The Thrissur Pooram Sound Story

Copyright on Sounds of the Festival?

Pragya Chaturvedi
Research Fellow, CIIPC · 4 June 2019

In India, music and religious ceremonies blend together like sugar in our beloved cup of tea. We can't really imagine one without the other. Just like that, can any figment of our imagination think of religious festivities without the accompanying sounds of any music?

The Thrissur Pooram festival comes to light with this background as it has been in the news lately for more than one reasons. But, none of them relate to the magnificence of the festivities which have earned it the epithet *the mother of all festivals* or *the festival of festivals*in Kerala. One relates to the parading of a certain elephant in the festival; and the second to the copyright controversy the event has courted.

Allegedly, Sony Music is claiming copyright on the sounds of the traditional orchestra which is played as part of the festivals. So, users (including media channels) trying to upload live streams/videos of the festival on YouTube and Facebook are meeting with some unpleasant surprises in the form of copyright notices.

The Background

Thrissur Pooram, envisioned and started by a former ruler of Kochi, is the largest of the harvest festivals celebrated in Kerala, called Poorams. As part of the traditional festivities, the eastern and western divisions of the temple compete in playing the Panchvadyam (translating to orchestra of five instruments), a traditional orchestra which is believed to have come into its present shape during the 1920s.

The festival takes place in the Malayalam calendar month of Medam (April-May). This year, it took place on 13 May.

The Sound Story, released on 05th April this year, is a multilingual film with celebrated sound designer Resul Pookutty as the main character who has the dream of recording the sounds of the festival and the struggles he undergoes to record it. The audio tracks for the movie are owned by Sony Music.

The movie features the Panchvadyam Melam, the Panchari Melam, and the Ilanjithara Melam, all three art forms being similar in terms of instruments used and the rhythmic structure. Two years back, Resul Pookutty had recorded the music at Thrissur Pooram and then mixed it for the movie.

This year, after the release of the film, a copyright controversy erupted when users started getting copyright violation notices from Sony Music when uploading the videos or live streams of the festival to social media platforms.

The Issue

As per news reports, earlier this year, this issue arose in connection to other Poorams as well. But, it became the centre of debate when ARN Media, an online channel which covers temple and cultural festivals in Kerala made a post on Facebook stating their inability to cover the event through Facebook live owing to copyright issues.

The post on Facebook says that attempts to go live on Facebook with coverage of the event were being blocked and that a similar situation was faced during coverage of Arattupoozha Pooram in March this year. It also says that other users are facing the same issue when attempting live coverage of the event. Facebook live events are even being disrupted in the middle and discontinued.

The matching content notice received by ARN from Sony Music Entertainment, reads along the following lines.

"Your video has been blocked because it may contain music, audio, or video that belongs to someone else. Your video matches 1 minute and 29 seconds of audio owned by Sony Music Entertainment (SME)."

Social media platforms like Facebook and YouTube use fingerprinting technology to prevent potentially copyright infringing content from being uploaded on their platforms. This technology relies on sophisticated computer-based analysis to identify media such as videos or audio recordings. It is called fingerprinting because just as we have fingerprints unique to ourselves, every piece of media has unique features which can be identified by a software and matched against a database of copyrighted content so that users can be prohibited from uploading copyrighted content to social media websites. It is this technology which results in such notices and taking down/blocking of content.

However, this has left individual users, media channels, and temple authorities miffed with many calling out the actor/sound designer Resul Pookutty for *selling*the Thrissur Pooram to Sony and the temple authorities questioning how a traditional art form and public event can be copyrighted by anyone.

The centrepiece of the heated debate is who owns the copyright in the music played by the ensemble which is an integral part of a large number of traditional festivals in Kerala.

Concerns are also being raised about the fate of future such events if users keep getting copyright strikes for posting live streams or videos of the events.

The Analysis

1. Who owns the copyright to public events like this? Does Sony Music own the copyright on the traditional music that define the festivities associated with the temple festival?

As per the film's director, Prasad Prabhakar, only 5:42 minutes of the actual Thrissur Pooram music ensemble is played in the film, when the *melam* (the musical ensemble in the festival) runs for approximately two-and-a-half hours. This five minute and forty seconds of music has been mixed by Resul Pookutty to create audio tracks for the film. The director also clarified that the rest of the music was staged and recorded at their own expense in another temple the rights for which were transferred to Sony.

The actor/sound designer has also clarified by posting a screenshot of the email from Sony that neither him nor Sony music are claiming any copyright in the sounds of the festival. The only copyright they are claiming is in the recordings they made as part of the film, which also contained the 5:42 minutes recording of the festival sounds made by Pookutty. He also clarified that Sony is not making any manual claim and the copyright notices users might be getting may be because of the copyright security measures adopted by Sony Music (referring to the fingerprinting technology on partner sites which play Sony's music).

In a tweet, Sony music has mentioned that it is aware of the difficulties being faced by users when uploading music from the soundtrack of the Sound Story and that it is looking into the matter. However, no mention has been made of Thrissur Pooram.

