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VOLUME 1: ISSUE 9

||January 2020 ||

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

WHITE BLACK LEGAL: THE LAW JOURNAL

COPYRIGHT AND DIGITIZATION ISSUES IN MODERN ERA

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**TANU KAPOOR

ABSTRACT

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 reentered, 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 vis a vis 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 Author has analysed the various aspects of digitization and copyright issues which has made today's concern.

Introduction

Copyright is a kind of intellectual property the importance of which has increased enormously in recent times due to the rapid technological development in the field of printing music, communication, entertainment and computers. Copyright is the right to copy or reproduce the work in which copyright subsists. The object of copyright law is to encourage authors, composers, artists and designers to create original works by rewarding them with the exclusive right for a limited period i.e., the life of the author of the work plus fifty or sixty years with certain exceptions to exploit the work for monetary gain.¹ According to the major international intellectual-property protection treaties i.e Berne Convention, 1886, Universal Copyright Convention 1952, and WIPO Copyright Treaty 1996, five rights are associated with a copyright and those rights are :

1. Reproduce the work in any form, language, or medium.
2. Adapt or derive more works from it.
3. Make and distribute its copies.
4. Perform it in public.
5. Display or exhibit it in public.

Database and Digitization

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¹ S.R. Myneni "Laws of Intellectual Property" Asia Law House, Hyderabad, (2006).

Digitization is the process of converting information into a digital format. In this format, information is organized into discrete units of data (called bits) that can be separately addressed (usually in multiple-bit groups called bytes). This is the binary data that computers and many devices with computing capacity (such as digital cameras and digital hearing aids) can process.² The term Digital Technologies is used to describe the use of digital resources to effectively find, analyze, create, communicate, and use information in a digital context. This encompasses the use of web 2.0 tools, digital media tools, programming tools and software applications.³ Digitizing information makes it uncomplicated to preserve, access, and share. For example, an original historical document may only be accessible to people who visit its physical location, but if the document content is digitized, it can be made available to people worldwide.

In one view, databases can be classified according to types of content: bibliographic, full-text, numeric, and images.⁴ A database is a set of data that has a regular structure and that is organized in such a way that a computer can easily find the desired information. The collected information could be in any number of formats (electronic, printed, graphic, audio, statistical, combinations). There are physical (paper/print) and electronic databases.⁵ The European Commission's amended proposal for the Council Directive on Databases defines an 'Electronic Database' in these terms: 'Electronic Database' is a collection of data works or other materials arranged, stored and accessed by way of electronic means and the materials necessary for the operation of the database such as its thesaurus, index system for obtaining or presenting information; it shall not apply to any computer program used in the making of operation of database.⁶

Historical Evolution of Database Protection

Database protection can be viewed simply as an extension of the historical clash between two conflicting models of copyright protection for compilations. The first model advocates that databases and factual compilations receive protection per se, i.e., without showing any creativity or original authorship. Proponents of this theory, better known as the sweat of the brow or industrious collection doctrine, justify their position by arguing that protection should be extended to databases as a reward for the hard work and investment required to compile the facts and information contained in the database. Such a reward provides compilers with the incentive to develop new databases. Under this doctrine, protection extends to the otherwise unprotected facts contained in the compilation.⁷ The second model of intellectual property rejects the notion that databases without any originality or creativity should be protected. Instead, advocates of the second model would only extend copyright protection to the expression contained in the database, which is limited to the original selection but not the facts themselves. Prior to 1991, the extension of copyright protection for databases and other factual

² <http://whatis.techtarget.com/definition/digitization> (Last accessed 20.02.2020).

³ http://www.nzcta.co.nz/pages/digital_technologies.htm (Last accessed 20.02.2020).

⁴ <http://searchsqlserver.techtarget.com/definition/database> (Last assessed 20.02.2020)

⁵ http://www.usg.edu/galileo/skills/unit04/primer04_01.phtml (Last accessed 20.02.2020).

