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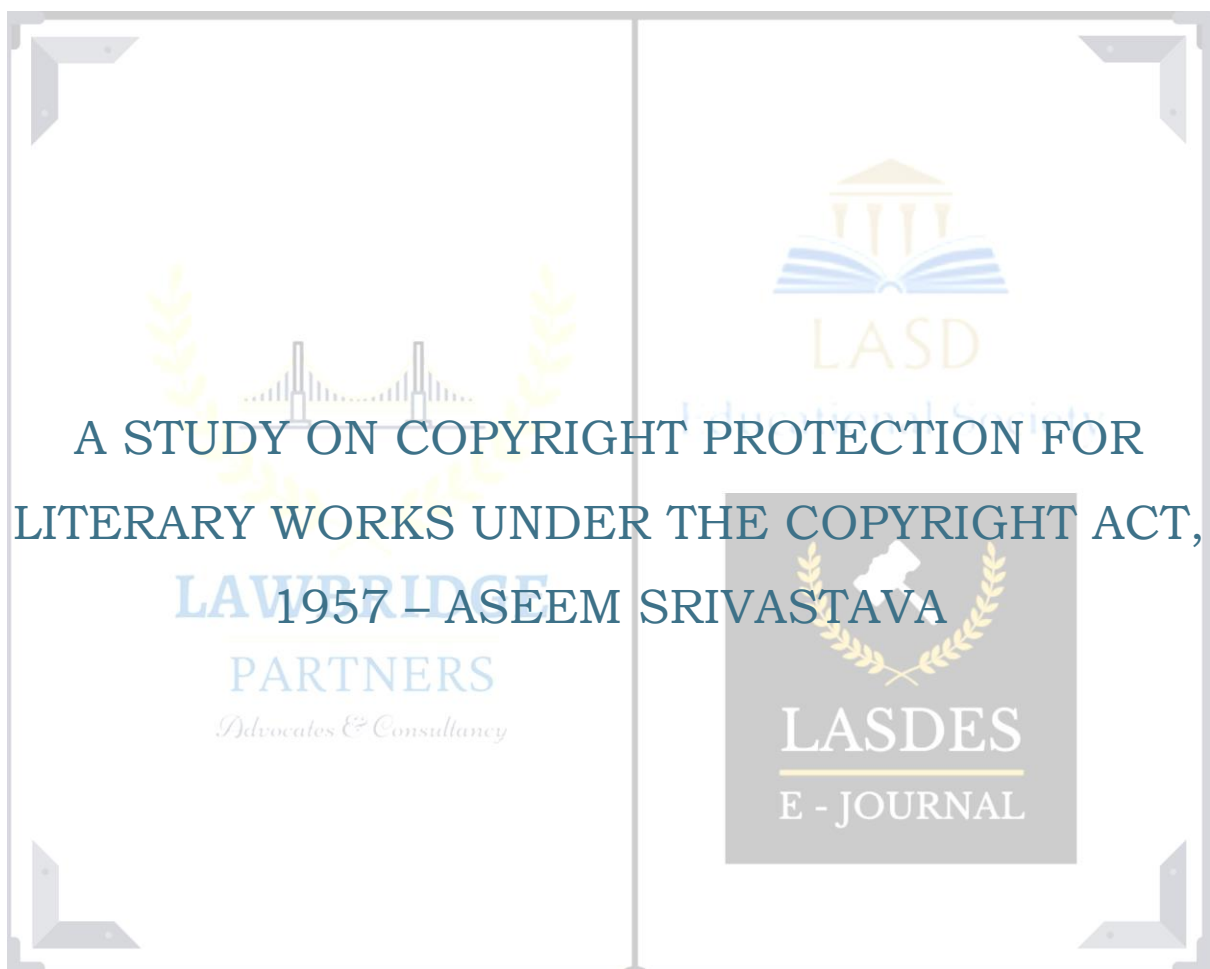
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ABSTRACT

