ALLIANCE UNIVERSITY
Private University established in Karnataka State by Act No.34 of year 2010
Recognized by the University Grants Commission (UGC), New Delhi
Alliance School of Law

Celebrating 25 SILVER JUBILEE years of Alliance Education

ACIPR
ALLIANCE CENTRE FOR INTELLECTUAL PROPERTY RIGHTS

ACIPR BULLETIN

Volume 3 | Issue 1

COVER STORY: COMMENT ON AUGMENTED AND VIRTUAL REALITY (AR/VR)

ABOUT ACIPR

Alliance Centre for Intellectual Property Rights (ACIPR) is established with the aim to evolve as a centre of excellence in IPR Research and Innovation. It intends to engage academicians, jurists, research scholars, and practitioners in research and training for the promotion and protection of IP rights. The Centre is an initiative of Alliance School of Law, Alliance University, Bengaluru for making an active contribution to the development & promotion of all forms of IP rights. It aims to give special emphasis on fostering research & development in the unexplored areas of the IP domain.

MESSAGE FROM THE EDITOR-IN-CHIEF

Dear Readers,

As we witness groundbreaking advancements in the fields of artificial intelligence (AI), blockchain technology, and open-source software, it is vital to delve into the profound implications these technologies have on intellectual property. In the contemporary landscape, we have all witnessed an unprecedented surge in disruptive technologies that have revolutionized several industries and sectors. The digital age has brought forth opportunities and challenges that demand our attention and analysis towards the intricate relationship between disruptive technologies and intellectual property rights (IPRs).

In Volume 3 Issue 1 of the ACIPR Bulletin, we shed light on how disruptive technologies shape intellectual property. We explore its legal, ethical, and practical dimensions, recognizing their utmost significance amid transformative technologies. We are keenly aware of our role in shaping the future of IP. Furthermore, this edition emphasizes the growing awareness of the importance of AI and the willingness to come together to exchange ideas. We strive to ensure that IP becomes a practical tool that brings the economic benefits of AI to all. By fostering discussions and providing a platform for sharing insights, we aim to create an environment where innovation flourishes with responsible use of technologies and its potential is accessible to a broader spectrum of society.

I would like to express my sincere gratitude to all the contributors, editors, and reviewers who have dedicated their time and expertise to ensure the quality and accuracy of the content presented in this edition. Their invaluable contributions have made this issue a comprehensive and thought-provoking resource for our readers, enabling us to delve deeper into the complexities and opportunities presented by disruptive technologies and their impact on intellectual property.

Prof. (Dr.) Kiran Dennis Gardner
Professor & Dean,
Alliance School of Law

CONTENTS

CASES

NEETU SINGH v. TELEGRAM FZ LLC (2022, DELHI HC)

Ms. Neetu Singh, the plaintiff, is a well-known author of competitive exams books for the preparation of students and the founder of K.D. Campus, which operates coaching facilities for several competitive exams. The course materials, online lectures, and other works by the plaintiff were distributed illegally through different Telegram groups, the defendant. Telegram removed some disputed channels after receiving notifications, yet some infringement-related ones remained online, and new infringing channels were added almost daily. As a result, the plaintiffs filed a lawsuit seeking a permanent injunction to stop the defendant from violating their copyright and a request for the discovery of the identities of the people running these channels.

The argument presented by plaintiffs is that even after the taking down of the infringing channels, new channels emerged and disclosed the materials. This necessitated the disclosure of the identity of persons running the channels and disseminating the infringing material so that they can avail the remedy. The counsel for the defendants argued that the arrangements made by Telegram by taking down the channels were enough to protect the plaintiff's interests as per the privacy policy of Telegram. They also claimed that because Telegram's servers are in Singapore and store encrypted data, decrypting it would not be permitted unless done as per Singaporean laws. However, the Court disregarded this argument, pointing out that Telegram had to abide by Indian law and be subject to its jurisdiction under Section 62(2) of the Copyright Act, 1957. The Delhi High Court ordered Telegram to give information on the channels and devices used to upload the illegal material, including mobile phone numbers, IP addresses, email addresses, and other information. The Delhi High Court issued a remarkable ruling that resolves the question of disclosing the identities of individuals who violate the law.

Reported by:
Kandukuri Lakshmi Priya
Student, Alliance School of Law

INTERESTING FACT

- **You can trademark a scent** - Playdoh has a trademark in the scent of the product.

CORONA REMEDIES PRIVATE LIMITED *v.* FRANCO-INDIAN PHARMACEUTICALS PRIVATE LIMITED (2023, BOMBAY HC)

Franco's trademark 'STIMULIV' was an Ayurvedic medicine for liver function available in syrup and tablet form, whereas Corona's trademark 'STIMULET' was an allopathic formula meant to treat breast cancer and infertility. Franco claimed that they had been using their trademark STIMULIV since 1975 and secured an injunction against Corona for their use of STIMULET. According to Franco, it has invested substantial resources in creating its mark and has begun exporting items bearing the mark "STIMULIV" to several countries. Franco claims that it also filed a notice of protest with the trademark registry on November 19, 2020, to prevent the word “STIMULET" from being registered. Franco sought and received an injunction against trademark infringement as well as a related injunction against passing off, all of which are contested in the appeal. According to Corona, the term "STIMU" is created from the dictionary words "STIMULATE," meaning "to make anything active," and "LET," which stands for "stimulate." According to Mr. Kamod, the term "LET" is derived from the chemical name "LETROZOL," which is the ingredient used in the Corona product, and it is a popular expression that many third parties use regarding their products.

The Court held that Corona was right in challenging the injunction issued against them since it had been established that once a trademark is registered, the registered proprietor is immune from infringement claims. Franco claimed the marks were comparable, and Corona successfully argued that if the conditions were comparable, Corona was not liable for infringement under Section 28(3) of the Act. The Court recognised Corona as the registered owner of the trademark "STIMULET", and Franco had not taken any legal action to address the registration's defects. The appeal was dismissed with costs of Rs. 5,00,000/-, to be paid within four weeks by cheque to Corona's counsel.

