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Navigating the Challenges of Protecting Intellectual Property in The
Age of Online Innovation,

Authored By: Astha (LL.M Student, UILS, Chandigarh University),

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ABSTRACT:

“Copyright is considered as a division of the large group of property rights that rule equally tangible and intangible properties. IP comprises creative work that is safeguarded by copyrights and trademark laws as well as technical, artistic and scientific work, which are safeguarded by patent laws. Well managed IPRs are fundamental to the functioning of marketplaces. The rights of traded products and service - and the recourses that the parties have in disputes occurring from any exchanges – should be set up for arm’s length transaction amongst people to be feasible. Additionally, several of decisions - on whether to save and invest, for instance, or to take on education, engages in capability making, or follow R&D – rely on the probability of being able to claims the wealth that those practices might ultimately create. Copyright is an expression employed to define the legal property rights subsisting in different works which consequence from the intellect of the inventor. The basic objective of the study is to examine the concept of IPRs in modern times. This research particularly focuses on copyright in the digital era as the world is moving towards digitalization and lots of progression and advancement have taken place in the developed or digital era. The digitalization’s of copyrighted efforts comprising texts, music and videos have radically raised the effectiveness of unauthorized copying. At present it is easier to copy and share digital data, to copy and paste from web pages, to share files. Even general tasks like sending email and browsing the web include the formation of copies. The Internet permits the infringers to make thousands of copyrighted works at little cost. The study intended to identify and analyze the issues associated to copyrights relating to computer program, computer databases in the cyberspace and the associated problems vis-à-vis protecting the rights of the authors generally. Effective laws must be considered for the protection of copyright in this age of internet so as it becomes easy and more convenient to deal with all the issues related to the digital era”.

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Keywords: Intellectual Property, Copyright, Digital era.

I. INTRODUCTION:

“Intellectual Property (IP)” means the legal rights which effect from intellectual activities in the industries, scientific, literary, and inventive areas. Intellectual Property laws aim at protecting inventors and other producers of intellectual properties and services by permitting them certain time bounded rights to control the use made of those productions. IP includes Copyright, Trademarks, Patent, Geographical Indication, and Trade Secret etc. *“Copyright”* is an expression employed to define the legal property rights subsisting in different works which consequence from the intellect of the inventor. *“As under Section 13 of Copyright Act, 1957, Copyright can subsist only in Original. The Copyright Law protects the expression of idea and not the idea itself, and thus, the work must “originate” from the author and it’s not necessary that an idea should be new or not.”* Copyright is a type of IP protection permitted as per Indian legislation to the inventors of original works of authorship like literary work (*comprising computer program and compilations comprising computer data which can be expressed in words, code, and scheme or in any other type, encompassing machine readable mediums*), dramatic, musical and artistic works, cinematographic film and sound recording¹. The latest technologies have increased the importance of IP. This new technology may be in the field of Patent, trademark, Copyright etc. In the eyes of a law, IP is part of intangible or incorporeal property, or what is invisible and intangible, such as contractual, obligations, and intellectual rights. It is the area of law that deals with all of humanity’s intellectual

¹ Kumar, E. (2016). Evolutions and development of copyright law. In C.B. Raju (Ed.), Intellectual property rights (pp. 268-276). New Delhi, India: serials publications.

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work. Property rights must be understood in an increasingly digital environment, where knowledge is becoming the foundation of society, so that we can not only respect but also preserve others' creations. This research work examined copyright protection. It comes in the mind that it is common permitted to multimedia original literary, musical, dramatic or artistic work. However, the expansion and development of new technologies have offered boost to new conceptions such as computer program, computer databases, computer layout, different work on internet, etc. ² IP rights in the multimedia environments are going to be key issues. Technological development is altering, market activities are still developing, the sizes of the markets are unknown and the associations of multimedia marketplaces to conventional marketplaces are vague or uncertain. To make the perceptions of choices in multimedia needs much more material than linear media. For example, IBM and HCL spent millions of dollars in its Multimedia Developer Programs and committed million more to setting up standards³. It might be to the developer's advantage to make all program factors rather than attempt to manage evolving industries. Acquiring IP is expensive and challenging. Sometimes the developers find that the content owner doesn't own the rights to the contents they are licensing. A multimedia developer wants licensing to provide them with the capability to purchase and utilize current intellectual property rather than make it themselves. Though, it isn't apparent what privileges they will require. A content owner is equally puzzled by which right they must sell.

