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COPYRIGHT VIOLATIONS IN SOCIAL MEDIA CULTURE: A LEGAL STUDY OF THE INDIAN SCENARIO

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Abstract

Copyright provides legal protection to authors of original literary, musical, dramatic, artistic, cinematographic and sound recording works. However, with the rapid growth of technology and social networking platforms, the protection of copyright has become increasingly complex. Social media has created new opportunities for expression and communication, but it has also led to frequent instances of copyright infringement. On a daily basis, users share, repost and distribute copyrighted material, often without authorization or proper acknowledgment.

This research paper examines the concept and principles of copyright law and analyses how social media culture contributes to violations of creators' rights. It studies both the Indian legal framework and international developments governing copyright protection in the digital environment. The paper further discusses the role of major platforms such as YouTube and Facebook in the circulation of copyrighted content and evaluates the challenges faced in enforcement. Finally, it suggests measures that may help strengthen copyright protection while maintaining a balance between innovation, accessibility and the rights of original creators.

Keywords: Copyright, Social Media, Infringement, Digital Platforms, Global Trends.

Introduction

In recent years, social networking sites have experienced significant growth, enabling users to share information within seconds. Organizations and individuals alike can communicate, market their products, or promote themselves through these platforms. The reach of the audience has expanded as a result. Users are encouraged to share both third-party content and their own original material on social media platforms. Various tools are available for this purpose, such as re-posting, sharing, or re-tweeting.

These platforms facilitate the operation of digital businesses, and digital marketing which makes them more attractive to appear. Their primary source of revenue is advertising, that is why these networks promote sharing; an increase in user numbers makes advertisements more appealing, thereby boosting their revenue. The practice of sharing or re-sharing on social media fundamentally contrasts with the implications of copyright law. Copyright law governs the use of literary, artistic, or dramatic works, and in the online space, it regulates the unauthorized copying and distribution of copyrighted materials to the public. The rise of social media and the culture of sharing have significantly affected copyright law's ability to serve its intended purpose. The relevance and effectiveness of copyright regulations face challenges in the age of social networking. Recently, the necessity for copyright regulations concerning social media platforms has gathered attention in the political arena.

The United Kingdom Intellectual Property Office released a report highlighting the effect of social media on Intellectual Property Rights violations. According to this research, as reported by industry groups alongside private and governmental enforcement agencies, many activities contribute to online counterfeiting. These activities include fan pages, impersonation, business transaction pages, the proliferation of counterfeit-selling websites, and the promotion of false special offers. The report also argued that these social media platforms play a significant role in the distribution and sale of pirated or counterfeit goods. Social media has been characterized as a hotspot for counterfeits, spreading through both closed and open pages within groups, using re-tweets, likes, and fan pages. The findings indicate that social networking platforms create opportunities for breaches of Intellectual Property Rights². Additionally, a study by Common Sense Media assessed teenage groups and revealed that 2,600 teens spend an average of nine hours a day on social networking sites. It was noted that for this younger generation, the primary value of media lies in listening to music and watching or scrolling through the social media sites. Consequently, social networking platforms serve as a significant avenue for e-WOM (Electronic Word of Mouth), which is the online equivalent of traditional word-of-mouth marketing, playing a crucial role in the online consumption and sharing of copyrighted material³

2. Copyright – A Legal Right

Copyright refers to a type of intellectual property right that grants authors of original literary, musical, dramatic, or artistic works, as well as audio recordings and films, legal control over their creations. This legal protection can be obtained for various works including books,

pamphlets, lectures, addresses, choreography, musical compositions, cinematographic works, drawings, paintings, photographs, applied art, sketches, 3D works, topography, architecture, translations, collections of literary works, and computer programs, among others. The Berne Convention of 1886 was the first agreement to safeguard literary and artistic works created by their authors in forms such as books, music, paintings, sculptures, and films. Now, works based on technology, such as computer databases, are also categorized under copyright. Copyright protects the expression of ideas rather than the ideas themselves; the law is designed to safeguard the manifestations of these ideas. The owner of a copyrighted work has exclusive rights to enjoy and protect their creation from unauthorized copies by others. These rights encompass economic benefits for the owner and moral rights to safeguard their work from infringement and rights to take legal actions. The copyright owner may prevent others from replicating their original work. In the context of social media, copyright infringement by users frequently violates both the economic and moral rights of the copyright holder, and such uses cannot be deemed as free reproduction or fair dealing⁴.

