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Copyright in the Digital Age: Navigating Challenges and Opportunities in Digitized World

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ABSTRACT

The emergence of 'Internet' led to content being transferred to any part of the world at virtually no cost. The replication and piracy of such idea and expression led to large scale violation of copyright. It is well recognized that the copyright law in legitimate archives is the legacy of creativity. It has undergone methodical adjustments while taking into account the type, level, and application of innovation needed to maintain people's interest in imagination, progress, and creativity. From one angle, its main goal is to provide producers and creators of various copyright works with motivating factors while also making such works accessible to the broader public. The necessity to give the creator credit and the attractiveness of making such works open require the copyright law to change. The Indian Copyright Law now includes Technological Protection Measures thanks to the Copyright (Amendment) Act of 2012. The critical question that this study asks from a legal and economics perspective is whether India has the need to adopt such a mechanism, even though a comparison of the new TPM provisions with similar legislation in the US and the EU shows a relatively better approach that reduces the negative effects posed by DRM provisions. In this paper, it is further claimed that the new TPM rules are flawed because they have the unintended consequence of creating an overly restrictive Para-copyright regime and limiting creativity and innovation, which are the fundamental components of copyright law. Technology's advent has brought about technical security measures. Owners of copyrights employ these procedures to safeguard and control usage of their protected works. The copyright law, which establishes and defends the rights of copyright owners, also makes it illegal to go beyond the technical safeguards put in place by those owners. This dissertation includes in-depth study on the clause that safeguards copyright owners' use of technical protective measures. The WIPO Performers and Phonograms Treaty and the WIPO Copyright Treaty, which served as the cornerstones for the existing provisions in United States, European Union, and Indian copyright law, have both been examined in this paper.

Keywords: *Copyright, Digitization, Berne Convention, TRIPS agreement, WIPO Treaties, Technological Circumvention, Technological Protection Measures.*

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I. INTRODUCTION

In the age of rapid technological advancement, digitization has transformed the way information is created, disseminated, and consumed. The digital revolution has had a significant impact on many facets of our life, including how we access information and how we share and safeguard creative creations. Copyright law is one of the many fields that have been profoundly touched by digitization. The preservation of author's rights while fostering the spread of information and culture has long been made possible by copyright, the legal framework for the protection of intellectual property. Traditional copyright legislation was developed to address issues with the production, distribution, and sale of materials. Therefore, it was intended solely to preserve material possessions. In this paradigm, it is simpler to spot an original that has been copied. It is quite difficult to determine where the duplicate has been kept if it is discovered. The internet has recently supplanted other communication channels as the primary means of information dissemination. As a result of how simple it is to upload and receive information, it has definitely turned into a double-edged sword. Since the advent of digitization, the internet has grown to be an essential outlet for the sale of many different types of works, posing a serious danger to copyright protection in the process. This paper focuses on how online piracy in particular and digitization in general pose serious challenges to the implementation of copyright laws. Copyright and content owners want a mixture of digital copyright, technical measures and licenses to protect their content. Therefore, there is a need to develop a uniform DRM technology and not multiple technologies which will result in chaos and confusion for users.

The DRM technologies present on the internet do a fairer job at protecting copyright content on the internet than the Copyright Act. The policy makers and experts in the field of technology ought to work in tandem to bridge the gap between the existing law and the growing technologies, to reduce the copyright infringement disputes. The quick growth of the Internet has allowed access to information easily, but at the same time it has paved way for some serious problems which the existing laws are inadequate to deal with.

(A) Research Problem

The Indian Copyright Act still remains insufficient to address issues brought on by the internet, notwithstanding recent modifications. When content is readily shared online and freely downloaded across several websites, the existing law appears to be ineffective in defending the Copyrights of artists. The most common crime, and one for which there is currently no promising answer, is piracy. The fundamental issue concerns Copyright protection in the age of

rapid digitization. It grew in to a massive challenge party due to the fact that the Copyright law is modelled on the traditional view of copyrighting material only existing in a physical form.