⁶ Pankaj Jain and Pandey Sangeet Rai, Copyright and Trademark Laws Relating to Computers, Eastern Book Company, (2005)

⁷ Band , 'et al' Sui Generis Database Protection Has Its Come? D-Lib Magazine, June 1997, available at <http://www.dlib.org/dlib/june97/06band.html> (Last accessed 20.02.2020)

compilations remained an unsettled issue in U.S. courts. Most courts refused to grant copyright protection for databases that did not contain any originality in the selection or arrangement of facts,⁸ and Congress adopted this view in the Copyright Act 1976. There, Congress explicitly stated that a copyright in a compilation extended only to the original selection, coordination in arrangement of material in the compilation. Nonetheless, a minority of courts before and after the 1976 Act adopted the ‘sweat of the brow’ doctrine and protected databases that lacked any element of creativity or original expression. In the 1991 case of *Feist Publications, Inc. v. Rural Telephone Service Co., Inc.*⁹ the U.S. Supreme Court resolved the issue that had divided the lower courts and unanimously rejected the ‘sweat of the brow’ or ‘industrious collection’ doctrine. Moreover, even though the Court recognized that the selection and arrangement of facts could create the requisite ‘originality’ for copyright protection, it emphasized that the copyright in the compilation would be ‘thin’ i.e., it would extend to the particular selection or arrangement of facts but not to the facts themselves.

Position of Database Protection in India

Originality requires an author to contribute something more than a merely trivial variation which is recognizably his own. Also in *Feist Publications v. Rural Telephone Service Co., Inc.*¹⁰ The U.S. Supreme Court found that the U.S. Constitution requires that, for a work to receive copyright protection, it must reflect creative expression or originality. Thus, the compilation of a telephone directory by Feist was not an infringement even though it was compiled from the information in the Rural Telephone Service White Pages. The information in the white pages was not copyrightable because it comprised comprehensive collections of facts arranged in conventional formats.

Need for Digitization in Today’s Modern Era

Digitization projects were undertaken with the intention of creating online repositories of works so that they can be easily accessible. Digitization has many facets and the following are among the main benefits:

1. Access to provide on-demand local, national and international access to courses, curriculum resources or collections, to open up collections that cannot always be accessed physically by users, e.g. fragile cultural materials, to enhance opportunities for increasing the number of potential students in courses or users of collections and to allow greater public interface with institutional assets.
2. Enhanced Service to use existing courses or resources in new or different ways, e-learning opportunities, create innovative content packages in response to user demand.
3. Partnerships to build partnerships between institutions to improve the quality of digitization projects by sharing resources, adopting common standards and facilitating

⁸ *Miller v. Universal Studios, Inc.* 650 F.2d 1365 (5th Cir. 1981); *Patterson & Joyce, Monopolizing the Law: The Scope of Copyright Protection for Law Reports and Statutory Compilations*, 36 UCLA L.Rev. 719 (1989)

⁹ *Feist Publications v. Rural Telephone Service Co., Inc.* 499 U.S. 340 (1991)

¹⁰ *Ibid.*

good practice and the exchange of information and expertise, identify funding opportunities which require a collaborative element to be successful, bring information about courses and resources that have already been digitized through federated search strategies.

4. Promotion and Marketing to raise awareness of the range of courses and educational resources available for study, promote the use of both local and international Open Educational Resources (OER) to further study needs.¹¹

Protection of Digital Copyright

Threats that are posed by the digital environment to the copyrighted work are way too different from that in the normal course of physical world. All these techniques are incorporated under the head of Digital Rights Management (DRM). Digital rights management is a systematic approach to copyright protection for digital media. Digital Right Management, which was introduced in 1994 as a panacea for control of accessing and handling the digital content, comprises techniques which have been developed to control duplication, modification and distribution and copying of original works.¹² However there are also few who have the view that techniques under DRM pose unnecessary hurdles for the public and impede the way of innovation and creativity by not letting others from being motivated and inspired by the original work of others.

