INTERNATIONAL JOURNAL OF LAW
MANAGEMENT & HUMANITIES

[ISSN 2581-5369]

Volume 5 | Issue 6
2022

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Protection of Digital Contents under Indian Copyright Law in the Light of International Conventions

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**ABSTRACT**

The goal of this paper is to investigate the copyright issue surrounding digital content in India; various students and researchers have written about digital content, thus making it easier for everyone to learn and understand about the phenomena that surround the discovery, retrieval, and generation of new data in every subject. Individuals have been mass-publishing digital content in the form of eBooks, blog posts, and even Facebook and other social media platforms, unknowingly that they are creating digital content. People are abusing this facility by interfering with the rights of various authors, creators, or producers either because of ignorance or not knowing that what they are actually doing is an offense. The copyright law's purpose is to establish a legal framework for the protection of a writer's "artistic," "literary," or "musical work." Copyright is essential not only to the persons and companies who rely on it for their livelihood, but it also has an impact on the daily lives of members of the public and enterprises dependent on the copyright’s contents in one way or another. However, the realm of Intellectual Property Rights, as in regard to Copyright in India, has just been debated for so many years; and many changes have been made to both the laws and practices in the ambit to make the protection more effective. This article will help not only creators of digital material, such as librarians, administrators, writers, and publishers, understand copyright problems pertaining to their digital work, but it will shed light on the challenges facing digital copyright protection, how to improve the system and the significant achievement the laws has made in far as the protection of digital content is concerned.

**Keywords:** Digital content, Copyright, infringement, international copyright, Indian Copyright.

I. INTRODUCTION

Whenever somebody creates an object that is considered distinctive and requires significant mental effort to create, which makes it is an invention that needs to be protected against

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unauthorized imitation or reproduction, computerized programming, craftsmanship, realistic plans, novels, movies, unique structural outlines, site material, and so on are some of the types of inventions that have to be copyright so that they can be protected from other people that might want to use them for their personal benefits.

Previously, Copyright and its protection across countries were more difficult due to a lack of technological advancements that made material sharing relatively difficult and expensive. Thus, the protection of copyrighted material in one nation was tough. The dawn of the Website Age in the late 1990s made many improvements all over the globe by trying to come up with a more efficient way to safeguard innovations from illegal usage and patronage.

Development of The Statute of Anne is often associated with and regarded as the world's first copyright legislation that was adopted in 1790 in the United States of America. It established one of the first copyright laws that have ever since been borrowed and replicated in many states all over the world. This was due to the need of copyright law for the protection of innovations which among the first were the authors whose works were under threat of being replicated without their consent.

In India, an adjustment had to be made to the copyright law to balance the necessity to compensate the inventor with the desirability of making such works public. The universality in the Website as an exceptional and entirely novel center of comprehensive human reporting system has made the protection of copyrights almost impossible because the information shared in the web in one nation can easily be seen by a person thousands of miles away, copied and replicated without the owner’s knowledge, hence weakening the process of protection.

The advancement of technology has posed new challenges to current copyright laws, which were originally enacted to govern the administration of print media but have since expanded to include inventive works, sketches, illustrations, and figures, and have since been extended to photography and silver screen as well. With the growth of the web, specialized copy machines or recording devices make advanced data effectively available, which could prompt control of the work against a free stream of data in the public arena, as the minute this digital record is set in people's available space on the internet, the creator loses all control immediately the content is placed in the internet.³

India's legislation established the Copyright Act in 1957, which came into effect in the year January 1958, and modernized copyright rules to reflect digital know-how exhibits. The act has

since then been amended severally to cope up with the current changes in the legal regimes and the growth of the internet, trying to cover all spaces that seem to create a loophole for copyright infringement. The act is basically an extension of the British Copyright Act of 1911 in India.

II. DIGITAL COPYRIGHT

Digital data is any content in the digital space or any content associated with the use of computerized information stored in soft copies all over the internet or electronic devices, for example, computers or cell phones which are the most common mode of digital content storage currently. The protection of information of such kind has proven to be quite tedious and requires a lot of computer knowledge plus monitoring to minimize any leakage with the authorization of the creator of the contents in the digital platforms.

There are millions of databases with huge amounts of data set up online to ensure that the digital content is protected over a long period of time, each one according to its authenticity an relevance, and various copyright laws have been put in place to monitor the protection of this database. With reference to the Copyright Act, 1957 of India tries to categorize data-based content as literary works dividing it into " computer: databases, programs, tables, software and compilations" that make the computer system.

In the year 1998 India passed a Digital Millennium Copyright Act, which aimed at refreshing the copyright laws to address the protection of the substances that are of Digital technology advancement. With the growth and advancement of technology, especially the digitalization of data, the world has perceived the need for Digital Copyright law as an essential requirement in the cyberspace.

