
CYBERSPACE COPYRIGHT VIOLATIONS AND THE INDIAN LEGAL SYSTEM'S RESPONSE

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ABSTRACT

Copyright protection in the digital realm is not as straightforward as it is in the real world, and numerous concerns and challenges must be addressed by statute and the courts before the interests of copyright holders can be adequately safeguarded. Since legislators at the time of its enactment could not have anticipated the prevalence of such novel problems in the Internet age, existing laws were unable to effectively curb infringement there, and the courts now face the additional obstacle of figuring out how to safeguard the rights of copyright holders in the absence of such legislation. As time went on, legislators established laws addressing this issue and other violations in the online world, and the courts issued a slew of landmark cases.

The purpose of this article is to investigate the difficulties of enforcing copyright in the online environment, in addition to reviewing the relevant legal framework and judicial consensus on the topic. The research only applies to the Indian context. Digital space issues such as peer-to-peer file sharing, online software licensing, framing, catching, and jurisdictional conflicts have been examined in the context of authoritative judicial pronouncements and legislative frameworks. The paper uses the doctrinal and analytical approach to analyse the legislation and judicial decisions.

Keywords- P2P Sharing, Cyber Space, Copyright, Catching, Framing etc.

1. Introduction-

Information and communication technologies are developing at a rate unprecedented in human history.¹ The development of digital technology represents the century's single most consequential advance. The IT industry is profoundly impacted by new developments. The current millennium is ushering in a brand-new era marked by the rise of Internet culture. This revolutionizes how we do business and live in the era of Internet commerce. Internet, which was first used only by the military, has the size, interactivity, and adaptability to significantly contribute to the dissemination of knowledge beyond national boundaries. The Internet is currently being used for business objectives as well as educational ones.

Modern copyright violations are the result of the proliferation of the internet and the usage of the global system, which has allowed for unfettered access to the internet and the possibility of downloading. Because of the ability to copy content from one platform and use it on another, new threats to the conventional sense of copyrights and security have emerged as modern media has become a reality. Anyone with a computer and access to the internet can start publishing their work. It only takes a few clicks to download anything, move it, save it, edit it, or create a derivative work.

While copyright violations in the real world can be difficult to detect, they are far simpler to commit in the online world. Although India is not a party to the WIPO treaty, as a participant in the World Trade Organization and an implementer of TRIPS, it is required to make the necessary legal adjustments to comply with the terms of the agreement. To further safeguard the privileged status of copyright owners on digital platforms, India updated its copyright legislation. The Copyright (Amendment) Act of 2012 brought about numerous modifications to Indian law.

The present article will delve deeply into the problems and solutions surrounding copyright protection in Indian cyberspace. All relevant regulations and statutes will be discussed by the author. In addition to discussing the statutes themselves, the author will also go through the case laws as declared by the constitutional courts. peer-to-peer file sharing,

¹ S Shushaanth & Aswathy Rajan, *A Study on Copyright Infringement in Cyberspace with Special Reference to the Liability of the Internet Service Provider for Infringement*.

software piracy, jurisdictional concerns, linking, framing, caching, etc. will all be covered in this chapter.

2. Peer-to-Peer Sharing and Law in India-

P2P refers to a network in which computers communicate with one another using a software-based protocol that enables the sharing of data and file transfers between them. It specifies consumer software that can communicate with the Internet either directly or via an intermediary service. Because of this, users of the same networking software can establish a connection and share files straight from their hard drives, creating a network that is similar to a temporary Internet one. This kind of connection is instantaneous, with no delay caused by intermediate systems, and the file is sent directly from one device to the other. Napster and Gnutella are two popular examples of peer-to-peer software.

With P2P networking, everyone can initiate a conversation with one another and contribute equally. Both the client-server and master-slave models have counterparts in different conceptualizations. Each node in a P2P discussion often functions as both a server and a client. There are essentially three variations of this paradigm: the file-download features made popular by Napster; the underground expansion of this capacity found on sites like Gnutella; and the traditional approach.

2.1 Substantial Infringers & Nature of Liability-

There are three main culprits when it comes to infringing on the rights of copyright holders through the use of P2P file sharing.

To begin, there are the groups responsible for making and spreading file-sharing programs; nevertheless, the underlying technology can be used for either good or evil. As was previously decided in the *Grokster* case², the creation and distribution of P2P programs that are not promoted for infringement are not illegal.

