

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

Nusatalu Hesu¹, Neha Gupta²

¹School of Law, Five Year Integrated B.A.LL.B.(HONS.), Presidency University (2023-2024)

²Professor, Presidency University

Abstract: *Digital content copyright concerns in India are the focus of this essay. Many researchers have written on digital material, making it easy for everyone to grasp data finding, retrieval, and generation in any field. Individuals have unknowingly mass-published eBooks, blog posts, and Facebook and other social media content. Using this function, people are infringing on the rights of writers, artists, and producers without knowing it's prohibited. The copyright law protects writers' "artistic," "literary," and "musical work" by legal means. Copyright affects the public and enterprises that use its contents, as well as those who depend on it for their livelihood. However, Intellectual Property Rights as they relate to Copyright in India have only lately been disputed, and many changes have been made to the laws and practises to improve protection. This article will help librarians, administrators, writers, and publishers understand copyright issues related to their digital work, as well as the challenges of digital copyright protection, how to improve the system, and the major accomplishments of digital content protection laws.*

Keywords: Digital Content, Copyright Protection, Indian Copyright Law, Digital property

1. Introduction

An invention is a unique thing that demands a lot of mental energy to generate and must be safeguarded against illegal copying. Computerized programming, workmanship, realistic plans, novels, movies, unique construction outlines, site content, and others must be copyrighted to prevent exploitation.

Without technological advances, material interchange was difficult and costly, making protected content protection in one country especially challenging. The Website Age in the late 1990s witnessed global advancement as individuals fought to safeguard ideas from unauthorized use and promotion.

Anne's Statute, established in 1790, is considered the earliest copyright legislation. It passed one of the earliest copyright laws, which other nations have followed. Copyright laws were needed to safeguard inventions, and writers were among the first impacted.

India needed a copyright law change to reconcile inventor compensation with public access. Copyright protection is problematic because material uploaded online in one nation may be accessed by someone thousands of kilometers away and replicated without permission. Technological advances have presented new challenges to copyright laws, which were originally enacted to govern print media but have since expanded to include inventive works, sketches, illustrations, and figures, as well as photography and silver screen. With the growth of the internet, 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 creator loses all control once this digital record is set in people's general space on the internet.

The 1957 Copyright Act, which took effect in January 1958, updated India's copyright laws to incorporate data use. Since then, the law has been revised numerous times to reflect legal developments and the growth of the internet to cover all known copyright infringement loopholes. Indian copyright law continues the 1911 British Copyright Act.

1.1 Research Objectives

New technologies have increased IP value. This innovative technology may be applied in Copyright Law. Copyright protection typically applies to original literary, musical, theatrical, or creative works. As technology has grown, new ideas like computer programs, databases, layouts, and web-based works have developed.

Therefore, knowing copyright for computer programs/software, databases, and other cyberspace work is crucial. Copyright is a major intellectual property issue in the digital era. Computer-related work can be protected under copyright laws, as shown in this paper. Digital material copyrighting, infringement, and fair use are discussed.

1.2 Research Questions

- Q1. What role did Copyright play in digital material protection?
- Q2. How to pirate digital content?
- Q3. How is digital content originality tested?
- Q4. India protects digital material to what extent?

2. Literature Review

Copyright comes from an individual's expertise and labor in producing and spreading a unique idea. Copyright protects literature, theater, musicals, and art. Copyright is an exclusive legal right provided to a creator or group of

creators to prohibit their work or creativity from being publicly reproduced, changed, translated, distributed, or performed without the author's or person responsible for the work's existence's permission. Section 13 of India's 1957 Copyright Act lists protected works. According to legislation, an original creator has the exclusive right to copy it for a defined time. Copyright was formerly limited to sold and published works. Technological advances have created new copyright issues. Technology made digital data more accessible, allowing protected works to be exploited. Internet/digital media permits quick duplication of original work. Copyright is a crucial IP concern in the digital age.

Digitization has huge social impacts. As they say, great inventions come with great dangers, and although digitalization has helped reshape society, it has also caused many problems, such as digital rights violations. Protecting these rights has been crucial for international institutions like WIPO. The 1996 Realm Copyright Treaty under the Berne Convention protects digital works. In addition to the Berne Convention of 1885 rights, they have three economic rights: distribution, rent, and public communication. At least 50 years of digital work protection are guaranteed. Computer programs and data compilations are covered by Copyright under the treaty. Copyright is protected in India under the 1957 Copyright Act. Since then, several adjustments have been made to meet social demands and safeguard the author's works. The statute aims to prevent unauthorized use of authors' and copyright holders' works. The more crucial Copyright (Amendment) Act of 2012 was approved. This legislation aimed to comply with the 1996 World Copyright Treaty and 1996 Performance and Phonogram Treaty, both signed by the World.

