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Understanding Copyright Infringement

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Edit Introduction Decoding Copyright Infringement Types of Copyright Infringement Test for Copyright Infringement Landmark Cases of Copyright Infringement Remedies Exceptions under Copyright Way Forward Conclusion

Introduction

Copyright is a valuable set of rights that gives creators control over their original works. Whether it's a book, music, movie, or software, the copyright holder has the power to decide how their work is used.

Unauthorised use or reproduction of copyrighted material, known as copyright infringement, is a serious offence. Infringement occurs when someone violates the exclusive rights granted to the copyright holder, such as copying or distributing their work without permission.

Music and films are frequent targets of copyright violations. Such infringements can lead to legal consequences and financial liabilities. It is crucial for creators and users alike to understand and respect copyright laws, fostering a culture that supports creativity and protects intellectual property.

Decoding Copyright Infringement

Section 5 of the Copyright Act outlines the circumstances in which copyright infringement occurs. According to this section, infringement takes place when an individual performs an action that only the copyright holder is authorised to do without obtaining their permission.

It is also considered infringement if someone allows their premises to be used for the communication, sale, distribution, or exhibition of infringing works, unless they were unaware or had no reason to believe that such use would violate copyright.

Importing infringing copies of a work or reproducing a copyrighted work in any form without the authorization of the copyright holder is also deemed as infringement. To establish copyright

infringement, it is crucial to prove that the defendant has copied the original work of the author.

However, it should be noted that not all instances of factual copying are legally actionable. The key factor is to demonstrate substantial similarity between the author's work and the defendant's work, which serves as evidence of copyright infringement.

Types of Copyright Infringement

Copyright infringement can be broadly classified into two categories:

Primary Infringement

Direct copying of a work protected by copyright, such as photocopying a book for commercial distribution, constitutes the primary form of infringement. Two things must be established in order to establish primary infringement.

First, there must be a substantial taking, in which an unauthorised individual replicates a sizable portion of the work, such as a memorable line from a song. The court also takes into account whether the work appears to be a copy from another source and how the average person would interpret it. Similarities in writing diction, mistakes, and style can be used to prove plagiarism.

The claim of infringement is unaffected by the infringer's minor modifications. A causal link that demonstrates a likeness between the works must also be proved. It is crucial to distinguish between similarities brought on by utilising the same research source and actual infringement.

Secondary Infringement

Secondary infringement occurs when copyright infringement happens without actual copying. This can include providing a place for infringing activities, selling infringing copies, distributing infringing copies, or importing infringing copies.

In such cases, liability arises for enabling or facilitating the infringement, even if the person or entity is not directly involved in copying the work. However, there are exceptions for personal or domestic use.

Test for Copyright Infringement

The court employs the three-factor test to determine whether or not the work is copyrighted. They are as follows:

1. Quantity of the copied work
2. the reason behind the copying
3. The possibility that the two works will compete.

Landmark Cases on Copyright Infringement

Krishna Kishore Singh v. Sarla A Saraogi & Ors

The request for an interim injunction to halt the release and broadcast of specific films purportedly about Sushant Singh Rajput was denied by the New Delhi High Court. SSR's parents were unable to provide prima facie proof, and the balance of advantages favoured the respondents, therefore the court decided in their favour.

The plaintiffs could not make a compelling case for copyright infringement or licensing, according to the court, because they were unaware of the films' contents and there were no obvious visual or title similarities. The court also emphasised the possibility of the loss of posthumous celebrity rights and the plaintiffs' freedom to use material obtained from authorised sources without fear of legal repercussions.

Additionally, because there was no way to access offending material, the court deemed the defamation claim hypothetical. It was made clear that news or film coverage does not violate the right to a fair trial and that when information is in the public domain, freedom of speech and expression prevails. The plaintiffs were ordered by the court to submit accounts for possible loss reimbursement.

Muthoot Finance Limited v. Shalini Kalra & Ors

Muthoot Finance Limited, a non-banking financial institution, provided commercial and personal loans against gold jewellery deposits. The company maintained a dataset containing confidential client information, which was considered a "work of literature" under the Copyright Act of 1957 and constituted the defendant's proprietary information.

The plaintiff alleged that former employees (defendants 1-4) had unlawfully copied and transferred sensitive client data to defendants 2 and 3, as well as to plaintiff no. 5, a competitor. This led to a shift in the plaintiff's customer base to defendant no. 5. The plaintiff filed a complaint

with the police, alleging the disclosure of secret information and resulting financial losses.

In response, the plaintiff sought a court injunction to prevent the defendants from using sensitive information, infringing on proprietary rights, or enticing clients and employees away from the plaintiff. Damages were also claimed. The court granted an interim injunction restraining the plaintiff from disclosing or using confidential information and proprietary technology data.

Remedies

Under the Copyright Act of 1957, copyright holders have two types of remedies available to them: Civil Remedies and Criminal Remedies.

1. Civil remedies include obtaining injunctions, which are court orders restraining the infringer from continuing their infringing activities, as well as awarding damages to the copyright holder.The purpose of damages is to restore the copyright holder to their earlier position and may be based on factors such as lost profits, damage to reputation, and decreased sales.
2. Criminal remedies allow copyright holders to initiate criminal proceedings against infringers. This remedy is not an alternative but complementary to civil remedies, and copyright holders can pursue both simultaneously. Copyright infringement is recognized as a criminal offence under Section 63 of the Copyright Act.

Exceptions under Copyright Act

Under certain circumstances, it is acceptable to quote, criticise, and evaluate content that is protected by copyright. For instance, it is allowed to use snippets or samples to support one’s assessment or critique when discussing a movie in an article.

However, the information utilised must be openly accessible and not kept private. There is no clear legal definition of what defines fairness, but it is a critical factor in establishing the legality of such use. The evaluation of fair use is based on the unique facts and circumstances of each case. In addition, giving the copyright owners the appropriate recognition can help allay worries about potential copyright violations.

Way Froward

To address the issue of copyright infringement effectively, several measures need to be taken. Firstly, an independent investigation team well-versed in copyright laws should be established to decide on the seizure of infringing copies, as police officers often prioritise other crimes.

Additionally, a special cell for copyright enforcement should be established in all states and union territories, ensuring active monitoring of habitual infringers. A comprehensive publicity campaign must be launched, highlighting the criminal nature and consequences of copyright violation, involving various stakeholders such as the government, rightsholders, and law enforcement authorities.

Stricter punishments, including longer prison terms and higher fines, should be imposed on copyright infringement to discourage such offences. Lastly, it is advisable to make copyright registration mandatory, providing strong evidence in court cases of infringement.

Conclusion

In conclusion, the goal of copyright is to uphold the creator’s legal rights while also offering financial incentives. The purview of copyright encompasses all literary or creative works, including computer software and databases.

Although it is not essential to register a work in order to qualify for copyright protection, doing so is frequently encouraged because it can be used as evidence in court. A person who violates the copyright of another person’s work is subject to both criminal and civil penalties.

However, there are several exceptions to copyright infringement, meaning that in some circumstances, a person may not need the copyright holder’s consent to utilise his work. However, it is always advisable to create unique content rather than unauthorised use of another person’s copyrighted work.

Also Read: Copyright Law in India: A Comprehensive Guide