(B) Research Objective

The central objective of the study is to understand the Indian Copyright Law and how it operates in the current environment in order to determine if it is sufficient to address problems related to digitization and the internet. The main aim of this study is to evaluate the extent to which it has been successful in addressing the issues brought on by digitization and the internet while looking at international viewpoints regulations, and revisions that take these modern issues into account when controlling copyrights.

(C) Research Questions

1. How does the Indian Copyright Act address the challenges posed by rapid technological developments and the internet, and what is its efficacy in safeguarding intellectual property in the digital age?
2. Whether technological protection measures establish a parallel system that undermines the fundamental goals of copyright protection?
3. What are the sustainable strategies and measures that can effectively combat online piracy of copyrighted material while aligning with the principles of Trade Related Intellectual Property Rights (TRIPS)?

II. HISTORICAL BACKGROUND AND EVOLUTION

Copyright is a set of legal rights granted to authors of literary, theatrical, musical, and creative works, as well as makers of cinematograph films and sound recordings.² Copyright law grants rights in situations when the work is reproduced, communicated to the public, or adapted. The term of protection provided by copyright law varies according on the nature of the protected work. The purpose of copyright is to give writers with incentives such as recognition and financial benefits for their efforts. The primary goal of the copyright system is to ensure that writers' work may be distributed without fear of piracy, therefore accounting for creativity and innovation that can help better the present copyright world. The purpose of copyrighted material broadcast in the information sphere is to encourage fair use of protected work and to enhance access to protected content that may be enjoyed by everyone on the planet.³ The conflict between information protection and dissemination is at the heart of piracy and unlawful use of

² Dr. V K AHUJA Law Relating to Intellectual Property Rights, Lexis Nexis Butterworth's (2007).

³ Jaman H Shah, India and the International Copyright Conventions, (8) (13) Economic And Political Weekly 645 – 648 (1973)

intellectual works, imposing restrictive processes that limit the possibility of fair use and provide tough options to the existing copyright system.

III. THE AGE OF INTERNET AND DIGITIZATION

The internet era has brought forth significant developments in the field of copyright protection. The works that are protected under the Copyright Act of 1957, where the right holders have the right to impose technical safeguards against unauthorized access to any copyrighted work. Because of the internet's quick growth and advancement, it has become a platform for exchanging information, ideas, and expression at almost no cost and so circumvention has become simple. The web is a source of a big number of sites that supply data and information used by a party that requires that information and that is expanding by the second. The capacity to provide data and information regarding each matter and the capacity to get access to such data by the party or the user, consolidated with the progress in technological innovation and information causing "digitization" movement all over the world.

(A) Understanding Digitization

With the increased usage of the Internet, it has become relatively simple to obtain any type of information. To stay up with one's desire for knowledge, the digitization process has become relevant as a tool to that aim. Many institutions have made specific efforts to digitize their content in order to create repositories. The process of digitalization entails converting any creative work to a format that a computer recognizes, i.e. a binary language. This procedure also includes storing such changed work in an electronic format, such as a hard drive or a CD. The Indian Copyright Act recognizes this activity to be reproduction. Hence this act of digitization incorporates reproduction. The right of reproduction is the sole right of the Copyright owner and thus needs to be protected and regulated by law. It is absolutely necessary to obtain permission from the Copyright owner or from the proprietor prior to converting the creative work in to a digital format.⁴ There are several changes that occur when the original creative work is converted to a digital version. There is some debate over whether this innovative product requires its own copyright. Because the new product has been expressed differently from the original planned effort, Document digitalization has also resulted in the preservation of precious ancient documents from further harm. These antique documents held at the library are frequently neglected as property. The digitalization of the same has overcome the problem of lifespan. The security of information in digital media is a challenging task.

⁴ T.C James, digital technology and libraries: a copyright law approach, (52) Annals of library and information studies 5-9 (2005).

It is far easier to produce a copy of a work in digital format than it is to make a copy of a work in physical printed form. With the stroke of a mouse, you may copy pages and pages of a paper or a collection of tunes in seconds. The enormous development made in digital technology has enabled unprecedented rapid distribution and exchange of knowledge. It is now relatively simple to share documents, music, and other artistic works to a huge audience of internet and electronic media users'.