III. INFRINGEMENT IN DIGITAL CONTENT

According to various indicators, digital material is flourishing on the Website due to market demands. Data also suggest that a significant sector of movement is encroaching, despite the fact that the vast majority of the most well-known works are freely accessible on the internet. With the rapid advancement of interchanges and computer systems, as well as the Website and the data insurgency, digital data are now accessible in advanced organizations (content, image, voice, and video), prompting the development of numerous opportunities for advancement and innovativeness, as well as the development of different types of difficulties, in the protection of this content.

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4 Section 2 (0) of the Copyright Act, 1957.
5 Ibid
Computerized systems are defenseless from intrusion by people who want to obtain data and alter it to their favor. This necessitates the security of advanced data and a method to protect the intellectual rights of these data, which has fueled interest in developing novel watermarking technologies. The goal of this investigation is to address the issue of data security and the security of advanced data property rights by presenting a new model of complicated frameworks to mix advanced data and watermark.

The Indian Copyright Act, amended in 1994, gives assurance to digital data as ‘abstract works, which are among incorporate works, for example, computer projects, tables and accumulations, and digital data'. Irrespective of how the object appears, the developer's skill, work, and capacity to judge are guaranteed. The “Digital Data,” such as “scholarly works,” is mentioned in Section 13 (1) (an) of the Act, which clearly shows that work should survive all through India in unique abstract, emotional, melodic, and aesthetic forms of work. The meaning of abstract works is defined as incorporating PC projects, tables and aggregations, including the Computerized Data premise. Under section 63B it is clear that any individual with knowledge influences to take advantage of digital data and encroach to duplicate regarding computerized materials should be culpable of base time for a half year and a most extreme imprisonment of three years.

“In Vi-com International Inc. versus YouTube, Incorporation, a case [SDNY June 23, 2010], in this present case YouTube is the defendant and Viacom are the petitioners, for the allegation that 79,000 audiovisual clips are displayed by YouTube, which is the copyright violation of Viacom. On this very fact, Viacom files a suit against YouTube by saying that YouTube can’t take protection under DMCA as they are already known that the copyright to such clips belongs to Viacom. Viacom demanded the court to expel all intents and purposes; the majority of the recordings were completed within one business day of being notified. Even though the Viacom court did not mention the word "quickly" in its order, it is indicated that a company should take no more than one business day after being instructed to remove infringing material.”

(A) Protection of Digital Content

As the Website has turned out to be more pervasive, the requirement for copyright insurance has turned out to be an important requirement if a developer has to benefit from his creation on

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6 The Copyright Act, 1994  
7 Ibid  
8 Section 2(o) of Copyright Act, 1957  
9 The Indian Copyright Act, of 1957  
the internet space. Today, copyright law has been adjusted to protect and ensure that Website things are fully protected, similarly as it has been adjusted during that time to ensure different types of forms of copyrights are not infringed. It requires work to be unique before it is settled in another medium, which means it is recorded or composed. Since the content was not planned particularly for the Website use, and in a few territories, the law relating to copyright on the website was not proper.

The universal law of copyright was laid down in the Berne Convention of 1886 on the Security of “Artistic and Literary Works”, in the TRIPS Agreement, also in the World Intellectuals Properties organizations (WIPO) of 1967 is which is comprised of 188 member states and WIPO controls copyright arrangements.

(B) The Berne Convention

The principal endeavor to blend law related to copyright at a worldwide platform is backdated to the selection of the Berne Convention of 1886. The provisions of this Convention built up an insignificant level of copyright insurance for the part countries to take after and receive the “national treatment arrangement” (where the state gives similar assurance for a part of copyrighted information and other part says as it provides for copyrighted material under the provisions of its particular laws). The settlement additionally settled that the ICJ (International Court of Justice) in the Hague Conference would practice purview over questions between partner countries or member states. Yet, this Treaty allowed countries to announce their invulnerability regarding protecting their copyrights. This would assist the member states in knowing how to assist in the safety of the data from that particular state.

(C) The TRIPS Agreement

For Tariffs and Trade related General Agreement (GATT), in parallel to WIPO, “GATT” has twenty-three countries that are engaging in the Geneva negotiations that led to the signing of the GATT in 1947, which was additionally intended to increase the copyright both online and offline. The main objective of the GATT is to “advance the diminishment of tax hindrances to the worldwide development of products” In order to promote the distribution of copyrighted materials all over the world.

