

Protection of copyright in Bangladesh: Critical, Legal Analysis

Course Code: 812, Research Monograph

ID: - 191-38-310

Session:-2019



Date of Submission: 20.12.2019

LL.M (Master's) Program

Department of Law

FACULTY OF HUMANITIES AND SOCIAL SCIENCE (FHSS)

DAFFODIL INTERNATIONAL UNIVERSITY (DIU)

Protection of copyright in Bangladesh: Critical, Legal Analysis

Submitted to:

S.M Saiful Haque
Assistant Professor
Department of Law
Daffodil International Univesrity

Submitted By:

MD. Gaosul Azam
ID:- 191-38-310
Batch: 28th (LL.M)
Daffodil International University



FACULTY OF HUMANITIES AND SOCIAL SCIENCE (FHSS)

DAFFODIL INTERNATIONAL UNIVERSITY (DIU)

THIS PAPER WORK IS DONE FOR THE FULFILLMENT OF THE COURESE REQUIREMENT OF LAW-812 TO ACCOMPLISH THE MASTER'S OF LAWS UNDER THE DEPARTMENT OF LAW, FACULTY OF HUMANITIES AND SOCIAL SCIENCE (FHSS), DAFFODIL INTERNATIOANL UNIVERSITY (DIU)

LETTER OF APPROVAL

Dear S.M. Saiful Haque


My name is MD. Gaosul Azam, and I am a student at the Daffodil International University in Dhaka. The research I wish to conduct for my Post-Graduation course (LL.M) in Research Methodology. The name of my research topic is "Protection of copyright in Bangladesh: Critical, Legal Analysis"

This project will be conducted under the supervision of S.M Saiful Haque (Assistant professor of Daffodil International University). I am hereby seeking your consent to start my thesis work with properly.

I have provided you with a copy of my "Protection of copyright in Bangladesh: Critical, Legal Analysis" proposal which includes copies of the measure and consent and assent forms to be used in copyright Issue.

Upon completion of the study, I undertake to provide the study of the Department of Law in Daffodil International University. I bound to my full research copy in your department. Thank you for your time and consideration on this matter.

Your sincerity



20.12.19

S.M Saiful Haque
Assistant professor
Department of Law
Daffodil International University

Acknowledgement

First and foremost, praises and thanks to the God, the Almighty, for blessings of His showers throughout my research work to complete the research successfully.

I would like to express my deep and since gratitude to my research supervisor, S.M Saiful Haque Assistant professor of Daffodil international University, for giving me the opportunity to do research and provide invaluable guidance throughout this research. His dynamism, vision, sincerity and motivation live dept me. He has taught me the methodology to carry out research and to press. King research works as clearly as possible. It was a great privilege and honor to work and study under his guidance.

I am extremely grateful for what he has offered me. I would also like to thank him for his friendship, empathy, and great sense of humor. I am extending my heartfelt thanks of family for their acceptance and patience during the discussion then I start my research work and thesis preparation. I am extremely wasteful to my parents for their love, prayers, earning and sacrifices for educating and preparing for my future.

Dedicated to

My Mother

Because one issue matter, mother have to think twice, one for his child &
another for herself.

We pray for her because she also passed away from the beautiful world on
1996.

Abstract

These days, copyright is one of the most critical field of Intellectual Property identified with the selective syndication rights in the region of writing, shows, melodic, masterful, cinematograph and sound accounts. Step by step the significance of copyright is expanding while the lacking of vital measures to secure copyrights will be troublesome due to our absence of implementing instruments and inadequate laws and appropriating exercises in spite of the fact that we have Copyright Act 2000. To secure the rights and benefits of the creator or the maker of Copyright works, strides and various proportions of the Government ought to be expanded and theft must be halted by government and offices who are included to this issue and obligated for encroachment of copyright. To securing of the copyrights of the maker particularly of the creator, the government. should come forward to enforce the rules and regulations which have been incorporated in the Act of 2000 and some amendments on 2005 are also required to enforce. By this research, the re-researcher tries to pick out the copyright status of Bangladesh, an overview of the Copyright Act 2000, and the common barriers and solutions of those barriers related to the copyright position in Bangladesh.

List of Abbreviation

IP: Intellectual Property

WIPO: World Intellectual property Organization

TRIPS: Trade-related Aspects of Intellectual Property

WTO: World Trade Organization

BC: Bern Convention

EU: European Union

USA: United States of America

AU: Africa Union

TM: Trademark

CPC: Civil Procedure-1908

CrPC: Criminal Procedure-1898

CMO: Collective Management Organization

CISAC: The International Confederation of societies of Authors and Composers

IFFPA: International Federation of Film Producer Associations

MPA: Motion Picture Association

SAA: The Society of Audiovisual Authors

UCC:- Universal Copyright Convention

Table of Contents

No	Particulars	Page
	CHAPTER-1	
1	List of Approval	
2	Acknowledgement	
3	dedication	
4	List of Figure	
5	List of Table	
6	List of Abbreviation	
	CHAPTER-1, INTRODUCTION	
1.1	Introduction	1
1.2	Literary Review	2
1.3	Object of copyright	3
1.4	Methodology	4
1.5	Research Question	4
1.6	Problem of Statement	4