In India, the Copyright Act of 1957 is the law that governs copyright. The Act serves two main purposes⁵: it seeks to guarantee rights for musicians, artists, painters, and other creative individuals over their creative interpretations, and it also allows others to build upon the knowledge and concepts made available by those works. The evolution of copyright law⁶ in India dates back to the British Colonial period when the Indian Copyright Act was enacted in 1847. This initial act was later repealed, leading to the Copyright Act of 1911, which applied to all British colonies, including India. Subsequently, the Act was amended in 1914 and remained in effect until post-independence when India introduced its own Copyright legislation in 1957. Since its enactment, the Act has undergone numerous amendments, the latest being in 2012. Under Section 13 of the Indian Copyright Act of 1957, there is discussion about the specific types of works that can be protected under copyright. However, it does not address copyright regarding social media. Copyright can be characterized as a set of exclusive rights granted to the copyright holder as stipulated in Section 14 of the Act. The Act guarantees that the copyright owner or their authorized representative can exercise these rights, which include the ability to reproduce, publish, adapt, translate, and communicate their work to others.

The primary aim of copyright is to promote scientific advancement and artistic expression while compensating creators for their original works⁷. To achieve this, the law provides

authors the right to express their creativity and permits others to build upon the knowledge and concepts conveyed in a given work for future endeavours. It ensures that songwriters, writers, artists, designers, and producers of sound recordings or films can publicly showcase their creations. Additionally, it allows the knowledge or suggestions from a work to be freely utilized by others to expand their respective fields. Certain unrestricted uses of copyrighted materials are provided for in the legislation to create a balance between the rights of copyright owners and public welfare, ultimately benefiting society. The Madras High Court has observed that copyright legislation aims to safeguard the fruits of an individual's creativity, effort, and work from being inappropriately taken by others⁸.

Copyright is fundamentally an intangible asset⁹. It is referred to as property because the creator or developer retains rights over it. The owner of the property has two main choices for transferring ownership: they can either completely sell it or offer a license. Copyright includes a variety of legal rights and is recognized as a negative right, as it enables the copyright owner to stop others from using their work without permission or from performing acts that, under copyright law, are reserved solely for the owner.

3. Social Media – An Age of Revolution

Social media can be defined as a variety of technologies that enable users to share information and ideas. Platforms like Instagram¹⁰, X¹¹ platform to Facebook¹², and YouTube¹³ collectively have over 5 billion users, accounting for approximately 60% of the global population¹⁴. Initially, social media served as a platform for easy communication among family and friends, but it has since expanded to serve multiple functions. Recently, there has been a significant increase in social media usage, especially following the launches of Twitter and Facebook. Businesses have also turned to social networking sites to broaden their global outreach. About 45% of internet users, especially young people, acquire their news updates mostly from social media, according to the Global Web Report¹⁵.

Given that people spend a large amount of time on social media, it has been observed that social media plays a big part in corporate marketing tactics. It's also critical to keep in mind that social networking is an ever-evolving field, with new apps regularly appearing alongside well-established networks.

Social media platforms fall into six different categories:

- Social networking: This is the use of particular websites and applications to communicate with other users or look for people who share your interests.
- Bookmarking on social media: This procedure makes it possible to tag webpages with browser-based tools so that users can return to them as needed.
- News published, shared, or reported by any user on a social networking site is referred to as "social media news."
- Media sharing: This function allows users to post audio, video, or picture content to a website that is accessible from anywhere in the world.
- Microblogging: By publishing brief and regular updates on a microblog, people can reach an audience.
- Online forums: These are places on the internet that are set up especially for discussions using questions, answers, and posted responses.

The aforementioned platforms suit the varying interests of users and serve a variety of objectives. Politicians connect with their constituencies, celebrities interact with their fans, people use these platforms for personal reasons, and even governments use them to disseminate vital information during emergencies. Social networking sites have shown themselves to be a vital tool for corporate marketing. Businesses use these platforms to interact with consumers, market and advertise to boost sales, and determine consumer wants and trends.

Social media platforms allow people to connect with others and obtain information in a matter of minutes. This makes the world more interconnected. But social media has its own disadvantages, just like any other circumstance. It can swiftly propagate false information, polarize people, and exacerbate psychological issues.

According to a 2019 survey, using social networking sites is associated with creating more connections and having more varied personal networks, friends, especially in poorer nations¹⁶. The impact of social media networking on residents' lives is covered in another 2023 poll¹⁷. Approximately 80% of students think social media makes them feel closer to their friends. One in three respondents believed that social media platforms have more beneficial than bad effects on them, while 59% said they have neither positive nor negative consequences¹⁸.