Reported by:
Malavika Rajeev
Student, Alliance School of Law

INTERESTING FACT

- You can obtain trade dress protection over a colour like luxury jewellery company Tiffany has a trademark in the Tiffany blue colour, another protected colour is Louboutin Red soles for high-heeled shoes.

WINZO GAMES PRIVATE LIMITED *v.* GOOGLE LLC & ORS. (2023, DELHI HC)

The plaintiff was an online gaming and technology firm that ran an application or platform for digital gaming under the trade names "WinZO" and "WinZO Games". When the 'WinZO'/'WinZO Games program was first released in 2017, it provided users with more than 70 games in five different formats and twelve different regional languages. The plaintiff initially offered their program on the Google Play Store but had to remove it when they transformed it into a paid gaming platform. In 2021, when consumers tried to download the plaintiff's application, the defendants displayed a cautionary disclaimer. The Court determined that the notice was not discriminatory as it applied to all third-party applications, not just the plaintiffs.

The notice was considered a disclaimer and did not prohibit users from downloading the software. The Court found that the defendants' cautious approach was justified since the plaintiff's applications did not undergo the same security tests as those in the Google Play ecosystem. It also concluded that the warning letter did not constitute "use of the trademark in the course of trade" or promotion of goods/services, thus, dismissing infringement charges. Disparagement charges were dismissed as there was no comparison or competition between the defendants and the plaintiffs' products/services. Regarding the charge of inducement of breach of contract, the Court ruled that a contract could only be formed after the application was installed, not when the warning was displayed.

The Court concluded that Google LLC's warning was not discriminatory, adhered to industry standards, and complied with relevant rules. The plaintiff's trademark was not infringed upon, and there was no disparagement or incitement to break a contract. Therefore, the application was denied.

Reported by:
Aditya Sharma
Student, Alliance School of Law

INTERESTING FACT

- According to experts, the Coca-Cola logo is the most valuable trademark in the world. Over $50 billion is thought to be the market value. Coca-Cola is renowned for keeping its recipe a closely guarded secret. One of the most well-known trade secrets in the world is the Coca-Cola recipe, which was developed in the year 1886.

BPI SPORTS LLC *v.* SAURABH GULATI & ANR. (2021, DELHI HC)

The petitioner claimed to have used the mark in India from January 2019. Respondent 1 had been importing the petitioner's goods under the mark in India but had covertly sought and acquired registration of the word mark «BPI SPORTS» in their name. The petitioner claimed that the respondent gained registration fraudulently to prevent the petitioner from getting the mark in India. It was said that the respondent was aware of the mark's registration in the United States as well as its global reputation. This demonstrated a clear purpose to steal the petitioner's mark and obstruct their registration attempt in India, a practice known as trademark squatting. While the court denied remedy under several parts of the Trademarks Act, it acknowledged the petitioner's right to relief under Section 11, which considers the applicant's or opponent's ill faith during registration. The court also considered the petitioner's infringement allegation as the first adopter and user of the mark registered in their favour in the United States. However, because the petitioner did not have a registered mark in India, a violation under Section 29 of the Act could not be considered.

The Delhi High Court's recent decision clarified trademark squatting and *accepted the idea of ill faith under Section 11(10)(ii) of the Act. This provides possible relief for people afflicted by such squatters, as well as new possibilities in dealing with such acts.*

Reported by:
Aditya Sharma
Student, Alliance School of Law

INTERESTING FACT

- In the United States, the copyright on the iconic character Mickey Mouse has been extended several times. The Sonny Bono Copyright Term Extension Act of 1998, sometimes known as the "Mickey Mouse Protection Act," extended copyright protection for an additional 20 years.

HACHETTER BOOKS GROUP, INC AND ORS. v. INTERNET ARCHIVE AND ORS., (2023, US DISTRICT COURT (NEW YORK))

This legal dispute involves the exclusive publishing rights of books in both print and digital formats held by Publishers and the universal access to knowledge provided by the Internet Archive (IA). The plaintiffs in this lawsuit are four top book publishers based in the United States, Hachette Book Group, HarperCollins Publishers LLC, John Wiley & Sons., Inc., and Penguin Random House LLC. They have the exclusive rights to publish books in both print and digital formats, which includes electronic versions known as "eBooks."

Plaintiffs use various licensing models for eBook distribution, while IA has made millions of print books publicly available on its website, including 3.6 million copyrighted works. IA lends limited numbers of eBook copies of copyrighted works at a time through a process called "Controlled Digital Lending," with a one-to-one "owned to loaned" ratio. IA also launched the National Emergency Library during the Covid-19 pandemic, allowing up to ten thousand patrons at a time to borrow each eBook on the website. The Publishers filed a copyright infringement lawsuit against IA for unauthorized lending of the copyrighted works in question. IA's defence is based on the concept of fair use, which allows for the unauthorized use of copyrighted works to promote scientific and artistic progress. The Court has granted the Publishers' motion for summary judgment and denied IA's motion for summary judgment. If IA's fair use defence fails, statutory damages may be awarded to be paid by the defendants.

Reported by:
Kadimi Lakshmi Harshitha
Student, Alliance School of Law

INTERESTING FACT

- The United Nations Universal Declaration of Human Rights recognizes intellectual property as a fundamental human right.

PERSONALIZED MEDIA COMMUNICATIONS, LLC *v.* APPLE, INC. (2023, US DISTRICT COURT, TEXAS)

Personalized Media Communications, LLC (PMC) is a technology company that owns several patents related to digital rights management (DRM). In 2015, PMC filed a lawsuit against Apple Inc., alleging that Apple's Fair Play DRM system infringed on PMC's patents. PMC claimed that Apple's Fair Play system, which is used to protect digital content like music, movies, and books, infringes on four of PMC's patents related to DRM. 2PMC sought damages for the alleged infringement, as well as an injunction to prevent Apple from using the Fair Play system. Apple denied the allegations and argued that PMC's patents were invalid. Apple also filed a countersuit, alleging that PMC engaged in anti-competitive behaviour by asserting its patents against Apple and other companies in the industry. The issue, in this case, was whether the construction claim is limited to digital information or whether it can also include analogue information.

