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An Overview of the Interplay between Intellectual Property and Media Laws

MEDHAVI KISHOR PETHKAR¹ AND EESHA ABHIJIT PARANDE²

ABSTRACT

The diverse framework of Intellectual property rights (IPR) serves to protect the products of human ingenuity and innovation. These rights serve as the cornerstone for safeguarding concepts, inventions, and artistic expressions, giving innovators, authors, and creators the crucial legal tools, they need to retain ownership of their works. The field of intellectual property has a vast ambit including trademarks, patents, copyrights, geographical indications and industrial designs. Not only does Intellectual property have a broad ambit, but it also overlaps on other laws viz. media law, technology law and contract law. The interplay between Intellectual property and media laws is significant in with the rapid advancements in media creation, distribution and consumption. The authors aim at shedding light on the interplay of Intellectual property and media laws.

Keywords: Media laws, Intellectual property, copyrights, Broadcasting rights.

I. INTRODUCTION

The interdependence of media law and Intellectual property has become more significant in an era marked by rapid technological advancements and the globalization of information. The basis for promoting innovation and creativity is Intellectual property rights, which include copyright, trademarks, patents, and other types of protection. In addition, media law, which focuses on controlling speech, communication, and information sharing, is crucial in determining how modern media are shaped.

(A) Intellectual Property Rights

Intellectual Property law protects the creative minds of creators/owners of inventions, literary, artistic works, design, writing, music, and other works. By granting artists and innovators the exclusive right to their creations, Intellectual property protection plays a critical role in promoting creativity and innovation. Key components of Intellectual property include copyright, trademark, patents, and trade secrets.

¹ Author is a student at Marathwada Mitra Mandal's Shankarrao Chavan Law College, Pune, India.

² Author is a student at Marathwada Mitra Mandal's Shankarrao Chavan Law College, Pune, India.

(B) Media Law

Media Law varies from country to country as per religion, culture and polity of different societies. It is concerned with legal principles and rules that control the creation, distribution and consumption of media content. It covers topics including defamation, freedom of speech, privacy and regulation of various media platforms. Achieving a balance between safeguarding individual rights and facilitating the flow of information in the public interest is the goal of media law.

Intellectual property rights, including copyright, trademarks, and patents, are protected by media law. By granting media companies and content creators the exclusive rights to their creations, these legal safeguards protect the fruits of creative endeavours. Media law protects these rights in a world where digital innovation and content creation are prevalent, encouraging an atmosphere that allows creativity to thrive while maintaining equitable access and competition. However, as the existing laws were not designed with media development in mind, courts are facing issues as a result of rapid improvements in media.

(C) Inter-relation between Intellectual Property Law and Media law

Intellectual Property Laws and Media Laws are both related to each other as they are concerned with the protection, exploitation and creation of intellectual and creative works.

1. In past few years, there have been a tremendous change in the digital media. Today, in 21st century there is a huge transformation in media creation, distribution and consumption. It is of paramount importance that the creators of digital media are protected under the Intellectual Property Laws, ensuring that there is a fair play.
2. Artificial Intelligence, virtual reality, and augmented reality are examples of emerging technologies that present both (Intellectual Property and Media) new potential and challenges. To control and safeguard content produced with new technologies, media and intellectual property laws must change.
3. The emergence of platforms for User-generated material poses concerns around copyright, fair use and ownership. To solve these problems and safeguard the rights of users and content creators, explicit legal standards are required.

A number of international treaties, covenants, and agreements that govern the protection of Intellectual Property around the world include India as a member. With the help of well-known laws like the Trademarks Act ,1999 and the Copyright Act of 1957, the Indian media and broadcasting sector safeguards its priceless Intellectual Property Rights.

II. FUNDAMENTAL CONCEPTS IN INTELLECTUAL PROPERTY AND ITS APPLICATION IN MEDIA

1. **Copyright-** It protects original works of authorship, including artistic, musical and literary creations.

Application to media- Copyright applies to a wide range of content in media-related industries, including movies, music, books, images, and software. It gives authors the exclusive right to copy, distribute, perform, and exhibit their works.

2. **Trademark-** It protects names, symbols and slogans which identify and distinguish services or goods in the marketplace.