I.I STATEMENT OF THE PROBLEM:

²Pedley, P. (2008). Copyright for corporate information professionals: staying within the law. Business Information Review, 25, (5), 91-99.

³ James T.C., (July 2002), Indian Copyright Law and Digital Technologies, Journal of IPRs, Vol 7, September 2002, pp 423-435.

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As the utilization of the Web for various different is rising every day, at the same time new challenges are also emerging with it. One of the key concerns in cyberspace is how to safeguard the work of copyright owners in digital background where anybody can right of entry it. As cybercrimes are also rising, it requires us to think and find a way to defend our work from violation. To recognize the protection of multimedia works in cyberspace, first it must comprehend what multimedia work is and how it can be safeguarded under the copyright act and then it will see how to safeguard it in digital space.

I.II LITERATURE REVIEW:

Ficsor, M. (2012) reviews up to expectation copyright was once first appropriate to functions so had been sold or published. With practical progression, there place found modern troubles in imitation of contemporary copyright law. With the up leap over technological expansion, it taken the digital information without problems available as cause the exploitation regarding copyrighted works. The on-line media allow the replica on unique employment immediately. The Copyright Act, 1957 provides because of a listing over safeguarded workshop on Sec.13. The copyright legal guidelines alter the make, take advantage of then exploitation over intellectual and innovative labour. It encourages the building over original workshop by way of the author, composer, artist, etc. Copyright performs so stakes because of that amount duration because of which that mentioned copyright is permitted. This laws regimen as everyone whosoever effect original manufactory shall revel in the extraordinary appropriate in imitation of reproduces so job for confined periods. The expansion regarding technologies has devoted enlargement to standards such as PC programs, databases, layouts, etc. In the current digital era, copyright is the foremost problem in IPRs ⁴.

⁴ Factor, M. (2012). The Law of Copyright and the Internet. London, Oxford University Press.

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Zarana Mehta (2021), Copyright permits a person or business house exclusive ownership of their original works, like books, scripts, software, artistic work, training manual, movies, sound recording, painting, programming, and designs. As per IP Laws, the author or creators of the work have the right to stop others from copying, reproducing, or replicating their original works without any consent. It means that no one can copy or reproduce the owner's original works without their consent⁵.

I.III RESEARCH OBJECTIVES:

Lots of advancements and developments have taken place in the digital world or the cyber world. The internet has made information access faster and easier. Many new copyright laws concerning internet issues in the digital world have come up and old laws have undergone many amendments to cope with the problems and cases arising out of internet matters. The objective of the present research is to explain and testify whether the copyright law in India have been able to enforce the statutory protection to the copyright owners and to curb the cyber menace access the globe. To study also tried to examine the implications of the Indian copyright Law, 1957 and the International Copyright laws with respect to the issues due to emergence of digital technologies and internet.

II. COPYRIGHT ISSUES IN THE DIGITAL ERA:

Issues Identifying with totally Different Set of Work, especially Computer Programs,

Database and Multimedia Works:

- **Computer Programs:**

⁵ Zarana Mehta (2021) Copyright laws <https://ebizfiling.com/blog/copyright-and-importance-of-copyright-protection/>.

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The question of suitable IPR for making sure the computer programme works has long been debated in the international community. Arguments were made in favour of and against the copyright and patent systems, as well as a sui generis framework for securing computer programming. These discussions were put to rest by discussions of the Uruguay Round of multilateral trade negotiations in the distant past, when the TRIPS Agreement added the clause stating that "computer programmes," whether in source code or item code, will be protected as abstract work under the Berne Convention. This is why it was highlighted in WCT when it stated that assurance applies to computer programmes regardless of the mode or nature of their articulation. Despite the fact that a fair attitude about the protection of computers in grammes' favour as abstract works under the IP rules first emerged in the TRIPS Agreement of 1994, One of the earliest laws, from India, extended copyright protection to computer programmes far before that Agreement. This was in line with the Berne Convention's definition of literary and artistic work, which includes every creation in the literary, scientific, and artistic fields as well as anything that may be the manner or kind of its presentation. In order to include computer programming, a thorough definition of "literary markings" was incorporated into the Copyright Act in 1984. In 1994, the definition was expanded in this way to include computer projects, tables, and compilations, including computer databases⁶. Section 2 of the Copyright Act defines a computer programme as a group of instructions communicated in words, codes, plans, or some other structure, including a machine decipherable medium, that are equipped to make computers perform a specific task or achieve a specific result. To be more precise, the act includes any electronic or similar device with data handling capabilities as a computer. These are innovation-neutral definitions, making them capable of engrossing future advancements in technological

⁶ Ficsor, M. (2012). The Law of Copyright and the Internet. London, Oxford University Press.