In December 2020, a federal jury in Texas found that Apple had wilfully infringed on three PMC's patents related to DRM. The jury awarded PMC $308.5 million in damages, which was later increased to $415 million. However, the jury found that Apple did not infringe on the fourth patent and that patent was invalid. The jury also rejected Apple's antitrust claims against PMC.

In March 2021, Judge Alan D. Albright denied Apple's request for a new trial and upheld the jury's verdict. Apple has appealed the decision and the case is ongoing. The Appeals Court's decision focused on three criteria which are the patent's prosecution history, specification, and claim phrases. The Appeals Court determined that the appellant's specification contains a definitional passage that captures both digital and analogue signals, but it held that the definitional passage is not in itself conclusive

Reported by:
Kurella Venkat
Student, Alliance School of Law

INTERESTING FACT

- An employer owns the copyright for works created by employees! - Any work made for hire grants the copyright to the employer rather than the creator of the work.

INTERNATIONAL NEWS

USPTO ANNOUNCES NEW CATEGORY OF GREEN ENERGY FOR HUMANITY PATENTS

The United States Patent and Trademark Office is a federal agency which is responsible for providing inventors and businesses with patents and trademarks in the United States. In order to encourage and promote the inventors, the United States Patent and Trademark Office (USPTO) initiated the incentive program that offers various benefits such as expedited examination process, and reduced fees amount. Among those incentive programs, one such incentive program is the Patent for Humanity Awards program. On March 6, 2023, the USPTO included a new Green Energy category by considering the immediate attention which is required by our environment due to climate change, where this new category would provide business incentives for the licensees, patent holders and applicants whose green energy inventions including hydrogen, wind, solar, hydropower, geothermal and biofuel technologies cater to the difficulties faced due to the climate change. This factor reflects an urgency to focus on climate change and on greenhouse gas emissions, including the new green energy category.

Reported by:
Hemalatha
Student, Alliance School of Law

BRANDS ARE PROTECTED IN THE METAVERSE -NEW YORK JURY RULES AGAINST AN ARTIST'S NFTS VIOLATING HERMÈS' TRADEMARK RIGHTS

Metaverse platforms' rising popularity has led to an increase in legal conflicts involving intellectual property rights, particularly trademarks. In one of the cases addressing the hi-tech new art world of non-fungible tokens (NFTs) it was ruled by the jury that the trademark rights of French fashion house Hermes were violated by an artist selling pictures of furry, copycat purses as NFTs.

The Hermes v. Rothschild case has highlighted the legal concerns of trademarks in the metaverse. The artist Mason Rothschild's in his collection of images "MetaBirkins" used the unauthorised versions of Hermes iconic Birkin bags and sold for more than $1 million which was likely to mislead the consumers. Hermes was awarded damages of $133,000 for trademark infringement, dilution, and cybersquatting.

Hermes' coveted leather Birkin purses fetch prices in the tens of thousands of dollars each. Rothschild depicted the bags in 100 whimsical pieces showing bags covered in shag fur or in green fur, covered in rainbow, wearing a red Santa Cap. The artist was sued by Hermes claiming that the artist was simply "a digital speculator who is seeking to get

rich quick by appropriating" the Hermes brand. "meta" in the brand created which refers to the digital metaverse. The brand was named "Metabirkins" which rips off the famous trademark Birkin of Hermes by just adding the prefix 'meta'. In the end, the court decided in Hermes' favour, concluding that trademarks can be protected in the metaverse.

Reported by:
Kandukuri Lakshmi Priya
Student, Alliance School of Law

UK SUPREME COURT HEARS LANDMARK PATENT CASE OVER AI "INVENTOR".

In a major lawsuit concerning whether artificial intelligence (AI) systems can hold patent rights, Stephen Thaler an American computer scientist petitioned the United Kingdom's Supreme Court to determine that he is entitled to patents over ideas made by his AI system i.e., DABUS. Registering patents was rejected on the grounds that an invention cannot be made by a machine but by a person, a business, or both. Thaler's attorney argued DABUS to be Thaler's invention because an invention is not required to be patented under UK law and "must have a human inventor to be patentable". The owner of an AI system is "entitled to inventions generated by the system and to the grant of patents for those inventions if patentable," claimed in court filings. The UK Intellectual Property Office initially rejected Thaler's applications in 2019.

While Thaler's application to register DABUS as an inventor was approved in South Africa, his attempts to submit comparable applications in the European Union, the United States, Australia, and Germany had all been rejected. According to London-based patent attorney Mark Marfe, who is not engaged in the case, Thaler's Supreme Court appeal represents the first time the question of whether AI systems can own and transfer intellectual rights which has been reviewed by a supreme-level court. Before the hearing, Marfe said in a statement that "patent laws will ultimately need to be amended for the machine to be named as an inventor of a patent."

Reported by:
Kruthikaa Shree
Student, Alliance School of Law

U.S. APPEALS COURT BLOCKS APPLICATION FOR APPLE MUSIC TRADEMARK

In addition to launching its streaming service in 2015, Apple also filed an application for a federal "Apple Music" trademark that would include many genres of music and entertainment services. Bertini opposed the application, claiming that the name would confuse people with the "Apple Jazz" branding that he had been using to promote concerts since 1985.

According to Apple, its ownership of an earlier trademark from the Beatles' record company Apple Corps Ltd. gave it priority over trumpeter Charlie Bertini's "Apple Jazz" trademark rights. However, the U.S. Court of Appeals for the Federal Circuit denied this claim.

Bertini was granted permission by the court to oppose Apple's application for a federal trademark for Apple Music that would have included live concerts, one of the numerous trademark uses Apple was attempting to secure.

Reported by:
Sahil Singh
Student, Alliance School of Law

INTERESTING FACT

- Project Gutenberg is a volunteer effort to digitize and archive cultural works, to “encourage the creation and distribution of eBooks”. It was founded in 1971 by Michael S. Hart and is the oldest digital library. Currently, it offers over 49,000 FREE eBooks to read/use and they are all part of the Public Domain in the U.S. aka copyright-free.

