

A Study on Copyright Infringement in Cyberspace with Special Reference to the Liability of the Internet Service Provider for Infringement

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Abstract

Information Technology is growing faster than any other communication vehicle in the history mankind. Invention of digital technology was the most important revolution in the last century. The influence of digital technology on information technology is phenomenal. The present millennium is witnessing a new culture that is internet culture. It is changing our lifestyle and way of doing business form traditional commerce to e-commerce. Originally confined to military establishment internet has due to its speed, inner creativity and flexibility, tremendous potential to disseminated information beyond the geographical boundaries. Today the internet is not only used for educational purposes but also for business. The availability of radio, telephone, television and computer made it possible to carry out most of the business activities on-line, through the information technology and communication network. The government of India by passing IT (Information Technology) Act 2000 and further amending it on 27th October 2009 has given fillip to cyber law. But various issues are not specifically covered by the Act, such as copyright, payment issues, media convergence, domain name, cybersquatting and jurisdiction. While these have wide ranging ramifications for the growth of e-commerce in India The continued rapid evolution of a number key technologies and convergence of broadcasting media, communication media, home electronics, and publishing on computers creating a lot of legal issues.

Today computer has made television, fax and telephone redundant. As technology creates new opportunities it also poses new challenges. Copyright is most complicated area of cyberlaw and facing greatest challenge. According to copyright act 1957, copyright is a negative monopoly right which enables author of the work to prevent others to exercise that right which has been conferred on him. What an author creates he is an exclusive owner of that. The precise text to determine whether a person is entitled to copyright is to ascertain whether "skill, judgment and experience or labour, and capital has been expended in creating the work. This paper is an attempt to study the problems of copyrights infringements and the liability of internet service provider.

Key Words: Copyrights, infringement, cyberspace, Information technology Act, india.

1. Introduction

AS the Internet has grown, the problem of online infringement of intellectual property rights has assumed gigantic proportions and developed into an economically significant issue. The commercialisation and exponential growth of the Internet has created an entirely new set of problems for intellectual property holders.

While the Internet has allowed the content community comprising of researchers, educators, artists, publishers, and music and entertainment industry to expand their markets at an unprecedented rate, the same technology allows any anonymous and invisible pirate to copy and disseminate instantaneously anything that is available on the Internet. Because of huge losses worldwide on account of online intellectual property infringement, the content community is definitely concerned.¹ Internet users cannot be regarded as a group and it is imperative to distinguish the liability of those who give individuals and corporations access to the Internet from that of individual users.² Because of the inherent difficulties of enforcing copyrights against individual Internet users worldwide, the copyright owners have found the answer to this problem in placing legal liability for intellectual property infringement on those who allow and enable Internet pirates to exist, namely the Internet service providers (ISPs). For the owners of intellectual property, it is practical to sue the ISPs as they are in a position of policing the Internet. On the other side of the argument, ISPs are passive carriers similar to telecommunication companies, and therefore, should be granted some limitation from liability with regard to intellectual property infringement.

Internet is a two edged sword for business fraternity. On the one hand, business firms look for greater development of network technologies in order to increase the viability and quality of digital content delivery. On the other hand, the growth of the very technology has resulted in increased levels of violation of their IPR. For example, increase in broadband speed, while enabling faster and efficient delivery of digital content, increases the risk of widespread copyright violations. Development of related technologies like bit torrent in a broadband environment enables unauthorised high speed and simultaneous multi-source transfers of large amounts of data. Such technologies, while offering new opportunities for businesses, have the potential to act as a tool for flagrant copying and illegal distribution of copyrighted materials. As network and Internet technologies continue to evolve, the magnitude and multiplicity of IPR violations continue to grow. In spite of copyright threats and other challenges that remain, Internet is hailed as one of the best innovations since the industrial revolution and an indispensable business channel for the future. Research as well as experience shows that Internet is inevitable for various walks of life

¹ Raman Mittal, online copyright infringement liability of internet service providers, journal of the indian law institute [vol. 46 : 2]

² Jyothi Viswanath and Srinivas C Palakonda, Legal scenario relating to the role and responsibility of the internet service providers in India on assessment.

