Copyright Infringement

Why in news?

The Delhi High Court has issued summons to an Instagram account called People of India (POI), in a copyright infringement suit filed by the storytelling platform Humans of Bombay (HOB).

What is Copyright?

- It refers to the *right given by the law to creators* of literary, dramatic, musical, and artistic works and producers of cinematograph films and sound recordings.
- It is a bundle of rights that includes *rights of reproduction, communication* to the public, adaptation, and translation of a work related to
    - Literary works such as novels, poems, plays, reference works, newspaper articles
    - Computer programs, databases
    - Films, musical compositions, and choreography
    - Artistic works such as paintings, drawings, photographs, and sculpture
    - Architecture
    - Advertisements, maps, and technical drawings.

Intellectual Property Rights (IP)

- It refers to creations of the mind, such as inventions; literary and artistic works; designs; and symbols, names and images used in commerce.
- 5 common types
    - Copyrights
    - Moral rights
    - Trademarks
    - Patents
    - Trade secrets
- It usually give the creator an exclusive right over the use of their creation for a certain period of time.

To know more about Intellectual Property Rights, click here

What is Copyright Infringement?

- **Infringement** – Copyright is considered infringed only if a substantial part is made use of *without authorisation.*
- In cases of infringement, the copyright owner can take legal action against any person who infringes on or violates their copyright.

- Copyright owner is entitled to remedies such as injunctions, damages, and accounts.
- **Injunction** – It is an *official order given by a law court*, usually to stop someone from doing something.
- It only acts as a deterrent and does not mean that all alleged instances of misuse will be corrected immediately.
- **Substantial Imitation** – The concept of 'substantial' varies from case to case. Often, it is a *matter of quality rather than quantity*.
    - For example, lyricist copying words from another song.
- **Passing Off** – If the infringed content is *identical or substantially similar* to the original content.
- It is a species of unfair trade competition or of actionable unfair trading by which one person, through deception, attempts to obtain an economic benefit of the reputation of other.
    - Suppose a brand logo is misspelt in a way that's not easy for the consumer to distinguish.

What legal provisions are available for copyright infringement?

Legal provisions in India

- Copyright Act, 1957
- Copyright Rules 2021
- Information Technology Act, 2000
- Indian Performing Right Society Limited (IPRS)
- Intellectual Property Appellate Board (IPAB)
- Scheme for Facilitating Start-Ups Intellectual Property Protection (SIPP)

Copyright Act of 1957

- It was *first passed in 1958* and the most recent amendment was in 2012.
- It is a legal right that protects original literary, dramatic, musical, artistic works and cinematograph films from unauthorized uses.
- **Rights under copyright**
    - **Economic rights** – Owner can derive financial reward.
    - **Moral rights** – To protect the non-economic interests.
- The owner has exclusive rights to adapt, reproduce, publish, translate, and communicate the work to the public.
- It safeguards expressions of ideas rather than the ideas themselves.
- **Term of copyright** – Allowed for the *life time of the author and 60 years beyond* i.e. 60 years after his death.
- In case of joint authorship, the term is to be construed as a reference to the author who dies at last.
- *25 years of broadcasting reproduction right* every broadcaster.
- Central Government to constitute *copyright board* for settlement of disputes, granting of licenses, etc.

- **Punishment** - Imprisonment for a term which may extend up to 3 years.

Copyright (Amendment) Rules 2021

- It aims to bring the copyrights in line with other relevant laws and ensures accountability and transparency in the collection and distribution of royalties.
- The Copyright Board has *been merged with the Appellate Board*.
- The applicant has the option to file the first 10 and last 10 pages of the source code, or the entire source code if it is less than 20 pages, with no blocked or redacted portions.
- The Central Government has *180 days to respond to an application* for registration as a copyright society.

What are the IP challenges in India?

India remains one of the world's most challenging major economies with respect to protection and enforcement of IP according 2022 Special 301 Report of USTR.

- **Lack of Consistency** – Over the past year, India has remained inconsistent in its progress on IP protection and enforcement.
- **Poor Dispute Resolutions** – It failed to resolve recent and long-standing challenges.
- It created new concerns for right holders.
- **Impact of Indian Patents Act**- Potential threat of patent revocations, lack of presumption of patent validity and narrow patentability criteria impact companies across different sectors.
- **High customs duties** – IP intensive products such as medical devices, pharmaceuticals, information and communications technology products, solar energy equipment and capital goods are under heavy customs duty.

Copyright Protection of Religious Texts
• Religious scriptures are in the public domain, and in copyright law, no exclusive intellectual property rights apply to creative works in the public domain. • However, many modern translations and transformative works of the original scriptures are copyright-protected as they represent new creative works. • In the *Bhaktivedanta Book Trust case*, the Delhi High Court has said that the adaptation of the scriptures, including explanation, meaning, interpretation or creating any audio visual works, would be entitled to copyright protection.

References

1. IE| Copyright Infringement
2. IE| Challenges of IP in India
3. IE | Scriptures may be copyright-free, but adaptations are protected



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