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developments. Although the Act classified computer programmes as belonging to the category of artistic works, it created specific provisions for them in terms of rights and infringement. Accordingly, in article 14(b), the Act grants computer programmes all of the rights cherished by creative work in addition to sale and rental rights. Despite a change in 1999, computer programmes that aren't the primary goal of rental are not covered by the Act's provisions regarding business rental rights. In accordance with Article 11 of the TRIPS Agreement, this. Such an exemption is seen reasonable since, otherwise, one would wind up paying for inventions that one had no intention of using in any case. Computerized advancements are not currently used in a wide range of areas that have an impact on day-to-day existence. The 1999 modification to the Copyright Act also permitted recompilation and converse engineering of previously published works, taking into account the needs of the product industry and the need to give a force to the evolution of computerized advancements in the nation. It is also interesting to note that the Act, on its own, defines the creator of computer-generated work as the person who causes the work to be produced. This puts to rest any concerns regarding the legality of a computer programme that locks in several users, as is usually the case. The law has made the deliberate use of an infringing duplicate of a computer programme into an offence under the Act, with minimum punishments prescribed, considering the uncommon components of computer programmes as easily distinguishable from other artistic works, especially the impact of its utilization.

• **Databases:**

Databases have also received artistic treatment in India. According to the Copyright Act of 1957's Section 2(o)⁷:

⁷ Saha.Subhasis& Keshari Sourav, Challenges to Copyright Work in Cyberspace, Journal of Intellectual Property Rights Vol. 13.Jan 2018.

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Computer projects, tables, and assemblages, especially computer databases, are used in literary works. Additionally, Section 13 of the Act provides tools for copyright guarantee of artistic work (1). In addition to the insurance provided by the Copyright Act of 1957, the Information Technology Act of 2000 includes a serious degree of protection for databases against unauthorized duplication and destruction. According to Section 43(b) of the Information Technology Act of 2000, any person who downloads duplicates or concentrates any information, computer database, or data from a computer, computer framework, or computer network without the owner's or another person's permission, including data or information held out or stored in any removable stockpiling medium, will be held liable. Additionally, keep in mind that if an information base consists of a variety of separate protected works, copyright on the information base will survive regardless of whether a particular work's copyright still exists. For instance, the creator of the information base becomes the owner of the overall, but journalists covering the many topics actually continue to be the owners of their independent articles in a database of various articles about legal and social issues. Therefore, copyright in a database continues to exist at two levels: first, at the level of an individual's work, and second, at the database as a whole, if the selection and organization of the material included therein is the result of skill and judgement. As there is no judgement or selection as to what should be incorporated and what ought not to be remembered for the information base, there is no copyright assurance in an information base that essentially contains the names and addresses of the relatively large number of employees in an organization. The creation of such an information base is not accompanied by any dynamic interaction. More data gathering without a strategy and detailing based on a few decisions would not be sufficient to satisfy copyright requirements⁸.

⁸ James T.C., Indian Copyright Law and Digital Technologies, Journal of IPRs, Vol 7, September 2012.