Intellectual Property Organization. The 2012 Copyright Amendment Act expanded digital copyright protection. It also created cover version and broadcasting plan statutory licenses, infringement penalties, management information rights, internet service provider obligation, and infringement fines. The creators and owners of the art were also to share earnings equally. The legislation also tried to exclude specific activity from infringement. Certain activities are considered fair use under Section 52. This paragraph follows the 1885 Berne Convention and 1995 TRIPS Agreement.

Research Methodology

Researchers used descriptive and analytical methods throughout the investigation. Researchers consulted books, papers, and websites for this task.

History of Digital Content Protection

The recent document on digital material protection continues a long-running conflict between two copyright protection methods for collections. The first approach suggests protecting digital content and factual compilations without originality or innovation. The "sweat of the brow" or "industrious collecting" notion holds that digital material should be safeguarded as a reward for the hard work and investment needed to gather its facts and information. Such an incentive will encourage compilers to generate new digital content. This idea protects compilation facts against unprotection.

The second intellectual property paradigm denies safeguarding unoriginal digital output. The second approach advocates copyright protection exclusively for the "expression" in digital information, which is the original selection, coordination, or arrangement of facts in the digital material.

Before 1991, US courts debated copyright protection for digital information and other factual collections. Digital work without "originality" in fact selection or arrangement was denied copyright protection by most courts and Congress in 1976. Congress stated that a compilation copyright only extended to the original selection and coordination of its contents.

In 1991, the US Supreme Court unanimously rejected the "sweat of the brow" or "industrious collecting" theory in *Feist Publications, Inc. v. Rural Telephone Service Co., Inc.*, which had divided the lower courts. While the selection and arrangement of facts could provide the "originality" needed for copyright protection, the Court noted that the compilation's copyright would be "thin," covering only the selection or arrangement of facts and not the facts themselves. The Court rejected the argument that digital goods might be copyrighted without originality and stressed that facts and ideas cannot be copyrighted to settle the long-running compilation protection dispute.

Copyright and Digital Content

The term "digital content" refers to a logically organized collection of works, data, or other items. The compiler created an order.

The author's originality may safeguard the information's layout and organization, but not the facts. Creative and non-creative digital items have different legal criteria, thus they must be distinguished. Lord Atkinson said, 'It is necessary that work, skill, and money be applied enough to impart to the product some quality or character which the raw material does not contain, and which separates the outcome from the substance.'

Digital content is a systematic or methodical collection of data, works, information, or other independent material organized in a systematic or methodical manner following the compilation principle. Even compilations of non-original works should be copyright protected because they are the result of the author's skill and labor. For instance, a digital content of articles on 'Indian Intellectual Property Laws' should be given copyright since the author spent time, money, and judgment choosing and organizing the pieces. Due to this, numerous countries have protected digital information as a literary work under copyright.

Section 2(o) of the 1957 Copyright Act:

"'literary work' includes computer programs, tables and compilation including computer digital contents."

A recent Federal Court ruling in *Telstra Corporation Ltd v Desktop Marketing Systems Pty Ltd* established that Australia only requires a little degree of inventiveness and originality for protection. Under Copyright, digital material may be literary. For Copyright Act purposes, a literary work

is "a table, or collection, expressed in words, figures, or symbols". Telstra's White and Yellow Pages and unpublished headings books were examined.

To prevent infringement

Digital copyright

Digital data is any content in digital content or associated with computerized information stored in soft copies on the internet or electronic devices like computers or cell phones, which are the most common way to store digital content. Keeping such information secure requires technological understanding and continual monitoring to prevent anybody from escaping with the authors' consent on digital networks.

Millions of digital contents containing massive amounts of data have been posted online to protect digital information for a long time, each based on its validity and relevance, and many copyright laws have been passed to protect them. India's 1957 Copyright Act classifies data-based information as literary works and divides it into "computer: digital content, programmed, tables, software, and compilations" that make up the computer system.

The 1998 Digital Millennium Copyright Act in India modernized copyright regulations to protect digital technology-related substances. As technology, especially data digitization, advances, the world has recognized the need for Digital Copyright regulation in cyberspace.

Digital Content Infringement

Commercial pressures are driving Website digital content growth for a variety of reasons. Data shows that a big part of the movement is infiltrating, even though most famous works are freely available online. Due to rapid advances in interchanges, computer systems, the Website, and the data insurgency, digital data (content, image, voice, and video) are now accessible in advanced organizations, creating opportunities for advancement and innovation as well as challenges in content protection.

