



ROLE OF INTELLECTUAL PROPERTY RIGHTS IN ENTERTAINMENT INDUSTRY

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Abstract

India's telecommunications and entertainment industry has been developed with limitations and limitations depending on in advance content generation, number of stores and technology hire. However, when we talk about content generation and how much original content is being delivered, and how we can be sure that intellectual property rights (IPR) were being implemented. IP rights are a great way to protect against patent infringements and patents of any kind, to provide the talents of creators and to ensure the distribution of original and original work among the people.

Filmmakers, musicians, writers, musicians from the cinema, singers, and orchestras with no copyrights, none of these works can be required. But since the culture must be accessible to the highest number possible, UNESCO, WTO, WIPO are involved in finding the right balance between the artist's interests and those of the public. But new forms of recording music or DVD music threaten this fragile. This paper presents a ground-breaking overview in different parts of the world of the current state of music and film piracy. Intellectual property rights act to protect the rights of the original inventor, author, etc. as a global protect.

Introduction

It is undoubtedly an important part of Indian economics and is projected to grow by Rs 2,26 trillion in a CAGR of 14.3 per cent in

2020. In addition to success reports from Indian media and entertainment sectors' stable development and advancement and the question of their adherence to legal and ethical principles, the degree to which the media have been effective. Inflicting upon IP protection, cyber-law, copyrights, and trademark legislation were regular challenges for the Indian media and entertainment industry. Aside from the advancement of the entertainment industry, the Internet and social media are becoming increasingly relevant as a communication outlet. In light of the New Millennium Copyright Act after 1998, this development was characterized by a growing increase of IP privileges, copyright and material control conflicts. Although we have a solid judicial system as our foundation, the regulatory structure needs to be strengthened and updated. Legal and technological problems are very complex in Indian media and film markets, and numerous solutions to IP infringement continue to be debated at considerable length.

Intellectual property (IPR) rules, computer regulations and IPR regulation like copyright, trademark, etc. threaten the Indian film industries. The sector will consider rules such as 'cyber due diligence' or certain aspects of the IT Act 2000. Most industrial disputes are linked to intellectual property rights (IPR), which breach them. It is a detrimental part of the operation of the Indian media sector and contributes to the loss. Perhaps the saddest thing is that we don't want such techniques or tools to address our issues, but rather conventional approaches. Instead of ADR and ODR, we choose the sluggish and old standard methods.

2. Literature Review



It differentiates significantly how IPR is protected from country to country. From the economist's point of view, IPR security is a trade between reward for invention and the expense of gain. However, in some situations, market rights may be given. For this cause, the length / scope of the security of IPR is often restricted.

2.1 Evolution of IPR

The word 'intellectual property' became more common after the formation in 1967 of the World Intellectual Property Organization (WIPO), but after passage of the 1980 Bay-Dole Act. The goal was to secure the function of the intellect, creativity, and everything that is good. Intellectual property was implemented. The French law of 1791 led to the right of intellectual property for all who had created a new invention, thus enabling temporary pleasure. WIPO is a major multinational environmental protection organization.

The sale of intellectual property had begun with the creation and development in the late 19th century, with the introduction of high technological progress and the process of globalization. Significant differences were noted however between global IPR demand and regional restrictions. To resolve this conflict, many countries have guaranteed to protect their facilities in terrorism, together with the International Convention. The TRIPS agreement has succeeded in linking global trade with human IPR. As a result, that has helped boost foreign trade and speed economic growth.

2.2 IPR and its cost

The reasons for the adoption of IPR by both

developed and developing countries are to end fake and piracy. Developing countries' economic impact on the use and protection of IPR is unclear. Some have argued that increasing IPR protection will boost economic growth and well-being in developing countries; while others believe it will have little or no impact. Reducing industrial income based on product copying of developed countries and increasing the cost of such protected goods and thus strengthening IPR protection in developing countries helps to increase profits in developed countries. Resource production and increased innovation will lead to a decrease in product availability.¹

IPR and economic growth

Robert Solow (1957) found that technical developments and expanded human resources workers constituted 80%-90% of the average growth in output in the US economy between 1909 and 1949. This corresponds to a 68% increase in productivity because of scientific and technological expertise and progress, 34% due to improved education for the working people, 220% improved realization of economies and 13% attributable to an increased concentration of capital. Similar results were identified in Denison's (1985) analysis for the period 1929–1982. The main driving force of economic growth in the US and others industrialized is Technological progress and increasing human capital countries².