1.7	Rational Study of Research	5
1.8	Research Gap	6
	CHAPTER-2 PROTECTION OF COPYRIGHT IN BANGLADESH	
2.1	Meaning and Concept	7
2.2	Copyright & Impact upon the Stockholders	7
2.3	Cause of Protection & Violations in Bangladesh	8
2.4	Nature of Copyright	8
2.5	Statutory Provision	9
	CHAPTER-3 NECESSARY OF PROTECTION OF COPYRIGHT (EXPERT WORKS & THOUGHT SHOULD BE ADDED)	
3.1	Copyright Act	9
3.2	Audiovisual rights in the digital environment	10
3.3	Pre-emption Right of Copyright	10
3.4	Copyright Duration	10
3.5	Tariff collection	11
3.6	The Significance Role of CMO in the Field of Copyright	11
3.7	International Copyright Organization and Their Tasks.	12
3.8	Publication of Copyright	13

3.9	Term of Publication in Copyright	
	CHAPTER-4, COPYRIGHT RELATED CONVENTION & THEIR CASES	
4.1	World Intellectual Property Organization	13
4.2	The Rome Convention	14
4.3	The Bern Convention	14
4.5	The Exception	14
	CHAPTER-5 RESEARCH METHODOLOGY	
5.1	Methodology	15
5.4	Primary Data Collection Process	16
5.5	The Permissibility of Copyright in Cases	16
6	CHAPTER SIX, REASERCH FINDING AND DISCUSSION	
6.1	INTRODUCTION	16
6.2	CURRENT SITUATION OF CMO COMPANIES	17
6.3	The Activities Of Other NGO And CMO Companies	17
6.4	How violets the performers Royalty	17
7	CONCLUSION	18
8	References	19

1.1 Introduction

The protection of the copyright issue is a critical issue. Because there are many provisions relating to computer programs and digital media copyrights, database, rental rights, cinema, literature related rights, dramatic rights, musical rights, artistic rights, cinematograph rights, sound recordings rights, broadcasting rights, performer's rights, phonograms rights, etc. digital, scientific work & other intellectual work which are pirated in many ways. To protect the piracy from the legal work of copyright and ensure their right and activities with exercising legal procedure.

The law additionally gives some different arrangements to utilize a shielded work without approval from a creator in instances of legitimate papers, reports of different commissions, advisory groups' sheets or boards named by government or other comparative bodies, in the event that it isn't explicitly denied to distribute. Correspondingly, some of some different arrangements additionally exist in law under which clients are offered forces to utilize uninhibitedly of the secured works in instances of sound accounts, cinematographic film, PC programs under certain outstanding cases. Copyright is a property right that subsists in certain predefined kinds of forms in as given in the demonstration to the proprietor or maker of those predetermined subsists.

The proprietor of the copyright subsisting in his work the restrictive right to do certain demonstrations in connection to the work, for example, making a duplicate, telecopy or offering duplicates to the general population. Copyright law gives various arrangements to constraints. Constraint alludes to terms of copyright. Copyright is certifiably not a ceaseless property not at all like other mobile or unremitting properties. The responsibility for it is restricted to a fixed timeframe, after expiry of which copyright doesn't subsist and it turns into an open space work and afterward any individual or individual can utilize it without watching any lawful commitments. The term may vary from nation to nation.

It will actuate for a long time in our neighborhood law yet it ought to be least 50 years in significant work, as per worldwide copyright law i.e., the Berne Convention of WIPO for the security of abstract and creative works of which Bangladesh is a part of nation.

Copyright is a property right that subsists in certain predetermined kinds of functions as gave in the demonstration to the proprietor or maker of those predefined subsists. The proprietor of the copyright subsisting in his work the restrictive right to do certain demonstrations in connection to the work, for example, making a duplicate, telecom or offering duplicates to general society. These are instances of the demonstrations which are straightforwardly limited by Intellectual Property Law, WIPO commitment, and copyright law. The proprietors of the copyright can control the misuse of his work.

1.2 Literary Review

In Bangladesh so as to get copyright assurance the proprietor of the work should enlist it under Copyright Register in agreement of the law. It is applicable that under the 2000 Act, enrollment is discretionary not mandatory to get copyright insurance under Copyright Act. Simultaneously it is likewise obvious that copyright security is legitimately guaranteed to the copyright proprietor by enrollment; declaration of enlistment of scholarly, sensational or imaginative work is considered as an at first sight confirm when any contest emerges. Some other individual than an enrolled proprietor, can get copyright insurance by award of permit either by deliberate or necessary permit or some other methods like; task. Here the arrangements of encroachment and cures of copyright encroachment additionally assume a basic job in giving copyright insurance to the copyright proprietors

By using standard search options a few books, articles and reports are found about Copyright Law of Bangladesh. The literature on Copyright Law of Bangladesh is not even so large. Almost all the available relevant literatures on Copyright Law and TRIPS based on the national context of Bangladesh were reviewed. The academic and official exercises on rethinking about the IP regime, inherited from colonial era, are observed after signing of WIPO's agreement. The process of knowledge accumulation may be initiated earlier but the literatures on Copyright Law in Bangladesh are available only since beginning of this century. In 2003, a report of law commission proposed to substitute the prevailing Copyright Act 2000 by enactment of a new law instead of suggesting amendments to that Act on 2006. This report also contains a draft of the proposed new law which is seemed tube influenced by both EU and USA and WIPO legislations.

