IPR ISSUES IN CYBERSPACE: STUDY WITH REFERENCE TO COPYRIGHT INFRINGEMENT IN CYBERSPACE AND CIRCULATION OF FREE BOOKS

Arisia[*]

Abstract

There are gaps in the implementation of Intellectual Property Laws in Cyberspace specifically with respect to the distribution of free books in digital spaces. The access to copyrighted material online has been examined with respect to intellectual property laws and information technology laws in place to regulate the conduct of individuals in cyberspace. The paper attempts to highlight the causes of the failure of copyright laws in the digital medium and carve out a solution of the problem.

Keywords: Cyberspace, Information Technology, Copyright Laws, Infringement, Fair Dealing, Fanfiction.

1. Introduction

IPR, which is the abbreviation for Intellectual Property Rights, if described in a very straightforward manner, would be rights one person has over any distinctive work that they have created by themselves. To put it succinctly in a single sentence, IPR offers ownership of any inventive design or any form of work that is not common or similar to an already existing work to the individual or individuals who created such a design or work.

Thus, IPR provides rights over intangible assets owned by a person or a company and protects against use without consent so as to protect the creators' hard work and prevent people from profiting off of other people's work. At a superficial glance, this issue seems black and white, but rarely does an issue ever exist without a grey area. It is easy enough to ramble on about how the inconsistent copyright laws and the freedom in the online space harms creators, which is true enough, but that truth is something everyone is comfortable empathizing with.

[*] BA.LL.B. Student, Himachal Pradesh National Law University, Shimla.

Instead, let us begin this with an uncomfortable truth: Higher education is expensive. Even if a student lives a comfortable enough life and can pay for his own food, he will not turn down free food from someone else. If one manages to get certain aids like academic scholarships, one still has to pay for lodging, food, and not to mention books and academic resources. Even if one has money to spend on academic resources, what of extracurricular readings? How is one meant to survive in an academic field with limited copies of books in the library on limited topics? So, where academic resources and books cost an amount that may not always be expensive but still causes one to think thrice before buying them, it should not be a surprise that any sources that offer one free books are in demand.

This essay does not intend to approach the topic of the distribution of free books online in an entirely empathetic manner, but the reason these sites exist cannot just be disregarded. The other side of the protection of copyrights is the fact that in certain cases, the profits do not even go to the authors. The most relevant example of this would be publishing houses using an author's paper for free and then charging others to read it when none of the profits even go to the author. Certain academic scholars are willing to provide their research for free via email rather than directing people to publishing houses.

The reason this essay focuses only on the distribution of free books instead of movies and other copyrighted material is because of the moral grey area that comes along with the distribution of free books. To clarify, IPR violations in cyberspace are a serious issue, and the laws struggle to protect the rights of creators which is unfortunate and must be rectified. However, when it comes to the distribution of books, most people tend to believe that they are doing it for altruistic purposes. How well these altruistic intentions translate into actions shall be discussed hereon.

2. IPR Issues in Cyberspace

Before one can move on to copyright infringement, a brief idea about issues regarding cyberspace must be given. With the growing internet dominance and e-commerce, the significance of Intellectual Property Rights has also exponentially shot up. As accessible as everything has become, it is easier to use someone else's Intellectual Property. The anonymity of the internet and the difficulty in tracking every instance of

IPR violations make these acts infuriatingly easy for the person engaging in them to escape liability.

To get to the root of the problem, we will first have to get acquainted with a few things, starting with the concept of 'Cyberspace'. The non-physical environment in which computers communicate via computer networks is referred to as 'Cyberspace.' With the advancement of technology, everyone has the right to access cyberspace and share information unless they are in any way in conflict with the law. As a result, cyberspace has evolved into a business platform, increasing the importance of intellectual property. In cyberspace, it is not uncommon for one individual to benefit by using another individual's product or creation without their permission. There are laws in place to prevent the infringement of intellectual property rights in cyberspace, and these laws are backed by remedies that can address infringements, should any arise. However, the laws in place are largely inconsistent with the nature of cyberspace, thereby causing problems in their implementation. The uproar among digital artists regarding AI art generator apps stealing their art styles and artworks received a lot of attention, but there was barely any legal action regarding the problem. The issue in itself is fairly complex however, it would not be an oversimplification to state that there simply isn't a way to prove intellectual property theft in the case of these apps which is the core issue of all almost problems where cyberspace intersects with intellectual property law.

