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“Journal of Unique Laws and Students” (JULS) which shall provide law students, young lawyers and legal professionals to deliberate and express their critical thinking on impressionistic realms of Law. The JULS aims to provide cost free, open access academic deliberations among law students and young lawyers. The ISSUE II of Volume 1 focuses on three themes i.e. (i) Artificial Intelligence and Block chain in Law (ii) Intellectual Property Rights and Media, and (iii) Laws applicable to the intermediaries.

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Research Title: **TERMINOLOGIES IN INTELLECTUAL PROPERTY RIGHTS AND MEDIA LAW**

Author - Prabhjeet Kaur\*

**ABSTRACT**

The intellectual property rights (IPR) are intangible in nature and gives exclusive rights to inventor or developer for their relevant invention or creation. This right provides the inventor jurisdiction over the fabrication of his own to explore convenience if used by others. These comforts may appear in the form of regard and identification or monetary or material benefits or more. These rights magnify the contemporary environment by giving recognition and economic benefits to developers or inventors whereas the lack of IPR perception and its unproductive execution may hamper the economic, technical and societal developments of a nation.

The present paper summarizes various terms of IPR such as patents, trademarks, industrial designs, geographic indications, copyright, etc. with their corresponding rules, regulations, their require and bit part especially concern to Indian context. Further, the status of India's participation in IPR related pursuit across the world has been considered in brief. For Media department that is full of inventiveness and innovation, Copyright is a great catalyst. Media platforms including social media use new ideas, images, sounds, scripts and many more techniques and processes of communication professional, commercial and personal cause. These entire configurations that are fabricated by persons and enterprises with meticulous efforts in designing, research & development require a vast aggregate of investment also. These formations, developed after adherence of time and money, require to give dividends to the inventor and to become an inspiration for all.

**Key Words:** *IPR, Media Law, Copyright, Infringement*

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## **INTRODUCTION**

The implementation of trade and commerce has been swapped tremendously since 1991, the emergence of the period of economic liberalization and globalization. In the age of rivalry and quickly commuting technologies, intellectual property has become a pivotal component for survival in the market, to direct product life cycle, and to include more purchasers from the services and schemes which are being evolved and rendered. IPR gives preservation to the creations of mind. IPR is now the leading term defined legally at international level and in the law books of different countries. ‘Intellectual Property Rights (IPR) is a term used for various legal privileges which attach to certain types of information, ideas, or other abstract in their expressed forms.’<sup>1</sup>

IPR acknowledges creations of mind as property and in this perception it enlarges the meaning of property. The term property offers ordinary identification of possession of a person or undertaking over something. Property is carved up into two basic forms- tangible and intangible. Tangible property is available in physical form such as building or house, land, vehicle, cash, jewellery etc. whereas intangible property cannot be noticed in the physical form. With time we have a progress system and law which preserve tangible properties but earlier it was not attainable to preserve the properties accessible in non-physical forms. IPR furnish protection to such properties and grant the custody of a person or undertaking over it. It helps people to accumulate interest out of their attempt to create or develop new intellectual products. They allow creators or inventors of patents, trademarks or copyrighted works to benefit from their own work or investment in a forming.<sup>2</sup>

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<sup>1</sup> Rajkumar S. Adukia, *HANDBOOK ON INTELLECTUAL PROPERTY*, Microsoft Word - 34\_Hb\_on\_IPR\_8108104.doc, [Apr.20, 2021, 12:00 PM], [http://www.caaa.in/Image/34\\_Hb\\_on\\_IPR.pdf](http://www.caaa.in/Image/34_Hb_on_IPR.pdf).

<sup>2</sup> *What is intellectual property?*, [Apr.20, 2021, 1:00 PM], [https://www.wipo.int/edocs/pubdocs/en/wipo\\_pub\\_450\\_2020.pdf](https://www.wipo.int/edocs/pubdocs/en/wipo_pub_450_2020.pdf).