Right of Reproduction

Right of reproduction is a per se existing and the most basic of the copyrights. However it was a problem to define it even in the pre-digital days. The Berne Convention, 1886 had specially entered a right of reproduction only as late as 1967. In the Stockholm Revision of 1967 a new text of Article 9(1) was inserted. Given that any transmission of protected works over the Internet involves the reproductions transitorily stored in the connected computers' RAM, the question of whether right owners should be granted with the control over all temporary reproductions looms large amid the dematerialized and decentralized nature of the Internet.¹³ By contrast, the WIPO Performances and Phonograms Treaty, 1996 contains two articles (Articles 7 and 11) for the protection of the reproduction right enjoyed by Performers and Phonogram Producers respectively. Under the WPPT Performers and Phonogram Producers are vested with “the exclusive right of authorizing the direct or indirect reproduction of their respective protected subjects in any manner or form.”¹⁴ The Agreed statements attached to the WCT and WPPT make it clear that the Article 9 of the Berne Convention, 1886 shall apply mutatis mutandis to the protection of the reproduction right in the digital environment.¹⁵

Right of Communication to the Public

¹¹ <http://oerworkshop.pbworks.com/w/page/34267745/Understanding%20the%20benefits%20of%20digitization>
(Last accessed 20.02.2020)

¹² The True Story of DRM, 3 Masaryk U. J.L. & Tech. 267 (2009)

¹³ “Copyright Protection in Digital Environment: Emerging Issues” International Journal of Humanities and Social Science Invention, Volume 2 Issue 4 April pp.06-15 (2013)

¹⁴ Ibid.

¹⁵ Ibid

The onset of digital technologies blurs the line between different categories of copyrightable works and the means of communication to the public as well. On the other hand, in the midst of fast development in digital technology, the computer networks, in particular the Internet, brings forth a point-to-point way of transmitting works on an on-demand and interactive basis. The interactivity and individuality afforded by this new method of exploiting works, makes it possible for any member of the public to have the full discretion in determining the place and the time one is intended to access and use works in digital form. Against this backdrop, a new form of unitary, technology-neutral right of communication to the public is suggested to be ushered in to replace the fragmentary, technology-specific protection to this right.¹⁶

The Impact of Digitisation on the Format of Works

In the analogue world, works were created and distributed in material forms such as books or paintings. These works were susceptible to the human senses. The copyright law protects the copyright works as embedded in material form. Although the digital format of works can be read or understood only by technologies such as computers, it can easily be transferred from place to another without any limitation of boundaries; it can also be readily translated into impulses susceptible by the human eye, ear, and mind. Under the process of digitization any existing analogue work can be converted into a digital data object. So works now exist either both in analogue and digital format, or only in digital format. Some of the 'digital-born' works, such as newsletters and original databases, are published only in digital format over networks such as the Internet and are never converted to the traditional material form of the analogue world.¹⁷

The Impact of Digitization on the Distribution of Works

Digital technology has altered the ways in which works are distributed. While analogue works were published in physical form and then distributed by means of air, land, or sea transport, or microwave transmissions, digital works can be delivered by means of digital transmission.¹⁸ Digital transmission began with specialized news and data services, followed by commercial online services. Digital transmission involves the transfer of works to individuals.¹⁹ Works can be sent from one individual to another, from an individual to a select group, or from an individual to the public at large.²⁰ Networking and personal home devices allow users to receive and to send works from home, and to move works among the different devices in their homes.²¹ Works are made available on a server to be accessed or used at a time determined by the user. Other than making the works available, the service provider may be a passive participant. The

¹⁶ Ibid.

¹⁷ David N Weiskopf 'The Risks of Copyright Infringement n the Internet: A Practitioner's Guide' (1998) 33 University of San Francisco Law Review 1 at 3

¹⁸ Allen N Dixon & Martin F Hansen 'The Berne Convention Enters the Digital Age' European Intellectual Property Review pp 604 (1996)

¹⁹ Ibid.

²⁰ Ibid.