To further understand our problem, we need to understand something known as an ISP. An ISP is an entity that connects people to the internet and provides other related services such as website building and hosting. When such ISPs participate in storing or making available materials provided by another that have copyright or related rights, they could be liable for copyright, and such liability could arise in one of two ways:

1. If the ISP itself is found to have engaged in unauthorized reproduction or communication to the public;
2. If he is held responsible for contributing to or making the Act of infringement.[1]

[1] Raman Mittal "Online Copyright Infringement Liability of Internet Service Providers", 46(2) (IPR Special Issue) *Journal of the Indian Law Institute* 288. (2004).

Under the Indian Copyright Law, no explicit liability of ISPs has been laid down and the Information Technology laws provide only talk of 'intermediaries' who have also been granted an exemption under the laws if they follow certain guidelines and perform due diligence.

Intellectual property infringements are of different types; however, the ones that are usually in focus in cyberspace are trademark infringements and copyright infringements for the distribution of books however, copyright infringements shall remain the focus. Copyright protection gives the author of a work a certain "bundle of rights," including the exclusive right to reproduce the work in copies, to prepare derivative works based on the copyrighted work, and to perform or display the work publicly. When another party infringes on these bundles of rights, this infringement is termed as a copyright infringement. [2]

Let us consider that a particular author publishes a novel or any other literary book. Such an endeavor requires a considerable amount of an individual's creativity and intellect. Where such a book may be made available for free by a party who does not own the rights to it without the consent of the author or the person who owns the rights to the work, then such an act will be an infringement of the intellectual property—copyright infringement in this particular case to be specific—and such an infringement will cause considerable loss to the owner of the intellectual property rights.

When considering the distribution of free books, we have to consider the public's interest in getting free resources and the author's financial incentives.

To get a better glimpse into the motives behind the distribution of free books, we shall consider the modes via which specific individuals make certain books available for free. Some of these are legal, whereas others are a complete infringement of one's intellectual property rights. When one establishes the difference between the two, one will clarify what exactly amounts to copyright infringement.

[2] The Copyright Act, 1957(Act 14 of 1957).

3. Project Gutenberg

Project Gutenberg is a database with a compilation of thousands of free books; however, this project is, for the most part, legal and has not committed copyright infringements as:

1. It only offers access to books that were written by authors who are long dead and whose estates have surrendered the copyrights or whose copyrights have expired. This means that anyone can distribute this intellectual property, so this side of Gutenberg is legal.
2. It offers access to books whose authors have given Project Gutenberg their permission to circulate the books.

The simple answer, therefore, in the case of Project Gutenberg is that it only offers access to books that are available in the public domain. However, one cannot ignore the glaring hole in this answer that originates from the fact that different countries have different copyright laws. They are not consistent with each other. Hence, something that may be available in the public domain in one country may still be copyrighted in another country. This project ran into the aforementioned problem in 2018 when a German publisher by the name of S. Verlag, who held the copyright of certain books that were made available on Project Gutenberg for free under the US copyright law, the books were considered to be in the public domain, but that was inconsistent with the German copyright law. The German publisher won the case, and the organization that operates Project Gutenberg had to comply with the court's orders, and access to Gutenberg.org and its subpages was blocked in Germany.[3]

The copyright rules for other countries as given by project Gutenberg are: *The general rule for the minimum term of copyright protection is the life of the author plus 50 years (extended to life plus 70 years in many countries, as a result of the globalization of copyright laws and pressure from content owners).*[4]

[3] *Project Gutenberg Literary Archive Foundation v. The German Publishing House S. Fischer Verlag GmbH*, 2-03 O 494/14, at 16.

