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COPYRIGHT PROTECTION OF MEMES AND REELS IN THE DIGITAL ERA

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ABSTRACT

The emergence of memes and short videos, particularly reels on Instagram, Facebook, and YouTube Shorts, has revolutionized online communication. Though these modes of content succeed based on creativity, they tend to use existing copyrighted works songs, pictures, film clips, and logos resulting in copyright conflicts. This article analyses whether reels and memes can be "original works" under copyright law, discusses protection and freedom of expression balance, and reviews legal developments in India, the United States, and the European Union. The paper contends that even if memes and reels are considered transformative cultural works, copyright regimes need to adapt to resolve issues of ownership, fair use, and monetization in the digital age.

Keywords: Protection, Copyright, Authorship, Monetization, Ownership, Legal Framework, Digital, Fair use

Introduction

Digital media has made creativity accessible to anyone in the world, as individuals can create, share, and remix content immediately. Thanks to platforms like Instagram, YouTube, TikTok, and Facebook, millions of people not limited to those in professional roles related to creating art are now involved in the roles of creator, critic, or commentator. Today's prevailing tools of cultural expression are memes, which consist of humour, images, and social commentary, and reel short videos created with the intention of rapidly engaging audiences. These expressions can extend beyond entertainment, as they are instruments of social dialogue, political satire, advertising, and identity. For example, memes or a viral reel can affect public opinion faster than an article in an online news outlet, and continue to have an impact on trends, brands, or social movements. Because the creative process often leads to the use of repurposed material—and in most instances, existing works that are protected by copyright, such as songs, film clips, photographs, visual art, and likeness

of popular celebrities it brings forth questions of ownership and infringement.

Key Questions Arise:-

- I. Can memes and reels be protected as original works?
- II. Do they infringe the copyright of underlying materials?
- III. How do doctrines like fair use (US) or fair dealing (India, UK) apply?
- IV. How should laws balance freedom of expression with copyright protection?

Copyright Protection of Memes

Reels as Works of Authorship– A reel may be copyrightable as an audio visual work if it contains aspects demonstrating creativity by virtue of choices on camera angle, edits, narration, script, etc.

Use of Music and Clips– Most reels have a background song or movie clip. If you have not

obtained a license to use that song or clip you are most likely infringing copyright. Platforms like Instagram may obtain blanket music licenses which they provide to users but frequently do not permit business/commercial use.

Monetization Issues – Creators may receive a takedown notice or experience demonetization when copyrighted music is used. Ownership of a reel with copyrighted elements is also a question, is it owned by the creator, the platform, or do they own it together?

Enforcement Challenges:

Ambiguous Distinctions Between Creativity and Infringement – Memes and reels are often a contributing factor to a culture of remixing. Too much enforcement could potentially chill free speech.

Global Nature of Social Media – Enforcement across borders can be complicated– for example, a reel created in India may be infringing a copyright holder's work in the US.

AI-generated memes and reels – With AI tools that generate viral memes and viral videos, the issues of authorship and ownership become even more complicated.

Platform liability – Under "safe harbour" provision (like Section 79 IT Act, India; DMCA §512, US) platforms have significant protections from liability if they act timely to remove copyrighted infringing content after receiving notice. Good luck in obtaining the takedown given the increasing challenges that platforms are under to monitor and filter content.

Case Studies

India: Super Cassettes v. Myspace (2011) Indian courts deemed platforms liable for infringing user content absent safeguards. Relevant to reels that use unlicensed Bollywood songs.

US: Campbell v. Acuff-Rose Music (1994) Landmark parody case, which builds some confidence for meme creators where the content is transformative.

EU: Deckmen v. Vandersteen (2014) CJEU recognized parody as an exception and clarified the reach of meme legality across Europe.

Recommendations

Clearer Parody Exceptions Indian law should make explicit recognition of parody and meme-making as exceptions under fair dealing to foster free expression.

Simplified Licensing for Reels Platforms should offer easy and cheap options for creators to micro-license music and clips from films. Awareness Campaign Educate creators on copyright thresholds and disclosure obligations.

Thoughtful Enforcement Copyright owners should adopt an intelligent enforcement policy, drawing a line between commercial exploitation and non-commercial cultural expression.

Conclusion

Memes and reels provide a significant form of digital storytelling. They encompass cultural commentary, humour, and public engagement in speech. Copyright regimes can protect original memes and reels, but copyright frameworks should also limit restrictions on creativity and expression. A general balancing of testing parody, permitting fair dealing, and providing for easy licencing for reuse is appropriate in copyright law if it is to modernize copyright law to account for the digital age without restricting the creativity drove motivation for memes and reels.

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- Digital Millennium Copyright Act, 1998 (US).
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- Campbell v. Acuff-Rose Music, Inc., 510 U.S. 569 (1994).
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- World Intellectual Property Organization (WIPO) reports on Copyright in the Digital Environment.