Copyright law protects only the form of expression of ideas of the creator, not the ideas themselves. It protects the owner of property rights against those who copy or otherwise take and use the form in which the original work was expressed by the creator or author. The law may state that the author of an original work has the right to prevent other persons from copying or otherwise using his work. (Milon, 2013)¹ So a created work is considered protected as soon as it exists, and a public register of copyright protected works is not necessary.

1.3 Object of copyright

Copyright appears when a work is made and no traditionalism is required to be finished for obtaining such imposing business model right under the said Act of 2000. Nonetheless, offices exist for having the work enrolled in the Register of Copyrights kept up in the Copyright Office under the Ministry of Culture Affairs. The endorsement gave by the Registrar of Copyright under watching the at first sight proof of responsibility for. The Copyright Office has been set up to give enrollment offices to a wide range of works and is going by a Registrar of Copyright.

So as to get copyright the proprietor needs to show that the work is unique; it is unimportant whether the work is savvy or stupid, precise or incorrect or whether it has or has no artistic legitimacy. So as to fit the bill for copyrights the works separated from being unique, ought to For the situation of distributed work, it must be distributed first in Bangladesh yet in the event that it is first distributed in remote nation, the creator must be a resident of Bangladesh or habitation in Bangladesh at the date of production, or where the creator is dead at the hour of distribution and the work is distributed after his demise, the creator must be a resident of Bangladesh or house in Bangladesh at the hour of his passing.

It is critical to take note of that if any work is Published in Bangladesh and some other nation at the same time, the work ought to be viewed as first distributed in Bangladesh. The work will be considered to be all the while distributed if the distinction of days between the production in Bangladesh and production in any if there should arise an occurrence of unpublished work, the creator is on the date of creation of the work a resident of Bangladesh or habitation in Bangladesh.

This doesn't have any significant bearing to works of engineering on account of cinematographic work, the workplace or habitation of the produce must be in Bangladesh at the hour of making the work, the workplace or home of the maker must be in Bangladesh at the hour of making the entire or generous piece of the work. On account of any structural aesthetic work, the work must be situated in Bangladesh.

1.4 Methodology

The paper reflects an outline of copyright and its insurance under the Copyright Act 2000 of Bangladesh. In completing the paper I relied upon the essential and auxiliary sources. The article is essentially artistic based with a general blend of systematic thinking. The article depends on the current copyright laws, global understandings, case references and various books, articles of conspicuous law specialists, information of pertinent associations, papers and sites.

1.5 Research Question

1. Who is the copyright license holder?
2. When violets copyright issue?
3. When ensure performers of their royalty?
4. How to perform license of a performer?

1.6 Problem Statement

Piracy is the ill-conceived utilization of the copyright material . The unauthorise adapting or propagation of the copyright materials for business purposes and the unapproved business managing in replicated materials is treated as copyright robbery. It influences all components associated with a creation, generation and dissemination of scholarly works. The copyright piracy is the common phenomenon in all over the world. In Bangladesh, there are 76% piracy in music, scientific research, and collecting news from online. There are various problematic sector where are copyright infringement. Which are:

- Music piracy
- Inadequate royalty for artist, lyrics and composer
- Inherent law within predominant copyright law
- Absence strong implementation mechanism
- Lack of awareness among the people

In Bangladesh the artist, musician, composer of music industry, all are victimized by this unfair practice by vested group. Pirated copies of music have become so easily accessible those

consumers don't feel encourage to go for genuine products. As a result the investor and creative individual face huge lost.

- ❖ Pirated CD/VCD that replaces the musical works without permission or payment to the author.
- ❖ Music download from unauthorized website for free
- ❖ Unauthorized use of music by FM radio and mobile phone operator

Copyrighted works are all things considered continuously passed on in cutting edge structure through overall frameworks, for instance, the Internet. In the online universe of the new thousand years, the organization of rights is taking on estimation. Verified works are directly digitized, stuffed, moved, downloaded, copied and passed on the Internet to wherever on the planet. The developing force of this framework licenses mass accumulating and online movement of guaranteed materials. The likelihood of downloading the substance of a book or tuning in and recording music from the web is as of now a reality.

In Bangladesh copyright is a theme of statutory security of ensured development. Going before 1962, there was no specific law in the hour of East-Pakistan until 1962. Regardless, in like manner Procedure Act 1898, Penal Code-1908 and Specific Relief 1877 which have not make reference to of this issue anyway the copyright system was significant if strategy and expert technique, and where are in like manner enforceable by this laws.

1.7 Rational Study of Research

Copyrighted works are by and large progressively conveyed in advanced structure through worldwide systems, for example, the Internet. In the online universe of the new thousand years, the administration of rights is taking on another measurement. Secured works are presently digitized, packed, transferred, downloaded, duplicated and conveyed on the Internet to anyplace on the planet. The growing intensity of this system permits mass stockpiling and online conveyance of ensured materials. The probability of downloading the substance of a book or tuning in and recording music from the internet is currently a reality.

