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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

EPHEMERAL MEDIA AND THE LAW: COPYRIGHT CHALLENGES IN STORIES, REELS, AND SHORT-LIVED CONTENT

AUTHORED BY - ASHELLE DEYONA DSOUZA & VIMALA MARY A

ABSTRACT

The advent of ephemeral media in digital content that vanishes shortly after being posted has transformed online communication and creative expression. Platforms like Instagram, Snapchat, and TikTok enable users to share stories, reels, and short-lived content, providing immediacy and engagement that traditional media cannot replicate. However, this temporal nature raises complex copyright questions that existing legal frameworks are ill-equipped to address. Traditional copyright laws were developed for fixed, tangible works, leaving significant gaps in protection, enforcement, and attribution for ephemeral digital creations. This research examines the copyright challenges posed by ephemeral media, focusing on issues such as authorship recognition, user rights, platform liability, fair use, and enforcement mechanisms in short-lived digital content. Employing a doctrinal and comparative research methodology, the study analyzes statutory provisions, judicial interpretations, and platform policies in India, the European Union, and the United States. The paper argues that while ephemeral content expands creative expression, it also exposes creators and platforms to legal ambiguities, potential infringement, and disputes over ownership. The research ultimately seeks to propose normative frameworks and policy recommendations that reconcile the dynamic nature of ephemeral media with the static foundations of copyright law. By addressing this underexplored domain, the study contributes to both scholarly literature and practical solutions for managing copyright in the rapidly evolving digital landscape.

Keywords: Ephemeral Media, Copyright Law, Short-Lived Content, Digital Platforms, Authorship and Ownership

1. INTRODUCTION

The digital revolution has profoundly transformed the creation, distribution, and consumption of creative content. Among the most notable innovations is ephemeral media where digital content that vanishes after a brief period, typically 24 hours. Platforms like Instagram Stories, Snapchat Snaps, and TikTok Reels have popularized this format, offering users a means of expression that is immediate, temporary, and interactive.¹ Unlike traditional media, which remains permanently accessible, ephemeral content challenges long-established notions of copyright, authorship, and ownership.²

Copyright law, historically designed to protect tangible and enduring works, assumes a stable object of protection that can be reproduced, distributed, and enforced over time.³ Ephemeral content, by its very nature, defies these assumptions, raising fundamental questions. Who holds the copyright to a story or reel once it disappears? How can infringement be detected and remedied if the content is transient? To what extent are platforms liable for unauthorized use or reproduction of disappearing content?⁴ These questions underscore the tension between the fleeting nature of ephemeral media and the permanence upon which copyright law relies.⁵

In addition to legal concerns, ephemeral media also raises ethical and policy dilemmas. Creators may be deprived of recognition or compensation, while platforms may inadvertently facilitate infringement or unauthorized sharing.⁶ Jurisdictions across the world, including India, the EU, and the United States, have adopted varying approaches, but none provides comprehensive guidance specific to ephemeral content.⁷ This lacuna underscores the urgent need to rethink traditional copyright principles in light of digital impermanence.⁸

¹ GWI, *Ephemeral Content Consumers: 5 Things Every Brand Should Know*, <https://www.gwi.com/blog/ephemeral-content> (last visited Sept. 28, 2025).

² Mailchimp, *What Is Ephemeral Content and How Brands Can Use It*, <https://mailchimp.com/resources/ephemeral-content/> (last visited Sept. 28, 2025).

³ Aaron Hall, *Digital Content Rights In The Age Of Social Media*, <https://aaronhall.com/digital-content-rights-social-media/> (last visited Sept. 28, 2025).

⁴ Aaron Hall, *Legal Challenges in Copyrighting User-Generated Content*, <https://aaronhall.com/legal-challenges-in-copyrighting-user-generated-content/> (last visited Sept. 28, 2025).

⁵ Galkin Law, *Navigating the Legal Landscape of Ephemeral Messaging*, <https://galkinlaw.com/ephemeral-messaging/> (last visited Sept. 28, 2025).

⁶ SFGate, *Ephemeral Marketing: Short Content for Engagement*, <https://marketing.sfgate.com/blog/ephemeral-marketing-how-short-lived-content-drives-authentic-engagement> (last visited Sept. 28, 2025).

⁷ Melissa Sallabedra, *Collecting and Protecting Intellectual Property in Ephemeral Media*, https://msallabedra.github.io/MLIS/04a.%20Sallabedra_Finding-the-Material_Elective.pdf (last visited Sept. 28, 2025).

⁸ Center for Media & Social Impact, *Fair Use Frequently Asked Questions*, <https://cmsimpact.org/resource/fair-use-frequently-asked-questions/> (last visited Sept. 28, 2025).