(B) Understanding Piracy

Piracy is defined as "the unapproved duplication or copying of work that has been copyrighted for commercial gain by sale and subsequent sales."⁵ Streaming, downloading, and distributing music and films are some of the most popular illicit acts seen online today. The use of the Internet to download copyrighted information without paying for it is sometimes known as 'The Underground Internet'. It has grown in popularity largely because it is a low-cost and incredibly handy solution. The substance desired is simply accessed with the push of a button. Because of the modern technology in place, most of the data uploaded online can be retrieved without spending too much time searching for it. Piracy under TRIPS' Article 51 is the reproduction and distribution of the copyrighted material, or communicating this to the general public and making available of the said material online without proper authorization or permission from the rightful copyright owners. According to the law, only copyright owners have the right to make copies or this right can be given to a third party by way of license and permission. Most of the files that are shared today using peer-to-peer technology are copyrighted material that should not be exchanged in the first place.

IV. COPYRIGHT LAWS IN INDIA

Like many other laws enforced and later on adopted by independent India, even the Indian copyright act finds its roots in Britain. The East India Company was in power when the first Copyright Law was enacted. The Indian Copyright Act of 1847 was the name given to the finalized statute. The use of English Copyright Law enacted in Britain in 1911, and it was extended to all of its colonies, including India. The Indian Copyright Act was adopted in 1914. Some of the older Copyright Act of 1911's provisions was changed by this act to make them more appropriate for India's circumstances. India is a signatory's to the 1883 Berne Convention for the protection of literary and artistic works the 1952 Convention on Universal Copyright and the agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) of 1994. In fulfilment of India's obligations under the Berne Convention, Copyright registered in one

⁵ Zakir Thomas, Overview Of Changes To Indian Copyright Law, 17 J Of Intellectual Property Rights (2012)

country is bound to be protected in India too, and the same applies vice versa. The Copyright Law in India is widely based on Common Law and Indian Courts have systematically referred to the IP cases resolved by the US and UK Courts.

In furtherance to the 2012 amendments, there were certain provisions envisaged to make a huge impact on the copyright problems faced by the Film and music industries, it was done not just by protecting the rights of royalty of certain creators but by ensuring fairness in music licensing via the introduction of a statutory license for broadcasting. The Indian Copyright Act has undergone many revisions over the past 20 years to address new offenses. Compulsory licensing, which benefited users, and the extension of copyright terms, which hugely benefited authors and publishing companies, are two noteworthy modifications that were made and adopted.⁶ These changes have also been made in response to technological improvements, if it has been stated under the "safe harbour principle" that objectionable content will be removed by Internet Service Providers and other major corporations when it is shown or made available, this protection will only be effective if this knowledge is kept a secret.

V. ANALYSIS OF THE COPYRIGHT LAW OF INDIA

Digital management is the management of copyright on the internet. DRM is a system that tracks and protects copyright material on the Internet. It contains a Secure Distribution system that secures material on the internet using encryption and digital watermarking.⁷ Secure Distribution is a method of delivering digital material that is usually encrypted and has incorporated usage limits. "This technology prevents exploitation by pre-tagging content with license rules before it is encrypted." With metadata, the content provider has complete control over what content is accessible and under what conditions it is accessed." Only people with decryption technology will be able to view such files. DRM systems employ a variety of methods to regulate access to and usage of digital material. Encryption technologies are especially important. Owners can define access and copying/usage rules for their works using DRM. Price, frequency and duration of cases, and whether the work may be printed, stored, or transferred are all addressed by access regulations.

DRM is made up of two parts: identifying intellectual property and enforcing use and access limitations! Identification comprises of credit to the owner and the use of a digital watermark on the content. Digital watermarking is a technique which allows information to be embedded

⁶ Arul George Scaria, Does India Need Digital Rights Management Provisions or Better Digital Rights Business Management Strategies? 17 *J of Intellectual Property Rights* (2012)

⁷ Lee A Bygrave, Digital Rights Management and Privacy – Legal Aspects in the European Union, *Digital Rights Management and Privacy*.

into the digital content. Unlike encryption, digital watermarking allows the content to be viewed in its original form, whereas encryption does not allow the work to be examined in its original manner.⁸ While DRM systems provide passive protection methods, they also provide various means for responding to security breaches. To function on a broad scale, DRM technology must be standardised and incorporated into the consumer's device. The one element of DRM systems that must be guaranteed and consistent is that no one component must be able to send the information in an unencrypted form in order to ensure the DRM system's security. In its 217th report on the Copyright (Amendment) Bill,⁹ 2010, the Department-Related Parliamentary Standing Committee on Human Resource Development explained why the modifications were essential. The report stated that the amendment intended to clarify and remove operational difficulties and to address issues that emerged in the context of digital technology and the internet.

