

ILE INTELLECTUAL PROPERTY AND CORPORATE LAW REVIEW



VOLUME 2 AND ISSUE 1 OF 2023

INSTITUTE OF LEGAL EDUCATION



ILE INTELLECTUAL PROPERTY AND CORPORATE LAW REVIEW

(Free Publication and Open Access Journal)

Journal's Home Page – <https://ipclr.iledu.in/>

Journal's Editorial Page – <https://ipclr.iledu.in/editorial-board/>

Volume 2 and Issue 1 (Access Full Issue on – <https://ipclr.iledu.in/category/volume-2-and-issue-1-of-2023/>)

Publisher

Prasanna S,

Chairman of Institute of Legal Education (Established by I.L.E. Educational Trust)

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COPYRIGHT CHALLENGES IN CYBERSPACE

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Best Citation – RAJARAJESWARI R P, COPYRIGHT CHALLENGES IN CYBERSPACE, *ILE INTELLECTUAL PROPERTY AND CORPORATE LAW REVIEW*, 2 (1) of 2023, Pg. 32–36, ISSN – 2583–6153.

ABSTRACT

The more technical advancements, the more perils to Copyright in Cyberspace. Intellectual property has become hugely significant in today's globe of entertainment, information, and technology. This paper would be analyzing the various effects of copyright in cyberspace, types of copyright issues, and their remedies available.

Copyright exists as a huge threat to juridical persons. Copyright is a right given to owners to protect their original works such as literary works, artistic, and musical works which include poetry, novels, computer software, films, and songs. It is one type of intellectual property. Copyright plays a foremost role in cyberspace. Cyberspace is a virtual world or virtual domain where information is intercommunicated between computers and networks. More technological advancement ushers to more Intellectual property infringement.

This paper will show you the types of copyrights, the challenges confronted by cyberspace, and the remedies to face these subjects. The Copyright Act of 1957 came into force replacing the 1911 act. The act also put forward milestone changes such as provisions for setting up a copyright office under the control of the Registrar of copyright for the registration of books and other works of art. A copyright panel was also introduced to deal with disputes relating to copyright.

KEYWORDS: Cyberspace, Networks, Copyright, Infringement, Cyberattack

INTRODUCTION

The issues of copyright in cyberspace are increasing day by day. Copyright in cyberspace is the unauthorized usage of others' original work protected by the Copyright Act, of 1957. It

was rightly stated in the case of Religious Technology Center v. Netcom Online Communication Services Inc., that because of the Internet, piracy is much more of a silent and remote activity than it is in a bookstore. Since the Internet has caught up with PCs and even mobile phones, controlling such breakings has become increasingly problematic. And there are also many international treaties such as the WIPO copyright Treaty which is an agreement under the Berne convention adopted in 1886 which protects the works and rights of authors. There are 3 essential principles in Berne Convention:

1. The literary and Artistic works are equally protected in each contracting state.
2. The second foremost principle conditions that literary and artistic work can be protected without the need of using © symbol by the author. But taking up will give u a distinct advantage.
3. The final principle is that even if the work isn't copyrighted in the country of origin, it will be copyrighted with other contracting states till the period fixed by the convention.

LEGAL ISSUES IN COPYRIGHT

Copyright violation occurs when an individual duplicates the work without consent, the act of illegally uploading or downloading without authority is punishable under India's Copyright Act. Even if no financial benefit is received by the person who uploaded he is liable for copyright.

One can upload anything on social media without checking copyrights this unlocks the door to copyright problems.

The issues of copyrights are namely Cybersquatting, Copyright Infringement, Espionage, Cyberwarfare, Cyberterrorism,

Denial-Of-Service attack, and Security Hacking.

I. CYBERSQUATTING

Cybersquatting is also known as domain squatting is an act of registering or using domain names with the intent of profiting from the goodwill of others' trademarks. In other words, it is illegal to use or registration of domain names. The Internet Corporation for Assigned Names and Numbers (ICANN) is a nonprofit organization assigned to oversee domain name registrations.

Because of the piling up of domain name complaints, ICANN has set standards for acceptance such that domain name registration is done with much more scrutiny. It advises the owners to renew the registration and report misuse to the agency as soon as they became aware that they neglected to re-register the domain.