To answer the first part of the question, it is an established position that there is absolutely no copyright in events, which form part of traditional cultural expressions. Performers may have their distinct rights. Taking an event like the festival in question, anyone who makes an audio recording of the festival can

claim distinct copyright in their own sound recordings but not on the festival music itself. This means that they cannot stop others from making their own recordings of the festival and using it in the way they like.

As for the second part, audio tracks fall under the category of Sound recordings which are copyrightable works under the Indian Copyright law. The audio tracks of the film, even with the recorded sounds of the Pooram incorporated into them would be copyrightable works under the copyright act.

However, this is not to say that Sony can claim copyright in the musical compositions of the temple festival itself. They can only claim copyright on the audio tracks of the film (even with the recordings from Thrissur Pooram incorporated), but not on the traditional instrumental art being played in the temple festival.

2. If Sony does own the copyright, then is it illegal for users to upload videos/live streams of the festival to social media?

We already have the answer to the first half of this question. The answer to the second is in negative. It is not illegal for users to upload videos/live streams of the festival to social media as Sony owns copyright in its own recordings only; and not the temple festivities.

3. Is this hit by the fair dealing provisions of the copyright act?

Fair dealing refers to those acts involving a copyrighted work which are not considered violation of the copyright owner's right because of the nature of such use (private use including research, review, criticism, educational use, use in religious ceremonies etc.).

The Indian Copyright Act lays down a long list of such acts considered fair use in Section 52. One particular provision exempts the *communication to public of a sound recording in the course of any bona fide religious ceremony held by the Central/State Government or local authority.*

Although the situation here is quite different, since the temple is not playing sound recordings which were copyrighted by Sony. The situation is instead playing out in reverse. Sony is claiming copyright on the audio recording made a couple of years ago, panning out to a few minutes.

Just for the sake of argument, even if we assume that Sony owns the copyright to the sounds of the temple festival itself, and not just its own recording of it; the above exemption would apply. Playing of the copyrighted sounds in the temple festival would amount to fair use under the copyright law; translating to the fact that there would be no need for any copyright controversy at all.

Conclusion

While the actor/sound designer is being ignorantly blamed for *selling* Thrissur Pooram to Sony Music, the controversy may be much ado for nothing as the copyright violation claims users are facing are not tenable in law. Sounds of the temple festival, being a traditional art form, are not copyrightable in themselves. What is copyrightable is only the recordings made be different users, each in their own right.

However, social media platforms, which facilitate content sharing amongst a mass audience, by placing restrictions on such sharing activities will be setting a worrisome precedent for the future. In fact, reforms are needed in the way content sharing websites use filter technologies, which are generally incapable of distinguishing public domain materials from those under copyright due to the nature of fragmented rights allowed by copyright law. Ergo, absolving intermediaries of any legal mandate to incorporate filters on content sharing websites to prevent infringing content from being uploaded, Justice S. Ravindra Bhat's judgment in My Space Inc. vs Super Cassettes Industries Ltd. (2016 Delhi HC) noted that "[i]f an intermediary is tasked with the responsibility of identifying infringing content from non-infringing one, it could have a chilling effect on free speech".

The current copyright controversy around Thrissur Pooram precisely reinforces the premonition that the use of filters may lead to disproportionate take down since intermediaries are unable to know the nature of rights or defences that users have pertaining to materials regularly shared on content sharing websites.

http://www.keralaculture.org/thrissur-pooram/403

https://www.keralatourism.org/event/thirssur-pooram/7

https://www.keralatourism.org/kerala-article/traditional-orchestras/134

https://www.keralatourism.org/festivalcalendar/

https://www.thenewsminute.com/article/how-thrissur-poorams-iconic-music-was-dragged-copyright-violation-controversy-101977

http://www.newindianexpress.com/states/kerala/2019/may/17/pooram-copyright-row-is-nonsense-resul-pookutty-1977889.html

https://indianexpress.com/article/india/kerala-thrissur-pooram-percussion-music-sony-copyright-5731643/

Section 13 (1) (c), Copyright Act, 1957

Section 52 (1) (za), Copyright Act, 1957

FAO(OS) 540/2011

Image Source: Warren Smart, https://www.flickr.com/photos/42906305@N05/27196470007

Cite as (OSCOLA, 5th ed.): Pragya Chaturvedi, 'The Thrissur Pooram Sound Story: Copyright on Sounds of the Festival?' (*The Innovation Brief*, 4 June 2019) <https://innovationbrief.nludelhi.ac.in/essays/the-thrissur-pooram-sound-story> accessed 18 November 2026.

Views are Personal. The author would like to thank Mr. Yogesh Pai, Co-Director, CIIPC, for his valuable inputs and feedback.

The opinions expressed in the Blog are personal to the author/writer. The University does not subscribe to the views expressed in the article / blog and does not take any responsibility for the same.

Published by the Centre for Innovation, Intellectual Property and Competition, National Law University Delhi. Read online at https://innovationbrief.nludelhi.ac.in/essays/the-thrissur-pooram-sound-story.