Independent Internet service providers are the second type of provider. Since P2P traffic is correlated with the expansion of internet infrastructure in various countries, these are the primary beneficiaries of P2P. While courts have historically accepted the Napster principle to

² *MGM v. Grokster*, 545 U.S. 913 (2005, Supreme Court of the United States).

hold ISPs to account, other conditions now exclude its use as a basis for responsibility avoidance. Internet service providers (ISPs) were mandated to prevent copyright infringement of the film, which necessitates that they efficiently police their customers and assure that no one is gaining access to or sharing copies of the film "3" via the systems.³ The Tej Television case⁴ could be the start of a new trend in Indian copyright law favoring copyright holders. However, since that time, only a handful of other cases have attempted to take advantage of the new law. These cases include the films Thank You, Singham, Bodyguard, Speedy Singhs, Don-2, Gangs of Wasseypur, and so on, in which the court granted an ex parte interim injunction in favor of production companies like Reliance and Viacom 18 films.

As a result, the P2P community will have to rely on the middleman. Without permission or a license from the rightful owners, it is impossible to protect customers against infringements on their copyright. However, how can we categorize these shoppers so that we can take legal action? The quick answer is that subscribers can be identified by their Internet service provider (ISP) by providing that information together with contact details and timings.

In other words, there are two types of infringing parties: primary infringers and secondary infringers.

The very nature of vicarious liability makes it imperative that users' conduct be governed. This is due to the fact that ignorance of the nature of the breach is not a prerequisite for vicarious liability. This means that someone can be held responsible for the actions of their subordinates, even if he or she was unaware of them.

2.2 Legal Provisions-

Legislation enacted in 1957, rules enacted in 1958, and an international order issued in 1999 all deal with copyright issues. The definition of "copyright" under the Copyright Act can be found in Section 14. Copyright-protected material is the subject of Section 13⁵, as long as the author was an Indian national at the time of the work's initial publication, whether they were residing in India or not. Infringement of copyright is discussed further in Section 51.⁶

³ANNUAL REPORT 2020-2021 – MINISTRY OF HEALTH AND FAMILY WELFARE, <https://main.mohfw.gov.in/sites/default/files/Annual%20Report%202020-21%20English.pdf> (last visited May 10, 2023).

⁴ Tej Television Limited v. Rajan Mandal, (2003) FSR 22.

⁵ The Copyright Act, 1957.

⁶ Id.

Downloading in this context is covered by law 51a (i)⁷. The exemption to this rule is found in subsection 51b(iv), which states that any importation or download for personal, noncommercial use is perfectly legal. Since the content was downloaded from servers outside of India, this provision is a reasonable precaution to take to protect users around the world. Therefore, this is a form of importing a work that is protected by intellectual property laws. Additionally, no more than two copies of the downloader are made, and such usage and duplication are permitted by Section 51b (iv). In Section 2 (dd) of the Copyright Act, the term "broadcast" is defined, and in Section 39 (a), it is stated that it is legal to record audio/video for personal use as long as it does not infringe on the rights of the performer or any broadcast reproduction. When we use this feature, we upload a copy of the server logs for internal use in class or during testing. The work can be downloaded safely and legally.

Section 51 b (iv) makes an exception to this rule by stating that anyone who imports or downloads content for his or her own personal, noncommercial use is exempt from the provisions of this rule. Since most of the world's downloaders access the content from servers located outside of India, this clause provides a solid defense. As such, it constitutes a form of copyrighted work importation. Additionally, no more than two copies of the downloader are made, and such usage and duplication are permitted by Section 51b (iv).

According to Indian law, Napster's actions do not constitute a clear violation of copyright because they do not include any of the following:

1. Reproduction or storage of copyright works;
2. Sale or hire of copyright works;
3. Distribution of copies of copyrighted works;
4. A public performance or communication of copyright works;
5. Translation or adaptation of copyright works.

In A case concerning the presentation of video films over a wired network, the Indian courts ruled that it constituted "broadcasting or communicating to an audience".⁸ The Supreme

⁷ Id.

⁸ Garware Plastic and Polyester Ltd. v. Telelink AIR 1989 Bom 331, 1989 (2).