## **ROLE OF IPR IN MEDIA AND FILM INDUSTRY**

When it comes to the entertainment industry Intellectual property rights, precisely copyrights and trademarks, come into picture. Copyrights can be categorized into lyrics, music, dialogues, and screenplay. But it is dominant to appreciate where intellectual property rights in the entertainment industry come into picture and where they do not. Intellectual Property Right is a dominant ingredient in the development of media and entertainment provinces. Media is a field of creativity and expressiveness that entertains, informs and educates millions of individuals worldwide. Numerous media egress including Television, Radio, Cinema, Music, Software industries, Online and digital programme are supplemented with lots of innovative schemes, innovative works and formats. Indian Media and Entertainment Industry has come up as one of the leading sectors in our country as its contribution to the Gross Domestic Product is observed, its character in the cultural exchange is acquired and its labour, discomfort and investment in innovation of content is recognized. In the generation of digital media and with expanded literacy and economic progress this market with all media egress is expanding day by day. Technology has put together straightforward the copying and replication of others' works in any arrangement. Act of contravention not only disappoints the primary contributors or authors to fabricate more innovative works but also harms their gross possibilities just because somebody else is stealing their work which results in loss to the owner. Contravention of copyright found in different media in different ways. Thus, it is required for the owner to have absolute rights over the work or material in the Media or entertainment industry. Today, more film producers are filing for intellectual property rights in the media and entertainment industry to prevent their innovations and safeguard others from gain profit through their creations. The Censor Board of India is creating laws to help film producer literary creations. It is laws like these that fend off film-makers and music directors from "stealing" or "imitating" others' original, creative works. Such laws make certain that the original inventors get both respect and monetary benefits when their inventions are used by other film-makers, thus safeguarding their rights.<sup>3</sup>

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<sup>3</sup> Diva Rai, *Copyright and the entertainment industry*, iPleaders Intelligent Legal Solutions, (Apr.20, 2021, 1:30 PM), <https://blog.iplayers.in/copyright-and-the-entertainment-industry/>.

## **PROTECTION OF INTELLECTUAL PROPERTY IN MEDIA AND BROADCASTING**

The Indian media and broadcasting industry has developed crucially in the previous thirty years. Admittance to the most recent innovation and data has expanded dramatically in modern times, starting imagination among the public who are currently creating and sharing unique works in critical volumes. Issues in regards to the inventiveness and innovation of substance produced by computerized reasoning are in any event, being wrestled with! This presents the media and broadcasting industry with various difficulties in regards to the insurance of licensed innovation. The enactment and legal executive energize innovativeness, free and reasonable scattering of substance, while continually attempting to forestall abuse. Signal robbery can take actual structure, for example, unapproved accounts of transmissions on video tapes, DVDs or USB sticks, or it very well may be virtual, like the unapproved rearrangement of signs over the air or on the web. Hacking into scrambled compensation TV signals with hardware intended to dodge the safety efforts in set-top boxes is another basic type of theft, while live games communications have been a specific objective for unapproved retransmission on the Internet. Telecasters', remembering those for non-industrial nations, guarantee signal robbery of assorted types is costing them a great many dollars in lost compensation TV memberships as well as promoting incomes, influencing venture choices and seriousness.<sup>4</sup>

### **BASICS OF IPR**

As the name demonstrates Intellectual Property Rights are elite rights over the manifestations of the psyche. A maker can have select rights over his creation for a specific time of time contingent on the sort of Intellectual Property.