Application to media- Trademarks play a major role in the media industries due to its ability to identify brands. Network names, program titles, and logos are frequently filed as trademarks to differentiate one media outlet apart from another.

3. **Patent-** It grants exclusive rights to inventors for their inventions, prohibiting others to make, sell or use the patented invention for a limited period.

Application to media- Patents in the media may cover technological advancements like streaming techniques, broadcasting technologies, or particular hardware or software solutions utilized by the industry sector.

4. **Trade secret-** Trade secrets safeguard confidential business information that gives an advantage to other competitors. Trade secrets, in contrast to patents, are perpetual as long as the information is kept confidential.

Application to media- Media businesses may possess trade secrets pertaining to proprietary production techniques, algorithms, or business strategies, giving them a competitive advantage in the market. Currently there is no law in India which governs trade secrets.

III. BROADCASTING RIGHTS IN INTELLECTUAL PROPERTY AND MEDIA RIGHTS-KEY COMPONENTS

1. Novel content

Novelty in broadcasting rights refers to the originality and uniqueness of the content being broadcasted. Securing broadcasting rights for novel and exclusive material is important for broadcasters in the media and entertainment industry. Because of this exclusivity, the content that is broadcasted is ensured to be distinctive, new, and not easily accessible on other platforms. Broadcasting rights that are novel not only draw in a larger audience but also significantly

enhance the broadcaster's offers. The novelty element elevates the whole viewing experience and sets a broadcaster apart from rivals, whether it be for sporting events, TV series, or cultural acts.

2. Rights of the owner

In the domain of broadcasting rights and media laws, proprietors own a crucial number of rights that enable them to manage and profit from their Intellectual property. These include the sole right to broadcast, reproduce, distribute, and grant licenses for the work. The ability to choose where, when, and how to distribute their broadcasts gives owners a competitive advantage in the market. Owners can negotiate profitable licensing agreements, create collaborations, and protect their content from unauthorized use. In addition to safeguarding their creative investments, broadcasting owners' rights are crucial in determining the structure of the media and entertainment sector.

3. Remedies for Infringement

Remedies for infringement in broadcasting rights serve as a legal recourse to safeguard the exclusive rights of content creators and broadcasters. In the event that broadcasted content is used or reproduced without authorization, the broadcasting rights holder may seek legal action. Legal proceedings might be taken to obtain monetary damages for the losses sustained, choose for statutory damages as specified by copyright rules, or request an injunction to stop further infringement. To remedy the infringement, owners may occasionally turn to suing parties or starting alternative dispute resolution procedures. In the ever-changing media and entertainment scenario, these remedies serve as a deterrent, discouraging the unauthorized use of broadcasting rights and giving owners a way to safeguard their financial and creative interests.

4. Broadcasting, Moral and Performance Rights

Broadcasting, moral, and performance rights constitute integral aspects of Intellectual Property law, each serving a distinct purpose. The rights to broadcast, morality, and performance are essential components of Intellectual Property law, each with a specific function. In order to safeguard their investment in the distribution, broadcasters are granted exclusive rights to broadcast and distribute content. On the other hand, moral rights protect the reputation and authorship attribution of creators and relate to their non-economic interests. These rights give authors the right to manage modifications made to their works. The main goal of performance rights is to safeguard performers' rights by giving them authority over how and where their performances are used. By balancing the interests of broadcasters, creators, and performers, these rights collectively establish a complete legal framework that promotes a dynamic and

equitable media and entertainment industry.

5. Licensing and distribution Agreements

Licensing and distribution agreements play a pivotal role in the intricate landscape of broadcasting and media laws. In the complex world of media and broadcasting rules, licensing and distribution agreements are essential. The legal framework controlling the use, reproduction, and dissemination of content is provided by these agreements. In order to obtain the rights to broadcast particular content, broadcasting organizations frequently enter into licensing agreements, which guarantee a legal and beneficial partnership between content creators and distributors. Contrarily, distribution agreements control how content is made available to different audiences, platforms, and geographical areas. These legal documents set forth the guidelines for distributing and earning profit off of content, including its terms, conditions, and limitations. Creating strong licensing and distribution contracts is essential to preserving goodwill between broadcast and media sector participants, encouraging innovation, safeguarding intellectual property, and enabling the smooth flow of content.

