

UTOPIA

I wish to start by highlighting my own ignorance. I know very little of food and drug patents and the consequences thereof on developed, developing and undeveloped countries. My concern therefore is for issues related to copyright, not patents. I am a filmmaker struggling to understand why the development of new technology should change the economics of my work and the basis of my existence.

I have followed emerging trends in copyright law and the reasoning of developing countries in demanding a protection free environment – and I see clearly that there is a vision of Utopia. A Utopia that envisions a freedom of information, knowledge and content – a Utopia where there is no space for protection – (including technological protection) – A Utopia that will give the world free access to content on the net – access to technology, software, music and entertainment, books, magazines etc. etc. If to this we could add free unrestricted access to food, housing, transportation, healthcare, education and the luxuries of life – Swiss watches and chocolate, French wine, German cars, Italian shoes and suits - the list is truly endless – we would happily be living in that Utopia.

I live in India. It is the Utopia that pundits describe. We have reached the promised land – a land where you can buy films released three days ago anywhere in the world for under a dollar, a CD of 5-10 hours of the latest MP3 Music for the same price, any recently released or unreleased computer software for 20% more than the price of a blank CD-Rom and if we fail to succumb to any of these temptations we have our local cable channel showing last Friday's release. All of this is without either prior authorisation or price paid to the creators and owners of this work.

Now let us see the cost of this Utopia. Five years ago we had Universal, Sony Music, BMG, T-Series, Venus, Tips and several smaller music companies offering advances of one million dollars upwards (one third the cost of production of a mid size movie) for the music rights of movies. Today only three of these companies survive and apart from one, there are no advance royalties offered and there are rarely any post release royalty shares. Sony Music lost it's CEO and hasn't replaced him, Universal have changed their entire team and they are merely existing. The business that was once a profit centre – is now a major cost – Indian film music – a the backbone of India cinema is slowly but surely disappearing from the world.

A R Rahman, our best composer and a world class musician has moved on to scoring music for the stage in the west (Bombay Dreams and now Lord of the Rings), Vishal Bhardwaj, another great composer has turned director. Many others have no work – I could go on.

Let's, for a moment, switch to the motion picture industry. All of you know that we are the second most important film industry after Hollywood. Most of you know that we make around 1000 films a year. Some of you know that we are the only country that has a film industry that is sustained by domestic demand and we have survived the onslaught of American Cinema. Almost none of you will know that this second largest entertainment business in the world is ½ of 1% of the world business. Yes – the number two country is one two hundredths of the world market.

I want all of you to understand why. This is not a film industry substantially run by five majors or even eighteen mini-majors like the US. The reality is that most of these 1000 films are created by directors, not producers, and directors with a dream that makes them mortgage their houses, borrow money at exorbitant rates (24%-30% per annum) and most of these films lose money. Most sink home and disappear without a trace. It is not always because their films are bad. It is usually because they see only a fraction of their dues. The rest is stolen from under their noses – and in India, which has terrific IP Laws, the Government is unwilling or unable to give the resource to enforce them.

Some Pundits have a strong view on enforcement. That enforcement is evil and should not be there. Big brother should not be watching you. I feel differently. If big brother is watching over the theft of lace lingerie at Marks and Spencer, big brother should definitely be watching over the theft of a song or film that cost a packet to create. I too resent paying for big brother – whether as a man in uniform or as an anti-theft gate or tag on a garment – but I am sane enough to know that a thief is not going to pay a policeman's wages. It is unreasonable to believe that just because my property is not made of metal, cement or fabric – it's theft is not as bad a pair of socks or money in a bank. I am sorry, theft is theft and should be universally condemned. More so if it is theft of entertainment content because I believe that the role entertainment plays in our lives is very important and since the emergence of the internet age it has become even more so. Today it forms the substructure on which so much rests – and that so much includes

information and education because today it is impossible to inform and educate without first engaging and entertaining. It is truly the most important ingredient of communication.

But let me get back to my 1000 creators and the 4-6 million that work with them to create their magic. Does anybody have the right to decide whether they should work for free? This is a gathering of eminent lawmakers and society watchdogs. Perhaps there should be a gathering of eminent social anthropologists that will look into the lives of artists – creators who provide–entertainment. The creative space is not an easy space as it is not possible for a creator to create excellence at will. Often there are one-song singers, one-book writers and one-film directors. While their one piece of art may be great, it may be their next valuable work may be a while away, and they must be given a right to protect that property such that it sustains them for a lean creative period.

The next important thing to understand is that filmmaking is a collaborative art. There are the thousands of sub workers who are sustained by this activity. These are people who earn less than 8 dollars a day. It is their cumulative effort that results in the creative work. Why are we making a value judgement on their work – why would we not want to protect it?

I could go on and on – but I think that those who are here with an open mind will have got the point. It is an appeal from the heart. Art is crucial to quality life and for art to sustain in needs resource. In the old days monarchs patronized artists. Sometimes Governments do but largely, if the commerce of it doesn't work we can prepare to live in this Utopia. A utopia called HELL.

Thank you for Indulging me.

Bobby Bedi

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