### **Sorts of intellectual property rights**

The information on licensed innovation rights is must to an everyday person. An average person all over and each opportunity arrive across the things made, developed, found and

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<sup>4</sup>*Protecting broadcasters in the digital era*, WIPO, [Apr.21, 2021, 12:00 PM], [https://www.wipo.int/wipo\\_magazine/en/2013/02/article\\_0001.html](https://www.wipo.int/wipo_magazine/en/2013/02/article_0001.html).

delivered by some human psyche. A plan of a house , the material utilized in a house, its decorations like a floor covering, couch, ice chest ,TV, phone, canvases, photos, divider clock the articles of every day utilize like a pens, books, the papers ,tissue papers, shoes and so forth the things that are worn by him like Jeans ,T-shirts , pants, caps ties , shoes and so on ; the things of transport like cycles, vehicles, bicycles etc...The list is unending! Practically every one of the things that encompass an average person is one way or another, property scholarly properties of somebody. Someone has invested his time, cash and energy to develop and make them. Thus, these all basic things are licensed innovations of somebody and are ensured by law. These things of scholarly properties can be arranged into two principal classes: -

- a) Mechanical Property rights.
- b) Copyright and related rights.

The mechanical properties rights remember rights for type of licenses, exchange marks, mechanical plans, and geographic sign of source. The copyrights and related rights things incorporate all abstract works which range from articles, news-paper things, books, story books, verse books, drawings, photos, compositions, structural plan, music, dance, films and imaginative exhibitions

- A. **Patent:** -Patent is an award given by the Government to a creator for having made an innovation, which has the property of curiosity, non-self-evident and mechanical utility. Once truly, a patent gives the designer the option to bar others from making, utilizing, selling, bringing in or offering available to be purchased the development for the span of the patent term, which is generally 20 years.
- B. **Trademarks:**-An exchange mark (famously known as brand name) in layman's language is a visual image which might be a word signature, name, gadget, mark, numerals or mix of shadings utilized by one endeavour on merchandise or benefits or different articles of trade to recognize it from other comparable merchandise or administrations starting from an alternate endeavour. The brand name proprietor will have imposing business models over the use of that image. It incorporates Brands, Logos, Service marks, Trade name and so forth.

- C. **Copyrights**:-Copyright is a correction given by the law to makers of abstract, sensational, melodic and creative works and makers of cinematograph movies and sound chronicles. Indeed, it is a heap of rights including, entomb alia, privileges of proliferation, correspondence to people in general, variation also, and interpretation of the work. There could be slight varieties in the piece of the rights contingent upon the work.
- D. **Geographical Indications**:-In connection of merchandise, it implies a sign which recognize such products (regardless of whether it is an horticultural merchandise, common products or fabricated products) as starting, or made in the domain of the country, or an area or a region of that region, where guaranteed quality, notoriety, or different attributes of such products is basically credited to its topographical beginning. In the event of fabricated products, one of the exercises both of creation or handling of concerned products happens in an area, district or region, by and large.
- E. **Design**:-It manages the security of an exceptional mechanical plan, shape, or elaborate look of an article.<sup>5</sup>

## **BASICS OF MEDIA LAW**

Media Law is a legitimate field that identifies with lawful guidelines of the broadcast communications industry, data innovation, broadcasting, promoting, media outlets, restriction, and web and online administrations among others.

As the prominence of different media have multiplied, the field of media law has gotten more significant. A little more than a century prior, the media would have consisted of print and live exhibitions alone. Today, the media contains the printed word and live entertainers, yet in addition radio, TV, films, computer games, cell phones, and the Internet.<sup>6</sup>

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<sup>5</sup> Charles F. Carletta, J.D, *INTELLECTUAL PROPERTY BASIC CONCEPTS AND PRINCIPLES*, IP Basics.pdf, [Apr.21, 2021, 1:00 PM], <https://www.stetson.edu/law/conferences/highered/archive/media/IP%20Basics.pdf>.

<sup>6</sup> Rajkumar S. Adukia, *HANDBOOK ON INTELLECTUAL PROPERTY*, Microsoft Word - 34\_Hb\_on\_IPR\_8108104.doc, [Apr.21, 2021, 1:30 PM], [http://www.caaa.in/Image/34\\_Hb\\_on\\_IPR.pdf](http://www.caaa.in/Image/34_Hb_on_IPR.pdf).