including business operations. Under such circumstances there are increasing calls to seek solutions to the growing copyright threats rather than to quit cyber space.³

Other more specialised functions of ISP's include those that provide connectivity software employing a central server such as life sharing programs or internet messenger services. Software that does not require a central server can be described as pure peer-to-peer networking or decentralized. It is these newer functions of ISP's that are most problematic for copyright holders.⁴

The access providers play a major role in the working of internet by providing various services. The group now works for a commercial purpose.⁵ One of the main reasons for involving ISP is because usually under contracts they enter into with their customers, ISP's are authorised to closedown emails and websites. In UK under the data protection Act ISP's are prevented from disclosing the names of subscribers.⁶

2. The Basis of Liability

The liability for copyright infringement rests on three theories- direct, vicarious and contributory infringement. Direct infringement occurs when a person violates any exclusive right of the copyright owner. Vicarious liability arises when a person fails to prevent infringement when he can and has a right to do so and is directly benefited by such infringement. These two theories are based on the strict liability principle and a person will be liable without any regard to his mental state or intention. Contributory liability arises when a person participates in the act of direct infringement and has knowledge of the infringing activity. The question arises as to which standard should be applied in order to fix the responsibility of service providers.⁷

⁸ISPs and their Role in Communication on the Internet

ISP is an entity that connects people to the Internet and provides other related services such as web site building and hosting. An ISP has the equipment and the telecommunication line access required to have a point of presence on the Internet for the geographic area served. Various types of intermediaries are involved in delivering content online to end-users, as making a work available over the Internet will involve a chain of intermediate service providers. A person who is desirous of launching a web site will first obtain an account with a hosting service provider and then will upload web pages onto his web site

³ R. Muruga Perumal, Copyright Infringements in Cyberspace: The Need to Nurture International Legal Principles, International Journal of The Computer, the Internet and Management Vol. 14.No.3 (September-December, 2006) pp 8-31

⁴ <http://www.nigerianlawguru.com/articles/intellectual%20property%20law/LIABILITY%20OF%20INTERNET%20SERVICE%20PROVIDERS%20IN%20NIGERIA.pdf> Accessed on June 1st 2018

⁵ Priyambada Mishra and Angshuman Dutta, Striking a Balance between Liability of Internet Service Providers and Protection of Copyright over the Internet: A Need of the Hour, Journal of Intellectual Property Rights Vol 14, July 2009, pp 321-329

⁶ Thilini Kahandawaarachchi, Liability of ISP for third party online copyrights infringement: A study of the US and Indian Laws, journal of intellectual property rights, Vol 12, pp 553- 561, Nov 2009

⁷ http://www.legalservicesindia.com/articles/isp_in_us.htm Accessed on June 2nd 2018

⁸ Raman Mittal, online copyright infringement liability of internet service providers, journal of the indian law institute [vol. 46 : 2]

which is physically located on the host's 'server' - which could best be described as a very large hard disk that is directly accessible on the Internet. Upon storage on the server, the uploaded documents become instantly available to everyone with a connection to the Internet. An access provider, in turn, provides access to the Internet. On the way from host to access provider to end user the transported document passes through the infrastructure of a network provider, who, apart from providing the physical facilities to transport a signal, will also transmit and route it to the designated recipient. It is common for a single legal entity to provide a complete range of these services. ISPs are instrumental in transmitting or disseminating third party content, but neither initiates nor takes any part in a decision to disseminate particular material. The two main services provided by ISPs are:

- Website building and hosting; done by an entity that provides space and management for individual or business web sites; and
- Access providing; done by an entity that arranges for an individual or an organization to have access to the Internet.

⁹**Various approaches for determining the liability of ISPs**

The liability of ISPs may arise in a variety of legal fields, such as criminal law, tort law, trade secret law, copyright law, trademark law, unfair competition law, etc. Worldwide many nations have tried to define the liability of ISPs in disseminating third party content. Many of these national laws relate to criminal law, information technology law or copyright law. These statutes have tried to solve the problem by adopting either of the two approaches: horizontal approach or non-horizontal approach. The horizontal approach covers not only copyright infringement but also all other potential areas of law where liability of ISPs might arise. It fixes or determines the liability regardless of the grounds for illegality of the transmitted material. Whereas, under non-horizontal approach the potential liability of ISPs is determined under each law where it might arise. In this case various statutes would determine ISP liability, for example, adopting non-horizontal approach the copyright statute would address ISP liability that might arise only in relation to copyright violations. ISP's range from large organization with their own geographically dispersed network. ISP's may provide local regional and/ or national coverage for client or provide other backbone services¹⁰.