[4] "Project Gutenberg: Copyright How-To", *available at*: https://www.gutenberg.org/help/copyright.html#rule-8-us-government-works (last visited on January 15, 2023).

When someone publishes or distributes in the United States, US law applies. When someone publishes or distributes in other countries, their law applies[5]. Thus, if one were to publish and distribute a book in India, it would be done according to Indian copyright laws, i.e., Section 22 of the Copyright Act, 1957, would apply if someone were to end up suing Project Gutenberg on the same grounds as in the case of **S**. Fischer Verlag Gmbh v. Project Gutenberg Literary Archive Foundation[6], which has been previously discussed.

Thus, if someone were to submit a copyright clearance to Project Gutenberg, then such a copyright clearance should be in accordance with the laws of the country in which they intend to publish and distribute the work.

The Project tries to offer copyright protection to the works it publishes:

The key concept for protection of published foreign works under US copyright law is to grant copyright protection in the US under US law, equivalent to that afforded to the US Works created and first published at a similar time, to works of foreign countries that grant reciprocity to the US works in their territories under their copyright laws.[7]

However, such a task is very hard to accomplish considering the nature of IP laws in cyberspace.

Thus, to keep a project that offers access to free books free from any copyright strikes is not an easy task considering the inconsistencies in the laws of various countries. Thus, this is the issue of territorial copyright laws. Even for a project that only intends to do good and provide free access to books for people who may not be in a position to pay for them while also not infringing on the copyrights of authors, the waters of IP law and copyright protection are too harsh to navigate.

4. Libgen

"Library Genesis" is what would be called a shadow library. It is a searchable database of material compiled from websites available in the public domain or material uploaded by the users of the library. It offers academic material such as books, magazines, and journal articles for free. Now, unlike Project Gutenberg, LibGen contained a

5 *Ibid.*
6 *Supra* note 3.
7 *Ibid.*

significant amount of material that was published without permission from copyright holders, and to make matters worse for them, all this copyrighted material was freely available worldwide with no geographic restrictions. Thus, the website was made inaccessible by multiple ISPs in many countries. It was not a surprise when a US court ordered it shut down and suspended the original domain name.

Extrapolating from the conclusion that the intentions of a site hardly help it from copyright infringements, LibGen makes zero effort to not copyright infringe unlike, Project Gutenberg, and yet, this site offers access to arguably ten times more material than Project Gutenberg does. How does that happen when it has been suspended?

LibGen now runs via proxy mirrors, which, in the most simple terms, are clones of the original websites. Hence, the material that was on the original site is still on the internet and is accessible. Enhanced encryption is used by the finest and most popular VPNs, such as ExpressVPN, wherein one's gadget will also store encryption keys. These measures prevent anyone without access to one's device or access to very advanced government technologies from detecting the websites one visits. Networks use deep packet inspection software to inspect all data sent over the internet, however, the monitoring software will not be able to check this information if it is encrypted thus, VPNs can avoid any local network controls because of this encryption. Furthermore, several domains exist, and IP addresses change every 5 minutes, which may be achieved by utilizing *Tor*[8], making it difficult to keep track of these sites and shut them down or block them.

LibGen has been getting sued left, right, and centre, and yet there are still multiple ways to access the material uploaded on the original site.

Keeping the technical issues aside for a moment, if one were to talk about the case[9] of LibGen in India, where it is still pretty much accessible via the previously mentioned means, there are certain aspects to consider, such as the fact that the doctrine of fair dealing which came up in the Delhi University photocopy[10] case. Thus, drawing

[8] *Tor* uses the concept of "onion browsing", which in turn refers to a mode of browsing which keeps the identity of the user anonymous. In other words, the information of the person is routed through multiple servers and is encrypted at every instance of such routing, much like the layers of an onion.

[9] *Elsevier Ltd. v. Alexandra Elbakyan*, 2022 SCC OnLine Del 3677.