However, the Mayo Clinic¹⁹ states that teens who use social media excessively run the risk of experiencing physical and mental health problems, being distracted, having trouble sleeping, being bullied, developing irrational expectations about the lives of others, spreading rumours, and being subjected to peer pressure. On the other hand, social media platforms are very helpful to businesses since they offer a more efficient and cost-effective way to reach customers while also supporting the development of their brand. Approximately 200 million small companies use these platforms for different purposes, according to Facebook²⁰. Furthermore, about 90% of companies claim to utilize Facebook for brand promotion²¹. With millions or possibly billions of users, the most popular social media platforms are Facebook, YouTube, WhatsApp, Instagram, WeChat, TikTok, Facebook Messenger, Telegram, Snapchat, X, Pinterest, and others²².

4. The Link between Social Media Culture and Copyright Violations

Fair use, as defined by copyright law, refers to the restrictions imposed on the owner's ability to stop others from copying or duplicating their work. In essence, fair dealing in dramatic, musical, literary, or artistic works is permitted for the following reasons under Section 52 of the Copyright Act of 1957²³:

- Research and other private projects;
- reviews and critique;
- reporting on current events in print or broadcast media, as well as in pictures or cinematographic films;
- reproducing court reports;
- reproducing or publishing any work created by the Legislative Secretariat for legislative members' use;
- reproducing a lawfully produced work in compliance with a certified copy;

The concept of fair dealing is not defined in the Act. It can be referred to as a legal notion that grants a person the right to use a work that is copyrighted, without taking the authorization of the owner²⁴. Fair use of a work and copyright infringement are closely related. There are four variables on which the nature of the fair dealing depends:

- Objective to use
- The type of work
- The quantity of labor utilized;
- The usage's impact on the original work.

When it comes to books, plays, theaters, or films, it has been simpler to defend the rights of copyright holders. However, copyrighted works are more difficult to safeguard as the internet has grown in popularity. A person is the owner of the copyright when they upload any creative work on a social networking site, such a tweet on X. The platform does not claim ownership and no one is allowed to share his work without his consent. Nonetheless, social networking services have conditions of use that grant them permission to use the material, and other users are also permitted to use or repost it.

It is crucial for consumers to understand what they are consenting to before posting anything on social networking sites because copyright and social media are both developing ideas. The prominent platforms in use such as Facebook, Twitter, Instagram, Quora, LinkedIn, etc. are some of the platforms where copyright infringement takes place on a big scale and it is vital for the government to come up with methods to regulate violations of copyrighted works in these areas²⁵.

There is a widespread misperception that because everything on the internet is readily available and accessible, everyone can use it for free. This is untrue, though. Anything that is placed on a social networking site is published, but it does not give others permission to use it however they see fit. When users register on social networking sites, they consent to restrictions on intellectual property rights on the use of content submitted on these platforms. As a result, third parties frequently violate copyrights, even when the owners have not given permission for such use²⁶.

The 1957 Act was unaware of social media copyright violations, but we live in a time when social media takes up a lot of our personal time. We are accustomed to posting a variety of content on social media, some of which we are the authors of, and any infringement is a violation of copyright for which a lawsuit may be brought. Because we are addicted to interacting electronically with known, half-known, and unknown people through electronic communication.

Social media has become a popular platform as a result of excessive mobile use. Geocities, a social media site, was introduced in 1990 to address violations of social media rights. Seven out of eight people use the internet, according to the telecom regulatory body's recent estimation of the growing graph of social media and internet users²⁷. India is the third-largest

internet user country, with a preponderance of young people²⁸. The Information Technology Act and Rule 2001 govern copyright infringement through online use. Social media violations are typically addressed in cases of cybercrime. Transient or accidental storage of a work or performance for the purpose of providing an electronic link is not forbidden by the copyright holder, according to Section 52(1)(c) of the Copyright 1957. Because social media platforms are so user-friendly, they have become the new focus of copyright violations. Users post their private photos, movies, music, and written papers, all of which are susceptible to infringement. Even if the fair use theory might protect infringers if they use it for educational purposes, copyright problems on social media platforms are becoming more and more prevalent in India. On March 30, 2021, the Indian government modified the Copyright Rules, adding a few additional legal measures regarding social media copyright violation.

Since the Berne Convention, copyright law has been well-established in many nations, protecting authors from infringement. The only people who can use copyright are the authors of the works. There are several directives for copyright protection, and the European countries have specific laws to prevent copyright infringement. We can talk about directives. The Infosoc Directive 2001 (directive 2001/29/EC) gives writers various rights and obligations, including the ability to make their works publicly accessible and to permit or forbid reproduction.

