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Nautiyal



Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Intercountry adoption laws from Uttranchal University, Dehradun' and LLM from Indian Law Institute, New Delhi.

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E.MBA, LL.M, Ph.D, PGDSAPM

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More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

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MONKEY SELFIE CASE: EVALUATING THE CONCEPT OF OWNERSHIP

AUTHORED BY: MANIKANDA PRASAD B & NIHARIKA S

ABSTRACT

This paper is a comprehensive exploration into the “Monkey Selfie” – the publicly infamous photographs of a macaque utilizing a camera to take its own photographs. This analysis examines the concept of ownership in the context of the controversy surrounding the Monkey Selfie case and argues that the internet should not be able to grant authorship rights to animals. This research examines the legal and ethical implications of the concept of ownership when applied to the Monkey Selfie, as well as analyzing the use of personal data created online by animals, both domestic and wild. The analysis reaches a conclusion that although the public’s opinion holds the belief that the macaque owns the photographs it created, based on international and domestic United States laws, the photographer David Slater should own the photographs. The monkey selfie case is a legal dispute between animal rights activist, People for the Ethical Treatment of Animals (PETA), and British Wildlife photographer, David Slater. The dispute is over the copyright of a photograph taken by a crested macaque named Naruto.

INTRODUCTION

In July of 2011, a male monkey named Naruto grabbed the camera of British photographer David Slater and took several “selfies” that quickly went viral online. The worldwide internet sensation became known as the “Monkey Selfie” – a series of posed photographs of Naruto looking directly at the camera. After gaining a strong following on the internet, the photographs soon caught the attention of animal rights advocates who argued that the monkey owned the photographs, since he had created them without human involvement. This research paper examines the concept of ownership related to the Monkey Selfie case and explores the ethical and legal implications of granting ownership to an animal. This paper will also discuss the regulation of personal data created online by animals, both domestic and wild. The research concludes that based on the laws of domestic and international copyright, the photographer David Slater owns the copyrights to the Monkey Selfie photographs. The

monkey selfie case has the potential to create a new legal precedent as far as copyright The law and animal rights. It is uncertain if Naruto as the photographer of the work can be considered the author and thus be entitled to copyright protection. If Naruto is found to hold the rights to the photograph, then it could be contended that he not only has the right to benefit financially from the use of the photograph, but also that the photograph should be deemed to be in Naruto's name.

BACKGROUND AND CONTEXT

The Monkey Selfie case is an internet-driven controversy that centers around the famous series of photographs of a macaque taken in 2011. The photographs, taken in the Tangkoko Nature Reserve on the Indonesian island of Sulawesi, show a male Sulawesi crested macaque named Naruto peering at the camera and taking photos of himself. The macaque grabbed the unattended camera of British photographer David Slater and, within minutes, began to take a series of photos of himself. Following the incident, the photographs quickly went viral online and brought intense public attention to the issue of animal rights worldwide. Soon after, animal rights activists began to argue that the macaque owned the photographs since he created them by himself, without human intervention or assistance. The issue quickly became a legal fight over who owns the photographs, and the case has since gained worldwide notoriety.

OWNERSHIP OF MONKEY SELFIE

The concept of "ownership" can be a complex legal and ethical issue that has been the subject of much debate and legal discourse. When it comes to the Monkey Selfie case, the question of ownership centers around the copyrights, or the legal right to produce, reproduce, or distribute a work for a specific time-period. The public opinion on who owns the Monkey Selfie is varied, but many believe that the macaque should own the photographs since he created them without the help of humans. This opinion raises the more complicated issues of legal and ethical implications when it comes to granting authorship to animals. The ethical implications are multiple; for example, the granting of authorship to animals implies that they can be held accountable in some way for their actions and that they should have the same rights as people. There are also legal implications related to the granting of ownership, such as the question of who is legally responsible for the damage caused by the animal's actions and the ownership of any personal data created online by animals.

LEGAL IMPLICATION

The legal implications of the concept of ownership The problem of copyright law is central to the Monkey Selfie case. The United States Patent and Trademark Office states that “copyright protection only extends to “original works of authorship” that are fixed in a “tangible form of expression”. This means that a work must be expressed with human authorship in order to receive copyright protection. This notion is supported by the 1976 Copyright Act, which states that only “persons” may be granted authorship to works of art. It is clear from this definition that animals, such as the macaque in the Monkey Selfie case, do not qualify as “persons” and thus cannot be granted authorship of works of art. This legal definition has been further expanded by a subsequent case in the United Kingdom, where it was held that the owner of a camera (in this case, David Slater) should be given the authorship of a photograph taken with his equipment, even if it was taken by an animal.

Following this legal logic, it seems that the photographer in the Monkey Selfie case, David Slater, is the rightful owner of the photographs, since he created the work by providing the equipment and the scene for the macaque to take the photographs. The concept of contributory infringement is an important one to consider when evaluating the Monkey Selfie case. In essence, it states that a person can be held liable for copyright infringement if they provide the means for another person to commit an act of infringing. Thus, even if Naruto is deemed to be the rightful copyright holder of the photo, Slater could still be held responsible for contributory infringement.