[10] *Chancellor v. Rameshwari Photocopy Services*, 2016 SCC OnLine Del 6713.

attention to the Copyright Act, 1957, in particular Section 52 of the Act, which talks about the use of copyrighted material being exempt from protection under copyright laws if the same is being used for educational or research purposes. Section 52 highlights the difference between the fair dealing of works and their reproduction. The Delhi University Photocopying case exemplified the use of the doctrine of fair dealing copyright when it is done for educational purposes and research.

This judgement at the very least steered the conversation in the direction of the purpose for which sites such as LibGen and Project Gutenberg claim they exist: access to knowledge. The doctrine of fair dealing provides some flexibility to intellectual property laws. Although the existence of the doctrine in itself is not enough to remove all legal ramifications of infringing copyrighted material for educational or research purposes, it was still a step to clarify the position of courts with regard to the intersection of altruistic action and the infringement of copyright. The jurisprudence on the topic of fair dealing under current Indian laws is the closest one can get to the purpose behind a copyright infringement being a material factor in deciding the liability of such an infringement.

5. Fair Dealing under the Indian Copyright Act, 1957

Under the Indian regime legal framework being the Copyright Act, 1957, section 52 lays down certain acts or works that cannot be considered as an infringement of copyright, namely fair dealing with a literary, dramatic, musical, or artistic work not being a computer program for the purposes of-

> fair dealing with any work, not being a computer programme, for the purposes of—
>
> (i) "private or personal use, including research;
>
> (ii) criticism or review, whether of that work or of any other work;
>
> (iii) the reporting of current events …
>
> … judicial proceeding;[11]

Thus, if the books or written material is being reproduced or distributed without the copyright holder's consent, but such an act is done for purposes that fall under the

[11] The Indian Copyright Act, 1957 (Act 14 of 1957), s. 52.

ambit of Section 52 of the Copyright Act, 1957, then the material shall not be held as infringing. Even where a particular person uploads a book to their Google Drive for their own personal use, they will not be held as copyright infringing as it is for their own personal use, and if the individual offers access to their Google Drive to other people, even then such an act cannot be acted upon by the copyright laws. The internet is littered with Google Drive links providing access to virtual copies of various books. If one has enough patience to look, the internet is bound to have a copy of any book one might need access to. With reference to the application of the doctrine of fair dealing and its scope, it becomes pertinent to cast a look at the way the case laws on the topic have evolved:

5.1. Civic Chandran v. Ammini Amma[12]

The Kerala High Court decided in this case that under the fair dealing exemption, even substantial copying of copyrighted content is permitted if the copying is in the public interest. The court categorically laid down that the purpose of the counter-drama was not to convey the meaning of the original drama itself but to criticize it. However, paragraph 27 of the judgement also puts forth the possibility of competition between the two works as being one of the relevant factors to be considered while deciding whether an injunction could be granted on the screening of the counter-drama. Thus, the courts consider a holistic approach while applying this doctrine.

5.2. Academy of General Education Manipal and Another v. B. Malini Mallya[13]

The Supreme Court determined, in this case, that Section 52 of the Copyright Act of 1957 outlines some activities that do not constitute a copyright infringement. The right under the Act cannot be asserted where fair trade is made, for example, of a literary or theatrical work for the purpose of private use, research, criticism, or review, whether of that work or any other work. Paragraphs 39 and 40 of the judgement further explain the circumstances that would be covered under the phrase 'private use'.[14]

There are parallels to this fair usage or fair dealing doctrine in the copyright laws of various countries.

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12 *Civic Chandran v. C. Ammini Amma*, 1996 SCC OnLine Ker 63.
13 *Academy of General Education v. B. Malini Mallya*, (2009) 4 SCC 256.
14 *Id*. at para 39.