2.4 IPR and Investment

Private sector contributions and R&D will play a significant role in advancing technology. The promotion cycle for product production outputs calls for expenditure. It

¹ Economics Times (2017) Government considering stringent IPR regime for

entertainment industry

² Scherer and Ross, 1990, pp. 613-614



can be observed that in the foreign and domestic markets it is the quality of the IPR establishment that motivates. Without execution, it can be assumed the concept costs. The advantages of IPR and product development would not have been increased. Investment on domestic and international markets is promoted through the IPR system. Several reports have shown that the rise in IPR in these countries is growing the FDI scale and efficiency. Therefore, there have been a large degree of IPR requirements for rising domestic expenditure. IPR is a significant yet inadequate instrument to improve production, research and development and flows of FDI in the nation.³

2.5 IPR and Technology

To businesses in emerging countries, moving technologies from businesses in industrialized countries abroad may be a very important source. The impact of enhanced IPR protection always depends on the current state of the country. The powerful IPR government on the other side will limit the dissemination of inventions by means of a patent mechanism that prohibits the misuse of technology by others. However, in fostering technology transfer into an expanse of trade of products and services, IPR has its optimistic light. The main benefits of the TRIPS Agreement are that technology has spread across countries and is beneficial to developing countries because it is less productive. Stronger protection of IPR has been found to encourage technology transfer through

several channels; however, the impact given to it is hugely dependent on a country's capacity for initiative and development.

IPR and Protection of consumers

Legislations are being introduced to defend obscene customers from deceptive advertisers who, by fraudulent ads, inaccurate labeling, and selling of dangerous goods, using their items on behalf of the IPR. Through way of regulation, the government is seeking, in order to combat trade abuses, to foster fair competition. The policy still aims to preserve the atmosphere by offering company financial costs.⁴

2.7 IPR and its importance in media and entertainment industry

Knowing the importance of rules regarding IPR is important. The Indian entertainment industry showed tremendous growth; expected to grow even more in the years to come. Content creativity is undoubtedly the main reason for this growth, since it is often said that "Content is the king". The whole entertainment industry is based on this element of creativity for which it can feel proud. Hence, it is very important to keep intact and upload this element of creativity which forms the basis of functioning of the entertainment industry⁵. To maintain conventional and innovative jobs, the principles of IPR are relevant to the film business, ensuring that performers get the correct compensation and appreciation for their first job.

In order to guarantee the strict observance of

³ IANS. (2015). SC clears Kunal Kohli's 'Phir Se...' for release. SC gave a clearance to Kunal Kohli's "Phir Se..." for release after it got embroiled in a plagiarism row. <http://indianexpress.com/article/entertainment/bollywood/sc-clears-kunal-kohlis-phir-se-for-release>

⁴ Indian Express. <http://indianexpress.com/agency/ians>

⁵ Economics Times (2017) Government considering stringent IPR regime for entertainment industry <http://economictimes.indiatimes.com/articleshow/57755743>



intellectual property right laws in the Indian entertainment industry, particularly in the film industry, the Ministry for Information and Broadcasting plans to create a "Copyright Board" currently in progress. Negotiations with the Trade and Industry Department have started to find directions for the proposed Committee.

3. Objective of the study

1. Build an understanding of the different areas of IPR infringement in the Indian entertainment industry.
2. Develop a critical overview of how the violation of IPRs adversely affects its creativity, the basic characteristic of entertainment industry.
3. Building an awareness into different issues and challenges of IPR violations based on a few cases.

4. Research methodology

This study gives a detailed understanding of the various IP rights issues in the Indian media and entertainment industry. The paper uses the secondary data analysis methodology to make a critical study of the issue and presents a picture of the current situation and the issues and issues related to the field and how it assumes the shape of a big problem in Indian media and entertainments part of the Second Data Analysis, this paper uses the case study method to identify some of the most relevant cases that show the extent of the problem and the different approaches that present a major challenge for the Indian entertainment industry.