3. Aim

To study about the problem of copyright infringement in cyberspace and to discuss the liability of internet service providers for infringement and to study about the effectiveness of the legal statutes governing the copyright infringement

⁹ Ibid

¹⁰ Farnaz Saadat, Mohammed soltanifar, The role of ISP in encouraging customers to use their internet services in Iran, International journal of business and social science, Vol 5 no 3 march 2014.

4. Hypothesis

There is a significant effect on the infringement of copyrights in cyberspace and ISP are at the receiving end of many copyrights Violations.

5. Materials and Methods

This is a doctrinal study and the sources for this study are taken from, books, research articles, essays, Journals, newspaper articles and other e-sources.

6. Research Question

Whether the internet service provider can be liable for infringement of copyrights under the information technology Act 2000 and can it be compared to other countries like the US?

¹¹Immunity from Liability Under any Law in Force vis-à-vis Section 81

The Information Technology (Amendment) Act, 2008¹¹ is a significant advance in codifying the legal position relating to OSP liability in India. Section 79(1) of the IT Act, 2000 (as amended by the IT (Amendment) Act, 2008) provides immunity to intermediaries from liability for any data, or communication link made available or hosted by him. Section 79(1), as amended, significantly changes the law with respect to ISPs liability as compared to the old Section 79. Section 79, prior to amendment, provided immunity to service providers only with respect to liability under the IT Act, 2000 and the rules and regulations thereunder.¹² Therefore, the service providers were not entitled to immunity with respect to liability arising under other statutes. In contrast, Section 79(1), as amended, contains a non – obstante clause to the effect ‘Notwithstanding anything contained in any law for the time being in force’, and, therefore, it affords protection to service providers with respect to liability arising under all statutes (for instance liability arising under the Copyright Act, 1957 discussed hereinafter), thereby significantly heightening the level of immunity available to service providers. That being said, it is pertinent to note that the proviso to Section 81 of the IT Act, 2000 (as amended) must be analysed while considering the question of intermediary liability in the copyright context. The proviso to Section 81 reads as ‘nothing contained in this Act shall restrict any person from exercising any right under the Copyright Act, 1957 or the Patents Act, 1970’. On a prima facie reading of the provision, it appears that the immunities under Section 79 are not available for copyright infringement. However, a finer reading is necessary for reaching an interpretation which is consistent with the object underlying Section 79. The amended Section 79 was introduced with the object of embracing horizontal approach to intermediary liability in India.¹³ Section 79 was amended taking the

¹¹ <http://nopr.niscair.res.in/bitstream/123456789/7197/4/JIPR%2015%281%29%2035-45.pdf>

¹² Section 79 of the IT Act, 2000

¹³ Singh Devika, Blacklisting blacklists: The Information Technology Amendment Act, 2008 and ISP driven content filtering, India Law Journal, 2(4) (2009)