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• **Identity of the owner of Computer Database:**

Computer databases are typically collections of works, information, data, or other independent works that are stored in any computer or computer framework. The difficulty that arises in this situation has to do with the personality of the database owner. The person collecting the data that has to be entered is typically seen as the database's creator or owner. However, there are three ways that this new idea can be used to shape another computer gathering. **Additionally, to a custom database, there may be a database that is similar to or identical to the custom database.**

1. *A custom database, as well as one that is similar to or the same as it, may exist.*
2. *The computer database may also consist of a collection of freely available computer-generated works.*

In such circumstances, identifying the true owner of the computer database proves to be incredibly difficult. Finding the personality in the primary case is easier. If a paper assembly is converted to a computerized assembly, the creator of the initial database is presumed to be the owner of the computer database, violating the true owner's right to variation. But notwithstanding, the next two situations show a lot of confusion. The autonomous paper works, or free computer works, through which a computer database may be built, may be owned by a variety of copyright holders. The conclusion that the true owner of the computer database can either be the person aggregating or all those people collectively who have the copyrights in the free work can be reached in this way. At that moment, it becomes difficult to identify the true owner of the computer database. The thought/articulation polarity of the relevant work can be used to clearly address this issue. When determining who owns a computer database, it is important to consider whether the compiler has communicated the first work and laid out his or her thoughts, or whether the compiler has communicated the

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first work and laid out their actions without necessarily communicating their thoughts. In the second case, the compiler would become the primary owner of the computer database.

- **Protection Database Structure in India:**

In India, databases are protected by the Copyright Act of 1957. Despite this, there is no mention of database structure in the Act. In order to design a certain configuration, spread out and outfit for the fields dispensed to hold various types of data, the database creator gives his insight and vision. In light of this, the architects believe that the building, which also serves as a display, should have extensive insurance. Since the database design covered by abstract works can be verified in terms of databases, there is no need for an unqualified guarantee of the structure, and it should therefore be given a deeper understanding. The Indian Copyright Act specifically includes computer databases in its definition of artistic works. Therefore, all original computer databases in India value protection. Due to the liberal view of innovation adopted by the Indian Courts, the issue raised by the Fiest verdict in the USA may not be substantially applicable in India. More sets are produced on linked locations with larger groups of ordinary stuff. This leads to an investigation into the creativity of a recently created and constantly evolving database. The effectiveness of copyright protection in preventing the theft of such information may also be called into question by databases that self-maintain and automatically rebuild themselves on computers. A sophisticated organization's database readiness comprises impressive speculation including both monetary and real assets. Yet the question of confidence comes when a database is entirely composed of non-copyrightable information.

- **Multimedia:**

Multimedia data is becoming more and more limitless thanks to speedy technologies in computers and the Internet. Multimedia data can be made, regulated, and fitted by people of different situations all over the globe. Multimedia has basically brought a new phase of

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communication and data flows, which has had a gigantic effect on the community. In a multimedia situation, innovators have conventional opportunities to make contents. Moreover, the licensed invention laws play a key part in guaranteeing the value of multimedia work. But it is not easy for the legislative frameworks to respond to changes in organizations and contents of multimedia work. At present multimedia developers utilize standalone storage related publishing devices chiefly. When wideband transmissions are effortlessly obtainable publishing through WAN might be commonplaces. It is considered as an emerging form in the higher education sector. Per copy licensing doesn't work for network-based publishing. Per use licensing doesn't work well for storage-based publishing although it looks reasonable, and it has functioned well for the online database sector. Usage-related prices usually need networked systems with substantial technological and promotional overhead. This dampens new users and the experimentations and explorations that are required to motivate and make demands. No one likes to hear a meter ticking. Education networks are more and more omnipresent and there is great struggle to meter information. The favored payment methods are fixed costs which might be budgeted.⁹ A right exists in cinematic film. As the paradigm of creation differs between artistic, dramatic, and sound recording on the other hand, the initiation can pose another issue. Some people believe that multimedia works should be categorised as advanced computer applications. This might be a solution because the Copyright Act has specific provisions for the rights and origin of computer programmes as distinct from abstract works. However, concerns with the preservation of individual copyrights under consolidation in the multimedia, in accordance with Section 13 of the Act, and the rights of the entertainers in the item could arise. By combining earlier works, a huge number of sight and sound pieces are currently being

⁹ Fareed Ahmad Rafiqi1 & Iftikhar Hussian Bhat, Copyright Protection in Digital Environment: Emerging Issues, International Journal of Humanities and Social Science Invention, Volume 2 Issue 4, April. 2013.

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generated. When more and more intricate new works of sight and sound are created, the problem will be brought to light. A topic that needs to be thoroughly researched is the qualities of sight and sound works¹⁰.