ETHICAL IMPLICATION

The ethical implications of the Monkey Selfie case center around the notion of animal rights and the ethical responsibility of allowing animals to own works of art. The granting of authorship to animals raises the question of who should be held responsible for any damage that they may cause, either to themselves or to other entities. This is especially relevant to the Monkey Selfie case, since the macaque was able to access the camera and potentially cause damage to it by pressing the buttons. Granting authorship would also open a new area of ethical considerations related to the protection of personal data created by animals online, particularly from wild animals.

JURISDICTION

The monkey selfie case is a complex legal matter that involves questions of human ownership and control of intellectual property. The case has gone through the US federal and California state courts, ultimately reaching the Supreme Court in 2019. At the federal level, the case was heard in the US District Court for the Northern District of California, which is a general jurisdiction court. The District Court ruled in favor of the photographer David Slater, finding that copyright law does not extend to animals, and ordered the plaintiff, People for the Ethical Treatment of Animals (PETA), to reimburse Slater's legal fees.

PETA appealed the decision to the US Court of Appeals for the Ninth Circuit, which is the primary review court for cases from the federal district court in California. The Ninth Circuit rejected Slater's claims, finding that the concept of animal ownership is irrelevant to the fundamental question of who legally owns the photograph. The court held that copyright law should not be applied to animals, given that animals do not have the same legal rights as humans.

Finally, the case reached the Supreme Court, which declined to hear an appeal, thus leaving the Ninth Circuit's ruling intact. As such, the Ninth Circuit's ruling stands as the legal precedent in this case, establishing that animals do not have a legal claim to ownership of photographs or other intellectual property

DISCUSSION

This case has sparked an important debate over the concept of copyright ownership and animal rights. The case raises the question of whether non-human animals even have the ability to own a copyright, and more specifically, if the concept of copyright applies to non-human species at all. In the United States, copyright is usually awarded to the author or creator of a work. But in the case of the "monkey selfie", it is unclear who created the work. According to Slater, he set up the camera and framed the photograph, but Naruto pressed the shutter. Since Naruto was acting under his own volition, it could be argued that he should be credited as the author of the photograph. However, the law is largely unclear on this matter.

The Copyright Office The Copyright Office in the United States issued a comment about the case, declaring that "the Copyright Office will not register works produced by nature, animals, or plants." This statement has led PETA to argue that since Naruto cannot register himself as the author of the photograph, there should be a special category of copyright reserved for non-human species. Supporters of the case have pointed out that the issue of copyright is important for recognizing individual species with unique creativity, as the ability to create comes with the right to protect their own works.

On the other hand, some legal scholars have raised concerns that expanding copyright law to include non-human species could lead to difficult definitions and interpretations of the law. For example, a legal system that applies to animals might be difficult to enforce, since animals cannot enter into a contract or hold any legal rights. There are also other issues that may arise from recognizing animals' copyright ownership, such as how long are the rights held by the animal in the U.S. or whether or not an animal can transfer its copyright to another animal or non-human species.

MONKEY SELIFE CASE ANALYSIS BASED ON INDIAN LAW

Indian laws on primate cognition are based on the Animal Welfare Act, 1960. The Act broadly states that "no person shall inflict any unnecessary pain on an animal for any purpose". This means that primates, and other animals, cannot be harmed, manipulated or used for experiments without explicit legal permission. Furthermore, the Act places an obligation on all individuals to treat animals with respect. IN 2004, India amended the Act to protect primates and other animals from any form of abuse. In particular, the amendment stated that "no person shall engage in any research or experimentation which cause any pain or suffering to any animal".

In India, copyright protection is given to any original work of authorship which is permanently in the form of a tangible medium of expression. Authors are also given copyright protection when it comes to their works. The Indian Copyright Act does not mention anything about animals having copyright protection. Therefore, it is safe to say that animals cannot have copyright protection in India. However, the photographer, David Slater, can assert copyright protection over the monkey selfies. According to the Indian Copyright Act, a copyright is conferred to any type of creativity and labour which is done under the name of an individual. Hence, if David Slater was the one who clicked the

pictures by setting up the camera and adjusting camera lights, then he can be entitled to the copyright of the monkey selfies. The Copyright Act also provides for the registration of copyright of the work. If David Slater registers the copyright of the monkey selfies taken by him, then he will be able to enjoy copyright protection for it under the laws of India.

Therefore, the laws of India provide for the copyright of the monkey selfies taken by David Slater. The photographer can assert copyright protection over his work, and can also register the copyright of the monkey selfies, if he desires to do so.

CONCLUSION

The research conducted in this paper has highlighted the complexity of the concept of ownership in the context of the Monkey Selfie case. It is evident from both legal and ethical standpoints that the macaque in the photographs does not and should not own the photographs, since animals legally do not have the standing to fulfil copyright requirements. Instead, the photographer David Slater should be considered the copyright holder of the photos since he created the work by providing the camera and the setting for the macaque to take the photographs. This conclusion raises a number of ethical considerations related to animal rights, which should continue to be discussed as the debate on the Monkey Selfie case continues. The monkey selfie case has sparked a much-needed dialogue about copyright ownership and animal rights. While the U.S. Copyright Office has stated that it does not recognize non-human animals' copyright ownership, some animal rights activists argue that assigning such ownership would be beneficial for animals. This case highlights the need for a better understanding of the concept of copyright itself, as well as the need for legal clarity on how to treat animals' creative works.

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