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INTRODUCTION TO COPYRIGHT WITH SPECIAL REFERENCE TO WORKS GENERATED BY ARTIFICIAL INTELLIGENCE.

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Abstract

Copyright nearly exists everywhere in human life; nearly every aspect of human creation can be reduced to writing; this forms the genesis of a Copyright, as Copyright defined under the copyright act, covers all artistic, dramatic, broadcasting, literary, Cinematographic, translation, adaptation work which is protected by the virtue of it being so, Copyright does not include computer programming. How does a person use such copyrighted work? What protection has been provided to the person who is the proprietor of such Intellectual property? Let's answer these and other questions relating to the protection of Copyright in India.

Introduction

Copyright is an essential part of our lives, after learning about the laws governing copyright it becomes evident that people tend to see creativity from a different perspective. Copyright becomes more noticeable, and you face the dilemma of using others copyrighted work.

Copyright in India is governed by the Copyright Act, 1957. This act under section 14 provides the definition of copyright which includes original literary, dramatic, musical, artistic, cinematographic, broadcasting and, sound recording works. This act has a structure of 79 sections divided into 15 chapters where in a copyright office, appellate board, and their powers has been provided. This act also provides the power to the centre of government in relation to the international copyright their restrictions and governing powers moreover this act covers the infringement of copyright their penalties and other provisions relating to it.

Prior to the act of Copyright Act, 1957, The Indian Copyright Act 1914 was being followed this act wasn't compliance of the Copyright Act, 1911 of the United Kingdom. The act of 1914 did not fit the constitutional status that was required for it to become a part of Indian law which was the reason that a new enactment of 1957 was introduced in an independent India of self-contained laws on subject of copyright. This act was also brought due to advanced communication in broadcasting litho photography and Etcetera.

Salient features of this act include the establishment of a copyright office also known as the registrar of copyrights who shall be the Superintendent add the direction of the central government

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the registrar has been given the power to entertain and dispose of applications related to copyright and entertaining the complaints which are made therefore of infringements etcetera.

This act also establishes a copyright board of India which has the power to determine the rates of fees the charge on royalties and other things relating to the performances of a copyright it also helps in determining the compensation that is payable in certain circumstances, the High Court has been given the power to decide on the cases of copyright board.

This act also talks about the licensing of copyrighted material which may be different under different circumstances.

Moreover, this act also talks about the international copyright and its relation based on international treaties which is regulated under the regulations and the specific orders of the central government.

Copyright and other Intellectual Properties

Intellectual property has been recognized in India under different categories search categorizations include the following.

- Copyright under the Copyright Act 1957
- Patents have been recognized under the patent act of 1970.
- The trademark has been recognized under the trademarks act, 1999.
- Geographical indicators have been recognized under the geographical indications of Goods (Registration and Protection) Act 1999.
- The design has been recognized, and the Designs Act 2000
- Semiconductor protection has been given under the semiconductors integrated circuits layout design act, of 2000.
- Plant varieties have been recognized and protected under the Protection of plant varieties and farmers rights act of 2001.
- The biological diversity act of 2002 also recognizes certain aspects of IP law in India

All the intellectual property mentioned above has been recognized and protected in India under different provisions as mentioned above, there are some intellectual property rights that are yet not recognized in India, which include the following.

Background of Copyright as an Intellectual Property- Global Perspective

The history of copyright starts with the introduction of the Gutenberg press in Germany in 1440 this was an invention by which duplicate copies of books was being created , in the year of 1483 the invention of Gutenberg reached in England after which the ban on duplicate books was lifted, the printing press was given a royal license to print the books and create their duplicates due to this relaxation and privilege England became the hub of printing of books in Europe .

There was a licensing act that was introduced in 1661 and subsequently in 1662 which empowered the company established in 1557 stationer's company which has which had received a royal charter for regulating the book trade in England.

The world first recognized copyright as an intellectual property in the year 1710 in England, it was enacted by a statute of Anne, this statute first install reduced the concept of copyright of an author being the owner of such copyright it laid out fixed terms of protection. This act is landmark in the sense of recognizing copyright as an intellectual property right.