6. Emerging Technologies

Modifying legal frameworks to handle issues brought up by emerging technologies, like virtual reality, streaming services, and artificial intelligence. The legal landscape around media and broadcasting is evolving due to emerging technology, which brings with it both opportunities and concerns. Content generation, distribution, and consumption are undergoing a revolutionary shift because to innovations like blockchain, virtual reality, and artificial intelligence. These developments raise new legal questions, such as how to safeguard intellectual property in AI-generated content and how to regulate virtual reality experiences. Because these technologies are always evolving, legislators must act quickly to address new legal issues. Concerns about data security and privacy are also prominent, particularly in light of the growing usage of tailored content delivery. Legal frameworks must change as the media and broadcasting sectors continue to take advantage of new technology in order to combine promoting innovation with defending the rights and interests of content providers, broadcasters, and consumers.

7. Balancing Freedom of Expression

The goal of media regulations is frequently to strike a balance between freedom of expression and intellectual property rights. Media regulations recognize spreading of knowledge and ideas whereas Intellectual Property Rights give content providers exclusive control over their work. In order to avoid infringing Intellectual property rights, provisions like “fair use” and “fair dealing” which permit the limited use of copyrighted content for activities like news reporting,

criticism, or teaching are used.

8. Defamation and Privacy Laws

Though not directly connected to intellectual property rights, privacy and defamation are included under media laws as well. People are protected by these laws from defamatory or harmful remarks made by the media.

Occasionally there is a connection between defamation and intellectual property rights, such as when a media outlet publishes incorrect information about a public figure or celebrity.

9. Media Ethics and Standards

Media law often includes ethical guidelines and standards for journalists and media organizations. Understanding IPR helps media professionals navigate the legal and ethical aspects of using third-party content and intellectual property while reporting and creating content.

10. Consumer Rights

The interaction between IPR and media law impacts consumers as well. It influences issues such as the availability of content, pricing models, and digital rights management. Balancing the interests of creators and consumers is essential to ensure access to content while respecting copyright protections.

It takes a thorough understanding of media law and Intellectual Property law to address these important concerns, as well as a willingness to modify legal frameworks to take into account how the media landscape is changing. In order to best serve society, legal solutions should strike a balance between the rights of content owners, consumer interests, and the societal benefits of an accessible and vibrant media environment.

IV. ROLE OF COPYRIGHT LAW

As per the Section 14 of the Copyright Act, 1957, the term ‘copyright’ is described and reiterated as “the exclusive right which the owner has over his material or work. It also includes the authority to do or authorize any person the doing of particular task in a work.”³ Copyright protects literary, dramatic, music and artistic works for example films, songs, poetry and publications.

Copyright is the legal framework that enables the media and entertainment sectors to safeguard creative works that are solely owned by their owners. For the benefit of copyright law, the work

³ Section 14- Copyright Act, 1957

needs to be represented in a material form. For the replica to be prosecuted in court for infringement, it must be substantial. Finally, if the themes of the two works were the same but presented differently, there would be no infringement or copyright violation.

When copyrighted work is unavailable, the person or creator who invested time and effort in creating the content suffers a significant loss. Due to the high frequency of copyright infringement, copyright registration is now required. Prior rulings in cases of infringement demonstrate that registration is necessary to carry out both civil and criminal penalties.

V. ROLE OF TRADEMARK LAW

Trademarks are signs, symbols, or expressions that are used to distinguish the products or services of one person from those of another. The Trademark Act of 1999 protects movie titles, song titles, album names, images, and well-known character names, subject to certain limitations. If the title is generic in nature, it is unlikely to be protected; instead, it must be unique and creative.

A lot of the entertainment industry depends on trademarks. Film studios use trademarks to establish their own identity and stand out from the competition. Phrases and titles ought to be original. If the titles are not unique, the general ones will not be covered by trademark protection. Single-title film trademarks will not be allowed. Television programs like F.R.I.E.N.D.S., Money Heist, and others, as well as movie franchises like Harry Potter and the Chronicles of Narnia, are all eligible for trademark protection.