VI. ISP LIABILITY

The Indian Copyright Act exclusively addresses copyright infringement, not ISP responsibility. Infringement is defined in Section 51 of the Act as the use of a copyrighted work without the permission/license of the owner of the copyright or the Registrar of Copyright. The exclusive rights provided to copyright owners are governed by Section 14 of the Act. Making copies of works and distributing such works to the public infringes on the exclusive rights of copyright holders. The fixation of obligation to the ISP under this clause has long been a source of contention. Provisions were included to the Information Technology Act of 2000 to address this risk. Section 79 of the Act provides for specific exclusions from responsibility for network providers.¹⁰ If the information or data on the website has been made public by a third party, regardless of his active efforts to delete such content or without his knowledge, then the section enables such conduct.

However, the problem with the Information Technology Act is that it deals mainly with e-commerce and was never intended for copyright or its infringement. Therefore, if the case of 'Napster' was to be decided in India, the service providers would never have been held guilty since they are not:

1. Reproducing or storing the copyrighted work.

⁸ R. Anthony Reese, *The Law And Technology Of Digital Rights Management: Will Merging Access Controls and Rights Controls Undermine the Structure of Anti-Circumvention Law?* 18 *Berkeley Tech. LJ.* 619, 2003.

⁹ Parliament Report

¹⁰ 108 Raman Mittal, *P2P Networks: Online Piracy of Music, Films and Computer Software*, JIPR.

2. Selling such works.
3. Making copies of the work for the public.
4. Performing any such work to the public.
5. Making translation or adaptation of such works.

The Indian Copyright Act makes no mention of indirect authorization or acknowledgement of infringement. Despite the fact that the law is silent on the subject, Indian courts have taken an active role in holding Internet Service Providers accountable. The Bombay High Court ruled in *Garware Plastics and Polyester Ltd. v. Telelink & Ors*¹¹ that screening movies on cable networks constitutes broadcasting to a segment of the public. The Supreme Court agreed with this judgement, ruling that such broadcast directly harmed the author's revenue and infringed his rights. The case, most notably, concluded that helping in infringement constituted copyright infringement. However, this decision cannot always be applied to matters involving online dispute since online Service Providers do not broadcast any work on their own; they are only venues for locating works on the Internet.

The 2012 Amendment to the Copyright Act has granted specific safe harbor protections for ISPs in order to ensure that digital developments are used and are not overly restricted.¹² Sections 52(b) and 52(c) of the Amending Act exempt internet service providers from liability for copyright infringement if they store temporary or incidental copies for the sole purpose of providing access, if such access is not explicitly prohibited by the copyright holder, and there are no reasonable grounds to believe such a copy is infringing. Similar to the terms of US law, ISPs are required to remove content if the copyright owner submits a formal complaint. These clauses do not impose any positive requirements on the ISP to actively limit infringement

VII. CURRENT LEGAL POSITION

Under the Indian Copyright Law¹³, works that can be protected are:

- Artistic work including a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving, a photograph, a work of architecture or artistic craftsmanship, dramatic work,
- Literary work (including computer programs, tables, compilations and computer databases),

¹¹ AIR 1989 Bom 331

¹² Sharma Vakul, *Information Technology Law and Practice*, 2 Universal Law Publishing Co. Pt. Ltd., 2007

¹³ Indian Copyright (Amendment) Act, 2012, No.27, Acts of Parliament, 2012 (India).

- Musical work (including music as well as graphical notation)
- Sound recording, and
- Cinematograph film and

Each of the work is given protection of lifetime of the author + sixty s from the beginning of the calendar year, of the next following year when the author dies.

