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THE SYNTHETIC SHADOW: NAVIGATING PERSONALITY RIGHTS AND GENERATIVE AI IN THE INDIAN ENTERTAINMENT INDUSTRY

~ Lavanya Lamba

Abstract

As the technology's popularity grows rapidly, the Indian entertainment industry has to face new legal challenges. Questions of rights of personality of celebrities and copyright issues have arisen as a result of traditional regulations being unsuitable for digital voices, avatars, deepfakes and other high-tech instances of unauthorized copying. In the article, the author will investigate the relationship between the protection of intellectual property rights and the application of digital technologies in India, paying particular attention to the controversies of the recent court practice. The author makes the point that some courts resort to the use of common law torts and interim injunctions to protect the rights of indistinguishable persons, it is still necessary to have new legislation, which could create a balanced system of protection of both creative artists and digital innovations.

Introduction

The convergence of entertainment and new technology has constantly tested the flexibility of laws, necessitating the careful analysis of how contemporary laws protect the intellectual property. At present, the Indian media and entertainment sector is at a crossroads where the fast development of generative artificial intelligence threatens to undermine the very concept of authorship. Unlike previous cases of technological change that only dealt with the ways of distribution of content (like a transition from film to streaming or from cassettes to digital music), generative AI directly influences the production process itself. This technology enables individuals to replicate their counterparts' image, voice, gestures, and style as never before. The effects of this software influence not only the way contracts are done in Bollywood and

other local entertainment markets but also raises questions about the role of human labour and dignity. As a result, lawyers, government officials, and judges have to determine if the principles of property rights, privacy rights, and tort law can be applied to the new online realities.

Research Question

The rapid development raises an important question for this academic critique: *How well does Indian law protect individual rights and copyright from illegal use of AI, and what changes should be made to laws and regulations to achieve the proper balance between technology and authors' rights?*

Application of Law

In order to answer the inquiry, the existing Indian legal architecture with respect to digital piracy and synthetic media creation should therefore be analysed very meticulously. Traditionally, copyright ownership in relation to the cinematograph films and sound recordings has primarily vested with producers because such provisions are contained in Section 17 of the Copyright Act of 1957[1]. Usually, this has left individual actors, singers, musicians, and performers typically vulnerable when their isolated persona, voice, or physical features are harvested and reconstituted by neural networks. From a very restricted view, copyright protects fixed expressions; it does not protect ideas and guidance. Misappropriation of an artist's distinctive voice or visual identity therefore goes beyond mere infringement of copyright; it metamorphoses into an outright assault upon common law personality rights, the right to publicity, and the fundamental right to privacy guaranteed under Article 21 of the Constitution of India[2].

Moreover, the legal situation can also be combined with legal rules governing morality author rights and intermediary responsibility as such. In this context, Section 38EA of the Copyright Act establishes some rights for performers against unlawful commercial use but these rules were made prior to the emergence of text-to-image generators, voice-cloning software, and large language models. In order to resolve this legal vacuum, at the present moment, the executive branch is widely applying delegated legislation, particularly by means of the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Amendment

[1] The Copyrights Act, 1957
[2] The Constitution of India, 1950

Rules[3]. The mentioned regulations bring a lot of duties to the intermediaries when it comes to synthetically produced information (SGI) together with swift removal of deepfakes and impersonations. Still, it is necessary to mention that the constant reliance on the administrative intermediaries leads to complex enforcement and adds burden to private platforms making them perform quasi-judiciary functions and reducing authenticity of the content once again.

Relevant Case Laws

Judicial activism has stepped in more often to fill legislative vacuums that are obvious in its pursuit of and establishment of progressive standards for rights of digital personalities. A clear example is the recent significant court cases, such as *Arijit Singh v. Codible Ventures LLP*[4], where the Bombay High Court has continued its tradition of protecting a well-known playback singer's likeness from illegal commercial use, AI voice cloning, and unauthorized recordings. The court ruled that the person's voice and name are intellectual property and cannot be used for profit without obtaining prior permission.

Likewise, Indian courts have gradually used the tort of passing off together with the constitutionally guaranteed right to privacy to prevent persons from making unauthorized goods or digital duplicates online, or creating deepfake advertisements through the likeness of public personalities such as Amitabh Bachchan, and Anil Kapoor, among others. In these significant rulings, the courts acknowledged that the unauthorized inclusion of the likeness of a celebrity through AI technology creates an apparent association implying that such celebrity was involved in production or endorsement of surface contents which actually do not exist. In order to implement these measures against hidden or decentralized offenders, courts have become more willing to issue broad dynamic injunctions that are often called John Doe or Ashok Kumar orders. Such judicial measures allow rights holders to instruct internet service providers and hosting companies to prevent the operation of mirror sites and all unauthorized synthetic media platforms.

Analysis

The examination of these recent legal and regulatory issues demonstrates that there is an inherent contradiction and fragility in the techno-legal framework in India. On the one hand, the courts' proactive stance of making orders of injunction and establishing personality rights

[3] Information Technology Amendment Rules 2023.
[4]Arijit Singh v. Codible Ventures LLP Commercial IPR Suit (L) No 23443 of 2024 (Bom HC)

as distinct from other forms of property shows an awareness of technological realities. On the other hand, the over-reliance on temporary orders of injunctions and other forms of takedown notices is leading to the creation of a patchy enforcement system. While temporary injunctions give quick and effective remedy to the high-profile celebrities and rich artists, independent creators and lesser-known performers do not have the means to continuously monitor the digital ecosystem for deepfake creation and pursue legal remedies.

Furthermore, the process of training generative artificial intelligence models poses a legal problem that has yet to be addressed. The generative AI model absorbs a huge amount of information from the database, which includes copyright-protected films, music, images, and voice recordings while bypassing payment and authorization, claiming that its actions fall under the principle of fair transformation. If Indian law continues to see the use of generative AI as a mere extension of intermediary liability or passing off, it would only confirm legal appropriation. The current legal environment compels the courts to improperly apply the tort laws enacted in the 19th century to the regulation of 21st-century artificial intelligence, with all the ensuing discrepancies and uncertainties.

Opinion

In my opinion, viewing generative AI exploitation as merely a compound form of intermediary liability or traditional passing off is a risky legislative approach. The law cannot keep operating according to a case-by-case reactive approach allowing courts to piece together various tort principles in finding solutions to complex machine learning infringements. India requires a proper legislative structure similar to that of specialized digital rights and AI legislation that explicitly recognizes personality, publicity and digital image rights as separate legal principles. Additionally, it is important to introduce advanced digital watermarking techniques, a system for tracing the origin of existing works, and outlining terms of the licensing of used information for AI training purposes. It will force the developers of AI technologies to seek permission and negotiate the price of a license with authors before taking the image and voice of a creator. The protection of the creators does not hinder innovations; quite the opposite, it creates a controlled market in which artists will be compensated for the contribution they made to the development of AI technology that produces synthetic content.

Conclusion

In summary, the sustainable integrity as well as economic prosperity of India's media and entertainment industry is based on moving forward from ad-hoc solutions to strong law-based

guarantees. The recent judicial decisions constitute a positive change in the judicial system's capability to protect artists from digital violations and deep fake technology abuses; however, such protection remains impossible without serious law-reform. If clear requirements are put in place for the artificial intelligence engineers and mediators involved in the process alongside with good respect for personal rights mandated by law, India could create a fertile ground for innovations and intellectual rights to coexist peacefully.