Court ruled that this type of media broadcasting violated the author's intellectual property rights and negatively impacted his ability to make income. Napster 'broadcasts' the music to any of its clients, whereas the Garware case does not. This is an important distinction because the case concluded that aiding the violation would be a violation of the copyright. It's a basic program for tracking down music online so you may legally copy it.

3. Online Licensing of Software-

Copying and distributing software without the permission of the author or owner of the copyright is considered software piracy. Software development and distribution are the core activities of the software industry. Software companies frequently use the authorization process. Typically, a product's distributor verifies the legitimacy of its final customers through the use of a shrink-wrapped license system. When more people on a network use the program than are authorized to do so, this is an example of software piracy. The proliferation of online access and use has contributed to a remarkable increase in software piracy in recent years. Computer programs that can be used by anybody without a license are distributed via the Internet using bulletin board systems or paid online services.

Even in the absence of explicit legislation concerning Internet piracy, Indian courts started providing adequate protection for proprietary rights on computer programs at the start of the twenty-first century.

In the case of *Microsoft Corporation v. Deepak Rawal*⁹ Microsoft India Private Ltd. was a wholly-owned subsidiary of Microsoft Corp. The software and programming environment was provided by the corporation. After learning that Deepak Rawal and his company were illegally selling Microsoft products through their own company, Microsoft filed a complaint against them in 2002, alleging that they had used the Internet to illegally copy and resell Microsoft software while passing off fake customers as genuine ones.

As the court had already determined that the defendants had violated the applicant's copyright in several ways with Windows 98, Office 2000, Visual Studio 6.0, and Windows 99 Advanced Edition, it looked into the applicable laws in countries like the USA, Australia, the

⁹ *Microsoft Corporation v. Deepak Raval*, MIPR 2007 (1) 72.

UK, and China to determine how much the applicant should be awarded in damages. After considering the relevant statutes and case precedents, the Court concluded as-

“Coming to the legal position in India, a positive trend has started. Here also as Courts are becoming sensitive to the growing menace of piracy and have started granting punitive damages even in cases where due to the absence of the defendant's exact figures of sales by the defendants under the infringing copyright and/or trademark, exact damages are not available.”¹⁰

The court has awarded a total of Rs. 1,28,23,200 in damages, which includes the following components: real damages, exemplary damages, and goodwill and reputation damages.

For the service providers' authorization of software piracy, no particular legal action has been brought before Indian courts. In *Super Cassettes Industries v. Yahoo Inc.*¹¹, the applicant—the owner of the Indian music label T-series—filed a lawsuit against the defendant, alleging that his copyrighted work had been violated by the defendant's site video.yahoo.com. Defendants were given a temporary injunction prohibiting them from posting any version of the film or the claimant's audio on their website.¹² In a different case, the same petitioner sued YouTube and received an injunction.

The High Court of Delhi ordered perpetual injunctions against software piracy in the cases of *Autodesk Inc. and Anr. v. A.V.T. Shankardas and Anr.*¹³ and *Microsoft Corporation v. Mr. Kiran & Anr.*¹⁴ The court also stated that “piracy is a menace and needs to be put down with a heavy hand.”

In *Reliance Big Entertainment Pvt. Ltd. v. Multi-vision Network & Ors.*¹⁵, the Delhi High Court issued an injunction order restricting the defendant's websites from uploading, downloading, or displaying the plaintiffs' copyrighted contents online. Reliance Telecom, an ISP with several clients and the sibling company of the claimant in this matter, stopped several file-sharing websites as a result of this direction out of concern that copyrighted content would

¹⁰ Id.

¹¹ *Super Cassettes Industries V. Yahoo Inc* CS(OS) No. 1124 of 2008.

¹² Decision made on May 30, 2008.

¹³ *Autodesk Inc. and Anr. v. A.V.T. Shankardas and Anr.* FAO(OS) No. 116 of 2008.

¹⁴ *Microsoft Corporation v. Mr. Kiran & Anr.* 39 2007 (35) PTC 748 Del.

¹⁵ *Reliance Big Entertainment Pvt. Ltd. v. Multivision Network & Ors.* CS (OS) No. 3207 of 2011.

be posted on such pages. Their justification is based on the "john doe" order's basic nature, which is an order given by courts to disclose the identity of the defendant if it determines that they were actively participating in the infringement of copyright.