European Union Directive on E –commerce 2000/31/EC¹⁴ as the guiding principle . The preamble to the Directive in Recital 50 explicitly states that the directive seeks to establish a clear framework of rules relevant to intermediary liability for copyright infringement. In fact, a perusal of the amended Section 79 reveals that it borrows heavily from the provisions of the Directive, especially Articles 12 – 15 and presumably intended the same to be applied in the copyright context also. The purpose of introducing the said amendment would, therefore, be defeated if Section 81 is read as having overriding effect over Section 79 to the extent that the immunity under Section 79 shall not be available in cases of liability for copyright infringement. The scope of the section is likely to become unduly narrow if the intermediaries are disentitled to avail the immunity for copyright infringing third party content. Further, it is noteworthy that amended Section 79 starts with the phrase ‘notwithstanding anything contained in any law for the time being in force’. The language used in corresponding provision the Information Technology (Amendment) Bill, 2006 was ‘notwithstanding anything contained in any other law for the time being in force’. This change is significant since it allows Section 79 to have overriding effect over other provisions of the IT Act itself and presumably the intention of the legislature was to this effect. Accordingly, Section 79 shall have overriding effect over proviso to Section 81 being ‘contained in any law’, the law being the IT Act, 2000. In view of the above submissions, a harmonious interpretation is required of Section 79 and the proviso of Section 81. Section 81 may be interpreted as having overriding effect over all other sections of the IT Act, 2000 except Section 79, thereby ensuring that the rights of copyright holders are not restricted by the Act in cases other than those covered by Section 79. In the alternative, a proposed interpretation of the proviso to Section 81 is that it provides the right holder the right to approach the Court, insofar as that no intermediary can claim that the Court lacks the jurisdiction to hear the matter by virtue of application of Section 79. This conclusion is fortified by reference to the terminology used in the proviso to Section 81. The term used in the proviso to Section 81 is ‘restrict any person from exercising any right’ rather than ‘restrict the rights of any person’. The former may be interpreted to refer to the right of a person to approach a Court, while the latter refers to the substantive rights which presumably may be restricted by the application of Section 79. Such an interpretational exercise is mandated in order to ensure that the purpose of Section 79 is not defeated and, since we are unaware of the legislative intent behind the introduction of the proviso to Section 81. The exact scope of the two provisions, however, shall be determinable only on a judicial pronouncement in this regard¹⁴ .

7. Results

The liability of service providers for copyright infringement is not expressly covered by the Indian Copyright Act. The Information Technology Act, 2000

¹⁴ Aditya Gupta, The Scope of Online Service Providers’ Liability for Copyright Infringing Third Party Content under the Indian Laws – The Road Ahead, *Journal of Intellectual Property Rights* Vol 15, January 2010, pp 35-45

exempts ISPs from liability if they can prove that they had no knowledge of the occurrence of the alleged act, and that they had taken sufficient steps to prevent a violation. However, the existing provision does not clearly prescribe liability limits of service providers. For example, if a person makes a representation to a service provider claiming copyright on the material available on the network, will the service provider be liable if he fails to take steps within a reasonable time to remove the infringing material from the network? If the service provider fails to prevent infringement of copyright in the above circumstances, is the plea of not having knowledge of infringement still available to him. If the service provider removes the material from the network in pursuance to the representation made by a person which later on proves false, will the service provider be liable to the person whose material has been removed. The Indian position in liability of service providers for copyright infringement must be made more explicit. The I.T. Act must include sections that address the financial aspect of the transaction, and the relationship between an ISP and a third party, because this is vital to determining the identity of the violator. The American concept of contributory infringement can also be incorporated into the Indian Act so that if any person with knowledge of the infringing activity, induces, causes, or materially contributes to the infringing conduct of another, the person can be made liable. In order to be exempt from liability, the Indian Act requires the service provider to exercise due diligence to prevent the commission of copyright infringement. The Act does not provide the meaning of the term due diligence. If due diligence means policing each and every aspect of the Internet, it can lead to loss of privacy and can ultimately have a disastrous effect. There is a need for a consensus on the meaning of the term due diligence because the primary function of ISPs is to build the Internet, not to play the role of a policeman. If the behavior of an ISP is reasonable, then that ISP should not be held liable for each and every activity on the Internet as has been held by the US Courts.¹⁵

Just Dial, India's No 1 local search engine, with a single national number 69999999 in 240 cities, has obtained injunction against Infomedia 18 Limited (one of the group company of media group TV18), restraining it from carrying out any business or rendering any service of providing information of business, services, and products, through their newly launched website askme.in. In a suit filed by Just Dial against Infomedia 18, Just Dial alleged that Infomedia 18 had copied its extensive database and was displaying the same on its website askme.in, thereby infringing Just Dial's copyright in its valuable database. The Delhi High Court has granted an ex parte injunction against Infomedia 18, restraining them from infringing Just Dial's copyright and from running the website askme.in till the next date of hearing. The High Court has also appointed commissioners to visit Infomedia 18 Ltd's office in Delhi and Mumbai and to seize and take into custody all the CPUs, compact, floppy discs and/or other storage media containing any part of the commercial or business