Following the enactment of 1710, the Copyright Act of 1790 was introduced in the United States of America this legislation was uncoordinated to an international level until the 19th century, in 1886 the burn convention was held which was responsible for the establishment of the world intellectual property standards. Presently over 140 nations are part of the born convention This convention held at burn in Switzerland was responsible in establishing protection for the unpublished work and remove the requirement for registration The registration of copyright was made optional.

The Copyright Act of 1911 was the enactment based on the engraving Copyright Act 1734 and the Fine Arts Copyright Act, 1862 of England, the primary focus of these statute's was to protect d works of literary, musical, photographic and other nature.

The major features of this enactment introduced limitation of 50 years on the life of a copyright it relaxed the need of registration for copyright, introduced the protection of unpublished work, the act covered a wide spectrum of creative ideas which included literature painting, music, photography and ETC.

Post independence in India there was a need to recognize that a new enactment was needed to protect the copyrights issued in Indian territory, this step was also necessary to establish a intellectual property rights regime in India which had an independent approach rather than being a product of the colonization.

Copyright of work generated by artificial intelligence – Indian Perspective

Artificial intelligence is gaining new capabilities, and it has been empowered to develop new capabilities by development of algorithms combined with state-of-the-art computing powers machine generated works. AI has gained these capabilities which are breaking point in terms of variety of art that can be generated at such fast rate and automatic generation.

The work generated by AI has been recognized in India as machine generated work but the authorship of such work is conferred or given to the person that causes the work to be created which can be said the person who is making the AI or the person giving the command to the AI for the creation of such intellectual property is responsible and the owner moreover the author of such artistic literary work

There are great concerns over the recognition of the work generated by artificial intelligence as a copyright. It is important to learn the nature about the artificial intelligence its capabilities before recognizing the work done by artificial intelligence as a copyright,

Internationally, the artificial intelligence generating work which could be credible to be recognized as a copyright is known as generative AI.

There are 2 main underlying issues when it comes to the copyright and generative AI.

The first underlying issue being that who is the owner, or the author of the work generated by the artificial intelligence? The second issue which is related to the above-mentioned issue is, whether the intellectual property generated by artificial intelligence also generate any legal claim?

After the above 2 questions are dealt with there is a whole lot of questions which are to be dealt with in regard to do understand the position of AI and copyright for instance's sake the following are some of the issues

How do you deal with the fallout of such technology? What kind of legal restrictions you need to use.

What is the role of information technology in artificial intelligence and the work generated by it?

How can the people who generate such work protect their work from artificial intelligence? Such as above mentioned, there are going to be many issues that will arise when work generated by AI will be given the recognition of being a copyright.

Copyright Infringement

Whenever the rights of the copyright owner or the copyright author are violated, it may be recognized as a copyright infringement, the following are the rights of a copyright owner or copyright author.

- ❖ Right to publish their work in public
- ❖ Write to publish their work.
- ❖ Right to perform the work in public
- ❖ Right to translate their work
- ❖ Right to make cinematography film or record for their work
- ❖ Right to broadcast their work
- ❖ Right to make adaptations of their work
- ❖ Right to make copies of the work and distribute them
- ❖ Right to prevent others from unauthorized usage of the copyrighted work

Infringement of copyright is dealt under the Copyright Act 1957, India.

The following are the conditions under which an infringement of a copyright may occur in India

1. When copies of copyrighted work are made for sale without the authority or the permission of the copyright owner or copyright author.
2. When the copy is of such nature are distributed for personal or trade gains.
3. When copyrighted work is performed in public place without the permission of the copyright owner.
4. When the infringing copies are imported into India.
5. When public exhibitions of infringing copies prejudicial to the owner are supplied into public.
6. When reproduction of a dramatic, literary, artistic or musical work or cinematographic work or broadcasting is done in a form of work which is not authorized by the copyright owner.
7. When there is a creation of records of the copyrighted sound without the permission of the owner of such copyright.
8. When the copy of the cinematic graphic film is done without the permission and authority of the copyright owner.

