

Copy-paste? Think twice

No, the Internet is not like international waters. *MetroPlus* takes a deep dive into the world of online plagiarism and shares where netizens should be vigilant

Truth has perhaps been the most obvious casualty of the Internet age, as copy-paste culture has permeated the creative process. And nowhere has this been more visible than in mass media.

With the lockdown adding to the woes of an already economically stressed sector, the print industry has become victim of fly-by-night operators who duplicate copyrighted material, often within seconds of its publication online.

After the lockdown, copyright and trademark violations have increased in the virtual world, says N Karthikeyan, cyber law advocate at the Madras High Court. "These days anyone with a mobile phone can start a YouTube channel. With no legitimate source for content, creators are stealing copyright-protected material," he says in a phone interview. He also cites the growing incidence of fake domains being created during the lockdown.

These domains, which have names similar to the original versions, can divert the traffic from the real brands. Criminals use Search Engine Optimisation (SEO) techniques to ensure that the spurious sites get a higher Google ranking. "We are filing these cases separately under the Uniform Domain-Name Dispute-Resolution Policy (UDRP) at the Domain Name Dispute Centre, against the offender and the domain registrants," says Karthikeyan.

Know your IP rights

Ignorance of the law can no longer be an excuse for content creators, says Tarun Khurana, co-founding partner and patent attorney of Khurana & Khurana (K&K) and of its Patent Research and IP Asset Management Firm, IIPRD, headquartered in Delhi.

"Copyright is not just with respect to your written content, but also to numerous other form-factors such as using images, lyrics, soundtracks, videos, or parts of it, without legal permission or authority," says Khurana in an email interview. "The law of copyright protects your work and gives you legal recourse to prevent people from copying it and/or distributing copies without your permission. Social media platforms like Instagram, Facebook, Pinterest and Twitter lay down, in their terms and conditions,

that when anyone creates an account on these platforms, they give away a licence for the handlers to use any content shared, royalty-free throughout the globe. Most users do not see these terms but content creators have to be aware to understand their IP rights. All content must be in accordance with the relevant sections of the Information Technology Act."

Plagiarism and follow-through's

"There are different kinds of plagiarism happening right now," says R Prabhakar, vice president, Legal, General Administration, *The Hindu*, in Chennai. "One is the



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complete-lifting of our trademark and its contents, and selling the product as if it is from our parent company. These plagiarists are trying to capitalise on the public response to our original product for their own gain. Then there are those who copy our content without our trademark, in different platforms and channels, and pass it off as their own."

Plagiarism has become so pervasive that even big name entities have been tempted. "I was surprised to see a photograph from my Instagram page used for an unrelated topic," says Nirrali D Sanghvi, a hotel industry employee in Chennai who chronicles her experiences through her 'The Gujju Nomad' Instagram account. "I was shocked to see the photo of a mug that I had taken, being used in a major daily, without my permission."

With the usual gate-keeping procedures of old media now consigned to (pre-digital) memory, publishing has become an

instantaneous process. The increased amount and variety of information available online has however been accompanied by a loss of attribution.

"Trying to figure out who is ultimately responsible for lifting content is a challenge," says Prabhakar. "The registered owners of the website say they aren't responsible for the content. Or they will ask for paperwork which takes a lot of time for both sides to sort out. Many people often claim that they are only the 'intermediary' in the equation, and point us to others who supplied the material. When you look closely, these digital companies are based abroad in countries like Russia or China," he says.

The lockdown has hastened the use of e-paper format among print media companies in the absence of physical printing. It has also made the unofficial 'borrowing' of material more common. In May this year, the Delhi High Court directed owners of the Dubai-based messaging app, Telegram, to disclose the identity of users who were running channels on its platform to illegally share the e-paper version of the *Dainik Jagran* newspaper on a daily basis.

"If you are going to court, you have to figure out if it is a single person or the so-called intermediary who is the culprit. Many companies will try to seek the protection of the Intellectual Property Rights Act, saying that they have no control over the content. But then, they are supposed to have due diligence over what they are doing, just like any other company. These concepts have to be developed in the IT field," says Prabhakar.

Borderless crime

Cybercrime has always been borderless, says NS Nappinai, advocate, Supreme Court of India and founder of the non-profit organisation Cyber Saathi. A specialist in IPR since 1991 and cyber laws since 1995, Nappinai says that data theft and cybercrime in general have been evolving in nature and impact.

Despite the slow pace of the law, there are legal provisions to deal with cybercrime. "Many times remedies in law are missed even by professionals merely because they may not have the headings 'ransomware', 'revenge

porn' or 'cyber extortion', but there are legal remedies," says Nappinai over phone from Mumbai. "Headings are not relevant to interpret law. It is what is contained in the provisions that matter. If you are going to spread a wrong message, then you are also emboldening the criminal."

In 2019, the Delhi High Court introduced the 'dynamic injunction' that allows rights holders to engage the Joint Registrar of the Delhi High Court (an administrative position), to extend an injunction order already granted against a website, against a similar 'mirror/redirect/alphanumeric websites etcetera.'

While this may speed up redressal, it also has some caveats. "Copyright often has been used as a tool by people who want to censor speech. So even if they don't see a copyright violation, they may still approach the court. More often than not companies are willing to take down the content because they also have some liability on the website owner in case the infringement is upheld by the court," says Anubha Sinha, senior programme manager and trained lawyer, at the non-profit Centre for Internet and Society (CIS), in Delhi.

System reboot required

Nappinai feels that overhauling the system including the laws and judicial process will make law enforcement stronger. "The simplest and most immediate change you can bring is to the intermediary guidelines, which clearly set down *inter alia* that you cannot post content which violates copyright or any other proprietary right of intellectual property. But the remedy available now is that a take-down can happen only through a court or Government order. Where does that leave the victim?" she asks, adding that long-winded legal proceedings are now mandated to take down offensive content.

"If we are inviting Make in India programmes, we also have to strengthen our enforcement against intellectual property rights violations, not just posture with more laws. I hope that India will lead the effort to bring international cooperation to combat cybercrime and international enforcement mechanisms," Nappinai says.