In the age of digitalization and the Internet, the concept of copyrighted material may be explored in two ways. The first is the manufacturing aspect. This section covers the artists who are creating their work.¹⁴ The second is the audience and consumers of the same copyrighted work. Creators have been able to make their work more public and accessible because to technological advancements. In this day and age, a single online page can generate a large number of views, making the author famous overnight. It has also made purchase and licensing of the material easier, which has benefitted the producers. However, there appears to be a disadvantage for customers.¹⁵ The exceptions to copyright infringement are listed in Section 525 of the Copyright Act. One of the exclusions under Section 52 is fair dealing (apart from computer programs) for private, individual use of any copyrighted work. Publishing in newspapers, journals, periodicals, documentaries, or a movie that depicts actual events is considered fair use of a literary work. However, the issue with it is that fair dealing is not specifically defined by the law. Therefore, accessing or downloading music, videos, or other media for personal use may be an exemption and not a violation of Section 63.

VIII. PROTECTION OF TECHNOLOGICAL MEASURES UNDER COPYRIGHT ACT

The Indian Copyright Act has been amended six times to meet national and international requirements. The main amendment which happened with respect technology was the amendment in the year of 1994. This amendment was made in response to the technological changes which emerged in the 1990s. These technical advancements concerned advances in broadcasting and telecasting technology, as well as the introduction of computer software. The following modification, in identical words, was made in 2012, with reference to the changes brought about by the Internet, and this amendment went on to address difficulties beyond the scope of the Act. Sections 65A and 65B are derived from Article 11 of the WIPO copyright treaty and Article 18 of the WIPO Performances and Phonograms Treaty.¹⁶ The aim behind

¹⁴ Jessica Littman, Digital Copyright: Protecting Intellectual Property

¹⁵ Priyambada Mishra & Angsuman Dutta, Striking A Balance Between Liability Of Internet Service Providers And Protection Of Copyright Over The Internet: A Need Of The Hour, 14 J. OF Intellectual Property Rights. (2009).

¹⁶ Zakir Thomas, Overview Of Changes To Indian Copyright Law, 17 J Of Intellectual Property Rights (2012)

these regulations is to prevent infringement on the internet. Similarly, the scope of reproduction rights has been expanded to cover electronic storage of material. The 2012 amendment added the new section- Section 65A. This section provides for protection of technological measures which the copyright owners have used to protect their rights in the copyrighted work.

(A) Exception

The fair use doctrine is the most powerful copyright infringement defence available. The fundamental premise of any intellectual property is the development of a balance between the creator's (individual's) interests and the interests of society. As a result, while creators' rights are recognized, they are also limited, and absolute rights are not granted. In certain cases, such as when material is utilized for private, academic, judicial, or legislative objectives, the copyright owner's explicit approval is not necessary." As a result, any private use is acceptable; however public exhibition or monetization requires the permission of the copyright holder. However, via the internet, once downloaded, an individual may effectively transmit the work to the entire globe, and the same can be downloaded by all, with the owner unaware of the copies generated. While reading the requirements of Section 65A and the exclusions, three key inferences about the legislative intent may be derived. First, the limitation of anti-circumvention application demonstrates the high requirements that are maintained for invoking activities. Second, if the legislation does not ban specific conduct, circumvention is not illegal.

As a result, any private use is acceptable. However public exhibition or monetization requires the permission of the copyright holder. However, via the internet, once downloaded, an individual may effectively transmit the work to the entire globe, and the same can be downloaded by all, with the owner unaware of the copies generated. While reading the requirements of Section 65A and the exclusions, three key inferences about the legislative intent may be derived. First, the limitation of anti-circumvention application demonstrates the high requirements that are maintained for invoking activities. Second, if the legislation does not ban specific conduct, circumvention is not illegal. There are no express exceptions given for provisions relating to rights information management. Therefore, protection of rights information management is far more rigid than technological protection measures. The section allows for civil remedies and hence there is a stricter approach taken when compared to technological protection measures.