The legal framework of copyright as it concerns literary works in India is based on copyright law. The Copyright Act, 1957, and other amendments, give an elaborate regime of protecting the right of the authors and their creative works should not be used without their consent. In a world characterized by the blistering technological change, the aspect of literary creation, distribution and abuse has changed tremendously. In this research paper, the author has conducted detailed research on copyright protection of literary work as per the Copyright Act, 1957, which covers the basics of originality, authorship, economic and moral rights, registration, infringement and remedies. The judicial interpretations and the emerging problems presented by digital media, artificial intelligence, online piracy, and cross-jurisdictional violations are also examined in the paper. The paper assesses sufficiency of the current framework through doctrinal and

analytical means that provide recommendations on enhancing the protection of literary works in India.



1.INTRODUCTION

Copyright is a necessary area of intellectual property law that protects initial literary, dramatic, musical and artistic works. One of the most important and guarded groups of works is also literary works which include books, poems, scripts, computer programs, databases, and other forms of written expression. The Copyright Act, 1957 is the most important law which regulates protection of copyright in India and it is in all the major aspects in line with international conventions like the Berne Convention, TRIPS Agreement and WIPO Copyright Treaty. The current paper conducts comprehensive research on the copyright system in reference to literary works. It looks at the law in statutes, law in judicial rulings, law in doctrine and law in the digital era. The analysis is organized into thematic sections, which touch on a critical aspect of the copyright of works of literature such as originality,

fixation, authorship, ownership, infringement, fair dealing, enforcement and also emerging issues.

2. Concept and Nature of Copyright in Literary Works

2.1 Definition of Literary Works

Section 2 (o) of the Copyright Act, 1957 describes a literary work as a computer program, table, compilation or computer database. The computer programs add weight to the fact that the copyright law is being dynamically changed as a result of technological changes.

2.2 Characteristics of Literary Copyright

Copyright in literary works is:

- Automatic

Protection will be automatically created on the creation; registration is optional.

- Expression-based

Copyright does not safeguard ideas but only the manner in which ideas are expressed.

➤ Territorial but internationally recognized

While copyright is territorial, international treaties facilitate cross-border protection.

➤ Limited duration

Copyright is territorial but cross-border protection is made possible by international treaties.⁴

2.3 Objectives of Copyright Protection

The copyright regime aims at balancing the conflicting interests:

1. Encouraging authors by rewarding them.
2. Opening knowledge to the population.
3. Eliminating unjust enrichment by unauthorized reproduction.
4. Promoting literature and education spread.

3. Historical Evolution of Copyright Law in India

3.1 Pre-Independence Framework

The copyright laws in colonial India were based on the British laws. In the Indian Copyright Act of 1914, the UK Copyright Act of 1911 was used. It was too narrow and did not provide emerging types like films in the cinematograph and sound recordings.

3.2 The Copyright Act, 1957

In the Act of 1957, the changes were immense:

- Increased types of works under protection.
- Special rights of the introduced author (now called the moral rights)
- Improved enforcement procedures.

The Act was further revised in 1983, 1984, 1994, 1999 and 2012 to reflect changes particularly to

the digital works, technological protection and the rights of the performers.

4. Copyright ability of Literary Works

4.1 Originality Requirement

Originality is one of the basic requirements. The Indian courts have shifted off the sweat of the brow to the modicum of creativity. Referring to the case of Eastern book Company v. D.B. Modak, the Supreme Court decided that originality needs a certain level of creativity and just labour is not sufficient.

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4.2 Fixation Requirement

Indian law does not specifically mandate fixation, however, literary works need to be as fixated in reality to be reproducible.

4.3 Idea – Expression Dichotomy

Section 13 of the Act only safeguards the expressions and not ideas. This principle has been confirmed by the courts. As an example, there is no protection of themes, concepts, or plots unless they are written in a unique way.⁶

5. Authorship and Ownership

5.1 Author as First Owner

The author under Section 17 is the initial owner of the copyright, with exceptions being made such as a work created as hired.