¹⁵ http://www.legalservicesindia.com/articles/isp_in_us.htm

directory database belonging to Just Dial. One of the Just Dial's official said that it was an aspect of cyber crime and termed it as a significant legal victory for the company.¹⁶

8. Discussion

The question of who should be liable for copyright infringement that takes place online has been a cause of concern in internet communities and is one raised due to the nature of networks. Infringement liability could arise if the service provider itself is found to have engaged in unauthorized acts of reproduction or communication to the public, or if it is held as a contributor in the act of another (say, a subscriber). The liability issue has significant international implications because the internet is without borders with global access. Thus, arguments have been advanced for legal regimes to be interoperable if global networks and electronic commerce are to develop smoothly.¹⁷

The TRIPS Agreement

The TRIPS Agreement is a minimum standards agreement. It leaves Members free to provide more extensive protection of intellectual property if they so wish--for purely domestic reasons or because they have concluded international agreements to this effect.¹⁸

The WIPO Internet Treaties

The WIPO in 1996 adopted the 'WIPO internet treaties' (WIPO Copyright Treaty-WCT and WIPO Performances and Phonogram Treaty-WPPT). During the Diplomatic Conference, the issue of unauthorised communication over the internet was intensely debated. The ultimate result was that the treaties are essentially neutral on the subject, with the issue of liability left to the national legislation to determine.¹⁹

US Law: The DMCA 'Notice and Take-Down' and 'Safe-Harbour' Provisions The DMCA defines a 'service provider' in two ways, where these apply to different parts of Section 512 (ref. 19). This broad definition is deliberate to include universities and other institutions which provide internet access to their students, etc. [17 USC Sec 512(e)]. Moreover, the intention was to include the traditional ISPs as well as providers of new services as seen today.²⁰

The ISPs are eligible for the benefits of the 'safe harbour' provision, if they meet two preliminary requirements.²¹ Though 'seemingly innocuous', the

¹⁶ <https://www.oneindia.com/2010/01/30/data-theft>. Accessed on 2nd June 2018

¹⁷ Aakanksha Kumar, Internet Intermediary (ISP) Liability for Contributory Copyright Infringement in USA and India: Lack of Uniformity as a Trade Barrier, *Journal of Intellectual Property Rights* Vol 19, July 2014, pp 272-281

¹⁸ Geuze M, Patent rights in the pharmaceutical area and their enforcement: Experience in the WTO framework with the implementation of the TRIPs agreement, *The Journal of World Intellectual Property*, 1 (4) (1998) 585.

¹⁹ <http://www.wipo.int/treaties/en/ip/wct/statements.html>.

²⁰ Joseph B G & Wasylik D P, in *Practising Law Institute Patents, Copyrights, Trademarks and Literary Property Course Handbook Series*, 2003, *Journal of Intellectual Property Rights*, 12 (6) (2007) 553.

²¹ Bretan J, Harboring doubts about the efficacy of § 512 immunity under the DMCA, *Berkeley Technology Law Journal*, 18 (2003) 43.

Section 512(i) eligibility requirements have become a point of contention in several cases.²² It further creates four safe harbour provisions that indemnify ISPs from any copyright infringement liability and insulates them from damages.

9. Judicial Approach in Dealing with Infringement of Copyright and Software Piracy

The Indian Copyright Act is unable to protect the unauthorized distribution and use of work over internet. Infringement over internet and piracy posing a threat to creative works worldwide and thus the growth of the internet, the e-commerce and the digital economy.²³ Copyright owners exclusive right of distribution applies to email attached or forwarded

In *Playboy Enterprise, Inc V. Frena* ²⁴

Facts: Defendant George Frena operated a subscription computer bulletin board service, Techs Warehouse BBS (“BBS”). Photographs copyrighted by Plaintiff Playboy Entertainment, Inc.'s (“PEI”) were uploaded onto BBS without permission. Subscribers of BBS were allowed to browse and download the photographs in high quality computerized images which were then stored on the subscriber’s home computer. One hundred and seventy of the images that were available on BBS were copies of photographs taken from PEI’s copyrighted materials. Defendant Frena claimed to never have uploaded any of PEI’s photographs onto BBS and that subscribers to BBS uploaded the photographs. Defendant Frena states that as soon as he was served with a summons and made aware of this matter, he removed the photographs and has since that time monitored BBS to prevent additional photographs of PEI from being uploaded

Issues: Playboy Entertainment, Inc. (“PEI”) alleged that George Frena (“Frena”), the operator of Techs Warehouse BBS (“BBS”), a subscription based computer bulletin board service, was liable for copyright infringement when BBS’ subscribers distributed unauthorized copies of PEI’s copyrighted photographs on the bulletin board.