Issues Identifying with Proliferation, Circulation and Communication to General Society
of A Work Through Digital Media:

- **Right of reproduction on the Internet:**

Another method of transmitting a copy of a work has been developed via digital technologies. Transmission is traditionally thought of as a work that was created using a material duplicate, which might be in the form of paper and tape for a book, a tape or film for a photograph or a movie, or perhaps both. This still exists today despite the advent of material-less transmission via computer bytes. Of all the copyrights, the right of reproduction is the most basic. Despite this, it was difficult to describe even in less advanced times. In 1967, the Berne Convention included a right of proliferation specifically. Another version of Article 9(1), which Stuart characterized as lapidary and accepting of both the present and future cycles, was inserted into the Stockholm Revision of 1967. This clause grants the limited right to approve the dissemination of these works in any format. The biggest challenges in the electronic environment have also been these normally necessary copyrights. Whether electronic replication constitutes proliferation or whether the law only protects material reproduction was the subject of a quiet debate. This question was answered by an Agreed Statement in WCT, which said that the right to proliferate fully applies in the advanced climate, namely to the use of works in advanced structures. The Agreed Statement went on to say that a generation falls under the purview of Article 9 of the Berne Convention thanks to the potential of a protected work in advance structure in an

¹⁰ NMahesh, S. (2008). Copyright and digitization. Journal of information management, 6, (3), 84-88.

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electronic media. The perception of the right of reproduction in the digital medium is now not problematic. However, the question of temporary or coincidental reproduction that occurs in online correspondence comes into focus. As previously said, generation denotes the replication of the original or the recreation of a large portion of the original work. Anyone who copies a work without the owner's permission infringes on the owner's generation right because the copyright owner also reserves the right of reproduction. Whatever the case, if considerable closeness on the internet is tested, there will be no issue because the work or software, if reproduced, will be equivalent to and impossible to differentiate from the creation of the original inventor.

In Photoquip India Limited vs. Delhi Photo Store¹¹:

"The plaintiff claims that the respondent's products are an exact replica of his belongings, identical in every way. Additionally, the defendant promises that copyright is the or the price of the offended party's products, drawings of the moulds. According to the Bombay High Court, all defendant privileges under Section 14 of the Copyright Act of 1957 have been violated".

III. RIGHT TO DISTRIBUTION ON THE INTERNET:

Copyright gives the owner of the right the exclusive right to distribute copies of the work to the public. If a copy of a particular work is given to the general public without the owner of the copyright's prior consent, it is a copyright violation. As soon as the work is displayed online with an explicit reference to the right of appropriation to computers, the dispersion right is anticipated to follow. Dispersion and show appear to be separated by a particularly thin line. When the right is controlled online, there is hardly any difference between the two

¹¹ Photoquip India Ltd. V. Delhi Photo Store NM6842014 – 5427- 2014-F. DOC Pronounced 15.09.2014.

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phrases. **If the circulation right is taken away from the copyright owner in the associated manner, copyright infringement in computers occurs swiftly:**

1. Through email, copyright work is distributed to many internet users.
2. By printing out the copyright work and then genuinely disseminating it, the work is made available to the public.
3. When a piece of work is displayed online on a website page, the copyright for that work is lost.

The line separating appropriation from show has become more difficult as computers have advanced. The only need for proving circulation is that the defendant knowingly made the work available to the public. It is not necessary to show that others plagiarized or used the work. Whether or not the work was used, distribution occurs when all processes necessary to make it accessible to people in general have been completed. Currently, when a piece of work is displayed online, it becomes accessible to the public. As a result, the right of public circulation is equivalent to the right of public display, and it is misused as soon as the work is posted online. The Copyright Law doesn't provide ISP liability directly. Although, S.51 (a)(2) might be extended to include the same. Delhi HC, in **Myspace Inc vs. Super Cassettes Ind. Limited**¹², **has intricate upon the fixations of ISP liabilities and website owner as:**

Even if, Sec.51(a)(ii) might be utilized in fixation of liability of I.S.P yet the 'infringement of copyrights' in digital forums need to be particular and also the apparent provisions fixing ISP liabilities as performances of right in the digital platforms are as distinct in operation in comparison the performance of privileges in the equivalent of copyright systems.