5.2 Joint Authorship

A joint work is a work that is donated by a large number of authors with the aim of joining it into one work.⁷

5.3 Works Created in Employment

In situations where literary work is composed during the employment process, the employer usually owns the copyright, except otherwise.⁸

5.4 Commissioned Works

In the case of commissioned literature or publications like articles, reports and the like, ownership is defined by the contract; in all other cases, the author retains copyright.

6. Economic Rights of Authors

In Section 14, the rights of copyright holders are listed economically. These in literary works are:

- 1) Right of reproduction
- 2) Right of issuing copies
- 3) Right of public performance
- 4) Freedom of communication to the masses.
- 5) Right of adaptation
- 6) Right of translation

These rights allow the authors to regulate and make money on their works.

7. Moral Rights

Section 57 acknowledges the moral rights of authors which include:

- 1) Right of paternity - claim authorship.
- 2) This is the right of integrity - do not misrepresent or destroy.
- 3) Right to prevent or obtain damages because of prejudicial treatment.

In *Amar Nath Sehgal v. Delhi High Court*, which was the case of Union of India, stressed that moral rights were fundamental in personality of the author.

8. Registration of Copyright

Registration is optional but has an evidentiary value. Registered works have presumptive validity in the case of legal controversies. Benefits include:

- Public record of ownership
- Increased efficiency in the enforcement.
- Simpler licensing and transfer.

9. Infringement of Literary Copyright

9.1 Statutory Definition

Section 51 establishes the infringement which covers unlicensed reproduction, unlicensed communication, distribution, or adaptation.

9.2 Tests for Infringement

Courts apply:

- Substantial Similarity Test

Similarity must be substantial, not trivial.¹⁰

- Quality vs. Quantity

Even small portions may constitute infringement if qualitatively significant.

- Causal Connection

Access to the original must be established.

9.3 Types of Infringement

1. Direct infringement
2. Contributory infringement

3. Secondary infringement – possession of infringing copies

4. Digital infringement – online piracy, unauthorized sharing

10. Defences to Infringements

10.1 Fair Dealing

Section 52 gives the exceptions to include:

- Private or personal use
- Research or study
- Criticism or review
- Reporting of current events
- Judicial proceedings

- Existence of the formats accessible to disabled persons.

Fair dealing is a subjective meaning that is interpreted contextually at the courts.

10.2 Parallel imports

Circumstances where copies are lawfully made abroad

10.3 Public Interest

Although Courts rarely apply this defence but recognize its importance.

11. Remedies for Copyright Violation

11.1 Civil Remedies (Section 55)

- Injunctions
- Damages or account of profits
- Delivery of infringing copies

11.2 Criminal Remedies (Sections 63–70)

- Imprisonment
- Fines
- Seizure of infringing material

11.3 Administrative Remedies

Customs authorities can prevent import of infringing works under the Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007.

12. Copyright in Digital Literary Works

12.1 E-books and Digital Publishing

Digital platforms such as Kindle and online journals have expanded the scope of literary works. Copyright infringement now occurs through:

- Unauthorized scanning
- Email sharing
- Torrent distribution
- Dark-web hosting



12.2 Technological Protection Measures (TPMs)

The 2012 Amendment introduced Section 65A prohibiting circumvention of TPMs used to protect digital works.

12.3 Rights Management Information (RMI)

Section 65B penalizes removal or alteration of RMI intended to identify the author or copyright owner.

13. Role of Intermediaries

Digital intermediaries like social media platforms and cloud services may facilitate infringement. Section 79 of the IT Act grants safe harbor if due diligence is observed.