²¹ Dean S Marks & Bruce H Turnbull 'Technical Protection Measures: The Intersection of Technology, Law and Commercial Licences' pg 198 , European Intellectual Property Review (2000)

user is the active participant by accessing, using, or copying a particular work.²² The user can also, in turn, act as a further publisher of the work and so become an unauthorized republisher.²³ Compression (the reduction of a digital file's size) speeds up the download time of a file, which makes wide distribution even more of a reality.²⁴ In the analogue world, copying copyright works was allowed in only defined circumstances. But digital transmissions are marked by temporary copying and uses. Interactive services often involve uses of works in which -

- (a) no copy is delivered at all;
- (b) only a temporary copy is made in computer memory;
- (c) the only copy made exists on the hard drive of a computer; or
- (d) only part of a work is used, for a limited time.

A user that accesses a copyright database online, for example, typically looks for only one particular type of material, which may be copied onto the user's computer for later use, or may simply be used until the user exits the database. Similarly, computer programs can be used online simply by loading them into a computer's RAM memory.²⁵ Not only users but also authors profit from digital transmission services. Because of the speed of digital transmission, it can be used very rapidly to transmit works to the public or an individual user. It also provides, for example, artists in the visual and performing arts with the opportunity to hold online exhibitions.²⁶ And musicians who have not been signed by record companies can bypass traditional marketing channels by posting copies of their recordings on the Internet for sale or free distribution.²⁷ Users now have inexpensive and widespread access to large numbers of works, from a variety of devices, at locations of their choice. An example of one of the advantages is that software and music titles are increasingly available on the Internet at the same time as physical copies are released through traditional retail outlets.²⁸

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Impact of Digitization on the Rights of Authors

Digitization offers not only new ways of creating works but also the wide and efficient dissemination of their works by digital transmission. For the computer, broadcasting, cable, satellite, and telecommunications industries, there is the potential for technical innovation and growth. And for virtually every member of the public, digital transmission makes works, information, and services available online in forms much more useful than the old analogue formats.²⁹ However, despite these many advantages of digitization, time proved it to be a double-edged sword - it not only lead to new and exciting ways of creating and enjoying

²² Supra.

²³ Ibid.

²⁴ Stephen M Kramarsky 'Copyright Enforcement In the Internet Age: The Law and Technology of Digital Rights Management' pp 1 LCA Journal of Art and Entertainment Law (2001)

²⁵ Ibid.

²⁶ http://www.med.govt.nz/buslt/int_prop/digital/digital-04.html (Last assessed 20.02.2020)

²⁷ Brian Leubitz 'Digital Millennium? Technological Protections for Copyright on the Internet' pp 417 Texas Intellectual Property Law Journal (2003)

²⁸ http://www.med.govt.nz/buslt/int_prop/digital/digital-04.html (Last assessed 20.02.2020)

²⁹ Allen N Dixon & Laurie C Self in 'Copyright Protection for the Information Superhighway' (2000)

copyright works, but also provided new ways of infringing authors' rights.³⁰ Digitization threatens authors' economic and moral rights, as well as their enforcement.

Impact of Digitization on Author's Economic Rights

Digitization itself always includes reproducing a work. The mere conversion of a copyright work to digital format can constitute copyright infringement if it is done without the author's consent.³¹ The market for copyright works is also greatly influenced because of the availability of unauthorized perfect copies which ultimately threatens authors' revenue streams. This can detrimentally affect decisions to create, invest in, and distribute copyright works.³² Copies of a work can easily be distributed or made available to the public through digital transmission systems such as the Internet. By publishing online, a work is not only made available to potential customers but also exposed to potential pirates.³³ Threat is that an author exposes herself to the possibility that someone can interfere with the publication of her work, for example, by preventing it from reaching its intended destination. The greatest threat is perhaps that by publishing on the Internet, an author can lose control of the distribution of her work.³⁴