4. The View of India's Judiciary and Legal System on Linking, Caching, and Framing-

Copyright laws protect creators of digital works, computer infrastructure, multimedia, and more in the virtual world as well as the real one. Copyright infringement occurs when a copyrighted work is illegally reproduced, transmitted, linked to, framed, or used online. This article will evaluate how effectively the Indian Copyright Act deals with online infringements.

Violations of copyright are governed by the terms laid out in Article 51 of the Copyright Act of 1957. There is no clear indication of whether the offense was committed online or in real life. No copyrighted material is reproduced as a result of linking to or inlining this content. Reproduction occurs upon the user's visit to the connected site. With the help of the Indian Copyright Act of 1957, we'll go through what constitutes an infringement of copyright concerning linking, framing, and in-line.

- **Linking-** Connecting two websites with a link between them. An in-built link is an electronic address that can be followed to another website. It's possible for a link to take you to a file stored on the website's server or to a file stored on your computer.¹⁶ situated elsewhere on the World Wide Web. One web page can display several different links. It's possible that deep connecting and surface linking are two distinct types of interconnection.

When someone adds a surface link on either platform's homepage, it normally doesn't connect to any specific entity or object. A deep link is an inbound link that takes you to an internal page or text. There is friction here. This suggests that the external website is being avoided in favour of the internal one. Claims for withdrawal can be made in response to deep linkage.

For the purposes of the Indian Copyright Act (1957), "communication to the public" is defined in Section 2 (ff). For more clarity, see the first explanatory note to

¹⁶ G. D. KHOSLA, KNOW YOUR COPYRIGHT (1977).

this section, which states that "any communication via satellite or cable" is included. The description also includes 'through any means of display' of website content online. Thus, linking is subject to Indian copyright laws. If a link is created that damages a website, the owner may file a lawsuit under the Indian Copyright Act of 1957. Before creating a deep connection to any website, it is wise to obtain the owner's consent. As an alternative, web page creators should include a prohibition provision in their terms of service that reads something like "do not link to this site without any express consent of copyright holder of this site" to prevent unwelcome linking.¹⁷

- **Framing-** Applying and reading together Sections 51 as referenced and 14 of the Indian Copyright Act of 1957 might help determine whether or not a given frame is legally permissible. When a website frames another website, the framer does not produce copies of the licensed content or replicate it; instead, they provide instructions on how to gain access to the content of the other website's contents. Therefore, the web designer will not be held liable for any unlawful copyright, duplication, or copying under the Indian Copyright Act (but may be caught under section 57(1) of the Act) unless the web designer knowingly and willfully violated the copyrights right of the copying owner of the work.
- **Linking-** The only person authorized to make adaptations under Section 14(a)(vi) of the Indian Copyright Act of 1957 is the owner of the copyright. This right has a detrimental impact on the framing approach because the website constructs such elements based on the graphical settings of the provided location(s). Now that the legality of the framing has been challenged, it is our responsibility to investigate the framer's motivations.
- **Case Laws-** The finest illustration of the dispute in which Yahoo Inc. and its Indian partner Yahoo Web Services (India) Pvt. obtained a notice from the Honourable High Court of Delhi is Super Cassettes Industries v. Yahoo Inc.¹⁸ which was based on a complaint filed by Super Cassette Industries Limited, the owner of "T-Series," against Yahoo for infringement of copyright in connection with the unlawful broadcast of

¹⁷ Copyright aspects of hyperlinking and framing, WIKIPEDIA (2023), https://en.wikipedia.org/wiki/Copyright_aspects_of_hyperlinking_and_framing (last visited Apr 18, 2023).

¹⁸ Super Cassettes Industries v. Yahoo Inc CS(OS) 1124/2008.