Judgment: The Court held that PEI’s right to distribute copies to the public was violated by Defendant Frena. Exclusive rights in copyrighted works^[6] grants PEI the exclusive rights to sell, give away, rent or lend any material embodiment of his work.

²² Aakanksha Kumar, Internet Intermediary (ISP) Liability for Contributory Copyright Infringement in USA and India: Lack of Uniformity as a Trade Barrier, *Journal of Intellectual Property Rights* Vol 19, July 2014, pp 272-281

²³ 839 F. Supp. 1552 (M D Fla 1993)

²⁴ Ahmad, Tabrez, Copyright Infringement in Cyberspace and Network Security: A Threat to E-Commerce (November 22, 2009). *The IUP Journal of Cyber Law*, Vol. 9, Nos. 1 & 2, pp. 17-24, February & May 2010.

In addressing Defendant Frena's argument that he did not make the unauthorized copies but that subscribers to BBS uploaded the photographs, the Court ruled that it did not matter that Frena was not the originator of the authorized copies. Frena supplied a product containing unauthorized copies. Therefore, he violated PEI's exclusive rights.

In Feist publication v/s Rural Telephone Service Co.²⁵ Inc. It was held that there must be at least some minimal degree of creativity and what should be protected by copyright were the fruits of intellectual labour and not just sweat of the brow. In India databases are protected as literary works. In US if author is creative in selecting and arranging the data and does not merely display the data as facts will be registered. In UK a database which lacks creative input and requires only modest skill and labour acquire the right of unfair extraction for a period of 15 years only. While data created by full creativity copyright protection is given i.e. life of author plus 70 years. Compilation of data are themselves not protectable can be the subject of protection when there is the necessary selection coordination and arrangement and combined it with the abstraction, filtration and comparison test. Through internet the work of authors can be displayed in different jurisdictions and which is very difficult to detect. So the display rights can be easily violated over Internet. Software can be easily communicated to the public without authorisation by downloading the software from computer and unauthorized copies made may be retailed or rented out.

In MAI System Corp, v. Is Peak Computers Inc,²⁶ it was held that the temporary copies made into a computer RAM are copies. But in year 1995 in Religious Technology v/a Netcom²⁷ US District court held that temporary copying involved in browsing is the functional equivalent of reading and does not implicate the copyright laws. So as regards browsing one must come to the conclusion that it does not amount to violation and can be deemed to be a fair dealing.

10. Conclusion

The growth of Internet, especially the WWW has created a new cyberspace for copyrights exploitation. The analysis of copyrights in cyberspace reveals a mixed result of new opportunities and threats. Cyber technology had offered new ways of commercialization or exploitation of copyrights by business firms and individuals. These new ways have enabled greater scope for global expansion and market reach around the world, promising huge potential for generation of revenue or other means of returns. However, these new opportunities pose parallel threats many of which even undermine the very rights of the copyright holders. The magnitude of threats is unprecedented with the technological feasibility making it possible not only for easier piracy but also for easier distribution of such pirated works to masses by a click of a

²⁵ 499 U.S. 340, 111 S. Ct. 1282, 113 L. Ed. 2d 358, 1991 U.S.