In MySpace Inc. v. Super Cassettes Industries Ltd., the Delhi High Court addressed liability of intermediaries and established standards of notice-and-takedown.¹²

14. Copyright Issues in AI – Generated Literary Works

14.1 Authorship Challenges

AI-generated works raise questions such as:

- Can machines be authors?
- Who owns the output—user, programmer, or AI developer?

Indian law still requires human authorship.

14.2 Copying and Training Data

If AI models are trained on copyrighted texts without consent, disputes may arise regarding reproduction and derivative works.

15. Comparative Analysis with International Law

15.1 Berne Convention

India complies with:

- National treatment
- Automatic protection
- Moral rights

15.2 TRIPS Agreement

TRIPS mandate stronger enforcement and broader rights.

15.3 WIPO Copyright Treaty

Addresses digital rights management and online distribution.

16. Judicial Interpretation and Case Law Analysis

Here, the most important cases are reviewed in details:

16.1 R.G. Anand v. Deluxe Films

Supreme Court affirmed that infringement does not exist because the theme is similar.¹³

16.2 University of Oxford v. Narendra Publishing House

Elucidated novelty in instructional content.¹⁴

16.3 Penguin Books Ltd. vs. India Book Distributors.

Held infringement in unauthorised importation.¹⁵

16.4 Blackwood and Sons Ltd. v. A.N. Parasuraman

Educational use and fair dealing.¹⁶

17. Difficulties and weaknesses of Indian Copyright Law

- 1) Digital piracy is still high.
- 2) Delay in enforcement is counter productive.
- 3) Ignorance by the general citizenry on copyright.

- 4) Ambiguities in fair dealing technology in education.
- 5) In cross-border infringement, there are jurisdictional issues.
- 6) Absence of AI-specific rules.

18. Recommendations for Reforms

- 1) Improve clear guidelines on AI – generated works.
- 2) Enhance enforcement via online enforcement by takedown deadlines.
- 3) Intensify the exemptions on online learning.
- 4) Enhance IP disputes judicial infrastructure.
- 5) Increase education among the people.
- 6) Have special copyright tribunals.

CONCLUSION

The copyright aspect of literary works as a part of the Copyright Act, 1957, is a strong and developing statute. Although the central tenets, including originality, authorship and rights are well established, the digital age has had an impact on the traditional meanings. The Indian judicial system has been very instrumental in influencing the doctrine through the interpretation of infringement tests, the boundaries to fair dealing, and the extent of moral rights. Nevertheless, the new technology issues such as AI authorship, online piracy, blockchain publishing, and distribution worldwide are all in need of more adjustments. The copyright system should be adjusted to protect the writers and at the same time to keep the literature available and continue to enrich the society. Enforcement enhancement, definition of digital rights, and revision of the law to suit the future technologies will make sure that India is not left behind in the global best practices

but can continue offering protection to the creativity of literature to future generations.



FOOTNOTES

1. Copyright Act, 1957, § 2(o).
2. Ibid., § 45.
3. R.G. Anand v. Deluxe Films, AIR 1978 SC 1613.
4. Copyright Act, 1957, § 22.
5. Eastern Book Company v. D.B. Modak, (2008) 1 SCC 1.
6. Chancellor Masters of Oxford v. Narendra Publishing House, 2008 (38) PTC 385 (Del).
7. Copyright Act, 1957, § 2(z).
8. Ibid., § 17(c).
9. Amar Nath Sehgal v. Union of India, 2005 (30) PTC 253 (Del).
10. Super Cassettes Industries v. Bathla Cassettes, 2011 (47) PTC 49 (Del).
11. Blackwood & Sons Ltd. v. A.N. Parasuraman, AIR 1959 Mad 410.
12. MySpace Inc. v. Super Cassettes Industries Ltd., 2017 (69) PTC 1 (Del).
13. R.G. Anand, supra note 3.

14. Chancellor Masters of Oxford, supra note 6.
15. Penguin Books Ltd. v. India Book Distributors, 1984 PTC 281.
16. Blackwood & Sons Ltd., supra note 11.