The Digital Millennium Copyright Act, a 1998 amendment to the US Copyright Act 1976, protects authors whose works have been published in any medium of communication. The World Intellectual Property Organization (WIPO) was established in 1967 when fifty parties signed an agreement to safeguard intellectual property rights. Additionally, the TRIPS Agreement provides many forms of intellectual property and copyright protection that are not covered by the Berne Convention. The authors' rights are safeguarded by the WIPO Copyright Treaty, which also gives them the ability to transfer ownership and share their work with the public. The concept of Creative Commons, in which the author grants permission to the public to use his work without retaining any rights, is currently popular on a global scale. Instagram, Facebook, Twitter, and other social media platforms allow users to publish photos and communicate with the world. However, Instagram maintains the authority to take down any content from its website without notifying the creator. Although users can report infringement to the Instagram support center, not much information has been supplied on copyright violations. It can be argued that the popular social media and its major users can be protected

by the laws and regulations of the municipal arena and in case of violation takedown notice can be sent to the social media for protection of the authors' right²⁹.

4.1. The Indian Viewpoint

Social media copyright violations are a modern addition in the society. In the current social media environment, any information, images, videos transmitted is susceptible to copyright violations. According to copyright law, any other person's copyrighted work in any field, such as writing, singing, or dancing, must be acknowledged with the owner's consent and credits or in accordance with the fair use doctrine. For the research purpose copyrighted work of some other person can be taken with correct citation. In social media we post numerous significant photographs, thoughts, movies, etc. having financial and proprietary significance, which is often exploited by people without our permission. In the age of social media many bloggers create stuff every day to receive monetary support from the social media platforms.

Additionally, YouTube users share significant content and credits that is protected by copyright. Sometimes, without the owner's consent, or credits, copyright violators use, reproduce, or distribute copyrighted materials worldwide including Images, movies, music, and articles that the original producers have created or posted on social media are indiscriminately used or shared by infringers afterwards. According to India's Copyright Act 1957, the users will not be liable for copyright violations if they provide the credit to the original author or original inventor. For the purpose of copyright infringement, the person or any organization may be subject to criminal prosecution, fines, or penalties. Social media companies may potentially be held accountable for violations if they fail to provide the rights of original authors and artists.

4.2. Legal Mechanism and Judicial Concept

The highest court in India is capable of providing protection and taking legal action when social media violates copyright. People of India Social Media (P) Ltd. (POI), a social media company, received a summons and notice from the Delhi High Court about imitative content³⁰. In this instance, Humans of Bombay Stories (P) Ltd., the plaintiff, filed a copyright infringement complaint against POI, the defendants, requesting an injunction to stop the infringing of its protected property. HOB, whose Instagram account has more than 2.7 million followers, requested an injunction to stop the violation of their copyrighted property, which included articles, postings, interviews, and other content that appeared on POI's website,

Youtube channel, and Instagram handle. Prima facie evidence of substantial imitation was recognized by Justice Prathiba M. Singh, who pointed out that certain photos and graphics were either similar or imitative. As a result, the defendants received notification from the court. The Court also recognized instances in which the defendants had completely copied the plaintiff's narratives and business model, even going so far as to construct an imitative platform using the same topics as the plaintiff's platforms³¹. Importantly, there were allegations of both "passing off" and "copyright infringement" in this case. A claim of passing off needs proof of some type of fraud, misrepresentation, or injury to the reputation and goodwill of the mark owner. The Court further declared in its 2001 ruling in *Cadila Healthcare Limited v. Cadila Pharmaceuticals Limited*³², that passing-off is a type of unfair trade competition or actionable unfair trading in which one individual seeks to profit financially from the reputation that another has built for himself in a specific trade or business³³.

The West Bengal Cyber Police has recently filed a number of cases pertaining to cybercrimes and social media issues. One such instance is Cyber PS C/No. 68/15 dated 17.01.2015 under sections 66C/67/67A read with 43 of the IT Act 2000, along with sections 354A (1) (iii) (iv)/354D (1) (i)/506/509 of the IPC. In this instance, a Facebook profile was violated by someone using a photograph without permission.