The following are a few case laws which are important to know about copyright infringement in India

1. YRF VS Shri Sai Ganesh Productions,
2. Super cassettes industries limited versus YouTube and Google

Exceptions to copyright infringement

Under certain circumstances, copyright infringement may be allowed with, or without the permission of the copyright owner the following are not the result of copyright infringement in India

1. Whenever the work of the copyright owner is used for research
2. To give review or criticism
3. To report it as a current affair or event or as a speech delivered into the public.
4. To make an adaptation of a computer programming language for the computer program itself
5. For the usage of a computer program for which it is supplied
6. For making backup copies to prevent the loss of data in case of a data breach or data loss or destruction of data.
7. Copy made for storage purposes.
8. Copy made for reproduction of work in judicial proceedings.
9. Copy of work made in a certified way as per the law.
10. Copy made for the non-copyright matter intended for instructional purposes only.
11. Copy made for the performance of dramatic komal literally or music work in an educational institution by the student and staff or the reproduction of a sound and cinematograph film when the audience is limited to students for staff of such educational institution.
12. Reproduction in a magazine, newspaper or other periodical of an article or current political economic or religious or social topics unless the article author has expressly reserved the right of reproduction it shall not be considered as an infringement to the copyright.
13. When the work of a private study or research or publishing or unpublished literally work is kept in a museum library or other institution which has public access
14. Articles which have public can easily access is not a scope under the copyright infringement.
15. Whenever reconstruction of a structure or building is done as per the architectural plans or drawings then such drawings shall not be part of copyright infringement.

Remedies available

Upper season who is a victim of copywriting infringement has 2 roots through which they can obtain relief, both criminal and civil remedies are available to deal with copyright infringement.

Civil remedies

Whenever the copyrighted work is infringed the copyright owner is entitled to get the following remedies by reaching the civil adjudicating body which in this matter of copyright infringement is the Copyright office for first instance and the copyright board for appeal.

1. Injunction

This is one of the most common remedies that is used in copyright infringement which is injunction under this the person who has violated the right of the copyright holder is prevented 2 further Violate the right of the copyright holder, under this the court is empowered 2 grant a stay order in favor of the copyright holder so there could be a loss minimization.

Preliminary injunction search injunction is granted before or during the proceedings under which the court is empowered to pass an injunction order in favor of the copyright holder so that the damage done could be minimized.

Permanent injunction such injunction may be ordered by the court in case the court finds that the copyright of the owner all the author has been violated by the infringer the court may grant permanent injunction under which the person violating the right of the copyright owner may be stopped to use the copyrighted material for any purposes.

2. Damages

This is one of the most common remedy that is used 2 provide compensation to the copyright owner under this the coat is empowered to grant damages on the basis of the damages suffered by the copyright holder, such damages may be calculated as per the facts and circumstances of the case presented to the court, damage may be calculated by calculating the loss of reputation, loss of revenue, loss of profit, loss of sale, etcetera.

Criminal Remedies

In addition to the above remedies, a person who infringes the copyright of another person may be charged criminally, but such charges are made in exceptional cases.

Conclusion

In conclusion, the issue of copyright protection for works generated by artificial intelligence (AI) poses significant legal and ethical challenges that require careful consideration by policymakers and stakeholders. While AI-generated works raise questions about the ownership of intellectual property, it is essential to recognise the creativity and innovation that AI can bring to the field of art and creativity.

This research paper has highlighted the key concepts of copyright and its relevance to AI-generated works. The study has shown that the current legal framework for copyright is inadequate to address the complex issues surrounding AI-generated works. The lack of clarity in the law has the potential to stifle innovation and creativity in the field of AI-generated art.

Therefore, there is a need for a balanced and flexible approach to copyright that recognises the rights of creators while also allowing for the advancement of technology and innovation. Policymakers need to take into account the unique features of AI-generated works and develop appropriate legal frameworks that provide sufficient protection to creators without hindering the potential benefits of AI.

Furthermore, it is essential to consider the ethical implications of AI-generated works, such as bias, discrimination, and privacy. These ethical concerns highlight the need for transparency, accountability, and responsible governance in the development and use of AI-generated works.

In conclusion, the study shows that the intersection between copyright and AI is complex and requires careful consideration of legal, ethical, and social issues. It is crucial for policymakers and stakeholders to collaborate and develop appropriate legal and ethical frameworks that balance the interests of creators, users, and society as a whole. Ultimately, the aim should be to promote innovation and creativity while protecting the rights of all stakeholders involved in the creation, use, and dissemination of AI-generated works.