A. TYPES

The four types of cybersquatting are Typo squatting, Identity theft, Name-jacking, and Reverse cybersquatting.⁹⁴

Typo squatting: It targets internet users who enter website addresses incorrectly in the browser.

Identity theft: This occurs when someone steals personal data or credit card number or bank account number to earn a sum.

Name-jacking: This occurs when someone uses a domain name associated with a notable individual.

Reverse cybersquatting: As a domain name attorney can explain, Reverse Domain Name Hijacking (RDNH) is a term that refers to a practice that is the opposite of cybersquatting, and is sometimes known as reverse cybersquatting.⁹⁵

FIRST CASE OF CYBERSQUATTING IN INDIA: Yahoo Inc. v. Akash Arora

1. RELIEFS FOR CYBERSQUATTING

In India, there are no specific domain name laws but the cybersquatting cases are comes under Trade Mark Act 1999. The Trade Marks Act 1999 has a limitation in that it is not

extraterritorial so it does not give adequate protection for domain names.

There is an organization in other countries that handles domain squatting cases such as the U.S.A. In the USA, the victim of domain squatting has two options-

- Sue, under the provisions of the Anti-Cybersquatting Consumer Protection Act (ACPA).
- Use the Internet Corporation for Assigned Names and Numbers' international arbitration system (ICANN).⁹⁶

II. CYBER INFRINGEMENT

Copyright Infringement means the use or production of copyrighted material without the permission of the copyright owner. In simple words, the rights afforded to the copyright holder are being breached by the third party by using the exclusive work of the copyright holder. The works of the copyright holder can be used by getting permission through licensing agreements or can purchase the works of the copyright owner. The copyrights were given to creators of academic works, performing arts, music, movies, and so on.

Under Section 13 of the Copyright Act, of 1957, copyright exists in the following works:

- Literary work (including computer programs, tables, and compilations including computer literary databases)
- Dramatic work
- Musical work
- Artistic work
- Cinematograph films
- Sound recordings

Copyright infringement issues have varied over years and with the growing amount of advancement in technology, the copyright office has been piled up with issues to keep pace with today's technology. Technology makes it easier to copy work very easily. Some companies earn a part of their revenue by copying the works of others.⁹⁷ Not all

⁹⁴ <https://www.naukri.com/learning/articles/cybersquatting/>
⁹⁵ <https://esqwire.com/what-is-reverse-domain-hijacking/>

⁹⁶ supra note 2.
⁹⁷ <https://www.investopedia.com/terms/c/copyright-infringement.asp>

copyrighted works are kept for monetary value but for certain rights of the holder called

- Right of attribution- The author's right to be identified as an author of the work.
- Right of integrity - To prevent any changes or distortions to the work of the author.

B. DURATION OF COPYRIGHT PROTECTION

- Works published after 1, January 1978, last for the life of the owner plus 70 years.
- For anonymous work, pseudonymous work, or work made for hire, copyright protection lasts for 95 years from the date of first publication or 120 years from the date of design, whichever expires first.
- For works created before 1978, the period varies by several factors.⁹⁸

Copyright infringement is illegal and is a civil issue rather than a criminal issue. The penalty for copyright infringement mostly includes fines or compensation to the injured person. The infringement can be classified as primary infringement and secondary infringement. Primary infringement means the actual act of copying while secondary violation means unauthorized dealings like selling pirated books, etc.

2. RELIEFS FOR COPYRIGHT INFRINGEMENT

The civil actions against copyright infringement are given under Section 55 of the Copyright Act, 1957.

Under a civil action against copyright infringement, the court can grant the following reliefs:

Interlocutory Injunction: It means the person is restricted from further using the copyrighted material. It is filed by the holder requesting the court to restrict a person from using the said material.

Monetary relief: The copyrighted person can claim 3 reliefs as mentioned in section 55 and section 58 of the Copyrights Act as follows the

profits can be bought by the owner made through an illegal act, compensatory damage, and conversion damage

- Anton pillar order
- Mareva Injunction
- Norwich Pharmacal order

A person who infringes shall be imprisoned for a minimum term period of 6 months which may extend to 3 years or with a fine which may amount to 50,000 to 2lakhs.

III. CYBERWARFARE

It is an act of damaging or attempting to damage another nation-state's computers or information networks. Cyberwarfare is done to disrupt the activities of other nations. Cyberwarfare is usually done to destroy a region.