NATIONAL NEWS

THE TOP THREE THREATS FACED IN INDIA - INTELLECTUAL PROPERTY THEFT, INFORMATION AND CYBERSECURITY THREATS

According to a risk survey from the Federation of Indian Chambers of Commerce and Industry (FICCI), information and cyber security threats and accidents have become the top 3 threats faced in India. The Federation of Indian Chambers of Commerce and Industry mentioned that accidents are the second major threat and a huge concern for logistics. According to the survey, there are 12 major threats, of which intellectual property is the first and accidents are the second specifically for the information and technology sector, intellectual property theft has become the top threat. Thus, the annual report attempts to uncover prospective risks in the context of a changing global environment, thus, enabling corporate executives to evaluate their apprehension for disruptive events.

***Reported by*:**
Hemalatha
Student, Alliance School of Law

MADRAS HIGH COURT INAUGURATES ITS INTELLECTUAL PROPERTY RIGHTS DIVISION

Justice S Vaidyanathan, Acting Chief Justice of Madras High Court inaugurated the Intellectual Property Rights Division (IPD), which was published in the Tamil Nādu government gazette on April 5, 2023. Madras High Court IPD is the second intellectual property division after the Delhi High Court Division.

The draft for the IPR division rules was framed and approved by the court in July 2022. This division is specifically dedicated to handling IPR disputes, such as those related to patents, trademarks, copyrights, and geographical indications.

The inauguration of the IPR division is significant as it demonstrates the increasing importance of IPR in India and the need for specialized courts to handle IPR disputes. The Madras High Court has a reputation for being particularly active in IPR matters and has already delivered several landmark judgments in this field.
The establishment of this division is expected to expedite the resolution of IPR disputes and provide more clarity and consistency in the interpretation and enforcement of IPR laws. It is also likely to attract more IPR-related cases to the Madras High Court, further cementing its position as a leading court in this area. One of the major benefits for

having a separate and new IP division is that it will enable the judges to specialize and form better decision-making to deliver consistent resolutions to IP issues.

Reported by:
Immidisetty Navya Raga Sravani
Student, Alliance School of Law

CUMBUM GRAPES AND GOND PAINTINGS GOT GEOGRAPHICAL INDICATION

Tamil Nadu's Cumbum Valley grapes and Gond paintings from Madhya Pradesh have been awarded Geographical Indication (GI) tags. Cumbum Valley Grapes are known for their distinct taste and are grown in the Cumbum Valley region of Tamil Nadu. The GI tag ensures that only grapes grown in this specific region can be sold under this name, which helps to protect the unique identity and quality of the product.

Gond paintings are a traditional art form from the Gond tribe in Madhya Pradesh, known for their intricate patterns and vibrant colours. The GI tag helps to protect this cultural heritage and traditional art form from imitation and misuse.

The Geographical Indication (GI) tag is a label applied to goods with a known geographical origin and features, reputation, and other traits that may be directly linked to that origin. To put it another way, the GI tag is a type of intellectual property that is employed to recognize and defend distinctive and traditional goods that come from a specific geographical location.

Reported by:
Immidisetty Navya Raga Sravani
Student, Alliance School of Law

BANARASI PAAN FROM THE KASHI REGION, RECEIVES THE GI TAG

On April 3, 2023, the renowned Banarasi Paan, revered for its mouth-watering flavour, was given the Geographical Indication (GI) Tag. The tag indicates that an area's distinctive characteristics are present in items from that region. The Banarasi Paan is produced from rare ingredients and has a distinctive and delicious flavour.

According to Padma Awardee GI specialist Dr. Rajinikant, three other Varanasi-based products—Banarasi Langda Mango, Ramnagar Bhanta (Brinjal), and Adamchini Rice - have obtained the GI Tag alongside the Banarasi Paan. With this achievement, the Kashi area can now claim ownership of a total of 22 GI-tagged items.

Reported by:
Sahil Singh
Student, Alliance School of Law

ON THE INTERNATIONAL INTELLECTUAL PROPERTY INDEX, INDIA RANKS 42ND OUT OF 55 LEADING GLOBAL ECONOMIES

India ranks 42nd out of 55 economies worldwide in the US Chamber of Commerce's International Intellectual Property Index. The index assesses countries based on different aspects of IP enforcement, protection, and market access. With a ranking of 42, India's IP environment might use some development when compared to other economies.

Patrick Kilbride, senior vice president of the Global Innovation Policy Centre (GIPC) said, “India is ripe to become a leader for emerging markets seeking to transform their economy through IP-driven innovation”.
As per the report, India has a strong position towards copyright piracy and counterfeiting as there is heightened awareness regarding the negative impacts of both.

Regardless, the report also mentions the dissolution of the Intellectual Property Appellate Board (IPAB) in 2021 which raises major questions regarding the enforcement of IP rights and resolution of IP disputes.

Reported by:
Sahil Singh
Student, Alliance School of Law

BRAINIAC IP SOLUTIONS' COMMITMENT TO EXCELLENCE RECOGNIZED WITH ASIA BUSINESS LEADERSHIP AWARD

Brainiac IP Solutions, a renowned Intellectual Property Rights business, was named "The Best Patents and Trademark Services Provider of the Year" at the prestigious "Asia's Business Leadership Awards 2023." The awards were developed to recognize firms that demonstrate extraordinary devotion and creative methods in the business and service sectors. The award ceremony, which was organized by Universal Media, took place on May 27, 2023, in New Delhi. Smt. Jaya Prada Ji, the renowned actor and politician, gave the award to Brainiac IP Solutions, acknowledging the company's outstanding contributions to the sector.

Having been at the forefront of the Intellectual Property Rights industry for over 12 years, Brainiac IP Solutions has earned a solid reputation in the field of intellectual property rights around the globe, including India, the United States, Europe, and the World Intellectual Property Organization (WIPO).