Impact of Digitization on Author's Moral Rights

Because of the ease by which digital works can be manipulated, the right of attribution in works created in or converted to digital format is at risk - during the conversion from analogue to digital format an author's name can be removed or altered.³⁵ The creation of a work in digital format, or the conversion of an analogue work into digital format, can also infringe the author's right of integrity.³⁶ Authors are likely to have difficulties exercising their moral rights to object to derogatory treatment of their works that they consider harmful to their honor or reputation where copies are widely distributed over the Internet.³⁷

Digitization Issues

The issue of copyright in cyberspace assumes greater importance as this digital media, the issue of copyright in cyberspace assumes greater importance as this digital technology is detaching information from the physical plane. This technology has also been described as ITC i.e. Information and Communication Technology. More and More books are being digitized with the use of computers as users are shifting from reading in paper to reading on the computer where storage and retrieval can take place at the click on the mouse button. Large quantum of data can be stored in digital files which can be taken to any place without consuming any space

³⁰ http://www.med.govt.nz/buslt/int_prop/digital/digital-04.html (Last assessed 20.02.2020).

³¹ Irini A Stamatoudi & Paul LC Torremans (eds) Perspectives on Intellectual Property: Copyright in the New Digital Environment, Sweet & Maxwell, London (2000)

³² http://www.med.govt.nz/buslt/int_prop/digital/digital-04.html (Last assessed 20.02.2020)

³³ Ibid.

³⁴ Peter Kumik 'Digital Rights Management' Legal Information Management, Vol.1, Issue 02 (2001)

³⁵ Ibid.

³⁶ Supra.

³⁷ Ibid.

which has been made possible with the increasing popular use of external memory stick / drive.³⁸

Piracy, Bootlegging and Counterfeiting

Piracy, Bootlegging and Counterfeiting are terms often used to describe infringing activities involving the unauthorized making and/ or distribution of copies of protected material. Privacy refers to the activity of manufacturing unauthorized copies (“pirate copies”) of the protected material and dealing with such copies by way of distribution and sale. The pirate copy may be made from a legitimately produced copy or another pirate copy. Infringement may occur by the act of making copy, by having in possession plates for making unauthorized copies, by distribution or importation of pirate copies, and by sale of the copies. The rights of the authors, performers, and phonogram and film producers involved in the material in and making of the legitimate copies may all be infringed by the practical activity.³⁹

‘Bootlegging’ is a term used to refer to the practice of making an unauthorized recording of a live performance, often sitting in the audience and operating a tape recorder.⁴⁰

‘Counterfeiting’ copies are those which are made to resemble the genuine copy, by copying the label or packaging, as well as the recording itself. Nevertheless, pirate and bootleg recordings may be marketed under different marks, or even no marks at all, counterfeiting will involve infringement of the rights of the authors, performers and producers concerned, and may also infringe trademark and other rights.⁴¹

Difficulties emerged in formulating and carrying out digitization projects

Early digitization projects were tackled with the objective of creating online repositories of works on various fields. However, some institutions decided to digitize all works to get stored in their collections, whereas few others set up committees. Now it is depended greatly on funding and collaboration opportunities. The partnership agreements with commercial undertakings raised the issue of whether the concerned institution should agree to the standard terms proposed by the commercial partner in question or try, instead, to negotiate tailored terms. The case of the Oxford Bodleian Library, which entered a partnership with Google to digitize its collection following agreement to terms specifically negotiated. Such institutions also agreed on need to adopt more strategic approaches to both digitization and online exploitation of cultural content.⁴²

Difficulty in the enforcement of rights

³⁸ Akhil Prasad & Aditi Agarwala, Copyright Law Desk Book Knowledge, Access & Development, New Delhi Universal Law Publication Co. Pvt Ltd.(2009).