Data manipulators have no defense against computerized system entrance. The necessity for advanced data security and intellectual property protection has spurred the development of new watermarking methods. This research proposes a new model of complex frameworks to integrate advanced data and watermark for data security and advanced data property rights security.

A 1994 revision of the Indian Copyright Act covers digital data as "abstract works," including computer programs, tables, accumulation, and digital data. The developer's skill, labor, and evaluation are guaranteed regardless of appearance. Section 13 (1) (an) of the Act cites "Digital Data" like "scholarly works," meaning that India should conserve work in its abstract, emotional, musical, and creative form. Abstractions include computer projects, tables, aggregations, and Computerized Data premise. Section 63B makes it clear that anybody who exploits digital data or copies computerized documents shall serve six to three years in prison.

"In Vi-com International Inc. v. YouTube, Incorporation,

YouTube is the defendant and Viacom is the petitioner, on the claim that YouTube displays 79,000 audiovisual clips, infringing on Viacom's copyright. Viacom filed a lawsuit against YouTube based on this fact, claiming that YouTube is not entitled to DMCA protection since the copyright to same clips owned by Viacom. For all intents and purposes, Viacom asked that the court remove the majority of the recordings, which were finished within one business day after being alerted. Despite the fact that the Viacom court did not use the term "soon" in its decision, it is suggested that a corporation should delete infringing material within one business day after being notified."

Digital Content Originality Test

The term "original" does not refer to the expression of creative or unique ideas. Copyright laws are concerned with the expression of concepts, especially in literary work, with a 'originality' standard.

Compiling authors choose digital information for inclusion.

- 1) Orderly method
- 2) User-friendly arrangement
- 3) Compilation direction is unique.

Copyright law does not require that a work be original or innovative; rather, it requires that it not be duplicated and originate from the author. Courts have considered whether a work has "originality" to determine if it is eligible for copyright protection, *Kamar Int'l v. Russ Berrie & Co.*

Digital Content Protection

As the Internet has grown in popularity, copyright insurance has become an increasingly critical need if a developer wants to profit from his work online. Today, copyright law has been modified to protect Website items, just as it has been modified to protect other copyrights. Work must be distinctive before it is established in another media, such as recording.

Berne Convention

The main effort to bring copyright law together globally began with the 1886 Berne Convention, which established a minor degree of copyright insurance for parties to follow and benefit from the "national treatment system" (where states provide similar assurance for some copyrighted information and other material under their own laws).

Trips Agreement

In tandem to WIPO, the General Agreement on Tariffs and Trade (GATT) had twenty-three countries participating in Geneva negotiations that resulted in the signing of the GATT in 1947, which was also meant to boost copyright both online and offline. The GATT's principal goal is to "promote the reduction of tax barriers to the global development of products." To promote the worldwide diffusion of copyrighted materials. In accordance with the provisions of the Intellectual Property Rights and Trade-Related Provisions of the Intellectual Property Rights and Trade Related Provisions of the Intellectual Property Rights and Trade. Individuals must agree to the convention's appendices, as well as Articles 1 through 21, according to the TRIPs of 1995. The TRIPs agreement's copyright obligations have been amended to cover the management of

copyright security provided by the Bern Tradition, as per the Bern Convention of 1971. According to Article 15 of the TRIPS Agreement on Intellectual Property, "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," "computer programmes, if in source or question code, might be secured as artistic creation within the Bern Convention."

World Intellectual Property Organization

WIPO, one of the UN's associations, was founded after several individual associations, such as the Gathering of Paris Union, the Universal Bureau of Bern, and the Executive Committee, formed the United International Bureau on the Protection of Intellectual Property (BIRPI). WIPO's activities are divided into four categories.

The 1996 WIPO Copyright Treaty

A Diplomatic Conference in Geneva ratified the WIPO treaty on December 20, 1996. This agreement is a unique interpretation of the Berne Convention's Article 2 and is linked to cutting-edge technology and the Internet. It gives creators more rights than the Bern Convention.

Indian Digital Copyright Protection

India has been plagued by online data gathering and storage, which poses various data privacy issues already been recognized; most of these challenges are related to scholarly publishing. According to Sections 13 and 63, scholarly works, sound chronicles, photographs, and all other innovative works are protected from copying without the copyright holder's permission. However, copyright law lacks the ability to govern the vulnerable.

Data is "reality, concepts, or directions that have been structured or set up in a precise way and are intended to be handled, or are being treated, and can take any form" (including computer printouts, desirable or incapacities of optical media, punched cards). Indian law defines "computer information" as "a characterization of data".

Under Section 43, anyone who accesses, downloads, replicates, or concentrates any data or information base or data linked to a specific online framework, or secures access to that data, must pay up to Rs1,000,000 to the oppressed person.