## **THE INDIAN MUSIC INDUSTRY AND ITS COPYRIGHT LAW**

The music business has a complicatedly woven relationship with the film business. Despite the fact that both are in reality reliant, the business standards are organized in such a manner so film ventures at the same time profit by the music business too. There has been widespread abuse and adaptation of Music and artists by filmmakers and music names for quite a long while they have been denied the excessive measures of benefits that the Producers or music marks make out of business misuse of the music either by delivering the music independently or consolidation of the tune in the film.

There is an earnest need to focus on the privileges of the music makers over the privileges of the individuals who are just answerable for the misuse of the music. The 2012 correction to the Copyright Act wherein the Supreme Court attesting the Delhi Court's judgment in Indian Performing Rights Society V. Aditya Pandey and others case maintained that the creators of artistic and melodic works consolidated in sound accounts would stay qualified for get an equivalent portion of sovereignties accumulating from the usage of the sound chronicles. The 2012 change, trying to defend the privileges of creators of scholarly, melodic, and imaginative work shaping a piece of a cinematograph film, has been given the un-weighable option to get eminence. Area 18(1), embedded through Amendment Act 2012, gives that the creator of an abstract or melodic work fused in a cinematograph film or sound account will not allocate the option to get sovereignties in any structure other than as a piece of the film or sound chronicle. Even after the all rights that are accessible to the creator of the imaginative, melodic or scholarly work u/s 14 of the Act have been properly appointed out to the music name or the maker, he can't forgo off his entitlement to get eminence instalments once his work has been put to utilize. Copyright enlistment awards lawful status to the inventive work consequently making it a licensed innovation and making and allowing the proprietor legitimate covers.<sup>7</sup>

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<sup>7</sup> Kakoli Nath, *Music Industry and Copyright Law in India*, FINOLOGY BLOG, [Apr.22, 2021, 1:00PM], <https://blog.finology.in/intellectual-property-law/music-industry-copyright-law-in-india>.

## **PROTECTION OF CONTENT CURATED ON SOCIAL MEDIA AND THE INTELLECTUAL PROPERTY RIGHTS INVOLVED**

A copyright ensures the proprietor of one sort of licensed innovation (made by an individual yet having no structure or substance). Just particular sorts of works which fall inside the U.S. Copyright Act can be protected. The copyright cycle has gotten genuinely straightforward with customary works like books, plays, films, and theatre. However, copyright is somewhat more troublesome with the approach of the web. For instance, bloggers should know about what they compose, to keep away from copyright, brand name, and defamation issues. What's more, before you utilize a picture from the web you should make certain to get a permit or discover public area pictures. This article takes a gander at different online media locales and their copyright approaches.<sup>8</sup>

### **CASE STUDY:**

#### ***Kunal Kohli vs. Jyoti Kapoor***

Kunal Kohli, who is well known for making some remarkable movies like "Faana" and "Murmur Tum", hitherto confronted conflict against his film "Phir Se" for which he at last had no other option except for go for an out of the court goal. The film was his dispatch film as an entertainer. It was guaranteed that the native story and content had a place with Jyoti Kapoor, and the tale of the film was duplicated from her screenplay. The scold against Kunal Kohli was of a noteworthy sort. As per Kapoor, in 2010 she had conveyed content for the film mark 'R.S.V.P' and records it with the Film Writers Association. In 2013, she met with chief maker Kunal Kohli who passes on interest in her content. Nonetheless, the two couldn't show up at a simultaneousness following which Kapoor address another creation house which concedes to make a film on her content.

In 2014, Kapoor went over paper articles about Kunal Kohli starting another film 'Phir Se'. From the articles and Kohli's meetings, Kapoor saw that Kohli had utilized her essential content. Kapoor registered a grievance with the Fraud, Waste and Abuse and Indian Motion Pictures Producers Association (IMPPA) and furthermore gave a notification to Kohli. The

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<sup>8</sup> Discussion Paper: Online Curated Content Platforms: Regulation or not?, Online-Curated-Content-Regulation.pdf,[Apr.22,2021,2:00PM], [http://www.nishithdesai.com/fileadmin/user\\_upload/pdfs/Research\\_Papers/Online-Curated-Content-Regulation.pdf](http://www.nishithdesai.com/fileadmin/user_upload/pdfs/Research_Papers/Online-Curated-Content-Regulation.pdf).

repercussions of the charge were grave to the point that in November 2014, a Joint Dispute Settlement Committee of IMPPA gave consideration regarding Kohli directing him to stop shooting of the film 'Phir Se' till the procedure was settled.

