



Copyright Infringement and Passing Off

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Why in News?

The **Delhi High Court** recently garnered attention by summoning Instagram account People of India (POI) in a [copyright infringement](#) suit filed by Humans of Bombay (HOB).

- This dispute stems from significant **similarities in their storytelling methods**, with HOB asserting that POI copied their content.
- This case emphasizes substantial legal concepts including **copyright infringement, injunctions, and passing off**.

What are the Key Terms Related to this Issue?

- **Copyright:**
 - **Copyright refers to the legal protection provided to creators** of literary, dramatic, musical, and artistic works, as well as producers of cinematograph films and sound recordings.
 - The [Copyright Act of 1957](#) aims to safeguard these creative works as the intellectual property of their creators.
 - Unlike the case with patents, **copyright protects the expressions and not the ideas**.
 - In addition to the act, the **Copyright (Amendment) Rules 2021**, are brought into effect to bring the copyrights in line with other relevant laws.
 - Copyright owners have the [right to take legal action](#) against infringers, including seeking remedies such as **injunctions**, damages, and accounts.
 - **Injunction:** In the recent case of HOB vs. POI, HOB sought an injunction to prevent the infringement of their copyrighted content.
 - **An injunction is a court order** that typically directs someone to stop a particular action.
 - However, **obtaining an injunction is not a guarantee** that all instances of misuse will be rectified immediately, as enforcing it can be challenging.
 - **Copyright infringement:** It occurs when a **copyrighted work is used without authorization**, particularly if a substantial part of the work is reproduced.
 - In HOB's case, the court observed "**substantial imitation**" between HOB and POI, but the degree of what is considered "**substantial**" can vary.
 - It often hinges on the quality rather than the quantity of the copied content. Even copying a catchy phrase from another work can constitute infringement.
 - **Passing Off:** In the *Cadila Healthcare Limited vs. Cadila Pharmaceuticals Limited case, 2001* the Supreme Court ruled that **passing off is a form of unfair trade competition through which one party attempts to benefit from the reputation established by another** in a particular trade or business.
 - Passing off involves the misrepresentation or deception of consumers regarding the nature, character, or performance of goods or services associated with rival traders.
 - To establish a claim of passing off, there must be some form of **deception or harm to the goodwill** and reputation of the original owner.
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Legal Insights

[Position of Artificial Intelligence under Copyright Law](#)

UPSC Civil Services Examination, Previous Year Question (PYQ)

Q. Consider the following statements: (2019)

1. According to the Indian Patents Act, a biological process to create a seed can be patented in India.
2. In India, there is no Intellectual Property Appellate Board.
3. Plant varieties are not eligible to be patented in India.

Which of the statements given above is/are correct?

- (a) 1 and 3 only
(b) 2 and 3 only
(c) 3 only
(d) 1, 2 and 3

Ans: (c)

- Section 3(j) of Indian Patent Act, excludes from patentability “plants and animals in whole or in any part thereof other than microorganisms, including seeds, varieties, and species, and essentially biological processes for production or propagation of plants and animals”. **Hence, statement 1 is not correct.**
- The Intellectual Property Appellate Board (IPAB) was constituted in 2003 by the Government of India to hear and resolve the appeals against the decisions of the registrar under the Indian Trademarks Act, 1999 and the Geographical Indications of Goods (Registration and Protection) Act, 1999. **Hence, statement 2 is not correct.**
- Plant variety protection provides legal protection of a plant variety to a breeder in the form of Plant Breeder’s Rights (PBRs). In India, the Protection of Plant Varieties and Farmers’ Rights (PPVFR) Act, 2001, is a sui generis system that aims to provide for the establishment of an effective system for the protection of plant varieties and the rights of plant breeders and farmers. A sui generis system is an alternative to the patent system. **Hence, statement 3 is correct. Therefore, option (c) is the correct answer.**