C. TYPES

Sabotage: Criminals who strike the computer system to disrupt online services or bring the business operation to halt.

Data theft: Act of stealing private data, or any confidential matters which can be used for intelligence that may incite wars.⁹⁹

3. RELIEFS FOR CYBERWARFARE

Hacking is a crime where the punishment may extend to 3 years or a fine which may extend to 2 Lakhs or both under Section 43(a) read along with section 66 of IT(Amendment) Act 2008.

IV. CYBER TERRORISM

Technology is the key where it facilitates the commission of terrorist activity. Cyberterrorism is unlawful attacks on computers and their networks to achieve political goals. It can also be said as the use of computer network tools to shut down a country's infrastructure. Cyberterrorism is derived from two words cyber and terrorism. Cyberterrorism is a cyber-dependent crime perpetrated for political motives to coerce the government and its people. Some cyberterrorism laws were criticized for being overly broad.¹⁰⁰

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<https://www.google.com/amp/s/www.techtarget.com/searchsecurity/definition/cyberwarfare%3famp=1>

¹⁰⁰ <https://www.insightsonindia.com/security-issues/cyber-security/various-cyber-threats/cyber-terrorism/>

⁹⁸ supra note 4.

D. TYPES

Incursion: These types of attacks or done to get access to a computer network to gain information. It is done easily with a high success rate. This can lead to the stealing of data for profit and much more.

Destruction: It is a type of attack where the attack is done on a computer with aim of destroying it. In the destruction phase, the organization faces heavy financial loss.

Disinformation: It is the spread of rumors or information which may cause an intense impact on the region. Regardless of the fact, that the rumor is true or not, the rumors can create chaos.

Denial of service: A denial of service attack (DoS) is an online attack that tries to make a server or other network resource unavailable for its intended users. Typically, this means flooding the network with requests so that it can no longer respond to legitimate traffic. DoS attacks usually target services like websites and networks, but can also target devices like firewalls and routers. Because of their wide-ranging potential to wreak havoc on digital systems, they are often used as part of more sophisticated cyberattacks such as data theft or ransomware attacks. It's important to have measures in place to protect against these types of attacks because they can be a costly interruptions in regular service.

Replacement of websites: It is an attack on a website that changes the visual representation of the website of the hosted website with the attacker's website.

4. RELIEFS FOR CYBER TERRORISM

As far as India is concerned Cyberterrorism can be combated by enacting Information Technology (Amendment) Act 2008, though the meaning of the word cyberterrorism is not given, the act gives what constitutes cyberterrorism in Section 66(f) of the said act. Section 66(f) talks about acts of Cyber terrorism.¹⁰¹

Whoever intents or commits cyberterrorism

shall be imprisoned which may extend to life imprisonment.

V. SECURITY HACKING

Security hacking is done by a security hacker who finds ways to breach or interpret the computer network. Hacking can be motivated by profit, protest, information gathering, etc.

E. TYPES

White hat hackers: White hat hackers are considered friendly. They hack your devices with good intent to remove viruses or to remove any type of malware.

Gray hat hackers: These hackers have mixed intentions. They hack into your computer and do not notify you about the faults but they don't either hurt the owners.

Black hat hackers: These types of hackers are to worry about. The news that flashes are about these hackers. They hack into your computer network with malicious intentions.

5. RELIEFS FOR HACKING

Hacking is a punishable offense with imprisonment which may extend to 3 years or a fine of up to 2 lakhs or both. Chapter IX of section 43 of the IT Act 2000 states the penalty for damage to the computer system. Hacking is an offense under section 1 of the Computer Misuse Act 1990.

CONCLUSION

Since the advent upgrade of technology, there is a demand for provisions to uphold the nation from copyright matters. The major problem is that though cyber-attacks can be detected, it is challenging to find the person behind the attacks. In certain situations, it brings down the structure causing financial and physical damages. There are numerous examples of an infringement of copyright material on the Internet.

There is a requirement on the side of society to be enlightened about the condition of copyright protection on all fronts to prevent any unauthorized use of the system.

¹⁰¹ <https://infosecawareness.in/cyber-laws-of-india>

Peeking into the end, it is reasonable that copyright law will continue to evolve in response to new technologies and forms of digital scope. In conclusion, protecting intellectual property in the digital period is a critical issue for creators and copyright holders. The use of copyrighted material by any person should provide sufficient compensation to the holder.

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