²⁶ 991 F.2d 511 (9th Cir. 1993)

²⁷ 907 F. Supp. 1361 (N.D Cal 1995)

button. Such threats often outweigh the opportunities offered by the cyberspace, and this calls for increasing regulation of cyberspace to protect copyrights. The present cyber anarchy has created a range of legal challenges to regulators. The ubiquitous nature of Internet has made many of these challenges international in nature, calling in international copyright regimes for greater regulation of cyberspace. The cyberspace, as such is unregulated and various transactions carried out in the Internet surpass the national regulatory controls. The technological feasibility to surpass national governments or regulation causes doubts as to the effectiveness of any single domestic regime or a select group of domestic regimes to regulate the cyberspace. Moreover, many of the domestic copyright regimes are relatively new ones and as such may be ill-equipped to address copyright in cyberspace. This calls for increased international co-operation for the regulation of cyberspace including the protection of copyrights. Many of the new forms of transactions in cyberspace are highly technology oriented and any legal efforts to regulate the same have to go hand in hand with the technological growth. Law and technology, needs to combined for effective solutions for many of the cyberspace challenges including those related to copyrights. In the context of copyrights many legal principles need to be developed or settled to determine the legality of the transaction in question. Many such pertinent questions related to copyrights in cyberspace have to be clearly settled at an international level. Lack of internationally agreed principles relating to copyrights in cyberspace gives room for divergent domestic standards.

References

- [1] Raman Mittal, online copyright infringement liability of internet service providers, journal of the indian law institute [vol. 46 : 2]
- [2] Jyothi Viswanath and Srinivas C Palakonda, Legal scenario relating to the role and responsibility of the internet service providers in India on assessment.
- [3] R. Muruga Perumal, Copyright Infringements in Cyberspace: The Need to Nurture International Legal Principles, International Journal of The Computer, the Internet and Management Vol. 14.No.3 (September-December, 2006) pp 8-31
- [4] <http://www.nigerianlawguru.com>
- [5] Priyambada Mishra and Angshuman Dutta, Striking a Balance between Liability of Internet Service Providers and Protection of Copyright over the Internet: A Need of the Hour, Journal of Intellectual Property Rights Vol 14, July 2009, pp 321-329
- [6] Thilini Kahandawaarachchi, Liability of ISP for third party online copyrights infringement: A study of the US and Indian Laws, journal of intellectual property rights, Vol 12, pp 553- 561, Nov 2009

- [7] http://www.legalservicesindia.com/articles/isp_in_us.htm
- [8] <http://nopr.niscair.res.in/bitstream/123456789/7197/4/JIPR%2015%281%29%2035-45.pdf>
- [9] Information Technology Act 2000
- [10] Farnaz Saadat, Mohammed soltanifar, The role of ISP in encouraging customers to use their internet services in Iran, International journal of business and social science, Vol 5 no 3 march 2014.
- [11] Singh Devika, Blacklisting blacklists: The Information Technology Amendment Act, 2008 and ISP driven content filtering, India Law Journal, 2(4) (2009)
- [12] Aditya Gupta, The Scope of Online Service Providers' Liability for Copyright Infringing Third Party Content under the Indian Laws – The Road Ahead, Journal of Intellectual Property Rights Vol 15, January 2010, pp 35-45
- [13] Aakanksha Kumar, Internet Intermediary (ISP) Liability for Contributory Copyright Infringement in USA and India: Lack of Uniformity as a Trade Barrier, Journal of Intellectual Property Rights Vol 19, July 2014, pp 272-281
- [14] Geuze M, Patent rights in the pharmaceutical area and their enforcement: Experience in the WTO framework with the implementation of the TRIPs agreement, The Journal of World Intellectual Property, 1 (4) (1998) 585.
- [15] <http://www.wipo.int/treaties/en/ip/wct/statements.html>.
- [16] Joseph B G & Wasylik D P, in Practising Law Institute Patents, Copyrights, Trademarks and Literary Property Course Handbook Series, 2003, Journal of Intellectual Property Rights, 12 (6) (2007) 553.
- [17] Bretan J, Harboring doubts about the efficacy of § 512 immunity under the DMCA, Berkeley Technology Law Journal, 18 (2003) 43
- [18] 839 F. Supp. 1552 (M D Fla 1993)
- [19] Ahmad, Tabrez, Copyright Infringement in Cyberspace and Network Security: A Threat to E-Commerce (November 22, 2009). The IUP Journal of Cyber Law, Vol. 9, Nos. 1 & 2, pp. 17-24, February & May 2010.
- [20] 907 F. Supp. 1361 (N.D Cal 1995)