SCIL's property on Yahoo's video. yahoo site. The complaint requested a permanent injunction, an end to copyright infringement, and other similar relief. The appellant asserted that it has a strict copyright policy known as the "System for TPPL," which routinely grants permission for the use of licensed works to specific music exploiters like restaurants, hotels, malls, shopping centers, retail stores, discotheques and nightclubs, airlines, FM stations, TV broadcasters, etc. The court ruled in favor of the plaintiff, finding that the defendants had violated the plaintiff's copyright by hosting and streaming the songs, both in part and in full, as well as the accompanying videos and audio-visual music. Although the corporation was given proper legal notice, it was discovered that the copied works were still present. The court's order forbade the defendants or their agents or employees from reproducing the videos, sound recordings, and/or the underlying literary or musical plays infringing or otherwise on their websites ('www.video.yahoo.com') and also infringed copyright in cinematograph films, sound recordings, literary works, or musical works in which the plaintiff claimed copyright was done by the defendant without a license.¹⁹

In a different case, *Super Cassettes Industries Limited v. YouTube & Google*²⁰, SCIL alleged that the YouTube Business Model promotes the revenues it will generate without receiving permission from the rightful owners of copyrights and without paying any royalties for the use of licensed works on the internet. The High Court has issued an order against YouTube and Google, ruling that they must stop using any audio-visual works that infringe on the plaintiff's exclusive, legitimate, and subsisting copyright and refrain from reproducing, adapting, distributing, communicating, transmitting, disseminating, or displaying them on their websites.

A criminal complaint was filed with police in 2010 alleging a violation of copyright by guruji.com; the case is now ongoing in the Court of Justice. Founded in 2006, Guruji.com permits users to conduct searches in a manner similar to that of Google, an internationally recognized search engine. Google is an Indian online business search service best known for its prominence in the field of music-related searches. Even though the music you're looking for wasn't kept on Guruji's servers, the search results you see will allow you to listen to and download them. The defendant, T-

¹⁹ *Super Cassettes Industries Ltd. V Yahoo Inc. & Anr.*, CS(OS) No. 1124 of 2008 [Delhi High Court].

²⁰ *Super Cassettes Industries Limited v. YouTube & Google SCIL LLC* CS(OS) No. 2192 of 2007 (Delhi High Court).

series music production limited, informed guruji.com of multiple copyright infringements in the plaintiff's musical files. The administrators and officials of Guruji. Com was apprehended by police in April 2010 in Bangalore, and their case is currently being heard by the District Subordinate Court. The T-series' principal claim is that guruji.com violated the search engine's rights and therefore be penalized by the ICA per sections 14 and 63. It is accountable for paying the fine. The ISP Association of India has drafted its own rules and regulations, including certain legal requirements, and covers all ISPs within the country. This group has revised all applicable copyright law codes in light of the most recent government-issued IT rules (guides) for ISPs, but no new chart legislation codes have been drafted as of yet.

5. Cyber Jurisdiction under Indian Law-

When it comes to judicial, legislative, and administrative impartiality, jurisdiction is a matter of state authority. Despite being a component of sovereign power, authority does not have the same scope. The effects of a country's laws can extend much beyond its borders and the scope of its government. This is especially true when the Internet is used, as it is not constrained by national boundaries. The body of Indian law governing online disputes is still young, but it is growing and changing in a methodical way. The copyright law's protections can only be used and upheld if they are actually enforceable in court. These rights can only be enforced if there are courts, tribunals, or other bodies with jurisdiction to hear the case. This power to exercise jurisdiction can emerge from the fact that the infractions are both physical and virtual. The rights granted by copyright law can only be used and safeguarded if the law itself can be enforced in court. These rights can only be enforced by a body with jurisdiction over the matter²¹, which means the courts. Abuse in both the real world²² and the virtual world²³ (online issues) will lead to the emergence of the jurisdiction's enforcement power.

Since there is no law specifying which court has jurisdiction over intellectual property infringements committed online, including copyright infringements, the law of any jurisdiction in which the alleged offence took place would apply. Questions of jurisdiction occur when two

²¹ The expression 'jurisdictional capacity' is limited only to 'territorial jurisdictional capacity' for the purposes of this article.

²² The term "real space" refers to situations in which the event in question took place in the physical world, unaided by any electronic devices.

²³ The usage of information technology (the Internet), which is typically immaterial in nature, is what the term "cyber space" refers to.

or more courts could potentially have jurisdiction over the same set of facts. When legislation is silent on a certain topic, interpreters must instead look to the terms and concepts established by the courts at various points in history. Some significant cases have dealt with questions of territorial jurisdiction.

