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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated 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

COPYRIGHT INFRINGEMENT AND DIGITAL PIRACY IN INDIA: LEGAL PROVISIONS AND ENFORCEMENT ISSUES

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Abstract

Copyright in India is governed by the Copyright Act, 1957. Copyright means any exclusive right given to the owner of literary, artistic, dramatic, musical, artistic, cinematograph film, sound recording. This is a right that is granted by the government. Due to the digital age however there can be seen an increase in the digital piracy of copyright throughout the world. This has led to the authorities to be more vigilant in ensuring a smooth process of copyright. This article critically examines the legal framework governing copyright infringement and digital piracy in India, evaluates enforcement difficulties, and suggests measures to strengthen IP protection in the digital age.

Introduction

Copyright is a right granted by the government to the owner of the work to ensure that his/her work is protected from illegal or unauthorised use by any other person. This also gives an opportunity to others to develop upon the knowledge gathered from these works. These works are available to the public to ensure public awareness. Although in the digital age the enforcing of these rights has become challenging.

Digital piracy refers to the illegal reproduction and display of any work on any electronic platform which infringes the rights of the owner. Digital piracy has grown over the years due to the advent and the generations being dependant on any form of digital display. Copyright, as defined under the **Copyright Act, 1957**, covers original literary, dramatic, musical, and artistic works, including cinematograph films and sound recordings (The Copyright Act, 1957). These rights allow authors and creators to control the use and distribution of their work for a stipulated period. Digital piracy involves the illegal downloading, streaming, reproduction, or distribution of copyrighted content without authorization. In India, the impact of piracy is

profound. According to a report by the **Motion Picture Association (2022)**, India ranked among the top countries in terms of illegal content consumption, resulting in substantial losses to the media and entertainment sector. Software piracy similarly undermines legitimate software industries and cyber security.

The Copyright Act governs a variety of rights and the framers have now included various provisions to ensure that illegal screening of works and digital piracy are curbed. This has resulted in certain amendments of the Act to ensure that it is in pace with the ever so changing digital environment.

Legal Framework Governing Copyright in India

The copyright law today not only protects the rights of the copyright owner but also deals with the subject of public interest and tries to strike a balance between he both. India has established a comprehensive legal regime to address copyright infringement and digital piracy.

- **Section 13-** This section lays out the works in which copyright subsists and states that copyright shall subsist in all literary, dramatic, artistic, musical, cinematograph film, sound recording. The section also lays down that copyright shall not subsist in such works unless work was first published in India, if published outside India author was citizen or domicile in India in case of unpublished works.
- **Section 14-** It provides and defines what copyright is and states copyright is exclusive right to do or authorise to do any act as to reproduction in material form, produce to public, make copies, make any cinematograph film or sound recording embodying that work and translation and adaptation of the work. The section has also laid down that commercial sale and communication to public or reproduction of 3-dimensional in 2-dimensional work and vice-versa shall also be copyright.

The section is said to be the **economic right** of the owner of copyright. This means that no other person except the owner is allowed to perform any of these acts unless authorised by the owner himself. In the case of **Donoghee vs Allied Newspaper** it was held that the mere idea of any person is not entitled to copyright, but where this idea is communicated to any producer who produces any work then the one who produced the work shall be the owner and not the one who proposed the idea.

- **Section 57-** This section provides certain moral rights to the owner of the copyright even after he himself has authorised the use of work to any person. The section states

that even after assignment of the work by the author he shall have the right to claim authorship of that work and also to prevent his work from any modification or adaptation that would be prejudicial to his reputation. In the case of **Amarnath Sehgal vs Union of India** it was held that moral rights are soul of the authors work and he has a right to preserve, protect and nurture his creations through this moral rights.

Further in **Manu Bhandari vs Kala Vikas Pictures Ltd** the first ever case in relation to moral rights came before the court after 30 years of the enactment of the act. The court observed that Section 57 was a statutory right of the intellectual property of the author and shall be protected.

Infringement of Copyright

- **Section 51-** The section exclusively talks about the infringement of copyright and lays down certain conditions what constitutes infringement. It states that where any person does any act only the owner can do or provides any place for communication of the work to the public where such work is infringement and does so without being authorised by the owner then it shall be infringement of copyright.

The section also provides certain other conditions as to what constitutes infringement-

- a) Makes for sale, sells
- b) Distributes to public
- c) Exhibits to the public
- d) Imports into India

Any infringing copies of work.

- **Section 63 and 63A-** These sections provide penalties for the infringement of copyright by any person not authorised for its use. Section 63 provides where any person infringes any work in which copyright subsists then he shall be liable for imprisonment of not less than 6 months which may extend to 3 years and with fine of not less than fifty thousand which may extend to two lakh rupees. Section 63A on the other hand deals with second and subsequent convictions wherein any person who is convicted for the offence again he shall be liable for imprisonment of not less than one year which may extend to 3 years and with fine of not less than one lakh which may extend to two lakh rupees
- **Section 65A and 65B-** Section 65A criminalizes the circumvention of technological protection measures used by copyright owners to prevent unauthorized use of their works. The section aims to protect digital works by making it **illegal to bypass security**

mechanisms such as encryption, access controls, password protections, and digital locks implemented by copyright holders to guard against unauthorized access or reproduction. Any person who intentionally circumvents an effective technological measure used by the owner of a copyright work, without proper authority, commits an offence and the purpose of circumvention must be to infringe copyright shall be punished with Imprisonment of up to two years and shall be liable to fine. Section 65B on the other hand penalizes the removal or alteration of rights management information that is attached to a digital work. This section ensures that creators and owners are recognized, and that works are not misused by removing such information. RMI includes details like: Title of the work, Name of the author or owner, Terms and conditions for use (license info), Any identification codes. Removing and altering RMI is an offence and so is the distribution of such work altered or removed and punishable with imprisonment up to 2 years along with fine.

