it may, the irresoluteness of Article 9(1) of the Berne Convention, especially the expression "in any way or shape", has brought about

an international crack over the extent of the reproduction right. The appearance of the Internet makes the delimitation of the reproduction right more risky in the digital age. Given that any transmission of protected works over the Internet includes the reproductions fleetingly put away in the associated PCs' RAM, the subject of whether right proprietors ought to be allowed with the control over every single brief reproduction poses a potential threat in the midst of the dematerialized and decentralized nature of the Internet. By differentiate, the WIPO Performances and Phonograms Treaty, 1996 contains two (Articles 7 and 11) for the insurance of the reproduction right delighted in by Performers and Phonogram Producers individually. Under the WPPT Performers and Phonogram Producers are vested with "the elite right of approving the immediate or circuitous reproduction of their separate protected subjects in any way or frame" (Agreed Statement concerning Articles 7, 11 and 16 of the WPPT). The Agreed explanations connected to the WCT and WPPT make it clear that the Article 9 of the Berne tradition should apply mutatis mutandis to the security of the reproduction right in the digital environment. At first look, what is clear under these two concurred articulations is that changeless digital duplicates, for instance, duplicates put away in floppy circles or a PC's perused just memory (ROM), are protected by the WIPO Treaties 1996. In addition, individuals are allowed to acquaint new constraints or special cases with the re-delimited reproduction right, subject to the three-advance test. However the conventional significance of the second sentence of the concurred explanations, specifically the expression "stockpiling", still remains generally equivocal and darken. Does it cover the making of brief duplicates? One would reply in the negative that "in normal utilization, 'stockpiling' hints a considerably more elevated amount of activity than straightforward 'brief' direct". Unexpectedly, the counter contention may basically go that the briefly put away duplicate does in fact constitute a type of capacity of the work. Without the immediate reference to the expression "lasting or brief", the concurred proclamations, as opposed to satisfy the broadcasted aspiring undertaking to give the clearness, neglect to decide the degree to which the reproduction right ought to be connected in the digital environment. The uncertainty of the treaty dialect leaves the inquiry in the matter of whether the impermanent duplicates have been secured, possibly agitated.

2. The Right of Communication to the Public

Digital technology obscures the line between various classes of copyrightable works and the methods for communication to the public also. Then again, amidst quick development in digital technology, the PC systems, specifically the Internet, delivers a point-to-point method for transmitting takes a shot at an on-request and interactive premise. The interactivity and independence managed by this new technique for abusing works, makes it feasible for any individual

from the public to have the full prudence in deciding the place and the time one is expected to access and utilize works in digital frame. Against this scenery, another type of unitary, technology-unbiased right of communication to the public is proposed to be introduced to supplant the fragmentary, technology-particular insurance to this right.

Incomprehensibly, it appears that the Berne Convention has turned into an inadequate and obsolete international instrument for the security of the right of communication to the public, unfit to react to the difficulties postured by the move in the methods for abusing works. As a matter of first importance, the Berne Convention has lingered behind the pattern in the digital transformations of the telecommunications, media and information technology. The right of communication to the public is directed in a divided way by the Berne Convention as far as the methods for communication. Second, the extent of the right of communication to the public does not cover every one of the classes of copyrightable topic, including PC programs, photographic works, works of pictorial craftsmanship, realistic works. These works in any case, have been and are as a rule generally scattered over the Internet yet are defenseless against the unapproved access and utilize. Further, it stays questionable under Berne Convention regarding whether the customary right of communication to the public would manage interactive, on-request transmission of works over the PC systems. Concern has been communicated that the Berne Convention may just have the capacity to soundly direct the point-to-multipoint communication of works, leaving right proprietors in the hazy area where they presumably don't have the right to avoid others from conveying their attempts to the public on a point-to-point premise with the interactive, on-request nature. The apparent escape clauses or ambiguities inside the Berne Convention, in this manner, make it clear that important commitments should be illuminated by giving a unitary, technologically impartial right of communication to the public.

3. Legal Protection of Technological Measures

In light of the expanding simplicity of reproduction and spreading works over the internet, copyright proprietors and their technology have designed altogether novel and more compelling technological measures, to oblige physical access to and utilization of their copyrighted works. Ahead of schedule in 1991, the E.U. led the pack to give legal insurance against circumvention of technological measures connected to secure PC programs (Council Directive 91/205/EEC of 14 May 1991 on the Legal Protection of Computer Programs). In the wake of this order, the North America Free Trade Agreement, 1992 accommodates criminal and common cures against deciphering the

scrambled program conveying satellite flags and related acts.

4. Legal Protection of Rights Management Information

It is essential that at whatever points a work or a question of related rights is asked for and transmitted over the system; the fact of the utilization is registered together with all the information important to guarantee that the concurred installment can be exchanged to the suitable right owner(s). Different technologies in this regard are accessible or being created which will empower the essential criticism to the right proprietors. Such information may likewise work in conjunction with technological measures, as where a watermark serves to recognize a work however may likewise be an imperative part to enable the approved utilization of a copyrighted work. It can likewise serve to encourage web based permitting. It is urgent, in any case, that such information isn't expelled or mutilated, in light of the fact that the compensation of the right proprietors would all things considered not be paid by any means, or it would be occupied. From a practical perspective, this would be as biased to the interests of the right proprietors as an outright encroachment of rights.

