



ABHIDHVAJ LAW JOURNAL

[www.abhidhvajlawjournal.com]

The goal of Abhidhvaj Law Journal is to offer an open-access platform where anyone involved in the legal profession can contribute their research on any legal topic and aid in building a quality platform that anyone can use to advance their legal knowledge and experience.

Editor In chief – Assistant Professor Mr. Janmejy Singh

Publisher & Founder – Vaibhav Sangam Mishra

Frequency – Quarterly (4 Issue Per year)

ISSN : 2583-6323 (Online)

Copyright © 2023 - 24

**THE EFFECTIVENESS OF INTELLECTUAL PROPERTY LAWS IN
PROTECTING DIGITAL CONTENT AND CREATOR' RIGHT.**

AUTHOR'S NAME – Sakshi Agarwal, LL.M.

INSTITUTION NAME – Mumbai University.

ABSTRACT:

In Today's competitive world, the most widely used source of information for personal use, professional use, informative use, educational purpose, enhancing knowledge purpose, etc for every user relies on social platforms for such content in short, we can say that we all rely on the digital world for all our information. Does anyone though as the content in this digital world are created by some of the amazing content creators who all have put all their heart and soul into the such amazing and informative post on social platforms to keep all of us aware of the update and knowledge that we are searching for and are interested in. They also have rights and their content is also protected under Intellectual Property Laws. But most of the creators are not aware of such rights and their content is being used by other people portraying it to be their piece of creation which is against the Intellectual Property Laws. All content that is available in this digital world is not free and no one has a right to copy such content and use it as their own. Such content can be used by people for their education purpose and for enhancing knowledge purposes. But such cannot be used by people portraying as their own without giving effort credit to the original content creator who owns such content. The creators should be aware of their rights and should protect the same. It has also resulted in many cases filed due to such misuse of content by people without giving proper credit to the creators.¹

ANALYSIS:

The digital world today is a key aspect of the current stage of global development. The use of the digital world is on the rise and has reached its extreme. Commonly, there are many contents that are posted by various content writers online without even protecting their rights for the same content. The content is available in various forms some of them are pictures, literature, art, videos, and sound recordings. Creator posts such content on social media to get recognized by the public but their work gets duplicated by another person as their own. Generally, people

¹ legalserviceindia \ <https://www.legalserviceindia.com/article/1195-Copyright-Law-in-India.html> \ (Last Visited May 14, 2023).

who put their efforts into generating the data or content to be published or put on social media are termed content creators or content writers. They have a great power to create content that could be viral on social media once put forward on the internet.²

There is a general misconception among the public at large that anything which is found on the internet or the digital world is free of cost and is for the general public at large. They deny the actual intention of such content by the creator is for use as credit to the general public and for educating and increasing their popularity with a large public. People can use the content generated by the content creator but should provide proper credit and recognition for the same. It is the creator who has the exclusive right to the content and no other person can claim such right. Such rights of the creators are protected by the copyright law or Intellectual Property Law in India.³

WHAT IS INTELLECTUAL PROPERTY (IP)?:

Intellectual Property, according to World Intellectual Property Organisation (WIPO), “refers to creations of the mind, such as inventions, literary and artistic works, designs, and symbols, names, and images used in commerce.”⁴ The definition clearly states that when some person creates some content that is tangible or intangible which is the creation of their mind and the same is not created by any person to date and put on a social platform for commerce then such a person has an IP right on such content and can protect the same with help of Intellectual Property laws.⁵

APPLICATION OF IP AND DIGITAL CONTENT:

Publishing work on a digital platform does not give anyone a right to copy the same without giving sufficient credit. For example, if a person posts an article on LinkedIn and another person agrees with the same another person can repost the article created by one person but should not create the same as his article by copying the same. It results in a violation of the terms and conditions of the platform which we all accept even without reading the same. It is extremely important to know the major problem that has been developed over a while by violation of the IP laws by people at large. The original content creators are unable to protect

² legalserviceindia, *supra* note 01, at 01.