In Bangladesh copyright is a topic of statutory security of protected innovation. Preceding 1962, there was no particular law in the time of East-Pakistan until 1962. In any case, in common Procedure Act 1898, Penal Code-1908 and Specific Relief 1877 which have not make reference to of this issue however the copyright framework was relevant in the event that technique and specialist methodology, and where are likewise enforceable by this laws.

And In 1962, a copyright Ordinance amalgamating the diverse copyright laws which were existed around then, was proclaimed, specifically, the Copyright Ordinance of 1962. At that point this mandate was last pronounce to change law, to universal criticized and adhering to the WIPO's principles and guideline on 1999. At that point the copyright law at last changed on 2000 and afterward it will altered it on 2006. Where are incorporated many area.

Bangladesh has gigantic possibilities for entombing into the aggressive worldwide market. Remembering this another copyright Act – 2000 was proclaimed in the year-2000 and subsequently it was additionally altered in 2005 to suit more refreshed arrangements in line of the TRIPS understanding. The law broadens insurance among others, to PC programs, rental rights

Bangladesh Copyright Act-2000 (Amended-2005), Chapter 14 with 8 provisos and a few subclasses the cures have been depicted and in part 15 with 12 areas and a few subsections the offenses and fine has been portrayed unmistakably. In the change Act-2005 the measure of discipline has been expanded. For Infringement and Piracy of any copyrighted works the punishments are 4 years imprisonment and least half year, Fine Tk 2 lakhs and least Tk 50 thousand.

1.8 Research Gap

The copyright law are not proper enforceable with properly in our country, and people are not conscious about copyright law. The performers are violet the copyright law only for lacking idea about copyright issue. So there are many gaps in this issue. Which are?

- ✚ Lacking labor and assets and deficient office convenience.
- ✚ Absence of abilities and skill to manage new developing innovations identifying with Copyright.
- ✚ Enormous number of Applications stay pending for assessments Inadequate inquiry offices and apparatuses Manual and paper based activities Poor quality, tedious pursuit and non-consistency in the assessment.
- ✚ Law implementation is exceptionally powerless.
- ✚ Absence of advanced information and systems and so on.
- ✚ Absence of mindfulness among the general population about the significance of IPR. Missing of Copyright Society.
- ✚ Creator are not cognizant about their common right in copyright laws which additionally notice area 75 to segment 81 in Copyright Act-2000

✚ Bangladesh Copyright office doesn't have its own Office Building.

CHAPTER-2 PROTECTION OF COPYRIGHT IN BANGLADESH

2.1 Meaning and Concept

Copy mens reproduction in the form of words, sounds, letter, written form in the sound recording, cinematograph film graphic picture or in the material or non-material form or digital code without permission of the author. (Laki, 2016)

Copyright is an intangible right which is granted by author, for a limited period, the exclusive period to given opportunity that the original author and who(author) may copies of the same for publication or sale. Copyright is the legal device of artistic, literary, musical and other creative work, where has the basic right of author is ensure to his royalty for that intellectual work and activities. (farlex, 2014)

The copyright is the copyright owner always save his intellectual property form illegal publishment, recording and infrimngement if any illegal work committed then the right owner will claim to his/her right with legally.

2.2 Copyright and impacts upon the stakeholders

The beginning of the audiovisual works the end of the 19th century. The audiovisual work can be enjoyed in cinema, on television. The audiovisual work were added in Universal Copyright Convention (UCC) in 1952 and it also internationally protect and update of audiovisual performers in baizing treaty. Audiovisual work are included on

Author is the principal director of an existence novel, film, music, support to composure of musical works which are included in the film otherwise not. Authors may contract to the creator and producer or producer group. In 27 countries of European Union the director are included as an author.

Performer is Performing artist in audiovisual work included actors, dances, singer and musician. The audiovisual field was considered by to be insufficient but constantly at WIPO led the sector for new treaty, and other activity.

2.4 Nature of Copyright

The preceding discussion focuses upon who may claim authorship in a sound recording. Only those who have made original contribution to work may claim a author, and only author, or those who claim through them am be regarded as a copyright owner there are usually only one author of a literary work. Even if the work is collaboration, the contributor of the several joint author do not very kind, even there are very variation in quantity and quality. Hence such work, it is necessary to merely state that the author or his assignee shall be the copyright owner. The problem with respect to motion picture and sound recording that it is not always easy to determine who should be regarded as a author because such works virtually always represent the combined contribution of a number of different people, who are performing in various function.

CHAPTER-3 NECESSARY OF PROTECTION OF COPYRIGHT (EXPERT WORKS & THOUGHT SHOULD BE ADDED)

3.1 Copyright law

Current copyright and related right system in Bangladesh with particular focus on the collective management of rights

Copyrights works are define by recording broadcast set of separate rights which are accorded by usually accorded to literature, dramatic, musical works and communicating sound recording. [sec. 2(11), 14(5), 33(2),]

3.2 Common Law & copyright

In itself offered a sufficient rationale to foster a doctrine that became a cornerstone of American copyright law, It may then be asked: Why should publication of a work cause a forfeiture of common law rights? The answer lies in part in the expression of policy contained in the Copyright Clause of the Constitution which authorizes Congress to protect the writings of authors, but only "for limited times." By this limitation an attempt was made to strike a proper balance between two socially desirable, yet antithetical interests.