Enforcement Challenges in India

Although India possesses a reasonably comprehensive legal framework to address copyright infringement and digital piracy, implementation and enforcement remain significantly constrained. The challenges are multi-dimensional, involving legal, technological, institutional, and social aspects. A deeper understanding of these hurdles is essential to assess why piracy remains a persistent issue despite legal deterrents.

- 1) **Anonymity and Borderless Nature of the Internet-** One of the most formidable barriers in enforcing digital copyright is the anonymity of offenders. Piracy networks often operate through anonymous hosting services, virtual private networks (VPNs), and proxy servers that obscure the identities and locations of infringers. Furthermore, many piracy websites are hosted on offshore servers located in jurisdictions with weak or non-cooperative IP enforcement regimes. This transnational nature of digital piracy makes it difficult for Indian authorities to trace and prosecute offenders. Mutual legal assistance treaties (MLATs) or bilateral cooperation agreements are slow and often ineffective in time-sensitive cases involving rapidly changing domains and IP addresses.
- 2) **Jurisdictional Complications-** Jurisdiction poses both a procedural and practical challenge in combating online copyright infringement. Under Indian law, a court can exercise jurisdiction if the infringement causes harm within India. However, when

infringers reside or operate outside the territorial limits of Indian law, initiating legal proceedings or executing court orders becomes complex. Courts often resort to issuing blocking orders to Internet Service Providers (ISPs), but this is a workaround rather than a resolution. Even when websites are blocked, they often reappear under slightly altered domain names or mirror sites, rendering injunctions ineffective in the long term.

- 3) **Delayed Judicial Process and Overburdened Courts-** India's judicial system is notoriously slow, with intellectual property cases frequently entangled in years-long litigation. This delay dilutes the deterrent effect of copyright laws and provides no immediate relief to rights holders who often suffer significant economic harm during the pendency of the case. While some High Courts like Delhi have demonstrated agility by issuing dynamic injunctions, such practices are not uniformly adopted across the country.
- 4) **Evasive Technology and Proliferation of Mirror Sites-** Piracy platforms have become increasingly sophisticated, using dynamic content delivery systems and automated redirection techniques to avoid detection and shutdown. Even when a piracy website is blocked following a court order, mirror sites — identical versions of the same website under a different domain — are launched almost immediately. This cat-and-mouse game between enforcement authorities and pirates severely undermines the effectiveness of existing judicial remedies.
- 5) **Lack of Public Awareness and Normalization of Piracy-** A low level of IP literacy among the public contributes to the persistence of piracy. In India, many internet users, particularly in semi-urban and rural areas, are either unaware of the legal implications of piracy or view it as a minor issue. The availability of pirated content on easily accessible platforms such as Telegram, WhatsApp, and torrent sites has normalized infringement as a harmless or victimless act. Until public perception changes and legal content becomes both affordable and accessible, demand for pirated material is unlikely to abate.

Such factors have indeed led to a lack of enforcement mechanism in India which leads to a more regressing economy. In sum, India's enforcement landscape is challenged by a combination of technological sophistication among infringers, jurisdictional constraints, legal procedural delays, and public indifference or ignorance. Without addressing these interrelated issues, even the best-designed legal provisions will struggle to effectively combat digital piracy.

Conclusion

The rapid growth of digital technologies has revolutionized content creation, distribution, and consumption in India, but it has also created fertile ground for copyright infringement and digital piracy. As this article has explored, India possesses a robust statutory framework to safeguard copyright, notably through the Copyright Act, 1957 and its 2012 amendments, including Sections 65A and 65B, which explicitly address the challenges of the digital era. However, the persistence of piracy—whether in the form of illegal streaming, unauthorized downloads, or the manipulation of rights metadata—indicates that legal provisions alone are insufficient. The enforcement challenges in India are deeply systemic.

From jurisdictional complications and technological evasiveness to overburdened courts and limited public awareness, these issues collectively undermine the effectiveness of existing copyright laws. The emergence of mirror sites, anonymized hosting, and the misuse of digital platforms to disseminate infringing content reflect how rapidly offenders adapt to enforcement measures. Moreover, the low levels of IP literacy and normalization of piracy among consumers further dilute the impact of legal deterrents.

To create a sustainable and rights-respecting digital environment, India must move beyond reactive legal strategies toward a proactive, collaborative approach. This involves not only empowering the judiciary and law enforcement with digital tools and training but also fostering strategic alliances between content creators, intermediaries, internet service providers, and cybercrime cells. Public education campaigns are equally critical to shift societal attitudes and emphasize the moral and economic importance of respecting intellectual property.

Ultimately, safeguarding copyright in the digital age is not merely a legal obligation but a foundational requirement for nurturing creativity, innovation, and economic growth. As India positions itself as a global hub for digital media, software, and entertainment, a more integrated and dynamic response to piracy will be essential. Strengthening enforcement mechanisms, modernizing judicial processes, and cultivating a culture of respect for intellectual property can together ensure that the rights of creators are upheld without stifling technological progress or access to information.

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