In some other instances, social media is a very vulnerable platform that is frequently used by people engaged in illegal activity. This covers the establishing of fictitious accounts, asking for money, and a number of other illegal actions. As a result, the Information Technology Act offers a strong legal foundation for dealing with copyright infringements on social media sites. It is crucial to remember, though, that those who violate copyright must have good reason to suspect that the copy is being preserved. In *Banyan Tree Holding (P) Limited v. A. Murali Krishna Reddy and Anr*³⁴, the plaintiff, who had been using the word mark "Banyan Tree" since 1994, filed a passing-off claim. The defendants' use of the phrase "Banyan Tree Retreat" and its advertisement on the website www.makprojects.com/banyantree was the subject of this lawsuit. The Delhi High Court was contacted because the website was available to Delhi residents, even though neither party was located within the court's territorial jurisdiction. Notably, the case was unique because of divergent opinions in earlier jurisprudence, which led to the matter being submitted to a division bench for decision-making. The court came to the conclusion that the Delhi court's jurisdiction could not be established by merely having access to a website. Instead, it had to be shown that the defendant had "purposefully availed"

themselves of such jurisdiction, meaning that the plaintiff was harmed as a result of the website's usage to complete a business transaction with the site user. Therefore, the applicant must demonstrate that the defendant expected a commercial transaction on the website that would cause harm to the plaintiff in order to establish jurisdiction over such things. The Delhi High Court denied Super Cassettes' motion for an interim injunction against Myspace for hosting copyrighted content without permission³⁵.

In the case of *Super Cassettes Industries Ltd. v. Myspace Inc. & Anr*³⁶. The court took into account Myspace's role as an intermediary under Sections 79 and 81 of the Information Technology Act, despite T-Series' allegations of copyright infringement. It concluded that Myspace was exempt from liability for user-generated content due to its eligibility for safe harbor protection. This ruling highlights the difficulties of enforcing intellectual property in the digital sphere and emphasizes the necessity of striking a balance between the rights of copyright holders and the legal safeguards provided to online service providers.

5. Conclusion

Unauthorized use of social media content may result in legal repercussions. On social media, copyright violations are common and frequently involve actions like reposting. Copyright infringement occurs when content is shared on social media sites like Facebook or WhatsApp without giving due credit. It's possible that the original producers neglect to defend their rights since they are not aware of how their content has gone viral. Although there are fair use exceptions for research and education, the Indian Copyright Act forbids the unapproved use of copyrighted content. However, it is against intellectual property rights to use content without authorization. Although it might be acceptable, educational use shouldn't violate the rights of others. Social media companies can use takedown letters to safeguard copyrighted content, and content providers can bring claims for copyright infringement. Because social media is increasingly widely used, there is an urgent need for infrastructure and efficient monitoring to stop misuse and protect copyrights. A proactive strategy is necessary to successfully prevent copyright infringement on social media sites. Anticipation, prevention, and prompt action against violations must be platforms' top priorities.

This entails putting in place strong content filtering systems, promptly sending takedown notices, and raising public awareness of the importance of upholding intellectual property rights. Establishing particular identity verification mechanisms should make it easier to get

content owners' express consent. Furthermore, it is essential to keep a close eye on social media activity and to enforce the law against those who violate it. Protecting against copyright infringement is crucial since social media plays such an important role in modern life. Utilizing India's copyright protection laws can offer a strong basis for dealing with online infringement. People should also use caution while posting on social media, taking into account things like audience access limitations and the relevance of the message. The integrity of intellectual property rights on social media can be successfully maintained by cooperation between platforms, content producers, and consumers.

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⁷ Supra note 5.

⁸ Sulamangalam R. Jayalakshmi v. Meta Musicals, Chennai, (2000) 20 PTC 681.

⁹ Intangible Assets is an identifiable, non-monetary asset without physical substance, controlled by an entity through legal or contractual rights, from which future economic benefits are expected.

¹⁰ Instagram is an online, free photo-sharing social networking platform or application acquired by Facebook in 2012. It is owned by the USA Company Meta Platforms. Instagram is a free, online photosharing application and social network platform that was acquired by Facebook in 2012.

¹¹ X is a free social networking site which allows the users to broadcast small posts known as tweets, which includes texts, videos, links or photos. It was acquired by X Corp, owned by Elon Musk. The mark „X“ symbolises the ambition of the platform to become an all-encompassing „everything-app“.

¹² Facebook (sometimes shortened to FB) is a social networking site started in February 2004. It helps in connecting with friends and family and sharing photos, videos, posts with wide range of people, message or call friends and families or even video chat. It was built by Mark Zuckerberg and is now owned by Meta, Inc.

¹³ YouTube is a website that allows free video sharing and makes it easy for anyone to watch the videos online. Videos can be created or uploaded and then shared with others.

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