According to the provisions of the Intellectual Property Rights and Trade-Related Aspects (TRIPS) of 1995, provides that individuals should agree to the appendix of the convention along with Articles 1 through 21. As per the Bern Convention of 1971, the TRIPS agreement’s

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copyright provisions have been expanded to include the management of copyright security provided by the Bern Tradition. The "computer programs, if in source or question code, might be secured as artistic creation within the Bern Convention," as per Article 15 of the TRIPS Agreement on Intellectual property, provides that, "Compilation of Data or other components, whether in device decipherable or another frame, which by reason of the choice or course of action of their substance encompasses scholarly expressions, might be protected all things considered."\(^{13}\)

**(D) World Intellectual Property Organization.**

WIPO is one of the associations in the United Nations (UN). Prior to the foundation of WIPO, there were numerous associations that were built up by different organs at the individual level like the Gathering of Paris Union, the universal Bureau of Bern and the Executive Committee which were later joined to form an association commonly known as ‘United International Bureau, on the protection of Intellectual Property which is also called as BIRPI. WIPO’s exercises are categorized into four types: enrollment, advancement of entombs legislative participation for the organization of licensed innovation rights, particular program exercises, and recently, debate determination offices. In 1996, part nations discovered it important to shape a bargain to manage the security with respect to technology for copyright.


This WIPO convention was ratified at a Diplomatic Conference in Geneva on December 20, 1996. This agreement represents a unique interpretation of Article 2 of the Bern Convention. It is associated with sophisticated innovation and the Internet. The WIPO copyright agreement is a one-of-a-kind agreement among member countries that grants creators extra rights than those provided under the Bern Convention. Article 5 also states that "arrangements of information or other materials, in any frame, that constitute academic expressions by reason of their choice or, on the other hand, the strategy of their substance are protected." The insurance does not cover the Data or material in question; it has no preference over any copyright that may exist in the Data or material in the assemblage over the internet sources.”

**IV. DIGITAL COPYRIGHT PROTECTION IN INDIA**

Production and storage of data on the website are covering India in like a plague; it’s spreading so fast like wildfire. There are numerous difficulties associated with data protection in the websites that have already been identified; primarily, it is associated with the dissemination of

\(^{13}\) Article.10 sub-article1 of TRIPS (Trade and Related Aspects of Intellectual Property Right) 1995
scholarly. According to Sections 13 and 63, scholarly works, sound chronicles, pictures and all those innovative works are shielded from any type of replication without the copyright bearer's authorization. The question of how copyright law can safeguard, regulate, or monitor material available on the internet remains unanswered, as the current copyright law lacks the power to control the vulnerability of the materials that are on the databases online in so many ways.  

‘Data’ is characterized under Section 2(o), which defines Data as realities, concepts, or directions that have been organized or set up in a specific way and are intended to be handled, or are being handled, and can take any form (including computer printouts, desirable or in-capabilities of optical media, punched cards). The phrase "computer information" is defined under Indian law as "a depiction of data, data, realities, concepts, or on the other hand, directions in composition, picture, sound, or videos that are prepared or Organized formally or provided by computer framework, or computer interconnection that are recommended for use by the computer framework,".  

Section 43 provides for the punishment by stating that the oppressed person to be paid up to Rs1,000,000 from a man who, without the permission of the proprietor or the person responsible for the computerized data in the databases. That person who accesses or downloads information, replicates or concentrates any data or information base or data related to a specific online framework, or secure access to the materials, or can downloads data or downloads, duplicates or focuses any data or information base or data linked and uses it for his own personal benefit, without acknowledging the creator of the information is guilty under this section.  

V. CONCEPT OF FAIR USE  

Fair Use is a common law concept that considers the limited usage of copyrighted Creation devoid of the authorization of the copyright owners. It's not always easy to distinguish between encroachment and fair use, simply because the demarcation is quite insignificant. In order to establish if encroachment has occurred, four factors are considered. These are:  

a. The rationale and character of the use, comprising of commercial or charitable scholastic purposes;
b. The design of the copyrighted invention;

c. The amount and generosity of the part used as a part of the overall link to the copyrighted material; and

d. The impact of use on the prospective market for or assessment of the protected work.\textsuperscript{20}

The concept is not regarded as such in Canada and the United Kingdom. Rather, both of these countries believe and have named it Fair Dealing, which is a set of legal safeguards that may be justified in the face of copyright infringement. Every country's interpretation of Fair Dealing is slightly different. Along similar lines, which ensures that an organization's online content is adequately safeguarded in the country that may have jurisdiction over the operation.

The same concept has been adopted in India, allowing the use of a person’s copyrighted data from online sources without that person’s permission, for example, materials for educational purposes. The concept has been put to use for a while now; the case of Delhi University is a landmark case in the matter of fair use.