Brainiac IP Solutions received this honour because of its consistent dedication to unbiased advice, cost-effectiveness, and transparent business procedures across all of its activities. This accolade strengthens the company's position as a leader in the Intellectual Property Rights business, as it continues to develop its offerings.

Brainiac IP Solutions takes great delight in its continued assistance to startups, MSMEs, and innovators. The company assists these organizations in developing their distinctive business USPs through intellectual property rights by providing advice and mentoring. Their business is still committed to offering its clients in every country outstanding advice, affordable solutions, and open business methods.

Reported by:
Aditya Sharma
Student, Alliance School of Law

INTERESTING FACT

- The Statue of Liberty is one of the most famous sculptures ever registered with the Copyright Office and is one of the largest.

ARTICLES

EMERGING COPYRIGHT ISSUES: USE OF AI TO CREATE WORK

In the digital age, copyright issues have become more complex and urgent than ever before. One emerging issue in copyright is the use of Artificial Intelligence (AI) to create works that may infringe on existing copyrights. As AI becomes more advanced, it is becoming increasingly capable of generating original content such as music, art, and even literature. However, these works may unintentionally or intentionally copy existing copyrighted material.

One recent example of this issue is the controversial use of AI to generate a new version of Nirvana's hit song "Smells Like Teen Spirit." The AI-generated song was created by analyzing Nirvana's music and lyrics and using algorithms to generate new music that imitates the style and tone of the band. While the creators of the AI-generated song claim that it is a completely original work, many critics argue that it infringes on Nirvana's copyright. Hence, such a situation leads to deliberations on copyright infringement in the context of AI-generated works.

To address this issue there needs to be a multi-faceted approach that combines technological solutions, legal measures, and industry best practices. While ownership clarification is important, addressing the fundamental issue of unauthorized copying by AI systems involves the following strategies:

***Implement Watermarking and Digital Fingerprints*:** Embedding watermarks or digital fingerprints into AI-generated works can help establish ownership and deter unauthorized copying. These unique identifiers can be used to trace the source of the work and discourage infringement.

***Enhance Content Recognition Technologies*:** Develop and deploy advanced content recognition technologies that can identify AI-generated works and detect potential copyright infringement. This can include image recognition, audio fingerprinting, and text analysis algorithms that can compare AI-generated content with existing copyrighted material.

***Encourage Ethical Use of AI*:** Promote responsible and ethical use of AI technologies by educating developers, researchers, and users about copyright laws and the potential risks of infringement. Encourage AI system developers to incorporate mechanisms that respect intellectual property rights into their algorithms and platforms.

***Strengthen Legal Frameworks*:** Advocate for updated and robust copyright laws that address the challenges posed by AI-generated content. Policymakers should consider adapting legislation to provide clear guidelines on ownership, infringement, and liability in cases involving AI-generated works.

Collaborate with Technology Companies: Foster collaboration between AI developers, technology companies, and copyright holders to devise mutually beneficial solutions. Encourage the development of licensing agreements and partnerships that allow AI systems to access copyrighted material legally while ensuring fair compensation for original creators.

Establish Industry Standards and Best Practices: Industry organizations should work together to establish standards and best practices for the use and distribution of AI-generated works. These guidelines can include recommendations for attribution, licensing, and responsible handling of copyrighted material.

Strengthen Monitoring and Enforcement: Develop effective monitoring and enforcement mechanisms to detect and address instances of copyright infringement involving AI-generated works. This can involve automated systems that scan online platforms, as well as legal measures to hold infringers accountable.

Raise Public Awareness: Educate the general public about copyright laws, the impact of AI on intellectual property, and the importance of respecting creators' rights. Foster a culture of respect for copyright and encourage individuals to report instances of unauthorized copying.

Hence it is crucial to note that finding comprehensive solutions requires ongoing collaboration between technology experts, legal professionals, policymakers, and content creators.

Rosenblatt B, The Ethics of AI-Generated Music, The Atlantic (April 15, 2023, 9.29 PM), https://www.theatlantic.com/technology/archive/2021/04/ethics-ai-generated-music/618341/

Tanishka Jain
Student, Maharashtra National Law University, Nagpur

INTERESTING FACT

- Noah Webster is best known today for the dictionary he published in 1828, still published as Merriam-Webster dictionaries. During most of his life, however, he was famous for a best-selling spelling book.

CHATGPT AND THE COPYRIGHT CONUNDRUM

While the concept of Artificial Intelligence (AI) has been around for a fairly long time, it is arguable that people were unaware of a chatbot that was advanced enough to have shaken Google out of its routine. ChatGPT, in simple terms, could be defined as a natural language processing tool that allows users to converse with it in seemingly natural dialogue. Being trained on a large corpus of text data, ChatGPT is also capable of producing original content, such as blog articles, essays, or poems. This raises an interesting question: who owns the copyright in content generated by ChatGPT?

With the rapid advancements in Generative AI, AI has never been more capable of producing original content within the blink of an eye. However, it could be argued that the laws governing copyright across the globe have not been able to keep pace with these rapid advancements. For instance, the requirement for a human author is evident from Section 16 of the Indian Copyright Act of 1957.

The work produced by ChatGPT may be considered to fall under the term 'computer-generated work', appearing under Section 2(d)(vi) of the Act. While the term has not been defined anywhere in the Act, the aforementioned provision grants authorship of a computer-generated work to the person who 'caused the work to be created'. This provision, although formulated with the intent of accommodating modernized ways of producing work, is ineffective in dealing with works that involve no human intervention. The phrase 'caused the work to be created' cannot be considered to apply to a user providing a bare minimum input that prompts the generation of the work. Therefore, granting copyright to the user would be in complete contravention of the primary purpose of copyright law, i.e., to grant exclusivity to the 'author' of the work.