Theoretical Framework

Media, the fourth pillar of democracy, by being the object of facts and most important issues, is expected to play a major role in the formation of thoughts, ideas and ideas within the community. The concept of social responsibility matters a great deal. The media should always strive for success and in no way should they give. Thus, this view aims to safeguard the interests of journalism. The view outlines the media's important role and functions in informing and educating people about their rights and duties, strongly supporting the cause of socialism and attack unjust decisions and policies by the government.⁶

Indian film industry (Bollywood) is frequently charge of violating IP rights in different ways. Indian media have often been charging of break many land laws and regulations, and copyrights have been one of the places where the Indian artist continues to be charge of breach, raising the issue of IPR protection. The fact is that members of the entertainment industry get caught up in legal battles and controversies, rather than setting standards.

Various incidents of the film industry's unlicensed copying of films have raised a question mark over the originality of the content in Indian films.

5.1 IPR violation in the entertainment industry

There is no doubt that Bollywood has addressed a new perspective on success as an industry. In Bollywood films, which receive revenue in crores, followed by South Indian movies and other regional films, the popular

⁶ "Understanding Industrial Property". World Intellectual Property Organization. Retrieved 2018-12-06



Indian film cycle definitely goes on. The invention of the 360, which spans the whole scope of filmmaking, has expanded in many respects. Modern times have also witnessed incredible evolutions of movie scripts focused on complicated societal problems and are also a real social mirror. The strong examples are all the iconic and thought-provoking films that have received tremendous national awards and foreign accolades and that have held the audiences bound to the screen: passion, romance, dhoka, the gangs of Wasseypur and ID Day, boxing lunch, Ugly etc. Such films also built a room for premium material, presented creative filmmakers with a fresh line of thinking, and equipped the public with compelling entertainment who will be eager to watch real-life inspirational films 'out of the box.' This is a contribution from these films which has strongly contributed the reputation and popularity of Hindi cinema to the Hindi entertainment industry.⁷ The stars of films such as Sarabjit, Princess, Dangal and Bombay Talkies have created an impact on people's minds. These newly opened and popular genres of thoughts and ideas have also proved to be a threat to Indian cinema as well as its remarkable growth. Though rules have been stringent, problems like pirates, copyright and other concerns are still throwing a bad shadow on the direction of cinema's growth. Thankfully, the original aspect in Indian films was maintained through modern laws and legislation and different organizations.⁸

⁷ Intellectual property", Black's Law Dictionary, 10th ed. (2014).

Cases of IPR violation

6.1 Case 1: Kunal Kohli vs Jyoti Kapoor

Kunal Kohli, who has been well known for producing several outstanding films like 'Fanna' and 'Hum Tum,' recently faced charges against his 'Phir Se' film and was eventually subjected to a court ruling. The film was the first feature of the star. Jyoti Kapoor's original story and written, which was copied from her book. The story was a picture. The allegations against Kunal Kohli were of a very serious nature. According to Kapoor, in 2010 she wrote a movie named 'R.S.V..' P and enrolled for the film-writers' group. In 2013, Kunal Kohli, the managing director who showed interest in his story, met him. But, when Kapoor went to another production house and decided to make the movie with his draft, the two did not reach an agreement. In 2014, the new film Kapoor, made out of the articles and an interview with Kohli that Kohli used in the original screenplay, was featured in the newspaper articles about Kunal Kohli. The allegations were so severe that a joint IMPPA dispute settlement Committee in November 2014 issued a notification to Kohli to cease filming the 'Phir Se' until the case is resolved. Kapoor filed a complaint with the FWA and the Indian Motion Pictorial Offices (IMPPA), submitting a report to Kohli. It is said that the film's plot is unfinished. Jyoti Kapoor claims that the "theater manager" has e-mailed a 90-page bound script to Kunal that he wanted to purchase. The tests were inadequate though, and the next thing I know is that the texts I delivered and the film I write distinctly