5.3. The Chancellor, Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services[15]

"*Making course packs for suggested reading for students by photocopying portions of various prescribed reference books does not violate the copyright of the publishers*," the court ruled in this case. According to the circumstances of the case the plaintiffs in the lawsuit were Oxford University Press, Cambridge University Press, and its Indian branch, Taylor & Francis. They filed a lawsuit seeking a permanent injunction to prevent Rameshwari Photocopy Services and Delhi University, through the Delhi School of Economics, from infringing on their copyright in numerous publications that were reproduced and provided to students in course packs. Only chosen elements of the Delhi School of Economics component of the pack were required to be replicated; the complete pack was never required to be reproduced. The following were the issues presented in the case:

1. Whether unauthorised distribution and reproduction were infringing acts?
2. Would the provision of course pack cause Delhi University to directly compete with the plaintiffs in the market for textbooks in the field of education?
3. Did the production and redistribution of such copyright content violate the licensing scheme administered by the Indian Reprographic Rights Organisation?
4. Was the interpretation of the Indian Copyright Act in accordance with the international copyright treaties and comparative legislation provided for in other countries?

However, the judgement does not say anything on whether, in the court's opinion, the reproduction of the entire book is permitted or whether simply snippets from various volumes are permitted. According to the provisions of the Copyright Act, 1957, the verbatim lifting of content from multiple books constitutes copyright infringement, so the Judge must carefully analyse many factors before deciding whether a work qualifies as fair dealing or not.

[15] *Supra* note 13l at 10.

Thus, the application of the doctrine of fair dealing is also a complex issue. One can say that the hesitance of the laws to offer significant relief to students only directs more traffic towards sites such as LibGen. At the same time, it must be acknowledged that this hesitance is founded on some very valid grounds. Granting more flexibility to intellectual property laws would be dangerous and harmful to every creator. One must not forget that the aim of intellectual property laws is to protect the creators' rights over their creations.

6. Fanfiction

One can examine the doctrine of fair use internationally using the example of fanfiction. Fanfiction does not involve directly plagiarizing copyrighted material; hence, it becomes a unique example of how intellectual property laws deal with something known as, 'transformative works.'

Fanfiction may be immune from copyright infringement if it can show that it is of fair use under copyright law. The four-factor test[16] states as follows:

The purpose of the work: fans to experiment with their favourite characters in their imagination.

The nature of the work: Most fan fiction is not for profit.

The amount of work that has been copied: Famous characters from books, novels, and films have been used in fan fiction to create an entirely new world of adventure.

Effect on the original work: Because fanfiction does not seek to compete with the original work, it has no negative impact on it.

For the most part, fanfiction, as it is a derivative work of original copyrighted material, was liable to be sued for copyright infringement. Recently deceased author Anne Rice was notorious for relentlessly suing any derivative works of her original novels. In

[16] 9 F. Cas. 342 (C.C.D. Mass. 1841) (No. 4901).

light of such events, Archive of Our Own was formed. This site is an excellent example of the doctrine of fair usage in play.

In the case of *Campbell v. Acuff-Rose*[17], the American Supreme Court laid down what would amount to a transformative work. It was held when a work is transformative when it adds something new to the pre-existing work or that there is an alteration to express a new meaning or message. In the opinion of the US Supreme Court, transformative works can be, given some amount of breathing space in the confines of copyright, and the more transformative a work may become, the newer it shall be and hence it would be covered under the ambit of fair usage. Thus, in the opinion of US Supreme Court, transformative works are not infringing.

The site itself explains that fan works fall under the category of free and fair usage and are not infringing according to the US copyright laws:

The law also provides a list of factors to consider in determining whether a particular use is allowed:

1. *The purpose and character of the use, including whether such use is of a commercial nature or is for non-profit educational purposes;*
2. *The nature of the copyrighted work;*
3. *The amount and substantiality of the portion used in relation to the copyrighted work as a whole; and*
4. *The effect of the use upon the potential market for or value of the copyrighted work.*[18]

Courts generally balance all four factors in deciding whether something is fair use -- no single factor determines the answer.[19]

In the context of determining fair use, transformative works are also to be considered. Fanfictions are considered derivative work in some aspects, but they could also be considered transformative in some other aspects. Transformative works are