³ legalserviceindia, *supra* note 01, at 01.

⁴ Wipo\ <https://www.wipo.int/about-ip/en/> (Last Visited May 14, 2023).

⁵ *Id.*, at 02.

their rights and major of them are unaware of the same. The objective of the law was to protect the rights of the original creator's rights are protected whose are actual creators and put their work at large risk by publishing their work for the public at large. Even the law provides and encourage others to build their opinion and ideas on the work performed by other by giving proper credit to the original creator for the same.⁶ No prior registration is needed for IP. It just starts the moment the creator has come up with the original content and the said is put on the digital platform in the original form. If any person copy's the work of a creator, then the person would infringe on the right of the creator which could lead to consequences for the person who tries to portray the work as their original despite not being created by someone else. Even posts that are posted on social media platforms like Instagram, Facebook, Twitter, and LinkedIn are entitled to a right to their creator and there cannot be duplicated by any person without proper credit or permission.⁷

All of you needed to note that every social media platform has its Terms and condition and policy of IP protection. But all the policy ensures that the rights of the content creator are protected to the fullest and creates a transparent and help the creator to earn some money from such content by using the license issuance or by sub-lending the content to someone for a limited time in exchange of some license fees.⁸ The policy also creates a right provided to the social media platform to reproduce, publish, adapt, modify, transmit, display, etc such content that too without any license fees which need to be given by the platform owner to the creator of such content.⁹

IP POLICIES OF POUPLAR SOCIAL MEDIA PLATFORMS:

The Policies of various social media platforms regarding content creators are as under:¹⁰ -

1. **Twitter¹¹:** - The rights of the content are retained by yourself for any content that is posted on Twitter. Your content will be yours even if it contains any sound, audio, video documents, or image. By posting on Twitter, you are accepting the grant of licence to Twitter

⁶ linkedin\ <https://www.linkedin.com/help/linkedin/answer/a525047/how-to-repost-on-linkedin?lang=en> \ (Last Visited May 14, 2023).

⁷ legalserviceindia \ <https://www.legalserviceindia.com/article/1195-Copyright-Law-in-India.html> \ (Last Visited May 14, 2023).

⁸ Ncbi.nlm.nih\ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3217699/> \ (Last Visited May 14, 2023).

⁹ linkedin, *supra* note 01, at 03.

¹⁰ Abounaja Intellectual Property\ <https://www.abounaja.com/blogs/intellectual-property-and-social-media/> \ (Last Visited May 14, 2023).

for licence-free use and non-exclusive, royalty-free, worldwide and a right to sublicense the same to copy, reproduce, process, adapt, modify, publish, transmit, display, and distribute such content in any media or distribution methods now known or later developed.¹²¹³

2. **Instagram¹⁴**: On the other hand, Instagram does not claim any ownership of the content in the form of sound, video, audio, picture, image, etc all collectively known as content on the platform that is posted on Instagram using the Instagram services. But it reserves the rights that enable by accepting the terms while posting giving a non-exclusive, royalty-free right of the content to edit, delete, repost, reuse, and reproduce such content in any media format but the rights are limited only till the Instagram services and no such rights have access outside Instagram services.¹⁵

3. **Facebook¹⁶**: Facebook clearly states that when you post any content on any platform you possess an IP right but while posting on our platform you hold such right but you also provide us with the non-exclusive, royalty-free license with that content that can be edited, deleted, modified or reposted by us over the platform services itself.¹⁷

WHY IS IP REGISTRATION IMPORTANT FOR CONTENT CREATORS:

In Today's world, the content on the digital world is consumed by people day in and day out from various digital platforms. With that everyone has automatically understood that unique content is easily accessible to millions of people and that makes it easy to be copied by anyone in the world. They need to protect their content through intellectual property law that would enable them to post without fear of duplicating the content created by them.¹⁸

The following are the reasons why the creator should register such content under Intellectual Property law: -

- a) To establish a right on the content under Intellectual Property law so that to prove the ownership over such content while a dispute.