(A) Digital Rights Management Under DMCA

To understand the drawbacks of the Indian Technological Protection measures which was adopted in the 2012 Amendment Act, it is important to compare the provisions with other

jurisdiction that have also implemented the right management provisions.

(B) USA: Digital Millennium Copyright Act

The WIPO internet treaty paved the way for the implementation of digital right management in the DMCA (Digital Millennium Copyright Act) which was enacted 1998 by the Congress. The DMCA was a step further from the Audio Home Recording Act, 1992 which included the digital audio recording devices and media, p prevent copying and unauthorised of the copyrighted work and regulate technology directly. ¹⁷The Act consists of circumvention of copyright protection system under 17 US Code § 1201 which is differentiated between Access control and Right control with exceptions that are made by the Library of Congress. The Act prohibits distribution tools that can be used for circumventing copyright. The main features of DMCA that differentiate from other implemented Digital right management provisions are it classifies the protection measures between access copyrighted work and use of copyrighted work (usage control). It also prevents a third party in altering or tampering with any right management information and handling such works wherein there is knowledge that the information has been tampered with. The only purpose for which the circumvention of copyrighted work is relaxed is observed for academic use, research purpose, technological or scientific use or for any Government use or investigation. However, this ambit of exemption is rather narrow and does not allow use or copying without the authorised access. The DMCA makes a third party liable for violations of anti-circumvent provisions under both civil and criminal. The civil remedies attributed to the right holder allow for them to receive damages of the violations of the copyrighted work and stringent mechanisms.

(C) The Digital Rights Management And Digital Millennium Copyright Act

The fundamental contrast between the DMCA and other DRMs is that it establishes separate requirement and distinctions between measures that regulate access to work and measures that govern the use of work. In the DMCA, exclusions are more restrictive, making circumvention more constrained because it specifies under what conditions it can be used. ¹⁸The DMCA includes both civil and criminal penalties. The DMCA allows for injunctions and restitution for real damages caused by such infringement. The issue with DRM enforcement in India is that the bulk of piracy in India occurs through offline channels such as street vendors and video

¹⁷ Markus Fallen bock, On the Technical Protection of Copyright: The Digital Millennium Copyright Act, the European Community Copyright Directive and their Anti-Circumvention Provisions, 7 Int'l J. Comm. L. & Pol'y 4, 2002/2003.

¹⁸ R. Anthony Reese, THE LAW AND TECHNOLOGY OF DIGITAL RIGHTS MANAGEMENT: Will Merging Access Controls and Rights Controls Undermine the Structure of Anti-Circumvention Law? 18 Berkeley, 619, 2003.

stores that offer stolen material. The Indian law also lacks effective enforcement since no economic study has been undertaken to determine the viability of such passage.

(D) In Comparison with the Positions in India

When comparing the new DRM rules in India to the DR regulations in the US and the EU, the new DRM arrangements in India are narrower than both the DMCA and the Information Society Directive, which may not be without purpose. DRM arrangements in the United States and the European Union have been in place for almost ten years now, and this has allowed various other nations an increasing learning opportunity to see how harsh and progressive DRM measures may be in a variety of real-world situations. The clause is equivocal as to the position of technical protection measures, whether they constitute effective TPM or not, and the question is left to the judge to decide what constitutes effective TPM and circumvention. Only when there is an infringement is culpability linked, and there is no liability associated to circumvention. The goal of a definition is to provide clarity where it is lacking in the Act approved by the Indian Legislature in 2012.

Furthermore, under Section 2(t) of the Copyright Act of 1957¹⁹, the term "plate" has not been defined, which has added to the confusion. The WCT and WPPT included Digital Rights Management, a method established under the Berne Convention to safeguard copyright holders' rights.²⁰ The Copyright Act of 1957 requires that the Act be "applied for the protection of any right conferred by the Act" and that any technical protective method used be covered by the Act. The revision resulted in a change in the Act of 1957 in 2012, with the concept of 'communication to the public' covered under Section 2 (ff) of the Act empowering the author with the right to transmit his work to the public while banning unauthorised use and piracy.