³⁹ J.A.L.Sterling, World Copyright Law, Thomson Sweet & Maxwell, London (2008)

⁴⁰ <https://www.wipo.int/export/sites/www/about-ip/en/iprm/pdf/ch4.pdf> (Last accessed on 20.02.2020)

⁴¹ <https://www.wipo.int/export/sites/www/about-ip/en/iprm/pdf/ch4.pdf> (Last accessed on 20.02.2020)

⁴² <http://www.digitalhumanities.cam.ac.uk/Copyrightissuesfacingearlystagesofdigitizationprojects.pdf> (Last accessed 20.02.2020)

Copyright has territorial application and the international conventions are built upon this premise.⁴³ Despite the existence of international conventions there is considerable variation in national laws, enforcement policies, and cultural attitudes towards intellectual property. And fundamental legal concepts can be interpreted differently in different countries.⁴⁴ Authors are thus faced with the problem of detecting infringement as well as the question of how to enforce their rights once they have been infringed. Four main problems surface in this context: identifying infringers, determining jurisdiction, determining the applicable law, and enforcing judgments against infringers.⁴⁵ Article 5.1 of the Berne Convention relies on the principle of national treatment. According to this principle, each member country must grant foreign authors (the nationals of other member countries) the same rights as it grants national authors. This does not solve the issue of what law should be applied when protection is sought for a country (or author) from a non-member country. Article 5.2 of the Convention is a choice-of-law rule leading to the application of the law of the member country for which protection is claimed. However, online global information networks allow transmission to and access from servers in numerous countries.

Jurisdictional Issues

In the case of infringement of copyright through the internet the question arises as to which court should have jurisdiction over the offence. Jurisdiction is based on territorial principles, so when a person is within a country jurisdiction can be exercised over him. When an infringement through the internet occurs, the place where the server is located, the place of residence of the person who posts the infringing content, each and every country where the information was accessible, the country of the author whose right was infringed are all the possible places which may have jurisdiction over the matter. The European Court has held that it is only the court where the defendant resides that will have jurisdiction over the matter.⁴⁶ The Indian Copyright Act makes determining the jurisdiction an easy affair. Section 62(2) of the Copyright Act provides that a suit for infringement of copyright can be filed at the place where the plaintiff resides or carries on business.

Issues of Digitisation in Digital Libraries

Digital libraries are repositories which store collections of information and provide access to them. An archive is a repository that is organized for long-term preservation of materials. The manual system of searching for information and materials in the traditional library does not permit multiple use of the same material by different library users unlike the online library services. It is inefficient and time consuming, hence the need to exploit the advantages of the digital library which enables provision of online library services. However, there are a lot of challenges facing the setting of a digital library or conversion to digital status. Digitization is time consuming and it is also a very expensive endeavour. There is continuous shortage of

⁴³ Xalabarder 'Copyright: Choice of Law and Jurisdiction in the Digital Age' 8 Annual Survey of International and Comparative Law 79-96 at 80. (2002)

⁴⁴ "The Digital Dilemma: Intellectual Property in the Information Age" Ohio State Law Journal 951, (2001)

⁴⁵ JAL Sterling, "Philosophical and Legal Challenges in the Context of Copyright and Digital Technology" International Review of Industrial Property and Copyright Law pg 522 (2000).

⁴⁶ Shevill v. Press Alliance SA, E.C.R. 415 (1985)

periodicals and other technical or handy literature in research institutions, universities, and technical schools in the developing world. Thus, making students, scientists, administrators and other information seekers to have limited access to innovations made outside their domain.⁴⁷

Issues of Digitisation in Orphan Works

In the context of copyright law, the term orphan work means a work for which the copyright owner cannot be identified or located by a good faith user for the purpose of requesting permission to use the work.⁴⁸ For some copyright works, the owners shall never be identifiable with reasonable certainty, either because initial ownership is ambiguous or because it has been passed along a chain of title too complicated or unraveled.⁴⁹ Failure to locate the right holders leaves prospective users with two options either to use the work without authorization, or not to use the work at all. While the first option carries the risk of legal action, the second reflects a situation in which significant part of our recent culture heritage is embodied in copyright works may not be digitally exploited and hence fall into oblivion.