¹² legalserviceindia, *supra* note 01, at 04.

¹³ Copyrightalliance\ <https://copyrightalliance.org/faqs/tweets-protected-copyright/> (Last Visited May 14, 2023).

¹⁴ Instagram \ <https://www.instagram.com/about/legal/terms/before-january-19-2013/> (Last Visited May 14, 2023).

¹⁵ legalserviceindia, *supra* note 01, at 04.

¹⁶ Facebook\ <https://www.facebook.com/legal/terms/> (Last Visited May 14, 2023).

¹⁷ legalserviceindia, *supra* note 01, at 04.

¹⁸ Wipo, *supra* note 04, at 04.

- b) Registered content is more reliable and trustworthy. The user generally relies on the content which is registered which in turn increases the revisit of such content.
- c) It is easy to remove plagiarised content removed instantly once the content is registered under IP law.
- d) The person will reduce to duplicate the registered content as it will reflect the plagiaries of the content and the duplication will reduce registered content over a while.¹⁹

STEPS FOR ENSURING COMPLIANCE AND PROTECTION OF DIGITAL CONTENT ON SOCIAL MEDIA:

1. Copyright

Copyright is the form of protecting content under Intellectual Property that protects the original works of the creator and helps them to fearlessly make the content available to the public at large.²⁰

2. Domain Names

Domain names are easy to use and even easy to remember. A domain name can be simply made and can be identified quickly as a particular website of a business. A domain name is simply a business website site which generally ends with.com, org, gov. in, .in, etc²¹

3. Use of Watermarks

Watermarking the content will ensure that the content cannot be easily copied by any person. If has been copied then too the watermark in the documents ensures that the credit of the content is ascertained to the original content creators.

4. Use of Portals/ Restricting Access

Use the portal as password-protected content is posted on it so that the content has less chance of duplication. Create a portal where content can only be read and cannot be copied or duplicated. This will ensure that the content is protected and hasn't been duplicated by anyone.²²

¹⁹ Wipo, *supra* note 04, at 05.

²⁰ Wipo, *supra* note 04, at 05.

²¹ Wipo, *supra* note 04, at 05.

²² legalserviceindia, *supra* note 01, at 04.

THE FUTURE OF PROTECTING DIGITAL CONTENT AND CREATOR'S RIGHTS:

There has been a rise in the use of NFT (Non-Fungible Tokens) which are blockchain authentication certificates, which apply to tangible assets like images, video, music and sound files as well as other content is added progressively.²³ Whether an NFT in their original work or copyright of their original content the creator can protect their content with any of the process.²⁴

CONCLUSION:

From the above discussion, we can conclude that the most ideal way to safeguard the content by the creators in the digital world is to register the same under Intellectual Property right before posting the same or seeing it as allowed-to-utilize content on the web.

In the Landmark Judgment *Marico Limited vs Abhijeet Bhansali, the Bombay High Court*²⁵ noticed two major issues:

The court has held that the defendant (a content creator on Youtube.com) cannot, under the grab of educating or bringing the facts to the general public, should not **provide misleading information to disparage the plaintiff's product.**

The defendant has used the **Plaintiff's registered trademarks in a manner that has been detrimental to the reputation** of the plaintiff and cannot be treated as honest practices in industrial or commercial matters.²⁶ So, we can say that Creator should protect the content before posting such content in today's digital world.

ABHIDHVAJ LAW JOURNAL

²³ Wipo, *supra* note 04, at 06.

²⁴ legalserviceindia, *supra* note 01, at 06.

²⁵ (Marico Limited vs Abhijeet Bhansali, the Bombay High Court, 2020)

²⁶ Wipo, *supra* note 04, at 06.