3.3 Audiovisual rights in the digital environment

The are collect CD, DVD or download song from internet with easily. In this procedure the producer, director, author, writer will suffer to their Honorius and come down our revenue. The worldwide DVD market is in decline in day by day. To remove this harmful situation of singers, directors, writers, author and producer WIPO Copyright Treaty (WCT) will established the exclusive right, authors are enjoyed for online transmission of their audiovisual work. (Ashfaque, 2017)

3.4 Pre-emption Right of Copyright

. The discussion that follows therefore embroiders on wind completes the introduction of that topic provided above, S As will become apparent mach of the impetus here lies in doctrines of pre-emption that go far beyond Section 30, which furnished the springboard for that earlier consideration. A series of Ninth Circuit cases initially muddled of Universal Copyright Convention, the waters here. Some even cite the wrong statutory sections as they proceeded with their analyses, as we shall insure that those cases were addressing was whether state right of publicity statutes at pre-empted to the extent they apply to a performer's voice as embodied in a sound recording to which the Copyright Act extends protection.

3.5 Copyright Duration

This phrase creates a very real limitation upon congressional power. Copyright purported to grant copyright protection in perpetuity would clearly be unconstitutional. It seems to granting of copyright protection for nominally within a limited time. but infect the equivalent of perpetual

protection (fixed time) would otherwise it is invalid on the other hand, within very board limits, the period of the protection from a a total of 56 years, under publication under 1909 Act, to the life of the author plus 60 years, under the copyright act 2000, in itself raises no constitutional problem under “limited times” limitation. Continues extension of , to become de facto perpetual violation of the constitutional command. protection at some point must cross over the line

3.6 Tariff collection

The tariff is collected from household. on 2012, there are 111.45 billion USD for foreign channel and 2.60 USD for subsequent channel. But the tariff is different for hotels that payment tariff system for per room in yearly. There are three way to set the tariff which are national law or regulation, negotiation between the parties, arbitration or court action where negotiations fail. The tariff will based on recording of per CD, VCD, DVD. CMO represent different repertories act is individually and cable operator may choose negotiate and with separately. And uk there are 85 billion Euro collect from the copyright sector which is the 4.8 percent income of total budget. (Gurdian, 2014)

3.7 Term of Publication in Copyright

The forgoing significance attaches to publication regardless of where in the world it took place. Thus, if a work were first published in the German language at Berlin in 1923, thus its US copyright term commenced as of that date; the district court in *Twin Books Corp Disney Co.* confronting precisely that scenario, termed the contrary argument totally without merit. In other words, considerations of requisite copyright notice renewal after 28 years, and the like would be gauged from 1923.

The fact that its publication on American procedure, it may not have occurred until sometime later does not delay the effect of those doctrines of U.S. copyright law. Nonetheless, although it does not delay the effect of those doctrines, publication on foreign procedure may change their impact. As described elsewhere in this treatise, initial publication abroad should be excused from copyright notice defects under the Heim doctrine. (Nimmer, 2010)

CHAPTER-4, COPYRIGHT RELATED CONVENTION & THEIR CASES

4.1 World Intellectual Property Organization

WIPO is the highest sector in intellectual property reservation sector all over the world. It provides activities with globally of intellectual property work's policy, information and co-operation.

WIPO established on 14 July 1967, Bangladesh joint WIPO on 11 February 1985 and Bangladesh first attend WIPO Convention 11 May 1985. WIPO protect copyright and related right in any country. To protect the WIPO requirement, Bangladesh established copyright board under the ministry of culture and affaris. The basic concept of CMO is collective management system in key copyright industries in Bangladesh including music, literature etc. Bangladesh first introduce to the copyright in 1914, in that time United Kingdom was promulgated copyright Act.

The copyright organ is non-profitable organ. Author, director, singer are ensured their right and activities by licensing the copyright. The author may resale the original manuscript of a literary, dramatic or musical work or his right of share to his title, his title has been ceased on expiry of the term of the copyright, and the share will be by the board but not exceed 10% of the resale price.

4.2 The Rome Convention

The Rome Convention article 7 will mention about the broadcasting, fixation, original fixation, reproduction, and the communication of the public like these works are not done without their consent. The WIPO Performance and Phonograms Treaty (WPPT) of 1996 are perform about the exclusive right of audiovisual work for the first time in the world. In here, it also mention about the economics rights of performer, right to reproduction, right of rental right of making available to the public, right of broadcasting and communication to the public. In European Union society in both audio and audiovisual sectors the performer always transfers his exclusive right to the producer for publishing audiovisual work. In Article 3 of WPPT (WIPO Performance and Phonograms Treaty) will mentioned about the performers provide his right and delegate may access.