IX. DRAWBACKS OF THE TECHNOLOGICAL PROTECTION MEASURES UNDER THE INDIAN LAW

1. The two parts (65A and 65B) are short and devoid of specifics. This generates ambiguity and offers a lot of room for diverse interpretations, which may or may not be what the legislators intended.
2. . The term "technological measure" is not defined under the Act and also the term "effective" which precedes technological measure is also undefined making it very vague and susceptible to misuse.

¹⁹ Section 2(t) of the Copyright Act of 1957

²⁰ Dr. Jacqueline Lipton, *E-Commerce in the Digital Millennium: The Legal Ramifications of The DMCA And Business Method Patents*, 27 Rutgers Computer & Tech. L.J. 333, 2001.

3. The provisions of the Indian Copyright Act, like the DMCA, do not cover devices that aid in such circumvention. There are no specific provisions or liabilities for the manufacturing, importation, or sale to the general public of such devices that aid in the circumvention of technical safeguards."
4. The Act, as previously indicated, does not provide for civil liability for anti-circumvention. It solely allows for criminal penalties. As a result, the Act does not provide for monetary compensation that can be obtained through civil remedies."
5. The Act does not ban circumvention in and of itself; rather, it is prohibited if it is done with the purpose to cause copyright infringement. This effectively transfers the burden of proof on the copyright holder, allowing for a wide range of potential abuse.

X. SUGGESTIONS

While pre-censorship is necessary, it cannot be applied too rigidly since it would place an enormous strain on ISPS because they cannot monitor every usage at all times. The biggest disadvantage of any regulation is that it is country specific, and because the Internet is borderless, it makes it impossible for each nation to tackle its own concerns. Even though a work is protected by copyright in its native country, it remains open to threats from other countries, and with proxy servers available, users in the home nation can re-route and get access. As a result, there is a need to create a balance between simple violation and costly enforcement. Furthermore, foreign litigation is fraught with ambiguity. Certain difficulties may be shared by all litigation cases, but there is always ambiguity over enforcement, relevant legislation, the judgment, the copyright holder attempting to enforce his rights in another country, and so on. The issue with such litigation is not just the loss of prospective earnings, but also the additional cost incurred by the copyright holder in unneeded litigation. The problem also arises with enforcing the judgement against a foreign defendant. If a defendant had no assets in the forum country, then enforcement of the decree becomes difficult thereby leading to the need to pursue additional copyright litigation abroad. The legislation in India regarding ISP responsibility for copyright is quite ambiguous. This causes an unreasonable shift in accountability for ISPs for their users' improper use.

As a result of the insufficient legal framework, they become the scapegoat for litigation. The role of the ISP is critical to the expansion of the internet. ISPs support internet transactions and communications between parties.

(A) The scope of liability

The law in India is uncertain concerning the amount to which an ISP is accountable, in general and for copyright infringement, as well as the method by which an ISP's culpability is to be determined. ISP responsibility must be determined by the amount of the ISP's involvement in the infringement. The same may be done with the help of US legislation, i.e. DMCA, which, under Section 512 of the Act 168, categorizes service providers into four distinct groups based on how they operate. The reason such categorization is accommodating is that it limits the ISP's responsibility. It guarantees that ISPs do not escape culpability while also ensuring that they are not prosecuted for things that are not their fault. The law should also make an effort to guarantee that ISPs are not held accountable for the mere act of enabling content transmission. Furthermore, the notions of contributory and vicarious responsibility employed by US courts can be adopted by Indian courts to guarantee that ISPs do not openly violate the law.

(B) Ambiguous Terms

Another issue is that some Indian law experts consider that caching is the same as reproducing. If caching is deemed reproduction, then any reproduction that is not authorized is an infringement. This would be a problem because caching is typically and mostly done by ISPs, who cannot claim ignorance. The laws must be more stringent and leave no space for ambiguity. Important terminology such as "effective technological measures" must be specified so that they cannot be interpreted in ways that are not intended.

(C) Determining Liability

One of the main issues of the IT Act which absolves liability is that it does not prescribe who would then be liable. If the ISP can prove that he had no or that he exercised all due care, then the Act is silent as to whom the burden shifts onto Knowledge. The basis of intellectual property, let alone copyright, is protecting a creator's work. If copyright fails to protect, and at the same time provides no reward for such work, then the whole incentive to create newer work is diminished. When self-regulation, the idea behind the growth of the internet, fails then the law must step in and create adequate laws for the protection of such works.