Issues of Digitisation in Overlap

The area of overlap between copyright and design patent statutes, the author/inventor can secure both a copyright and a design patent. Thus creativity in ornamental design may be copyrighted as a work of art and may also be subject matter of a design patent. The patent and copyright overlap is addressed in section 3 of the Patent Act,⁵⁰ which precludes copyright subject matter (such as poem) from the patent protection. Also the Trademarks and copyrights can often overlap like logos can be protected under both copyright law⁵¹ and trademark law²⁷⁴. There may raise a conflict of registration because neither the trademark excludes copyrightable subject matter nor does the Copyright Act exclude trademarkable subject matter.

Legal Framework and Copyright Enforcement on Digitisation

The major achievement of the WIPO Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT) was the introduction of the right, for authors and owners of related rights, to authorize the making of their works available to the public by networks such as the Internet. The treaties also provided for the protection of technological measures used by right owners for preventing unauthorized access to their works or for the purposes of rights management systems. The Treaties entered into force on March 6, 2002 for the WIPO Copyright Treaty and on May 20, 2002 for the WIPO Performances and Phonograms Treaty.⁵²

⁴⁷ Ibid.

⁴⁸ <http://www.copyright.gov/orphan/orphan-report-full.pdf>. (Last accessed 20.02.2020)

⁴⁹ Maurizio Borghi and Stavroula Karapapa, Copyright and Mass digitization, Oxford University Press (2013).

⁵⁰ The Patents Act, 1970

⁵¹ Indian Copyright Act 1957 s.s 13 (1) (a), 45(1).

⁵² www.accu.or.jp/appreb/10copyr/pdf_ws0605/c2_1pt.pdf (Last Accessed 20.02.2020)

CONCLUSION AND SUGGESTIONS

Conclusion

The Internet in a way presents a troublesome situation for copyright holders as the users become mass disseminators of others copyright material and creates disequilibrium between the authors and users.⁵³ The advent of digital technology, therefore presents legislators with a choice: either expand or modify existing 'old media notions' or redefine the catalogue of restricted acts, taking into account the peculiarities of the new environment in multiple facets discussed herein under.⁵⁴ The revolution of the digital technology is already being harnessed by nations such as the United States of America in as much as conversion of books e-format is concerned.⁵⁵ Text, music and images have been reduced to digital data, which can be transmitted in digital form at high speeds - throughout the world - to everybody with an internet connection.⁵⁶ The basic copyright model identifies certain works as worthy of copyright, categorizes them as property, and then grants a certain bundle of rights to an appropriate rights holder, subject to restrictions and exceptions.⁵⁷ With revolution in the field of information technology and the availability of more works in the digital format, it became essential for the owners of copyright to resort to new mechanisms to protect their work effectively. The new mechanisms resorted to included technological measures and the law came in for further protection of these technological measures.⁵⁸

Suggestions

The step should be taken to minimise copyright abuse which is required in raising awareness in the general public. The limitation of jurisdiction may be uplifted in the international laws. The copyright law should be framed as international treaties and conventions where the country gave its concurrence. Duly acknowledgement must be strictly followed as per the procedures.

⁵³ Gulla, R. K. "Digital Transformation of Copyright Laws and the Misty Indian Perspective", *Icfai Journal of Intellectual Property Rights*, vol 2, issue 4, pp 1-26.(2007)

⁵⁴ "Copyright Protection in Digital Environment: Emerging Issues", *International Journal of Humanities and Social Science Invention* Volume 2 Issue 4 | April. 2013| PP.06 -15

⁵⁵ Ibid.

⁵⁶ Gillian Davies *Copyright and the Public Interest* Thomson sweet & Maxwell, (2002).

⁵⁷ Kenneth L. Horton, "The Software Copyright Directive and the Internet: Collision on the Information Superhighway?", <http://www.jeanmonnetprogram.org/archive/papers/96/9608ind.html> (Last accessed 20.02.2020)

⁵⁸ Arathi Ashok, "Technology Protection Measures and the Indian Copyright (Amendment) Act, 2012: A Comment", *Journal Of Intellectual Property Rights*, vol 17, pp 521 November (2012),