The story of the film was purportedly taken. Jyoti Kapoor had documented a case saying that "Theatre administrator had messaged her a 90-page bound content shipped off Kunal after which he needed to get it. Nonetheless, dealings didn't work out and before I know it is the undeniable closeness in the content I submitted and the film he declared." The High Court had given a recess stay request on the free of the film after claims evened out by Jyoti Kapoor in regards to likeness in the content of two motion pictures, "Phir Se" and "RSVP, however the last hardship was as far as the picture of some surrender individuals who represent the Indian film calling which is generally known for its component of advancement and ability. The procedure was determined to be an out-of-court settlement after Jyoti closed not to battle with her 'family', as they all have a place with a similar film calling. It is said that even after gaining the notification from IMPPA, Kunal didn't stop the film shooting. Seeing this, Jyoti Kapoor drew closer to the Bombay High Court and recorded an argument against "Bombay Film Company", the assembling places of the film. There was additionally another tendency to the conflict as the respondent expressed that a huge number in the film didn't take after R.S.V.P., like the setting, the treatment of the story and the peak. There were additionally claiming that R.S.V.P. isn't unmistakable or novel, however the court went through her screenplay and inferred that it tends to be suitably named as a novel. The film encroaches the Intellectual Property Rights laws for copyright; in straightforward terms, the content or screenplay was taken or replicated. Horribly after a long legitimate conflict, Kunal neglected to demonstrate that his content was unique. Because of which the Bombay High Court requested that he go for compromise. It was solely after just about two months after author Jyoti Kapoor appended a between time stay on Kunal Kohli's moving toward film 'Phir Se' over literary theft charges that the Bombay High Court gave the green sign to the film to be separated theatres. Be that as it may, misfortunes go with as the film couldn't arrive at the venue screens.<sup>9</sup>

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<sup>9</sup>Roshmila Bhattacharya, Kunal Kohli to pay Rs 25 lakh as compensation to Jyoti Kapoor, TOI, [Apr.21, 2021, 11:00 AM], <https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/kunal-kohli-to-pay-rs-25-lakh-as-compensation-to-jyoti-kapoor/articleshow/48154730.cms?from=mdr>.

## **CONCLUSION**

Copyright gives certain base defenses to the makers over their manifestations. By broadening the legitimate security, innovativeness is remunerated. Inventiveness is considered as the column to the advancement in this manner empowering innovativeness is the need of the socialized society too. Creators, specialists, artists, producers, engineers, PC program designers when get insurance by the law it functions as support to be more imaginative and inventive consequently assurance of copyright is related with inspiration and creates a favourable climate for inventiveness. In spite of the fact that intellectual property law is prohibitive and negative in nature, however with arrangements and exemptions administrators have attempted to create suitable and feasible harmony between interests of copyright holders and the interests of society. Intellectual property law grants to utilize the work with no weight on the off chance that it is utilized for research, revealing recent development or for legal procedures.

Intellectual property law in India is reformist in nature as consistent corrections and corrigendum given by the government make it adequately compelling to take care in evolving socio-social, political and mechanical climates. Our media and media outlets are developing step by step and colossal cash is contributed here. Their privileges need assurance from the endeavours of encroachments. The law part takes care of the discipline if copyrights are abused. Be that as it may, it isn't sufficient and impractical to check such demonstrations at each level. Mindfulness is another arrangement that can diminish the endeavours of such infringement. With a stirred populace we can expect a better climate of inventiveness, progress and advancement in our country.