

Research & Legislative Analysis On Copyright Laws And Its Reforms

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ABSTRACT

Copyright (Amendment) Act, 2012 was pathbreaking legislation in India. It entered the copyright laws on equal footing with international laws in many cases and even better footing provisions leading the world—especially the provision allowing disabled and organisations working for disabled to have protection from litigations.

Technological protection measures and encompassing future technologies in its ambit is a versatile provision, although its utility needs to be weighed in. Reducing hardcopy submissions for registrations also adds to the environment-friendliness of the act. The Copyright Rules, 2013 and 2021 have been a consistent effort on the part of legislators to improvise on the existing laws and make them more useful and contemporary.

Despite these efforts, there is some scope left for improvement just so as to reduce the burden on the judiciary, which the legislators seem to have relied on to make it more apt according to the changing times.

Key Words: Copyright, technology, measures, judiciary, legislation.

INTRODUCTION

Copyright (Amendment) Act, 2012 was pathbreaking legislation in India. It entered the copyright laws on equal footing with international regulations in many cases, and even better footing provisions leading the world—especially the provision allowing disabled and organisations working for disabled to have protection from litigations. Technological protection measures and encompassing future technologies in its ambit is a versatile provision, although its utility needs to be weighed in. Reducing hardcopy submissions for registrations also adds to the environment-friendliness of the act. The Copyright Rules, 2013 and 2021 have been a consistent effort by legislators to improvise on the existing laws and make them more valuable and contemporary.

Despite these efforts, some scope is left for improvement to reduce the burden on judiciary, which the legislators seem to have relied on to make it more apt w.r.t. the changing times. Copyright Act or its rules are undergoing a mammoth of changes to either accommodate the international provisions and treaties or to keep it abreast with other contemporary laws to avoid inconsistencies. Enabling the trade to learn from it and get a more robust utilisation of time instead of red-tapism and compliances. India has jumped to Rank 63ⁱ Within the recent index in the year 2021. Putting us in an exceedingly proactive role in providing a higher setting.

METHODOLOGY

It was a qualitative research based on secondary data. Since, our topic involved comparing

between already existing legislations - doctrinal method was apt. Some, of the points were evolved from speaking to individuals connected to the field, thus one on one interview technique was used.

OBJECTIVE OF THE AMENDMENTS TO RULES IN 2021

The Copyright Act, 1957 and Rules of 2021 is the primary legislation for copyrights. The Copyright Rules, 2013 were last amended within the year 2021.ⁱⁱ

- To bring the present rules in tandem with alternative relevant legislations.
- Publicising copyrights journal has been incorporated, eliminating the necessity of publication within the Official Gazette. The journal will be available on the website of the Copyright Authority.
- To encourage accountability and transparency and make it contemporary new provisions are introduced to contend with the overdue royalty amounts and the use of electronic and traceable payment ways whereas assortment and distribution of royalties.ⁱⁱⁱ Copyright Societies will be needed to draw up and publicise an Annual Transparency Report for every fiscal year.
- The Copyright Board has been assimilated with Appellate Board. The compliance needs for registration of software package works are reduced.
- The applicant has the liberty to file the first ten and last ten pages of source code or the whole code if but twenty pages, with no blocked out or redacted

parts. The point in time for the Central Government to retort to associate application for registration as a copyright society is extended to 180 days.

CRITICAL APPRAISAL OF LEGISLATION

Copyright Laws govern a peculiar subject and industry, which is unique and cannot be directly compared to any other business model existing in different sectors. For start, it deals with businesses and people who are artistic, and the way they are associated with their agents is somewhat discreet. Often, it's just an oral contract, or even if in writing, they tend to behave inconspicuously. Given these circumstances, it is pertinent to make legislation(s) and rules which are comprehensive and which have the potential to avoid litigations. The already burdened judiciary needs specific laws, on the contrary, not laws that add to its burden. There above 69000 Cases are pending in Supreme Court as of Oct. 1, 2021^{iv}. Apart from this, there are many more in lower courts rather than in multiple of tens and hundreds of it.^v

DMCA & COPYRIGHT

This book^{vi} is an effort on the government's part to provide a basic understanding of the topic and create awareness of the subject. It is a significant effort – owing to the US's DMCA, and its reach is far more percolating even in the Indian population. It gives the crux and subject matter fairly non-legal terms, enabling the readers to grasp the content. Although this publication is mainly targeted at the enforcement agencies, it's useful for everyone.^{vii}

COMPARATIVE OF 1957 ACT AND 2013^{viii} ACT.

PARTICULARS	1957	2013
Republishing: -		
Work (Section 31, 31-A and 32-A)	₹ 400/-	₹ 5000/-

Broadcast Licensing [section 31(1)(b)].		--NA--	₹40,000/ applicant/ station
Cinematograph Film (Section 31)		₹ 600/-	₹ 15,000
Sound-Recording (Section 31)		₹ 400/-	₹ 10,000
Public performance or Broadcast (Section 31)		₹ 200/-	₹ 5,000
Publishing/Communicating translation work (S. 31A).		--NA--	₹ 5,000
Publishing for a person with any disability (Section 31B).		--NA--	₹ 2,000
Producing/publishing translation - Literary or Dramatic work in any Language (S.32 & 32A)		₹ 200/-	₹ 5,000
Registration Application			
a.	Literary, Dramatic, Musical or Artistic work	₹ 50/-	₹ 500/-
b.	For Literary or Artistic work capable of being used with any goods (Section 45)	₹ 400/-	₹ 2000/-
c.	Cinematographic Film (Section 45)	₹ 600/-	₹ 5000/-
d.	Sound Recording (Section 45)	₹ 400/-	₹ 2000/-
Change in particulars: -			
a.	Literary, Dramatic, Musical or Artistic work	₹ 50/-	₹ 200/-
b.	“a” is used with any goods (Section 45)	₹ 200/-	₹ 1000/-
c.	Cinematograph film (Section 45)	₹ 400/-	₹ 2000/-
d.	Sound Recording (Section 45)	₹ 200/-	₹ 1000/-
Certified Copy: -			
From the indexes (Section 47)		₹ 20/-	₹ 500/-
From the Register of Copyrights (Section 47).		₹ 20/-	₹ 500/-
Extract of the Register (Section 47)		₹ 20/-	₹ 500/-
Any other public document		₹ 20/-	₹ 500/-
Preventing “importation of infringing copies” (Section 53)		₹ 400/ entry	