4.3 Bern convention

The basic subject of the Berne Convention is retransmission of broadcast program which are transmitted with simultaneously and unchanged. There is no changed in broadcast without consent of author or related person. There are two categories of retransmission of right which are Author Right and Performers Right. The Author may retransfer the right to another with maintain the procedure. Like author get the notice then he/she allow for the retransformation his rights with consent of agent for transferring to the sub-Agent. And performers right may retransfer which are allowed by Rome Convention. Exception

4.4 Exception

The copyright Act are not allow in all over the world. But the copyright , design and patents Act 1988 are allowed in England. They can use ERA (educational Research Agency). ERA provide the licenses support for educational establishment and educational library for audiovisual use and Australia Copyright Act are directly allowed to to copy from television, radio then the consumer pay the amount, the copyright owner will get the amount. The Australia Copyright Act are allow in the educational institution, copyright in film in 68.5%, copyright in literary and dramatic work 22.1%, copoyright in sound recording and musical works in 2.0%, copyright in the musical works in 7.4%.

4.5 Cases

Wheaton VS Peters

Wheaton v. Peters established the doctrine that publication divests common law rights, in doing so it referred to but did not rely either on the metaphysical exegesis into the nature of property contained in Mr. Justice Yates dissent in (Millar v. Taylor) nor on the conclusion of Donaldson v. Becket (i.e., that the Statute of Anne required such divestment). It may further be doubted that the Wheaton opinion's unpersuasive analysis of Pennsylvania common law.

White-Smith VS Apollo

The Doctrine of White-Smith VS Apollo. Whether a work was published by the public distribution of phonorecords embodying such work remains on of the most heatedly disputed issues under the 1909 Act. Many eminent members of the Copyright as well as the music industry generally long maintained that public distribution of phonograph records (or phonorecords) did not constitute a publication of the works embodied therein. The origin of this position may be found in a case decided by the United States Supreme Court just prior to the adoption of the 1909 Act.

In that case, White-Smith Music Co. v. Apollo Co., the Court held that a music roll for mechanical pianos (and by extension, all phonorecords) did not constitute a copy" of the music thereby recorded, and therefore one who made a roll (or a phonorecord) embodying a given musical composition was not "copying" the composition within the meaning of the then extant copyright statute, and hence was not an infringer. From this premise, it was argued that because a

phonorecord is not a copy of the material recorded, it followed that sale of a phonorecord which was not the sale to another. (Nimmer, 2010)

Appeal VS Microsoft Word

Steve Jobs created a number of software for Apple, Microsoft Word Version 2 will developed by then Microsoft Word created a update using of those software from 189 to 179 software. Apple's CEO Steve Jobs raised a complaint to the court on 1988, that Microsoft Word version 2 was used of those software. Then Microsoft owner claim that there company was not copied of Appeals Software. But they will take idea from those software for updating it. Which is benefitted for public purpose. and the lawsuit was later filed. The case was decided in favor of Apple and later by Microsoft founder Bill Gates appeal to the court. Then the Appellate division will follow the Merger Doctrine, and decided in Microsoft's favor on August 24, 1993. (Favourite Case of Copyright)

Channel I Vs G-Series

Channel I of 2018 filed a suit against the G-Series at the Bangladesh Copyright Office and the content of the case was that Channel I had sold some content to G-Series and it was in this condition or condition that they would be available sale in various places but could not be marketed in digital marketing without permission of Channel I. But G-Series starts it on YouTube ie digital marketing And the G series started to earn a lot of money from this digital marketing. Later Channel I learned that Channel I was file a case for copyright infringement at the Bangladesh Copyright Office, and later the Bangladesh Copyright Office decided in favor of the case and a fine of BDT 1 lakh. (Tribunal, 2019)

Bidya Sinha Mim VS Apon Jewellers

Bidya Sinha Mim signed an agreement with Pran-Fruto's advertising company to exchange Tk 36 lakh with Pran-RFL Company., Subsequently, the image of Bidya Sinha Mim which was done for Pran-Fruto Advertisment then Apon Jewellers began to illegally broadcast and disseminate of their advertisement and Apon Jewellers will get monetary benefit from illegal advertisement. Vidya Sinha Mum filed a case on the matter with which Apon Jewelers violated the Copyright Law here, and after hearing the case, they will inform to to the copyright office for their set-aside. Then tribunal dismissed the case. And they will set-aside that issue. (Tribunal, 2019)

Kazi Anwar Hossen VS Iftekhar Amin

Recently Masud Rana topic has been discussed, who is author of the book. Kazi Anwar Hossen write Masud Rana series of book. But really Iftekhar Amin write that book within permission of Kazi Anwar Hossen for specific reality, but Kazi Anwar Hossen deny to give his royalty, the Iftekhar Amin complained at the Copyright Office in Bangladesh. He have written several books from 1990. Iftekhar Amin was financially harmed and deprive his royalty. Bnagladesh Copyright Office received the case and give judgement on favoure of Iftekhar Amin. Then Kazi Anwar Hossen Appeal against this judgment. Now this case is in Appellate Division. (Tribunal, 2019)

CHAPTER-5, RESEARCH OF METHODOLOGY

Introduction

This may be compared to author form of derivative work, the motion picture The originality contained in a copyrighted novel will not support a separate copyright in a motion picture based upon such novel. Such separate motion picture copyright is based upon the original graphic (and sound) elements contained in the film that are not to be found in the work in its written form. Because of the limited scope of rights available to the owner of a sound recording copyright, in certain respects, a sound recording as a derivative work presents problems in the protection of the underlying work not raised in connection with other forms of derivative works.