(D) Suitable Remedies

The 2012 amendment, while a step toward attempting to mitigate the negative impacts of digitization, nonetheless falls short in many ways. Section 65A of the Act does not provide for monetary compensation or other civil remedies such as injunctions that prohibit additional damage and stop all infringing acts until the final decision of the Court is heard for such circumvention. As a result, the only possible recourse is criminal consequences, by which time

the harm would have been done.

XI. CONCLUSION

The introduction of internet in India was late compared to the rest of the world. To address the complexity of the digital age, the Indian Congress approved the Copyright (Amendment) Act, 2012. The 2012 Amendment defined regions of lawful circumvention and added Technological Protection Measures for copyright protection. The technical protection methods were designed to protect right holders from unauthorized use and piracy by giving users control over access to and usage of copyrighted content. The implementation of safeguards has tipped the scales in favour of right holders. The Indian Legislature has taken an approach that is logical while protecting the right holder's technological protection mechanism through the amendment. The Amendment's provisions did not include a "blanket prohibition" against circumvention or evasion of intellectual work protection. The Amendment, while discussing the safeguards put in place to protect the rights holders' interests against unauthorized use and piracy, fails to protect the privacy of users who provide sensitive personal information in order to gain access to and control over copyrighted content.

The fundamental demand of Indian Copyright Law at the moment is stronger enforcement of the rights given by classical copyright law. Since time immemorial, India has opposed the TRIPS Agreement's standards," and accepting such standards will have an impact on the nations that rely on our country's stance against the terms of the Agreement, so we need better enforcement methods rather than accepting TRIPS standards. The disadvantages of the internet and digitalization have been noted much so that the positives have been obscured. Even though digital technology has greatly facilitated copying, it has also presented authors with an immense and promising platform.

Digital technology has also given copyright holders more power and control than previous copyright legislation offered. By just clicking on his computer, the copyright owner can now see who is utilizing his work, when it is being used, and how it is being used. The advancements in digital technology have also enabled copyright owners and proprietors to detect infringement and assess the damage caused by it. In comparison to the rest of the globe, India was late in adopting the internet. To address the complexity of the digital age, the Indian Congress approved the Copyright (Amendment) Act, 2012. The 2012 Amendment defined regions of lawful circumvention and added Technological Protection Measures for copyright protection. The technical protection methods were designed to protect right holders from unauthorized use and piracy by giving users control over access to and usage of copyrighted content. The

implementation of safeguards has tipped the scales in favour of right holders.

Dear Ayushman,

Thank you for reaching out, and I appreciate your dedication to finding a suitable research topic. It's not a problem that you messaged late; I understand that inspiration can strike at any time.

Both of the topics you've suggested are interesting and have their merits. Let me offer some thoughts on each:

1. Analysis of Cases where Judgement was Delivered but not Justice:

This is a compelling and socially relevant topic. You could explore cases where there was a disconnect between the legal judgment and the perceived notion of justice. However, the topic does not seem to be narrowed enough, consider narrowing it down to a specific aspect or case study for a more focused analysis. Ensure that you define your scope clearly and provide a balanced analysis.

Considering your personal bias towards the first topic, it's crucial to choose a subject that genuinely resonates with you, as it will make the research process more engaging and fruitful. However, I would suggest you to keep yourself open to the other conclusions, and keep the bias separate in your analysis.

2. Analysis of the Digital Data Protection Act, 2023:

With the increasing importance of digital data in today's world, this topic is also timely and significant. You could delve into the implications, effectiveness, and potential challenges associated with the new Digital Data Protection Act. If you choose this topic, you might explore comparative analyses with similar legislation in other jurisdictions to provide a comprehensive view. However, as we have discussed in class, define a strict scope based on your limitations.

Feel free to explore these suggestions further and choose the one that aligns best with your

interests and research goals. I look forward to seeing the progress of your research.

Best regards,

[Your Full Name]

[Your Position]

[Your Contact Information]