⁸ "What is Intellectual Property?" (PDF). World Intellectual Property Organization (WIPO). Retrieved 2018-12-07



imitate. "The Higher Court issued the interval staying order on Jyoti Kapoor 's allegations of similarity in two movies, 'Phir Se' and 'RSVP', after the film's release. The final loss was in regard to a few well-known individuals who embodied the Indian film brotherhood, which was otherwise established for its creativity and talent. After Jyoti decided not to fight 'with his family, since they were all part of the same film brotherhood, the case was resolved in a residence outside the court. Kunal is reported to have stopped filming even after IMPPA had been notified.⁹ Jyoti Kapoor was put before the Bombay High Court to lodge a petition for production houses in the film entitled "Bombay Film Company." The respondents claimed that all of the film's things were different from the R.S.V.P., such as scripting, plot creation and resolution. In fact, the complaint had been posed in the first place. It was argued that the R.S.V.P. is neither modern nor fresh, but the court interpreted the text and decided it can properly be called a book. A copyrighted IPR rules were violated in the film in plain words, a script or screenshot were stolen or copied. Unfortunately, after a long legal battle, Kunal did not produce evidence of his true image. Therefore, when the Bombay High Court ordered him to bill. Two months after the Bombay High Court had issued a temporary stay on the next film 'Phir Se' by Kunal Kohli, suspected of plagiarism, the movie was being seen on stage. But it was bad luck because the movie could not access the theatre screens.

⁹ Goldstein & Reese (2008), pp. 18–19

Case 2: Pritam Chakraborty vs Iranian Music Band

One of the most famous cases relating to the Indian music industry where the music was stolen, rather it was used without his composer's permission. It is about Primam Chakraborty, famous Bollywood music director. Surprisingly, when freedom is given creativity and the justice system remains unbiased this issued does happen. The industry is unfortunately full of many such

fraudulent cases. The truth is bitter and difficult to accept, though it's a shame. It is not just one case but a few, including cases related to music copying, story, etc. There is no doubt that the compositions of the music director Pritam Chakraborty 's tremendous melodies are remarkable but his name is also evident in the music scene. According to reports, director Vipul Shah was more cautious during the making of the "Action-Replay" film and had made compensation for Pritam's sign andante-plagiarism. In The words of Vipul Shah are: "I have taken from our composer Pritam the written comment there isn't a single song in the copy of the Action Replays, how do I learn if he takes something from the Chinese, Taiwanese or Syrish album?" The film was produced by Sriram Raghawan, and it was released in 2016. In the case that that will not happen, the band would be obliged to initiate the procedure of obtaining judgement and redress.¹⁰

6.3 Case 3: Twentieth Century vs Soheil Makai Entertainment

Bollywood is often accused of committing

¹⁰ Understanding Industrial Property" (PDF). World Intellectual Property Organization (WIPO). Retrieved 2018- 12-



IP offences primarily in the form of copyright infringement cases in which we find many Indian films based on Hollywood films or as a way to rename Southern Indian films. Such concerns cast a deep shadow over the protection of IP rights in the entertainment sector. In 2010 Twentieth Century filed a lawsuit against SohailMaklai Entertainment for an unauthorized and unlawful remake of a Twentieth Century thriller named phone Booth in a Hindi movie called Knockout. A court in India ruled that Bollywood infringed copyright laws and awarded \$340,000 as damages to Twentieth Century SohailMaklai Entertainment. Such attempts not only forced Indian filmmakers to pay heavy prices as damages and compensation to filmmakers around the world, but also brought a bad name to the Indian film industry that still has some talented and creative filmmakers.¹¹

7. Conclusion

A critical analysis of the facts related to violation of IP rights by the Indian entertainment industry and the few cases cited makes it clear that the time has come to give serious thought to the maintaining and safeguarding the element of originality and creativity in the India's media and entertainment industry. It is important to make good use of devices that help fight cases of violation and safeguard Intellectual Property rights.

Also, it is seen that the lack of knowledge about IP rights is also a matter that needs attention. More information on the rules of IPR laws is needed as it protects a wide

range of intellectual properties. All those in the industry should protect the content's originality and creativity, raise awareness of IP laws, identify different forms of infringement and the changes incorporated in the law and their implications if the industry is to remain healthy.

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¹¹ 'Article 4 No. 6 of the Constitution of 1867 (German)' Hastings Law Journal, Vol. 52, p. 1255, 2001



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