In *Banyan Tree Holdings Limited v. M. Murali Krishna Reddy and Anr*²⁴ (Banyan Tree Case), the issue of whether courts have broader jurisdiction to hear an infringement complaint was examined. The complainant had filed an application for an injunction with the Delhi Higher Court; the petitioner was located in Singapore, while the defendants were located in Hyderabad. In this instance, domain names were improperly used. Multiple events, including those in the United States and the United Kingdom as well as those in other countries, were covered. These paragraphs are taken directly from the relevant case law and are necessary for a complete understanding of the subject.

When deciding whether or not to exercise jurisdiction, the court cited an earlier case it had already decided; that case included a defendant selling goods or services online in violation of a trademark. In *Casio India Co. Limited v. Ashita Tele Systems Pvt. Limited*²⁵, it was argued that the fact that the defendant's website could be accessible from Delhi was enough to bring this Court's territorial jurisdiction into play. The parties involved were not locals of Delhi, either. Sarin, J., writing for the court, cited the High Court of Australia's decision in *Dow Jones and Co. Inc. v. Gutnic*²⁶, which held that all related matters were subject to international law because of the Internet's widespread use, widespread university acceptance, and the practicality of world wide web applications.

The Court took into account a dissenting view in *India TV Independent News Service Pvt. Ltd. v. India Broadcast Live Llc and Ors.*²⁷ in paragraph 9 of the Banyan Tree case verdict. *Zippo Mfr. Co. v. Zippo Dot Com, Inc.*²⁸ (the Zippo case) and other decisions of the United States courts were taken into account. The court decided:

“As regards the exercise of personal jurisdiction in cases involving Internet activities...personal jurisdiction cannot be exercised over non-residents merely because their

²⁴ *Banyan Tree Holdings Limited v. M. Murali Krishna Reddy and Anr* 2008(38) PTC288(Del).

²⁵ *Casio India Co. Limited vs Ashita Tele Systems Pvt. Limited* 106 (2003) DLT 554, 2003.

²⁶ *Dow Jones and Co. Inc. v. Gutnic* (2002) HCA 56.

²⁷ *India TV Independent News Service Pvt. Ltd. v. India Broadcast Live Llc and Ors.* 145 (2007) DLT 521.

²⁸ *Zippo Mfr. Co. v. Zippo Dot Com, Inc.* 952 F. Supp. 1119 (W.D. Pa. 1997).

website is accessible within the jurisdiction of the Court. There has to be something more to indicate the purposeful direction of activity to the forum state in a substantial way”²⁹

- **Copyright Cases-**

However, in *Super Cassettes Industries Ltd. v. Myspace Inc. and Anr.*³⁰, the High Court of Delhi resolved a jurisdictional issue in which a U.S.-based social networking website had violated the plaintiff's copyright by enabling its users to upload cinematograph films, songs, etc. of the plaintiff and make them easily downloadable to other users of the website. The court determined in paragraph 55.8 of the ruling that the defendants' website is one that conducts an online business of distributing and showing music videos and motion pictures all over the world, including in India. Indians frequently visit the aforementioned website to download the soundtracks of future films. The Plaintiff has established his or her case by providing evidence of actual infringements committed against the named works. Thus, the tort has been or is being committed in India when the user from India accesses the website, the Defendants display the works in question via their search engine, and the works are disseminated to the public via the transmission of the works to the user from India, who can then either download them or have them delivered to his computer. According to Section 20(c) of the Code of Civil Procedure, the basis for a portion of a cause of action had thus formed. In the event that was not successful, the plaintiff could still file suit in his home state under Section 62(2) of the Copyright Act. The court also determined that the *Banyan Tree* verdict was invalid since it addressed only the discharge and not the breach of procedure. Despite the defendant's contention that the Court lacks the competence to exercise extraterritorial jurisdiction in this case, the Court will do so in accordance with the unambiguous statement made in paragraph 58 of the judgment held under³¹:

“a) Firstly, this Court has already arrived at the finding that the court has assumed the jurisdiction on the basis of the part of cause of action which has arisen in India and the infringement is being caused in India. Thus, this Court would have jurisdiction to entertain and try the proceedings for infringements that have been caused in India.

²⁹ Para 9, *Banyan Tree Holdings Limited v. M. Murali Krishna Reddy and Anr.*

³⁰ *Super Cassettes Industries Ltd. v. Myspace Inc. and Anr.*, 2010 (42) PTC 361 (Del).