The comparison mentioned above illustrates how much costs have rocketed. It might also be interpreted as these organisations having sufficient cash to defend their members. Also, the creator of artistic literary & music work in a cinematograph film can assign/waive his right to earn an “equal share of royalties” from the

“assignee” for the use of the work only in the form of public communication in a movie theatre. The only exceptions are copyright societies and successors to whom an author may convey the right. Therefore, producers should now divide non-theatrical exploitation earnings equally with screenwriters,

songwriters, and composers. The stipulation specifies that any alteration to the contrary is invalid. Copyright Societies and legal heirs to whom an author may convey the right are granted exceptions. The Amendment to Section 18 also prohibits the assignment of Copyright in a manner that would permit the assignee to exploit the Copyright assigned to it through unspecified “future technologies”. Any medium or mode of exploitation of a work that did not exist or was not in commercial use at the time of assignment being signed.

In Indian films, unlike in Hollywood, the work of the lyricist or composer depends on the film’s plot, storyline, lead actors, the scenario in which the song is to be played, etc. The director and producer contribute significantly to the ultimate product of the songs. In addition, the agreements cannot conflict with the norms of any copyright society to which the author belongs. The Amendment Act, however, does not define whether this includes only the Indian copyright society or the International Copyright Societies.

CASE LAW

In UTV Ltd.’s case^{ix} The Delhi High Court made a significant contribution by introducing a new mechanism to extend website barring injunctions to “mirror/alphanumeric/redirect” websites built post the injunction order had already been issued. This addition was designated as “DYNAMIC INJUNCTION.” The High Court of Delhi referred to Singapore High Court’s decision in *Disney v. M1* while issuing orders. Singapore Court gave the concept of ‘dynamic injunction’, whereby a plaintiff was given the right to file an additional affidavit explaining why any website not exclusively mentioned in the injunction order yet fell within the scope of an existing order and forwarding the same to an ISP, which could dispute the merits of the blocking order. This procedure aids in preventing infringement by such “Rogue Websites” and decreases the burden on copyright owners to navigate the difficult litigation path repeatedly.

SUGGESTIONS

- Copyright Act by the Singapore Government^x consists of 15 Chapters and 272 Sections – this act seems to be more comprehensive and encompassing. Especially the Interpretation Clause, i.e., Section 7 of Part II. They have defined and even provided percentages to determine the share and infringement. Adapting these clauses in our legislation would favour the Indian diaspora and reduce the litigations based on interpretations.
- Royalty is defined as “minimum royalty” in contrast to “equal royalty” used in Indian legislation. Although Indian legislation seems more generous, it seems less pragmatic towards its calculation.
- Describing the “reasonable portion” in electronic medium adaptation in bytes and percentages of the entire dramatic and literary arts put it at par with a research thesis. They are making it more like plagiarism and placing a cap on it. It is futuristic and provides a better guiding force to the judiciary while deciding on litigations.
- We find even this legislation putting people with disabilities in the definition of “permitted usage” or, in Indian terms “Fair use”, making it at par with Indian legislation.
- The word “effective” in the phrase “effective technical measure” should be replaced, deleted, or clarified in Section 65A of DRM.
- The Parallel Imports problem has not been addressed at all by the Amendment Act. Section 107A (b) of the Indian Patent Act, 1970 and Section 30(3) of the Trademarks Act, 1999 provide provisions for parallel importation.

CONCLUSION

The above critical analysis of the Amendment act of Copyright Law provides the necessary insight on the lacunae, and the suggested improvements only with the intent of making it

better. Legislating is a continuous process to suit the growing ingenuities. The newer the technology, the better equipped the legislation has to be to avoid public conundrum and import of new immoral acts. One such modern technological innovation is NFTs. We have seen from our elaborate discussion that numerous changes have been made to accommodate every stakeholder's needs and ensure no person or segment is untouched. Still, we find some drawbacks need to be addressed. It is a welcome step to amend the act and the rules to make the working more e-friendly. Some rights are unparalleled and place us in the hierarchy of giving and protecting the artists' rights. For example – inserting a proviso to enable the disabled to use the work without restriction and also those organisations such a piece of legislation.

associated with it is an epic step towards showing compassion and empathy. It puts them on par with the educational users.

The basic understanding, we get of the reasons for these drawbacks is that the field this legislation covers is very artistic, and the business operating rules are different compared to other sectors and industries. So, making a generalised and blanket clause even for subsets within the sectors proves somewhat detrimental or ineffective for the least. Legislation is a process that will evolve as time progresses, but the important part is that we should be in the right direction, and with these amendments – we are. Incorporating the reforms mentioned above and ironing out the creases will take us a long way, so much as to make us a model nation for giving out

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