¹² 236(2017) DLT 478

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In Creative Width Design Solution vs. Print Adda and Ors¹³,

The Delhi High Court ruled that the respondent's goods are offered for sale through the same exchange channel as those of the plaintiff and that they can be obtained for less money than the plaintiff's goods. The plaintiff would suffer unimaginable harm and misfortune. Therefore, the respondents are prohibited from creating, marketing, or selling wall decals or stickers that result in or add up to infringement of the plaintiff's copyright.

In Microsoft Corporation vs. Yogesh Popat¹⁴, “The Delhi High Court dealt with a copyright infringement case and awarded compensation to the tune of Rs 23.62 lacs to Microsoft Corporation against M/s Compton Computers Private Ltd and its chiefs for transferring pilfered programming of Microsoft in PCs that the organization sold in the wake of collecting parts.”

Fairmount Hotels Pvt. Ltd. vs. Bhupender Singh¹⁵,

“A copyright vested in photos uploaded by users on Facebook has recently been recognized by the Honourable High Court of Delhi in a recent judgement given by Justice Manmohan. Photographs are protected under copyright law as artistic work under S.2 (c) of Copyright Act 1957 in India. Although in India, as per S.25 of the Copyright Act, the Photographs are provided copyright protection for a period of 60 years from the date of publication, the term of protection varies from country to country. For example, the duration of protection provided by the US/European Union is 70 years, while the Berne convention provides minimum limit duration of protection of 50 years. Although copyright registration is not

¹³Creative Width Design Solutions V. Print Adda &Ors. Cs (OS) No. 3974/2014, decided on 22 December, 2014

¹⁴ 2005 (118)DLT 580, followed in Adobe Systems inc v K. Khanna 2009 (5) AS (Delhi) 954

¹⁵ Fairmount Hotels Pvt. Ltd. vs. Bhupender Singh CS(COMM) 111 of 2018

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mandatory under Copyright Act, it is recommended, and the procedure can be completed with the Copyright Office”¹⁶.

IV. CONCLUSION AND SUGGESTIONS:

The Copyright Act, 1957 is exhaustive which can effectively safeguard the rights of photographs posted on social media websites and photographer rights in India. *“This is because, the law not only protects hard copy/paper photographs taken but also online posting of photographs. This protection for online photographs is not expressly mentioned in the Copyright Act, however the existing judgements being pronounced in the purview of such issues is proving time and again that the meaning of “photographs” u/s 2(c) of the act includes photographs posted on online platforms as well. Therefore, the existing copyright law provisions are competent to overcome any hurdles in the way of social media users and all the latest technology.*

Copyright law controls the rights to creative innovation. Safety, inventiveness, and resourcefulness are top concerns in this licensed innovation sector. Since it is one of the ways of expanding, enhancing, and disseminating the public, social, and legal, it is a significant area of licensed innovation. The innovativeness of a nation's citizens has a huge impact on that nation's development, and encouraging personal innovation and its dissemination is essential to advancement. The cost of the strictest protection is managed by copyright law, which also gives authors restricted rights, encryption, and a protected digital workspace. India has adequate protections for computer software copyright, especially with

¹⁶ S.S. Rana & Co. Advocates, Delhi High Court On The Copyright On Photographs Uploaded On Facebook, Mondaq.

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the 2012 Amendments Act. However, the rapid pace of technological advancements raises several valid concerns. Therefore, cultivating attention among various partners is necessary. First and foremost, owners should be aware of their rights; customers should understand infringement and appropriate usage; and government agencies, especially the police, should be fully prepared and equipped with modern technology to combat piracy and copyright infringement. The legal framework of Indian copyright law envisages penal and civil provisions to safeguard the interests of the creators, however, it is not free from hassles and hurdles which need to be eliminated. *“The enforcement aspect of the provisions is a matter of great concern and there is an urgent need of building better administrative machinery for the enforcement of the provisions of the legislation which requires well-oiled enforcement machinery. The ubiquitous nature of the Internet necessitates the consideration of multinational enforcement, which will to some degree require the harmonization of domestic laws concerning enforcement measures and facilitate the cross-border protection of copyright in the digital age. Diversities in basic theories and in the practice of national systems protecting copyright and related rights create obstacles to effective international and national implementation of protection of authors and other right owners.”* The latest Amendments to the Indian copyright laws have certainly provided room for utilizing creative lawyering capabilities to expand and structure innovative business methods to assist the companies effectively manage the transformations.

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