Section 9(3) of the UK Copyrights, Designs and Patents Act, 1988, perhaps the only legislation that allows for copyright protection of works produced by AI, grants authorship of a computer-generated work to the person who undertakes 'the arrangements necessary for the creation of the work'. With this being a relatively new area in the domain of judicial activism, experts are divided on to whom such a role may be attributed. While the majority of the experts opine that the programmer, who lays out his heart and soul in designing the algorithm, must be granted authorship over such works, certain others have also expressed that in the event the user plays a significant role in determining the information that is to be given to the AI application, he must be considered the author.

The case of ChatGPT is a significant reminder that copyright laws need to be amended to satisfy the requirements of

present-day technology. Several IP concerns have cropped up with the advent of ChatGPT, which need to be addressed timely.

Copyright Act, 1957, No. 14, *Acts of Parliament*, 1957 (*India*).

Copyright Act, 1957, § 2, No. 14, *Acts of Parliament*, 1957 (*India*).

Artificial Intelligence and Intellectual Property: copyright and patents, GOV.UK (*last visited* August 30, 2022), *https://www.gov.uk/government/consultations/artificial-intelligence-and-ip-copyright-and-patents/artificial-intelligence-and-intellectual-property-copyright-and-patents.*

Ayush Pokhriyal and Vasu Gupta, Artificial Intelligence Generated Works under Copyright Law, 6(2) *Nluj Law Review*, 116 (2020).

Nico Grant, Google Calls in Help from Larry Page and Sergey Brin for A.I. Fight, The New York Times (*Jan.* 20, 2023 10:02 AM), *https://www.nytimes.com/2023/01/20/technology/google-chatgpt-artificial-intelligence.html.*

Sik Cheng Peng, Artificial Intelligence and Copyright: The Author's Conundrum, WIPO-WTO *Colloquium Papers*, 181 (2018).

Vedant Saxena
Student, Rajiv Gandhi National University of Law, Patiala

IS CHATGPT IMPACTING THE INTELLECTUAL PROPERTY OF THE RESEARCHERS?

ChatGPT (Chat Generative Pre-Trained Transformer) has been a promising tool for students, judges, and researchers to quickly resolve their issues and troubles related to writing. However, the question that this practice raises is whether the content of ChatGPT impacts the intellectual property of the researchers.

ChatGPT is based on the language models through which the system generates the chat. On the personal use of ChatGPT, it was observed that the content is a mix and match of various information and is placed together to generate a response. However, is the content trustworthy and viable to be used properly? This is a question which is best left to answer by the users.

The foremost intellectual property issue which is raised using ChatGPT is that the majority portion of the plagiarism detector systems are original when they are the work of someone else.

This use also creates an issue of accountability as the information is taken from another source without reference to the owner or the author. This means that the platform uses another author's intellectual property, which might be protected under the intellectual property regime. As per the European Commission, ChatGPT itself agrees that it is not the owner of the content. However, an interesting question arises here if a copyright

violation suit is to be filed, then who would be responsible for the breach? So, can it be asserted that the user of ChatGPT is responsible for the breach or the generator?

As per the law, copyright can only be provided if the work is humanly produced and is new. Hence, ChatGPT's work does not come under the sphere of any IPR protection.

On the other hand, there have been arguments such as the use of digital software by artists is considered as their work, hence the use of ChatGPT should only be termed as the use of the tool and not copying, but this can be in direct violation of Section 57 of Indian Copyright Act that states the exclusive right of the owner on their work. Now the use of ChatGPT can be considered a criminal offence under this section or not is still undecided by the courts. In such situations, it becomes necessary to amend the IP laws in India to protect the copyrighted work of an author and avoid any misuse of the same. The vast field of IPR cannot answer the liability and ownership of the work generated by AI, but it can create issues shortly as these breaches become more common.

Peres, R., Schreier, M., Schweidel, D., & Sorescu, On ChatGPT and Beyond How Generative Artificial Intelligence May Affect Research, Teaching, and Practice, Int Journ of Research in Marketing, (2023), https://doi.org/10.1016/j.ijresmar.2023.03.001.

European Union Commission, Intellectual Property in ChatGPT, https://intellectual-property-helpdesk.ec.europa.eu/news-events/news/intellectual-property-chatgpt-2023-02-20_en (last visited Apr. 12, 2023).

Copyright Act, 1957, No. 14, Acts of Parliament, 1957 (India).

Adv. Suchi Sharma
LLM, AMS Inform Pvt. Ltd.

INTERESTING FACT

- Webster lobbied Congress to pass the nation's first federal copyright law. His efforts earned him the nickname, "Father of American Copyright".

COMMENT ON AUGMENTED AND VIRTUAL REALITY (AR/VR)

The 'Fourth Industrial Revolution' has brought transformative technological advancements, including artificial intelligence (AI), blockchain, and Augmented Virtual Reality (AVR).

Virtual Reality (VR) is a simulated environment in which users can become fully immersed, such as 3D films, video games, and even training. Augmented Reality (AR), on the other hand, enhances our perception of reality by introducing virtual elements to the actual world. It fundamentally superimposes information from the Internet on objects in the environment. Numerous disciplines, including e-commerce, education, navigation, maintenance, entertainment, and medicine, can benefit from its applications.

The 2016 release of Pokémon Go brought great attention to AVR technology. The proliferation of such technologies presents unique legal and regulatory difficulties. The adoption of these technologies has increased dramatically, particularly in consumer-facing industries. On a micro level, Pokémon Go leads the way in popularizing augmented reality technology, along with Google's Cardboard and ARCore, HTV's Vive, Samsung's Gear VR, Oculus Rift, and Apple's ARKit.

AR/VR technologies encompass original creations and inventive hardware or software that may be eligible for patent protection. In India, securing a patent requires meeting standards of novelty, inventive step, and industrial applicability. Global patent filings for AR/VR technologies have surged recently, and the Indian Patent Office offers Indian inventors and companies a means to secure patent protection for their innovations.

The safeguarding of intellectual property rights may encompass the imaginative components that are inherent in augmented reality/virtual reality applications, including but not limited to visual designs, audio-visual materials, and programming instructions. It is imperative for developers and creators to have a comprehensive understanding of copyright laws and to take necessary measures to obtain required permissions or licenses before utilizing copyrighted material. The Copyright Act in India serves as the legal framework for safeguarding copyrights and providing redressal in the event of any infringement.

