

Copyright Laws in India: Emerging Trends

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ABSTRACT

Copyright law is being considered as one of the important aspects of the Intellectual Property regime and it's safety and protection is also very important for the growth of economic interest of the country. Last few decades have witnessed developments and huge changes in the country, especially in the field of technology. This paper of mine aims to configure the basic copyright law and their recent emerging trends in order to know the efficiency of them in coming times.

INTRODUCTION

Meaning of copyright: when the author or creators of their Intellectual creativity produce something ,it is essential to grant them an incentive to create and promote it by giving full protection to their Intellectual, moral and economic interests. Basically it is a property right in an original work of the author or the creator. The produce may be in any form of either literary, musical,artistic,films, broadcasting programmes and recently developed computer programming.

The definition of the term copyright has been given in the Copyright Act,1957.Section 14 of the act defines copyright which is as follows

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1[14. Meaning of copyright.—For the purposes of this Act, “copyright” means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely:—1[14. Meaning of copyright.—For the purposes of this Act, “copyright” means the exclusive right subject to the provisions of this Act, to do or authorise the doing of any of the following acts in respect of a work or any substantial part thereof, namely\;—"

(a) in the case of a literary, dramatic or musical work, not being a computer programme,—

- (i) to reproduce the work in any material form including the storing of it in any medium by electronic means;
- (ii) to issue copies of the work to the public not being copies already in circulation;
- (iii) to perform the work in public, or communicate it to the public;
- (iv) to make any cinematograph film or sound recording in respect of the work;
- (v) to make any translation of the work;
- (vi) to make any adaptation of the work;
- (vii) to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (i) to (vi);

(b) in the case of a computer programme,—

- (i) to do any of the acts specified in clause (a); 2[(ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme: 2[(ii) to sell or give on commercial rental or offer for sale or for commercial rental any copy of the computer programme\;." Provided that such commercial rental does not apply in respect of computer programmes where the programme itself is not the essential object of the rental.]

(c) in the case of an artistic work,—

- (i) to reproduce the work in any material form including depiction in three dimensions of a two dimensional work or in two dimensions of a three dimensional work;
- (ii) to communicate the work to the public;
- (iii) to issue copies of the work to the public not being copies already in circulation;
- (iv) to include the work in any cinematograph film;
- (v) to make any adaptation of the work;
- (vi) to do in relation to an adaptation of the work any of the acts specified in relation to the work in sub-clauses (i) to

(d) in the case of a cinematograph film,—

- (i) to make a copy of the film including a photograph of any image forming part thereof;
- (ii) to sell or give on hire or offer for sale or hire, any copy of the film, regardless of whether such copy has been sold or given on hire on earlier occasions;
- (iii) to communicate the film to the public;

(e) in the case of a sound recording,—

- (i) to make any other sound recording embodying it;
- (ii) to sell or give on hire, or offer for sale or hire, any copy of the sound recording, regardless of whether such copy

has been sold or given on hire on earlier occasions;

(iii) to communicate the sound recording to the public. Explanation.— For the purposes of this section, a copy which has been sold once shall be deemed to be a copy already in circulation.]

Emerging trends:

The copyright law in historical chronicles is known to be the legacy of technology. It has undergone methodical changes keeping in view the nature, extent and domain of technology involved to secure the public interest of imagination, invention and resourcefulness. Its main thrust is to provide adequate incentives to authors and creators of miscellaneous copyright works, on the one hand, and make such works reachable to the public on the other hand.

The copyright law had to adjust itself between the need to award the creator and the attractiveness of making such works public. With the ubiquity of the Internet as a exceptional and wholly new intermediate of all-inclusive human communiqué all over the world, shrunk into a digital global village, the protection of copyright works has become a serious concern for lawyers, as well as, the other stakeholders. The Internet together with computer networks makes it possible for an more and more larger number of those to participate in collective information construction, thereby debilitate the efforts to provide encouragements to original creators of intellectual property. The Internet enables the nearly-instantaneous, original quality reproduction of and world-wide, lightening-speed dissemination of copyrighted works.

The above arresting features of Internet make itself emerge as “the world’s biggest copy machine” The puzzles and inconsistencies underlying the digital dilemma, by nature, are connected with the dichotomy between the notion of “information wants to be free” and the anxieties for stronger registered control of information in the digital environment. Against the above background this paper shall examine and critically analyse issues regarding copyright protection in digital environment.

Government of India in 1998 passed the Digital Millennium Copyright Act, which updated copyright laws to address the realities of Digital Technology at present . With the growth and development of Technology and more particularly digitization, the entire world has recognized the need for a Digital Copyright Law. Therefore, the existing Copyright law was evolved, as the trend of maintaining records in the form of Digital data clearly requires protection a need felt all around the world.

DIGITAL TECHNOLOGY AND COPYRIGHT ISSUES:

The advancement in technology postured new challenges to the current copyright laws, as the law was primarily developed in the regime of print media that slowly evolved its protective works to include creative works, paintings, drawings, sculptures, which later expanded to photography and cinema as well. The age old legislations and their core concepts in

copyright law had to be re-entered, so as to make digital societal record progress. The technical copiers or recorders made the digital data easily available with the increase in use of the internet, which could lead to manipulation of the work via a free flow of information in society, as the moment this digital record is placed in the public domain on the internet the author loses all control.

THE LATEST COPYRIGHT (AMENDMENT) ACT 2012:

A fair dealing exemption, use for education purpose which were earlier applicable only in relation to certain types of work e.g. literary, dramatic and musical works, have been made applicable to all types of work.

A fair dealing exception has been extended to the reporting of current events, including the reporting of a lecture delivered in public. Earlier, fair dealing exception was limited for

- private or personal use, including research, and
- criticism or review, whether of that work or of any other work.

Further, it has been elucidated that the storing of any work in any electronic medium for the purposes mentioned in this clause, including the accompanying storage of any computer programme which is not an trespassing copy, does not establish infringement. The transient and incidental storage of a work or performance purely in the technical process of electronic transmission or communication to the public;

The transient and incidental storage of a work or presentation for the purpose of providing electronic links, access or integration, where such links, access or integration has not been expressly prohibited by the right holder, unless the person responsible is aware or has reasonable grounds for have confidence in that such storage is of an infringing copy: Provided that if the person responsible for the storage of a copy, on a protest from which any person has been barred, he may require such person to produce an order within fourteen days from the competent court for the continued prevention of such storage;

The storage of a work in any medium by microelectronic means by a non-commercial public library, for conservation if the library already enjoys a non-digital copy of the work; The manufacture of a three-dimensional object from a two-dimensional artistic work, such as a technical drawing, for the purposes of industrial submission of any purely functional part of a useful device;

The progression of copyright has been closely linked to technical development. Whereas most of the technologies made copyright defence more difficult, digital computers managed to alter the fundamental concepts behind copyright. These contests to copyright industry have emerged at a time when the share of exclusive rights in national financial prudence is reaching unprecedented levels. It becomes critical to adjust the legal system to respond to the new technological developments in an effective and appropriate way, keeping in view the speed and pace of these developments.

CONCLUSION:

The emerging trends in copyright laws highlighting digitalization pose as a strong means for the upliftment of the economy of the country in not only in the national market but in the international market too.

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