[17] *Campbell aka Skyywalker, et al. v. Acuff-Rose Music, Inc.*, 1994 SCC OnLine US SC 22.
[18] United States Code, 2006, Title 17, s.107.
[19] Archive of our Own, "Fanworks, Fair Use, and Fair Dealing", *available at*: https://archiveofourown.org/admin_posts/9918 (last visited on January 20, 2023).

considered to be a subset of derivative works. All derivative works are not copyrightable, but those that are copyrightable are considered to be transformative works.[20]

At this juncture, moral rights are also to be referred to. Moral rights are a part of copyright law which have been recognized in India through S. 57 of the Copyright Act, 1957, but they are not recognized in the USA. This is a fundamental difference that does have its own role to play in understanding copyright and fanfictions. According to S. 57, distortion of the work of the author would lead to the moral rights of the author being infringed. The fair dealing doctrine must also be analysed in this context. The fair-use doctrine of the U.S. and the fair-dealing doctrine of India are parallel concepts. The differences between the two are limited–the evolution of law becomes a material factor while highlighting the divergence between the two concepts. Where the doctrine of fair usage has been reasonably developed with a considerable amount of jurisprudence and judicial interpretations available of the same, the doctrine of fair dealing in India has not been developed substantially. The case of *V. Ramaiah v. K. Lakshmaiah*[21] the concept of the independent contribution of the author was considered while adjudicating on matters of copyright infringement. The factual matrix of the case being whether a study guide containing parts of the book '*Girija Kalyanam'* would fall under the ambit of copyright infringement. The court explained that, "*Suppose, the defendant used the entire textbook without making any independent contribution and used it as his work and marketed it for the purpose of the general public. Certainly, his conduct would constitute an infringement of the right of the original author*."

Wherein the author of the study guide had acknowledged the original writer of the book and had added upon the source material giving his own annotations to help students, the same was not held to be copyright infringing material. Similarly, in case of *Chancellor Masters v. Narendera Publishing House*[22] the court discussed the concept of transformative work under Indian copyright laws:

"Thus, the defendants' works can be said to be 'transformative', amounting to "review" under Section 52(1)(a)(ii) of the Act. Here, the term "review" has to be

[20] Aparna Venkataraman, "Diving into the Realm of Fan-fiction and What it Means for Copyright Law", 4(1) *International Journal of Law Management & Humanities* 562 (2021).
[21] *V. Ramaiah v. K. Lakshmaiah*, 1988 SCC OnLine AP 295.
[22] *Chancellor Masters v. Narendera Publishing House*, 2008 SCC OnLine Del 1058.

interpreted in the context. The plaintiffs claim to copyright is premised the work being a "literary" one."

The publishing of step-by-step solutions to a mathematical problem in a study guide fell under the ambit of the doctrine of fair dealing being a transformative work. Although this concept has not been explained concretely in any of the Indian jurisprudence, it cannot be said that there is no scope for expansion under this doctrine considering how widely applicable its sister doctrine in U.S. is. The lacuna appears once again with respect to a severe lack of concrete statutory provisions or judicial interpretation of the existing provisions which deal with the use of copyrighted material in the digital sphere for various reasons. Where Indian courts have not left the concept of transformative works completely untouched, it does remain untouched in the specific case of fanworks. Whether or not a person can be prosecuted for copyright infringement in India for publishing a derivative but transformative work of a well-known novel or any other literary work remains to yet be answered concretely. The Information Technology Act, of 2000 came into force as there was a need for statutory laws to regulate cyberspace however, even in 2023, the conclusion one is still deriving from an analysis of the existing case laws and statutory provisions is that the development of intellectual property rights with respect to cyberspace is still in its nascent stage.

7. Google Books Library Project

Google books library project can be labelled a failure without much thought. The aim of the project was a mass digitalization of all books in all languages which the project did not even come near to achieving. Currently, the project only offers snippets of copyrighted material in the wake of the failed settlement between Google and the authors guild in the case of *Authors Guild v Google Inc*.[23] The database contained scanned copies of entire books but only displayed snippets of them which amounted to fair usage under U.S. copyright laws. The copyright owners were allowed to claim their share of the profits from the project leaving behind only books with no traceable ownership. However, the main object of the project was met was a glaring failure[24].