VI. CELEBRITY AND PERSONALITY RIGHTS

Paramount importance is given to celebrity rights in an entertainment industry and various international treaties like Universal Declaration of Human Rights, have considered celebrity rights. Additionally, copyright and trademarks are crucial in protecting celebrity rights in India by serving as a barrier and guard.

Indian Legislature does not explicitly govern the celebrity and personality rights. *Puttaswamy v/s Union of India*, a historic judgment given by Supreme Court of India upheld the 'right to privacy' as fundamental right guaranteed under the Constitution of India.⁴ It considered the personality rights as an aspect of the right to privacy. It acknowledged that all the persons have a right "to exercise control over his/her own life and image as portrayed to the world and to control commercial use of his/her identity" and "to prevent others from using his image, name and other aspects of his/her personal life and identity for commercial purposes without his/her

⁴ WRIT PETITION (CIVIL) NO. 494 OF 2012

consent”.

It is within celebrities' rights to make money of their celebrity status. Celebrities frequently lend their voices to advertisements and join nonprofits; this is primarily done for financial gain, but there are innumerable instances in which their identities have been utilized without their consent, revealing privacy concerns and mistreatment they endure in exchange for monetary benefits.

VII. LANDMARK CASES VIS-À-VIS INTELLECTUAL PROPERTY AND MEDIA LAWS

Several landmark cases in India have significantly shaped the landscape of intellectual property and media laws-

1. Star India Pvt. Ltd. v. Leo Burnett India Pvt. Ltd. (2013)⁵

In this case, the Delhi High Court addressed issues related to copyright infringement in the context of advertising. The court ruled in favour of Star India, holding that the defendant's advertisement campaign was substantially similar to Star India's promotional campaign for a television show.

2. The Delhi High Court's (2018) Guidelines for Dynamic Injunctions

Although not a specific case, the guidelines about dynamic injunctions issued by the Delhi High Court are significant. With the help of these rules, copyright holders can more successfully prevent online piracy by obtaining injunctions against rogue websites that often change their domain names to thwart legal action.

3. Sholay Media and Entertainment Pvt. Ltd. v. Shekhar Kapoor (2015)⁶

In this case, there was a copyright dispute pertaining to the movie "Sholay." With a focus on upholding the moral rights of artists, the court decided in favour of Sholay Media, holding that defendant Shekhar Kapoor was not permitted to make a sequel or remake without the plaintiff's permission.

4. ICC Development (International) Ltd. v. Arvee Enterprises (2018)⁷

This case dealt with the protection of sports broadcast rights. The court affirmed the broadcaster's exclusive rights to live-streaming sports events and issued an injunction against unauthorized streaming, reinforcing the importance of protecting broadcasting rights in the sports industry.

⁵ NOTICE OF MOTION NO.903 OF 2002 IN SUIT NO.1008 OF 2002

⁶ IA Nos. 9709/2008 & 15468/2008 in CS(OS) No. 1691/2008

⁷ 2003 (26) PTC 245

5. Myspace Inc. v. Super Cassettes Industries Ltd. (2016)⁸

This case addressed issues of intermediary liability and copyright infringement concerning user-generated content. Although the Delhi High Court determined that MySpace was not liable for copyright infringement, it did specify that intermediaries were required to have notice and takedown policies in place for content that violated copyright.

VIII. CONCLUSION

In the current era of innovation and information, the interaction between media regulations and Intellectual property is extremely important. In the media sector, Intellectual property laws, which include copyrights, trademarks, patents, and more are essential for defending the rights of artists and inventors. These legal provisions provide content creators, artists, and broadcasters the exclusive rights to their works by providing a framework for the protection of original works. Intellectual property rights support the equitable use, distribution, and monetization of content within the framework of media regulations, hence promoting a dynamic and competitive media environment. The interplay between these legal domains is crucial for promoting innovation, encouraging investment in creative industries, and striking a balance between the rights of content creators and the public interest in accessing information and entertainment. As technology continues to reshape the media landscape, the harmonious integration of Intellectual property and media laws remains essential for fostering a dynamic and sustainable creative ecosystem.

⁸ (2017) 236 DLT 478 (DB)