5.1 Qualitative and Quantitative Data

There are a large number of copyrights registered every year from the Bangladesh Copyright Office, in 2019, there are 1873 Intellectual Property Registrated from the Bangladesh Copyright Office and in 2018 there are 1258 Intellectual Property Registrated from the Bangladesh Copyright Office and 2017 the ratio was 833 and in 2015 it was 600 Intellectual Property Registrated from the Bangladesh Copyright Office. Now the number is increasing in public awareness and the copyright office Increasing awareness is being given through the poster-banners of various symposium seminars and through this, more and more people are increasing their awareness.

At present 34 members are works in Bangladash Copyright Office, and Dr. Abu Hena Mostofa Kamal senior officers of Bangladesh Copyright office, are currently working in the Bangladesh Copyright Office, and Jafar Raja Chowdhury has appointment the registrar of Bangladesh Copyright Office. Dr. Abu Hena Mostofa Kamal is now the Head of the Copyright Office in Bangladesh.

5.2 The Ratio of Copyright Registration in Bangladesh

There are a large number of copyrights registered every year from the Bangladesh Copyright Office, in 2019, there are 1873 Intellectual Property Registered from the Bangladesh Copyright Office and in 2018 there are 1258 Intellectual Property Registered from the Bangladesh Copyright Office and 2017 the ratio was 833 and in 2015 it was 600 Intellectual Property Registered from the Bangladesh Copyright Office. Now the number is increasing in public awareness and the copyright office Increasing awareness is being given through the poster-banners of various symposium seminars and through this, more and more people are increasing their awareness. (Chowdhury, Copyright Excess, 2019)

At present 34 members are works in Bangladash Copyright Office, and Dr. Abu Hena Mostofa Kamal senior officers of Bangladesh Copyright office, are currently working in the Bangladesh Copyright Office, and Jafar Raja Chowdhury has appointment the registrar of Bangladesh Copyright Office. Dr. Abu Hena Mostofa Kamal is now the Head of the Copyright Office in Bangladesh. (Kamal, 2019)

5.3 Primary Data Collection Process

The biggest market in Nilkhet that I have talked to a few publications in Nilkhet Nilkesh that I have talked to at the Friends Book Corner, Atul Book Library, Rahim Publication & Library, and they have said that many types of books available by foreigners of Bangladesh are not covered by most copyright. And especially in the engineering sector, law sector, literary sector and other sectors there is no specific foreign books, especially books that are very expansive, are copied and sold in blue, which is fully declared as an anti copyright act, so to launch the program from Nilkhet. These activities need to be closed and closed by copyright the right to use of this issue (publications, 2019).

CHAPTER SIX, REASERCH FINDING AND DISCUSSION

6.1 INTRODUCTION

The copyright law of Bangladesh has not yet started spreading the right way or the proper use of the law, but now people are becoming more aware of the nature of how people are now violating Intellectual Property and they are becoming more and more aware of copyright and how they are using this law. (Royalty Collecting Management , 2012)

6.2 CURRENT SITUATION OF CMO COMPANIES

However, it is very sad to say that those who are involved in creative activities have not yet been properly explained to them, and no Collective Management Organization (CMO) has been started in Bangladesh to collect their royalty. QineticmusicLLC and Video Performance (VPL) they collected from outside of Bangladesh but if the Government of Bangladesh assigns responsibility to some organization then it appears that those who are there will understand it properly. (how-to-collect, 2011)

6.3 The Activities Of Other NGO And CMO Companies

No suitable NGO or company has been formed for the royalty collection of Bangladeshi Performers, so they go to different types of illegal companies or more companies which have no registration to get the Performer royalty as they deserve. Our performers are in the financial position was hampered in day by day. Those companies are directly denied to their royalty with properly. But those companies do not provide the royalties to the performers, and they refuge here in secret. (www.digitalmusicnews.com, 2016)

6.4 How violets the performers Royalty

The Royalty Collection companies that are presently in Bangladesh have not made any registration, that is, those companies who collect Performers illegally collect this and do not give this Royalty Collection to any of the Government. Since these royalty collection companies are now not exempt from business in Bangladesh, that is, they have not yet paid taxes directly to the government of Bangladesh and explain to the artists the right way, so the government of Bangladesh should now look after these companies properly and who is doing their job properly. Government will investigate and bring them tax. (Chowdhury, 2019)

- There are most famous collecting royalty companies.
- Performing Right Society (PRS)
- Phonographic Performance Limited (PPL)
- Video Performance Limited (VPL)
- QineticmusicLLC. (www.bemuso.com, 2003)
- G-series
- Anupom

.CHAPTER 7, CONCLUSION

The copyright also depends on the specific condition. Author manage the broadcasting right. The basic concept of copyright is freedom of trading system on author activities. And the several societies are permitted the same rights which are providing copyright law.