[23] 70 F. Supp. 2d 666 (S.D.N.Y. 2011).
[24] Murrell, Mary. "Out of Print: The Orphans of Mass Digitization." 58(15) *Current Anthropology* 149–59 (2017).

In the case of *S. Fischer Verlag Gmbh v Project Gutenberg Literary Archive Foundation*,[25] the court based its decision on the risk of circumventing copyright protection. It was explicitly noted that the expiration of copyright in the nation where the provider of such access resides should not determine the public accessibility of works. [26]

Thus, in the case of the Google Books Library Project, as was in the case of Project Gutenberg, it is a battle of conflicting copyright laws. Where it may not be hit by copyright infringement in one country, it will most definitely be hit by it in another. More importantly, the fall of this project becomes important as do the problems that Project Gutenberg runs into when one tries to explain how intellectual property laws are not targeted correctly. The need and object of copyright laws are clear, yet, the gaps in their application leave any onlooker much irritated. If the purpose of any project using a substantial amount of copyrighted material that may not be covered under the doctrine of fair dealing/ fair use is to be rendered immaterial when fixing liability for copyright infringement, then the laws must be either revised in accordance with the technological advancements to cover any proxy sites or clone sites as well along. Else, there must be made some more breathing room in the legislature for copyrighted material that is being used for altruistic purposes apart from the comprehensive list of circumstances given under Section 52 of the Copyright Act. What is glaringly obvious here is the fact that neither the projects nor the laws are meeting their goal, hence, one must relent.

8. Conclusion

Copyright infringement in the case of free books in cyberspace is a complex knot to unravel, to say the least. The doctrine of fair dealing is the only doctrine that allows breathing room under the copyright laws of India. Further, moving away from the Indian aspect, one realizes that one runs into the problem of territorial jurisdiction quite often in the case of copyright infringement in cyberspace. There are many conflicting laws to consider before one can call a particular site 'legal'. Even then, a site offering access to free books may not be perfectly legal, as some country somewhere will have copyright laws inconsistent with it. Thus, the existence of such sites depends on the countries

[25] *Supra* note 3.

[26] Maiia Otchenash, "Suing Online Platforms for Copyright Infringements: the Choice of Court and Law in the 'Project Gutenberg' Scenario", 29 *Journal promoted by the Law and Political Science Department* 4 (2019).

independently trying them for copyright infringement and blocking access to them. India is still on its way to solidifying its stance on IPR and copyright infringement, with the case on Sci-Hub and LibGen still pending. It can be noted that the verdict of the aforementioned case may change the copyright laws in India quite significantly.

We have acknowledged the reason for the existence of such sites. We have acknowledged the laws in place to provide a solution to those problems. However, it is evident that the solutions offered by the law are nearly not enough and if the law offers more flexibility, it will cause harm to the copyright holders. In this conversation, another question crops up: if one cannot afford such books then why should they be given access to them? The simple answer is this: Knowledge should be made accessible to everyone with no economic barrier.

The existence of public libraries has been the pillar of academics for a long time in various societies. Building an online public library that is accessible to students easily or empowering projects such as Archive.org and Project Gutenberg is not impossible. There must be other options to access online archives apart from institutional accesses. Archive.org has been singlehandedly archiving the internet since 1996 with over 625 billion webpages, 38 million books, and texts, 14 million audio recordings, and 11 million images and videos available for free. Its mission is universal access to all knowledge. To lose all this data to a lawsuit because publishers disagree with Archive.org lending books would amount to the same loss as the burning of the library of Alexandria. It is not hard to acknowledge that certain research materials should not be pay walled as it is detrimental to society as a whole. One look at Libgen's letter of solidarity makes it clear that they continue to run this site as there is no other feasible alternative to universal access to knowledge. Let us end the essay with another uncomfortable truth: The easiest way to remove sites like LibGen is to remove the need for them.