VI. THE INDIAN LAWS OF COPYRIGHT OF DIGITAL CONTENT

(In this text, the Act is used to refer to the Copyright Act of India of 1957 as amended from time to time, and rules refer to the rules under the same Act as constructed)

The acceptable management special case has been extended to the exposing of current events, including the specification of an openly communicated address. Prior to now, sensible special case management was limited to

a. Individual or private use, plus research; and

b. Responses or audit, whether of that or other creations or innovations

Furthermore, it has been demonstrated that storing data on any Computer device for the intentions stated in this statement, which comprise, the running capacity of PC software isn't a trespassing duplicate and does not constitute infringement. The temporary and unintentional storage of this work or execution is entirely within the specific method of digital transmission or communication to the general public.\textsuperscript{21}

The Indian act, under the provisions of section 2 (0) tries to explain in detail as to what amounts to literary work, which is said to include computer programmers, tables, and compilations, including computer data bases, among others. Under the comment section, the Act goes further

\textsuperscript{20} Digital Copyright Protection And Intellectual Property Right, https://www.locklizard.com/ipr-protection/

\textsuperscript{21} Supra note 8.
to try to clarify what else amounts to literary works. It also alludes that the copyright act does
not necessarily concern the source of the creation/innovation but with how it was
expressed/presented when it comes to issues of literary Creations that are expressed in printed
papers and handwritten.

The Act further provides; the originality which is needed is connected to the
presentation/expression of the idea, but the Act does not demand that the expression should be
or has to be original, only that it must not be copied from another, a replication of the creations.
Assuming it is an original invention, the online content in the form of a printed text or typed
text, photograph, video, and music would be protected as a literary work within the Copyright
Act.

The term "original" includes the presentation of the phrases rather than the fundamental idea.
Nobody is permitted to duplicate/reproduce it or use it without the author's authorization or
consent, similar to any other literary work in the offline world. If it is a cartoon caricature or
image, the post would be safeguarded as an artistic creation. If the message was presented as a
video, it would be safeguarded as cinematographic work. According to Section 14 make it
illegal for anyone to make use of copyrighted software without the authorization of the work's
owner.

Databases are considered and protected in India and categorized into literary works and artistic,
Section 131 (a) in the Copyright act, 1957, whereas Section 63 B, of the same Act provides that;
“punishment for any person who knowingly makes use of a computer programmer of infringing
type”.

Some of the amendments that have been incorporated in the Indian acts recently are as follows:-

In the year 2012, the act was amended, this being the Sixth Amendment of the Copyright Act;
the major changes were a fair dealing exception was added to enable the use of copyright for
educational purpose on all types of creation and storing of any work in the form of electronic
did not constitute infringement. Also, the storage of data in electronic form in non-commercial
libraries was authorized.

In the 2013 Rules of Copyright, which were enacted and came into operation on the 14th day
of March 2013, it incorporated the following issues, copyright ownership, compulsory licenses,
statutory licenses, and the registration of copyright societies, plus the rules guiding the
membership and administration of the affairs of the societies.

In the year 2019, a draft of Copyright (Amendments) Rules was released for the promotion of
the industry and internal trade. Some of the proposed rules were as follows: replacement of the
copyright Board by the appellate board, the addition of an account in the copyright societies to keep royalties to the authors, and mandated the publication of an annual transparency report each year.

Generally, there is the unavailability of a complied act that covers all the arising issues in the developing and developed nations, if this one were put in place, it would encourage all content creators all around the globe to create more quality creations. I believe there should be more strong laws that protect copyrights from being infringed. Despite the fact that the current laws are doing some good as far as the protection of the copyright is concerned by still have some loopholes. Education also should be provided to society; it would be of uttermost importance in the improvement of the protection of these creations.

VII. CONCLUSION

In this sense, we can say that practically all countries have improved their copyright rules to ensure the safety of digital data on the internet. Many countries are still lacking behind and are unable to frequently update their copyright laws to cover computerized data on the internet due to the gradual change of the social and economic factors that affect data on the internet. The owners of digital data and the internet have their own general and special rights, which are controlled by the owners of abstract, imaginative, sensational, and cinematograph films, among other things.

A national copyright law does not totally safeguard the work of each creator or author. No national frontiers have risen in demand for global legislation and agreements that ensure unique material as a result of technological innovation. In order to defend the rights of the author or creator, India's copyright legal system must devise a corrective, intelligent, and similar mechanism. The current copyright legislation should be amended to address the challenges and difficulties. Also, for the law to function properly, the executive body must support it, and the executive body must come forward to implement the copyright law. The recent changes to the law relating to copyright issues must provide room for the use of imaginative layering skills to improve the structure, policy, schemes, law, and bill for successful application and progression.

And if the world could adopt one common copyright law or legislation that covers all the cross countries’ issues about the protection of digital content, it would in a significant sense, reduce the tedious process of trying to protect data in different ways when you go with it to a different jurisdiction, on protects the other does not. Yet the data on the internet is being used internationally.

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