A tree can only flourish when its roots are anchored I good soil. A copyright society is also dependent on specific cultural environment conditions.

The economic society must have minimum revenue, the copyright society have manage the work to the right holder and protect by law and calculated either by forecasting the column of expected the royalty collection on basis of average tariff. Government established the copyright establishment. The copyright society may futile if the Govt. will support to the copyright society, ensure the right and exercise of individual right which are guaranteed by state law.

The copyright establishment is adopted on licensing, royalty collection and distribution and payment to a foreign sister society and parent society. The copyright society need to know national authors and publishers and on their works develop with rapidly

Should we protect our property in the same way that we protect our property, and should we protect it because we will receive royalties from it even after our lifetime and after our death, and we will receive royalty from our descendants?

Reference

- I. Copyright Act 2000 (Ministry of Law recognized 18 July 2000) Ministry of Culture and Affairs .
- II. Trademarks Act 20092000 (Ministry of Law recognized 24 March 2009) Ministry of Culture and Affairs
- III. Enforcement of copyright law in Bangladesh
- IV. Sadia siraz & Maruful Islam (01 Jun 2015), the problem of compliance in the music industry of Bangladesh: an Over view
- V. Muhammad Farhad Hossen (20th January 2017), An over view of copyright law Analysis of copyright law
- VI. The WIPO 1967 (18 Jun 1993) Retrieved 11 13, 2019,from World Intellectual Property Organization <https://www.wipo.int/portal/en/index.html>
- VII. The Rome Convention (Retrieved 11 13, 2019), from Rome Convention 12.12. 1993 <https://www.wipo.int/treaties/en/ip/rome/index.html>
- VIII. The Beijing Convention (Retrieved 11 13, 2019), BJ 1 July 2018 <https://www.icao.int/Newsroom/Pages/Beijing-Convention-to-enter-into-force-on-1,July,2018.aspx>
- IX. The Bern Convention Retrieved 11 13, 2019), Burn Convention 1886 WIPO branch convention <https://www.wipo.int/treaties/en/ip/berne/>
- X. An Overview of Copyright. (n.d.). Retrieved 11 13, 2019, from An Overview of Copyright : https://www.researchgate.net/publication/318022004_An_Overview_of_the_Copyright_Protection_Laws_in_Bangladesh-A_Critical_Analysis_of_the_Copyright_Act_2000_with_Its_Loop_holes_and_Recommendations
- XI. Copyright Alalysis. (n.d.). Retrieved 12 12, 2019, from Copyrigh Analysis in Bangladesh : https://www.researchgate.net/publication/318022004_An_Overview_of_the_Copyright_Protection_Laws_in_Bangladesh-A_Critical_Analysis_of_the_Copyright_Act_2000_with_Its_Loop_holes_and_Recommendations.
- XII. farlex. (2014). Retrieved 12 6, 2019, from <https://legal-dictionary.thefreedictionary.com/copyright>: <https://legal-dictionary.thefreedictionary.com/copyright>
- XIII. Laki, R. A. (2016). In R. A. Laki, Trademark law & Copyright Law (p. 197). dhaka: Rahim Law Book.

- XIV. Milon, M. (2013). Present Situation of Copyright in Bangladesh. Bangladesh Reaerch Publication Journal. , Volume7.
- XV. Barriester Wolora Afrin 2017 August Copyright journal in WIPO
- XVI. Bangladesh Copyright Office, Agargao, Dhaka
- XVII. (2012, 03 09). Retrieved 11 12, 2019, from Royalty Collecting Management :
<https://blog.songtrust.com/music-publishing-news/5-things-you-had-wrong-about-youtube-royalties>
- XVIII. Chowdhury, J. R. (2019, 10 13). performer's are get their royalties? (B. W. Afrin, Interviewer)
- XIX. *Copyright Alalysis*. (n.d.). Retrieved 12 12, 2019, from Copyrigh Analysis in Bangladesh :
https://www.researchgate.net/publication/318022004_An_Overview_of_the_Copyright_Protection_Laws_in_Bangladesh-
- XX. *How to clect royalties*. (2016, 08 05). Retrieved 11 13, 2019, from songtrust.com:
<https://app.songtrust.com/how-to-collect/youtube/>
- XXI. *how-to-collect*. (2011, 05 09). Retrieved 11 12, 2019, from songtrust.com:
<https://app.songtrust.com/how-to-collect/youtube/>
- XXII. publications, o. o. (2019, 12 09). Copyright Violetion. (G. Azam, Interviewer)
- XXIII. *www.bemuso.com*. (2003, 04 14). Retrieved 11 13, 2019, from musicroyaltycollectionsocieties:
<https://www.bemuso.com/musicbiz/musicroyaltycollectionsocieties.html>
- XXIV. *www.digitalmusicnews.com*. (2016, 09 04). Retrieved 04 12, 2019, from how-to-get-all-the-royalties-you-never-knew-existed: <https://www.digitalmusicnews.com/2016/02/15/how-to-get-all-the-royalties-you-never-knew-existed/>