The safeguarding of brand identities through trademark protection is a pertinent consideration for AR/VR companies. The act of registering trademarks with the Indian Trademark Registry has the potential to avert unauthorized usage and market confusion. It is advisable for enterprises engaged in the production of augmented reality/virtual reality hardware or software to exercise prudence while utilizing third-party trademarks and exhibit due regard for pre-existing trademark rights.

AR/VR enterprises hold valuable trade secrets, such as exclusive algorithms or expertise, providing them with a competitive advantage. Safeguarding these trade secrets requires implementing confidentiality protocols, including non-disclosure agreements (NDAs), to prevent unauthorized utilization or disclosure. The Indian Contract Act can be used to enforce such agreements within the framework of Indian legal regulations.

Integrating third-party intellectual property, like copyrighted content or patented inventions, is common in AR/VR technologies, requiring the need for licensing and royalty agreements. Licensing agreements are crucial for authorizing the use of intellectual property and establishing royalty payment terms. It is essential to exercise caution and comply with the legal framework and licensing requirements in India.

The use of AR/VR applications involves acquiring and manipulating user data, including personally identifiable information, raising privacy and data protection concerns.

The Personal Data Protection Bill, presently under scrutiny in India, seeks to govern the acquisition, retention, and utilization of personal data. AR/VR developers must adhere to relevant privacy and data protection regulations to safeguard user data.

When it comes to new technology, data and privacy are always front of mind. The use of AVR technology is not immune to this problem. They gather a wide range of consumer data. They can track a user's precise position, record whatever a camera sees, and access the user's inbox, contacts, and picture album. They can also capture biometric information including fingerprints, face profiles, and retinal scans.

In conclusion, security and privacy play a critical role in AVR applications. The potential misuse of user information by criminals underscores the need for vigilance. Criminals can manipulate software to lead users to specific locations, as exemplified by a tragic case in Guatemala where individuals exploited location data from a teenager's app to lure and harm him. It is worth noting that unlike the United States and the European Union, India lacks a dedicated data protection law. However, the Information Technology (Reasonable security practices and procedures and sensitive personal data or information) Rules, 2011, define terms such as "personal data," "biometric data," and "sensitive personal data or information." Adherence to these rules is crucial, requiring informed consent prior to collecting personal information, clear communication of privacy policies, and data gathering only when necessary.

Nishith Desai Associates, Augmented, virtual and mixed reality a reflective future, Nishith Desai, (April 14, 2023, 10:10 AM) https://nishithdesai.com/Content/document/pdf/ResearchPapers/Augmented_Virtual_and_Mixed_Reality.pdf.

Prashant Kataria and Dhaval Bothra, Metaverse: Legality, Regulatory concerns in India, Mondaq (Apr 14, 2023, 10:59 AM), *https://www. mondaq.com/india/fin-tech/11951 82/metaverse-legality--regulatory-concerns-in-india.*

Michael Fitzgerald, The intersection of augmented reality and virtual reality with intellectual property rights, 16 *Jour of Int'l Prop Law & Prac* 1, 10 (2021).

Daniel Kolo, The law of virtual worlds: Intellectual property and the metaverse, 26 *Jour Bu Technol Law* 1, 30 (2021).

Aditya Mehrotra
Student, Symbiosis Law School, Pune

INTERESTING FACT

- Depending on the location of the server, a published or soon-to-be-published work is sitting on, the copyright and trademark laws can change based on the country holding the actual physical server.

EVENTS AND ACTIVITIES OF ACIPR

2023

- **ACIPR Bulletin, Volume-2, Issue-2 released on 17th January, 2023:** The articles, news and expert talks in this edition were contributed by students from Alliance University as well as from other Universities across the nation and by IP Advocates from different Law Offices.
- **ACIPR Blog released in January 2023:** The Blog was released in January 2023 to provide a creative platform for discussing developments, exploring, gaining and increasing knowledge in various fields of IPR. The blog runs on a rolling basis and publishes fortnightly.
- **NIPAM, Government of India, IP Awareness Programme**: Was held on 17th April 2023. The workshop aimed to create awareness and educate the attendees about the fundamentals of intellectual property rights (IPR) and its significance in the current scenario.
- **National Workshop on Artificial Intelligence's Impact on Intellectual Property:** Was held on 26th April 2023. Attended by more than 250 participants from different universities and law offices in India. The event was also captured in WIPO's World Intellectual Property Day event calendar. The event was also promoted on legal websites like Lawctopus, legal bites, etc.
- **Handbook on Biodiversity Protection in India released on World IP Day:** The book was released on 26th April, 2023. The book focuses on Intellectual Property laws and their role in the protection of traditional knowledge, genetic and biological resources.