³¹ Para 58 *Super Cassettes Industries Ltd. v. Myspace Inc. and Anr.* 2010 (42) PTC 361 (Del).

b) Secondly it is merely the apprehension of the Defendants that there will be some effect of extraterritorial for which this Court is not concerned, it is neither the case of the Plaintiff to give this as an extra-territorial effect nor this Court is giving any such effect as contended by the Defendants. Rather, the court is exercising the jurisdiction based on the law of the land which is the Copyright Act of India, 1957.

c) Thirdly, it has already been observed that the commission of tort of infringement has occurred in India which is prima facie infringing in nature, the said acts are prohibited under the Copyright Act and thus this Court is proceeding to do what is permissible under the law. This Court is not concerned with any incidental effects which the Defendants are apprehensive of due to the exercise of the jurisdiction of the Court and that cannot come in the way of the exercise of jurisdiction of this Court.

d) There are lots of cases cited in Article 245 of the Indian Constitution wherein it has been observed about the parliamentary power to enact extraterritorial laws. The said reliance on judgments is equally misplaced as in the present case, this Court is not concerned with the legislative competence of any extra-territorial laws. The said judgments are not applicable to the present case as the court is exercising the jurisdiction on the basis of Indian law having force in India and thus the concerns are mere apprehensions of the Defendants which this Court cannot take care of.”

The court went on to say that because the word "anywhere" is so broadly defined, the accused may be granted a broader interpretation that allows for the inclusion of online venues (such as a website) in their defense against section 79 of the IT Act and the Indian Copyright Act. At that point, it would appear that the Act has clear language prohibiting the holder of such a position from advantage, whether in person or online unless the holder is either unaware or reasonably convinced of a violation of the job.

6. Conclusion

Since we have examined the problems with copyright protection in digital media in the Indian context in this study. Here, I've broken down the laws and court rulings that safeguard intellectual property in digital formats. The problems and challenges with copyright protection in cyberspace that this paper explores are not all there are. India's copyright law was last updated in 2012, following revisions in 1999 and 2005. These revisions were made in response

to the adoption of the WIPO Treaty and the TRIPS Agreement, which strengthened the need for the protection of copyright content in digital space. Several problems with copyright protection have arisen in the context of cyberspace, each of which is distinct from copyright infringement in the real world.

While P2P file-sharing violations are common, Indian copyright law does not specifically address them, and the courts have not examined any relevant case law. In the case of *Grokster*³², the United States Supreme Court ruled that file sharing over P2P networks violates the exclusive right of the copyright owners in cyberspace and thereby resolved all p2p-related legal challenges. The online licensing of computer software is the next topic covered in this study; preventing the unauthorized reproduction and distribution of software via the Internet is a top priority in order to protect intellectual property rights. The problems here stem from the fact that creating copies of the program violates the owner's exclusive right to do so. The software's copyright holder grants permission to the licensee to reproduce and distribute the software online. However, in some cases, when software is reproduced, uploaded, and downloaded on a digital medium without the owner's consent or a license, the court has ruled that this violates the owner's exclusive rights in the digital realm. One of the most pressing concerns is the question of whether the court has the authority to rule on a case involving intellectual property (IP) infringement that occurred online. US courts, in order to resolve this question, have developed many standards for determining jurisdiction, such as the "Zippo Sliding Test," "Minimum Contact Test," "Purposeful Availment Test," etc. The court stated the general principles by which the jurisdiction question can be resolved through the use of these tests. When determining which court has jurisdiction over a case of intellectual property (IP) infringement committed via the Internet, India also looks to similar cases for guidance. As for the copyright cases that have been examined, they don't provide any new precedent; rather, they just confirm the court's already established principles.

7. Suggestions-

- I. To ensure the security of intellectual property in the digital realm, the law on jurisdiction must shift its focus from objects to victims.
- II. Section 14 of the Indian Copyright Act, 1957, should be amended to recognize the

³² *Metro-Goldwyn-Mayer Studios Inc., et al. v. Grokster, Ltd., et al.* 545 U.S. 913 (2005).

author's exclusive right to prohibit framing, in-lining, and deep linking other than linking.

- III. Third, copyright difficulties in cyberspace require that the online world be treated as an entirely distinct entity.
- IV. Fourth, technological safeguards need to be tightened up, and those who try to get around them need to face harsher penalties.