5. Confinements and Exceptions

From soonest times ever, it has been perceived that in specific cases constraints or exemptions ought to be set on the activity or extent of set up rights and might be named as "inner confinements", i.e. they are actual or potential limitations coming about because of the arrangements of the instrument itself. The reasons given for forcing such limitations might be founded on contemplations of public intrigue, aversion of imposing business model control, and so forth. The confinements on copyright are important to keep the harmony between two clashing public interests: the public enthusiasm for compensating makers and the public enthusiasm for the most extensive scattering of their works, which is likewise the enthusiasm of the clients of such works. The limitations may show up as mandatory or statutory licenses (regularly including procedural essentials, and installment of compensation to the right proprietor), or (all the more every now and again) allowed utilizes, not subject to formal methods or installment, but rather in regard of which conditions may apply (e.g. articulation of source). The constraints on the creator's select rights might be forced keeping in mind the end goal to encourage the work's commitment to intellectual and social improvement of the group. Be that as it may, the confinements must not be, for example, to hose the will to make and scatter new works.

6. Copyright Enforcement in Digital Environment

Global PC based communications cut crosswise over regional outskirts, making another domain of human activity and undermining the plausibility and authenticity of laws in view of geographical limits. Digital technology has made copyright enforcement hard to accomplish. In the online environment, works, for example, recordings, accounts of melodic performances, and writings can be posted anywhere in the world, recovered from databases in outside nations, or made accessible by online service suppliers to supporters situated all through the globe. Our arrangement of international copyright assurance, be that as it may, verifiably has been founded on the utilization of national copyright laws with strict regional impacts and on the use of decision-of-law guidelines to figure out which country's copyright laws would apply. Such a system of national codes may have done the trick in a period when the dissemination or execution of works happened inside effortlessly identifiable and discrete geographic limits. Be that as it may, "moment and synchronous worldwide access to copyrighted works over digital systems generally challenges regional ideas in copyright" and convolutes customary decision-of-law convention since it is frequently hard to figure out where specific acts have happened keeping in mind the end goal to figure out which copyright law to apply. In this manner, as one observer has asked: "[I]f creators and their works are never again regionally fastened, can changes in the crucial legal originations of existing administrations for the assurance of creators be a long ways behind?" With such huge numbers of potential areas where unapproved utilization of the work might be volatile of proprietor's rights, whose law ought to decide if the transmission or reproduction of a protected work constitutes encroachment? The site where the work was transferred? The webpage where the work was downloaded? The creator's country of starting point? Every area has a suitable claim. Without fit benchmarks clashes will be hard battled and severely settled (Professional Book Publishers, 2013).

MANAGEMENT OF COPYRIGHT IN DIGITAL ENVIRONMENT

Another field where digital technologies have acquired progressive changes is that of management and organization of copyright. The new technologies have made the organization and assurance of copyright very troublesome. It has made e-production, circulation and communication of works less demanding and inside the fitness of common person. Presently duplicates can be made at an astonishing velocity with total loyalty to the first and transmitted over past separations and scattered to a huge number of people in almost no time or even seconds. This has opened up the conceivable outcomes of across the board unapproved replicating and appropriation of copyrighted works physically influencing the economic

enthusiasm of the proprietors. At the point when such activities should be possible from the security and wellbeing of one's home, law turns into an inept, quiet witness. The issues made by technologies should be handled by technologies. As Charles Clark put it. "the response to the machine is the machine. Be that as it may, the arrangements contrived up by technologists should be protected by law as generally those arrangements would be adjusted by counter technologies, with exemption (Hugenholtz, 1996).

Technological arrangements were found for the issues postured by the new technologies through access control or duplicate control systems, for example, encryption technology or water stamping incorporated into works conveyed over digital systems with a view to securing them shape illegal abuses. Be that as it may, counter-technologies were produced to vanquish those insurance technologies.

Digital technologies should be utilized broadly for organization of copyright greetings the digital environment. Permitting and expense gathering may must be mechanized. Productive working of a mechanized framework assumes incite enrollment of any demand for or transmission of a work alongside all information fundamental for exchange of concurred installments to the suitable right proprietors. This will be conceivable just if certain information like information about rights ownership or permit terms, which are essential for authorizing and installment of permit charge. Are implanted in the work. This information is named "rights management information" ;in the WCT.

Any sort of the evacuation or adjustment of any of the above information and additionally dissemination or communication to the public of duplicates of work with such expulsions or modifications will make ruin with the rights management.

Segment 52A of the Copyright Act accommodates certain information to be shown on sound chronicle and cinematographic film. The information, while certainly part of rights management information, isn't satisfactory for the organization of the rights in the digital environment and further it is restricted to two classes of works as it were. Likewise for this situation, the onus is on the copyright proprietor. Arrangement should be made either hello there the Copyright Act or some other Act making it an offense to evacuate or modify any rights management information utilized as a part of a copyrighted work (Jacqueline, 1994), (Patterson, 2000).

CONCLUSION

The Copyright has navigated an awesome adventure since the coming of printing press and from the death of the principal statue i.e. statute of Anne till the Copyright Act, 1957. This long adventure has seen numerous developments, for example, the

progression of technology, which has facilitated the dispersal of the work as well as has made the sharing simple and without limits. The Indian Copyright Act has been corrected on numerous occasions to acquire it congruity with the evolving times, technology and the requirements of the general public. A couple of years back the knowledge about copyright was less yet with the adjustment in times the general public is getting to be mindful of the need of insurance of the innovative works in any frame, arrangement and media.

By and by with the enlistment of Copyright amendment Act, 2012 we have put a foot forward towards wellbeing of copyright work yet this isn't sufficient. We must be prepared with strict legal ramifications which terrified transgressors from debilitating the great work. Just arrangement and going of laws won't help at everything except its strict execution is must be required. We don't need to be hoodlums by any methods. We can change this circumstance and this should be possible by evolving yourself.

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