Concept of Fair Use

Fair Use is a legal concept that allows restricted use of copyrighted creation without permission. Since the line between intrusion and fair use is so thin, it's not always easy to tell. Four factors are used to determine encroachment:

The reason and nature of the usage, including commercial or philanthropic academic reasons;

- Copyrighted innovation design;
- How much and generously utilized to connect to protected stuff;
- How usage affects the protected work's market or appraisal.

In Canada and the UK, Fair Dealing, a set of legal

safeguards that can be justified in the face of copyright infringement, is the concept. Fair Dealing ensures that an entire online material is sufficiently protected in each jurisdiction where the operation may be subject to jurisdiction.

A similar concept has been adopted in India, allowing the use of copyrighted data from internet sources without consent, such as educational resources. However, the Delhi University case marks a turning point in fair use.

Digital Content Copyright Laws in India

Permissible management special case now includes public disclosure of current events and the definition of a publicly revealed address. Instead, rational special case management was limited to individual or private use, including research; and answers or audits, whether of that or other ideas or discoveries.

Section 2 (0) of the Indian Copyright Act defines literary work as computer programmers, tables, compilations, and computer digital content³⁶. It also implies that the copyright statute is concerned with how the invention was expressed rather than the source of the facts.

If the post was a cartoon caricature or picture, it would be protected as an artistic production under the Act. Without the author's consent, no one may recreate, reproduce, or use it.

Section 131 (a) of the Copyright Act, 1957 classifies databases as literary and creative works, while Section 63 B allows "penalty for any person who intentionally makes use of a computer programmer of violating kind." Recent Indian law changes include:

The 2012 sixth amendment of the Copyright Act added a fair dealing exception to allow the use of copyright for educational purposes on all types of creation, and the electronic storage of any work did not constitute infringement. Non-commercial libraries could also store data electronically. The 2013 Copyright Rules covered copyright ownership, compulsory licenses, statutory licencing, and In 2019, a draft of Copyright (Amendments) Rules was released to promote the industry and internal commerce. The proposed rules included replacing the Copyright Board with an appellate board, creating a copyright society account to keep royalties from writers, and producing an annual transparency report.

3. Conclusion

In this regard, we can state that virtually every country has updated its copyright laws to safeguard the security of digital material on the internet. Due to the steady development of social-economic elements that impact data on the internet, many nations are still lagging and unable to regularly update their copyright laws to encompass computerise data on the internet. The owners of digital data and the internet have general and particular rights, which are governed by the owners of abstract, creative, sensational, and cinematograph films, among other things. National copyright legislation does not protect each creator or author's

work. Global regulations and agreements that assure original content as a consequence of technology innovation are in high demand across all national borders. India's copyright law system must design a remedial, intelligent, and comparable process in order to protect the rights of the author or artist. To meet the obstacles and difficulties, the present copyright act should be modified. In order for the legislation to work correctly, the executive branch must back it up, and the executive branch must step forward to execute the copyright law. The latest revisions to the legislation pertaining to copyright concerns must allow for the application and growth of inventive layering abilities to enhance the structure, policy, schemes, law, and bill. However, internet data is used globally, and a single Copyright Act that covers all cross-border digital content protection issues would greatly simplify the tedious process of trying to protect data in different ways when it is transferred to a different jurisdiction, where one protects and the other does not.

4. Scope for Future Studies

In the future, studies on the protection of digital contents under Indian copyright law in the context of international conventions could investigate emerging challenges such as cross-border enforcement, the impact of evolving technologies on copyright infringement, and the efficacy of existing legal frameworks in addressing digital piracy. These questions could be investigated in the context of international conventions. In addition, research could investigate the harmonization of Indian copyright legislation with worldwide standards, the function of digital rights management (DRM) technology, and the equilibrium between the protection of copyrights and users' access to digital information in the age of the digital revolution. A full grasp of the topic would benefit by conducting research into recent legal changes, examining case studies, and comparing those findings to the techniques taken in other jurisdictions.

References

- [1] Goldstein, P. (2005). *International Copyright: Principles, Law, and Practice*. Oxford University Press.
- [2] https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2382603
- [3] <https://copyright.gov.in/documents/copyrightrules1957.pdf>
- [4] World Intellectual Property Organization (WIPO). (2021). "Digital Content Protection: Emerging Trends and Challenges." *WIPO Magazine*.
https://www.wipo.int/portal/en/index.html?gad_source=1&gclid=Cj0KCCQiA3uGqBhDdARIsAFeJ5r36_3AHdAGNPdm04WFb1nDrvCIJbZpahuiebhVRXnRUhrS86rSgcu8aAtixEALw_wcB