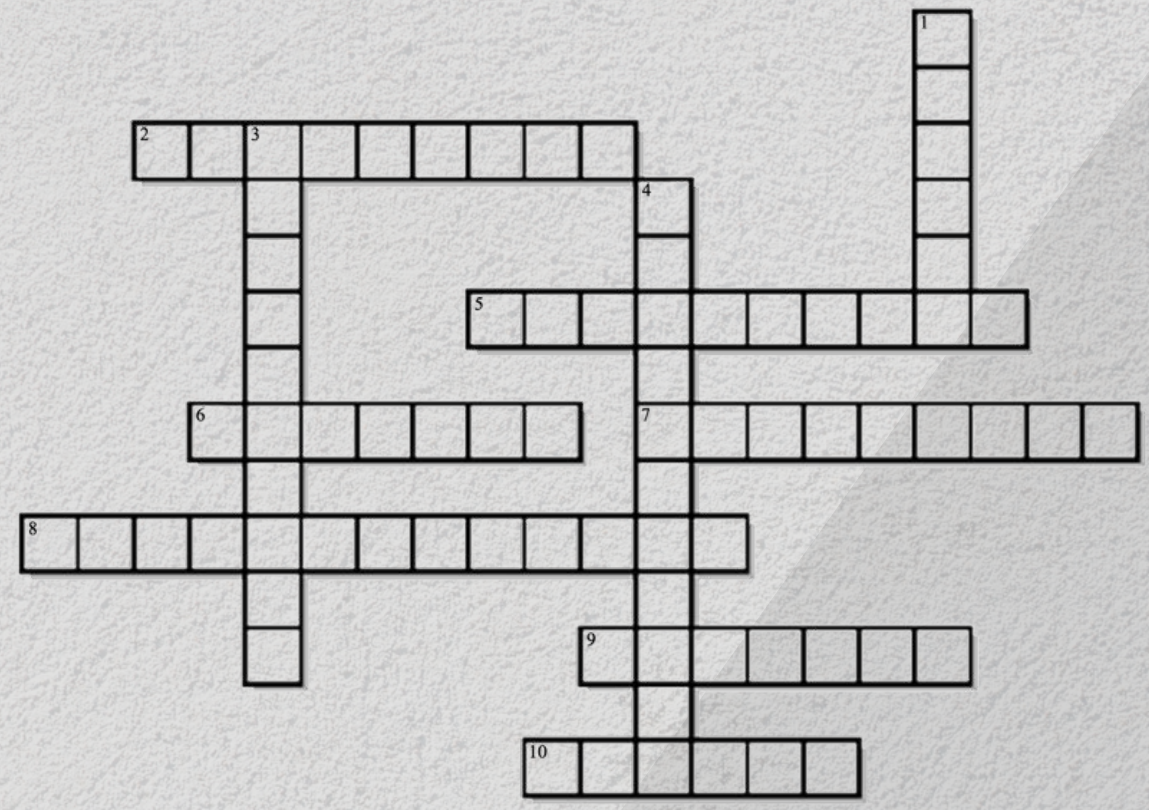
UPCOMING EVENTS

- **Research on New products eligible for GI registration in the State of Karnataka:** An ongoing research project to find out New products eligible for GI registration.

STUDENT MEMBERS OF ACIPR

- **Mr. Paarth Samdani - President,** B.B.A. L.L. B. (2018-2023), Alliance School of Law
- **Ms. Ipsita Sarkar - Vice President,** BB.A. L.L.B. (2019-2024), Alliance School of Law
- **Mr. Ajinkya Malgaonkar - Convener,** B.B.A. L.L. B. (2019-2024), Alliance School of Law
- **Ms. Sonam Pradhan - Secretary,** B.A. L.L. B. (2019-2024), Alliance School of Law
- **Mr. Madhav Goyal - Creative Head,** BB.A. L.L.B. (2019-2024), Alliance School of Law
- **Ms. Kavitha Christo Nelson - Research Scholar,** Alliance School of Law
- **Ms. Nupur Adawadkar - Research Scholar,** Alliance School of Law
- **Mr. Aditya Sharma,** BB.A. L.L.B. (2019-2024), Alliance School of Law
- **Mr. K. Pramod Kumar,** B.A. L.L. B. (2018-2023), Alliance School of Law
- **Mr. Kislay Tarun,** B.B.A. L.L. B. (2018-2023), Alliance School of Law
- **Mr. Mutaman Amir,** B.A. L.L. B. (2018-2023), Alliance School of Law
- **Ms. Amulya Baid,** B.B.A. L.L. B. (2018-2023), Alliance School of Law
- **Ms. Ashmita Mitra,** B.B.A. L.L. B. (2018-2023), Alliance School of Law
- **Ms. Bhavana Tewari,** B.A. L.L. B. (2020-2025), Alliance School of Law
- **Ms. Bhavishya Gangwani,** B.A. L.L. B. (2020-2025), Alliance School of Law
- **Ms. Chanvi,** B.A. L.L. B. (2018-2023), Alliance School of Law
- **Ms. Charuprita,** B.A. L.L. B. (2018-2023), Alliance School of Law
- **Ms. Indra Priyadarshini,** B.A. L.L. B. (2018-2023), Alliance School of Law
- **Ms. Jeevana H Reddy,** B.B.A. L.L. B. (2020-2025), Alliance School of Law
- **Ms. Mahek Panjwani,** B.A. L.L. B. (2020-2025), Alliance School of Law
- **Ms. Pari Agrawal,** B.B.A. L.L. B. (2019-2024), Alliance School of Law
- **Ms. Sanskriti Oraon,** B.A. L.L. B. (2019-2024), Alliance School of Law
- **Ms. Vishnupriya Prabhakar,** B.A. L.L. B. (2018-2023), Alliance School of Law

TRIVIA



Across

2. Artistic works are protected under which Act?

5. _____ Designs refer to creative activity which results in the ornamental or formal appearance of a product.

6. The legal doctrine that allows the reproduction of copyrighted works for educational purposes without permission.

7. Imagine a sports team sets up a company to sell its own range of clothes. What type of intellectual property can the team use to show the clothes are made by them?

8. The 'term' for the legal agreement between two parties to protect confidential information or trade secrets?

9. Government may order the non-advertisement of any patent application in the case of invention related to _____.

10. New technology is developed by a company to improve its main product. What type of intellectual property can be used for protecting their subsidiary invention?

Down

1. In which city the headquarters of the World Intellectual Property Organization was established in 1967?

3. The 'term' for the act of copying someone else's copyrighted work for personal or commercial gain?

4. The 'term' for the unauthorized use of a trademark which is "substantially indistinguishable".

Answers - 1. Geneva, 2. Copyright, 3. Plagiarism, 4. Counterfeit, 5. Industrial, 6. Fair Use, 7. Trademark, 8. Non-Disclosure, 9. Defense, 10. Patent

Alliance University

Chikkahagade Cross
Chandapura - Anekal Main Road
Bengaluru - 562 106
Karnataka, India.

Website: www.alliance.edu.in

Contact Information

acipr@alliance.edu.in

www.alliance.edu.in/committees/acipr

ALLIANCE CENTRE FOR INTELLECTUAL PROPERTY RIGHTS