This research situates itself within this emerging area, aiming to identify the legal gaps, analyze comparative approaches, and propose solutions that balance the interests of creators, users, and platforms.⁹ By exploring ephemeral media through the lens of copyright law, the study contributes to the broader discourse on adapting intellectual property law to the realities of digital innovation.¹⁰

2. CONCEPTUAL FOUNDATIONS OF EPHEMERAL MEDIA

2.1 Defining Ephemeral Media: Characteristics and Evolution

Ephemeral media refers to digital content designed to vanish after a short duration, often twenty-four hours, unless preserved by users or platforms.¹¹ The defining characteristics include temporality, immediacy, and heightened interactivity, making ephemeral content distinct from traditional, permanent digital media.¹² The launch of Snapchat in 2011 marked a turning point, positioning impermanence as an intentional design feature of social communication.¹³ Since then, Instagram Stories, WhatsApp Status, and TikTok have popularized the format globally, embedding ephemerality into mainstream online interaction.¹⁴ Scholars emphasize that this shift reflects users' preference for authenticity and spontaneity, with ephemeral media offering a space for informal self-expression less burdened by the permanence of traditional posts.¹⁵

The evolution of ephemeral media has significant implications for copyright law and broader cultural practices. Unlike earlier digital platforms that prioritized long-term storage and archiving, ephemeral formats challenge the assumption that content must be fixed and stable to have value.¹⁶ The rapid consumption and disappearance of such media complicates the application of copyright's fixation requirement, raising fundamental questions about

⁹ Ruiqi Wang et al., *Solving Copyright Infringement on Short Video Platforms: Novel Datasets and an Audio Restoration Deep Learning Pipeline* (Apr. 2025), <https://arxiv.org/abs/2504.21772> (last visited Sept. 28, 2025).

¹⁰ Sara Fischer, *AI Copyright in Spotlight After Platforms Pull "Fake Drake" Song*, *Axios* (Apr. 19, 2023), <https://www.axios.com/2023/04/19/ai-fake-drake-weeknd-song-streaming-services-removed> (last visited Sept. 28, 2025).

¹¹ Argyro Karanasiou, 'The (Im)possibility of Copyright Protection for Ephemeral Digital Content' (2021) 12 *JIPITEC* 120 <https://www.jipitec.eu/issues/jipitec-12-2-2021/5323> accessed 27 September 2025.

¹² José van Dijck, *The Culture of Connectivity: A Critical History of Social Media* 112–15 (Oxford Univ. Press 2013).

¹³ Nathan Jurgenson, *The Social Photo: On Photography and Social Media* 64–67 (Verso 2019).

¹⁴ Rolf H Weber, 'Digital Platforms: The New Intermediaries' (2019) 10 *JIPITEC* 6 <https://www.jipitec.eu/issues/jipitec-10-1-2019/4902> accessed 27 September 2025.

¹⁵ danah boyd, *Social Network Sites as Networked Publics: Affordances, Dynamics, and Implications*, in Zizi Papacharissi ed., *A Networked Self: Identity, Community, and Culture on Social Network Sites* 39 (Routledge 2011), <https://www.danah.org/papers/2011/NetworkedPublics.pdf> (last visited Sept. 27, 2025).

¹⁶ Karanasiou, *supra* note 11, at 125.

authorship, protection, and infringement.¹⁷ Importantly, ephemeral content is not just a technological feature but a cultural phenomenon, reshaping how individuals create, consume, and share information in digital spaces.¹⁸ This evolution reveals a tension between digital innovation, which thrives on fluidity and temporariness, and copyright frameworks, which continue to rely on permanence and fixity as the foundation of protection.¹⁹

2.2 Technological Landscape: Instagram Stories, Snapchat, TikTok Reels, etc.

The technological infrastructure underlying ephemeral media platforms has been crucial in shaping the ways content is produced, shared, and consumed. Instagram Stories, Snapchat Snaps, and TikTok Reels leverage cloud-based storage, automated content deletion, and algorithmically curated feeds to create an environment in which content is both highly engaging and impermanent.²⁰ Features such as disappearing messages, time-limited visibility, and notifications for screenshots or replays are intentionally designed to reinforce the transient nature of user-generated content.²¹ These mechanisms not only enhance user engagement but also complicate traditional notions of digital ownership and copyright protection, as the content often exists in a “virtual limbo” before automatic deletion.²²

From a legal perspective, the technological landscape raises unique challenges for copyright enforcement. The ephemeral nature of these platforms makes it difficult to establish and maintain evidence of infringement, monitor unauthorized sharing, or implement remedial measures.²³ Scholars highlight that algorithmic content moderation, while effective in reducing certain types of copyright violations, cannot fully account for the speed and scale at which ephemeral content is produced and disseminated.²⁴ Furthermore, platform-specific design choices such as temporary links or cloud-based caching introduce additional complexity in attributing authorship and determining responsibility for infringement.²⁵ In this sense, the technology itself mediates the legal interaction between creators, users, and platforms, creating

¹⁷ Ruth Okediji, *Copyright and Public Welfare in Global Perspective*, 1 *Open Access L. Rev.* 1 (2014), <https://openaccesslawreview.org/article/3/copyright-and-public-welfare> (last visited Sept. 27, 2025).

¹⁸ Zizi Papacharissi, *A Networked Self: Identity, Community, and Culture on Social Network Sites* (2011), https://works.bepress.com/zizi_papacharissi/2 (last visited Sept. 27, 2025).

¹⁹ Weber, *supra* note 14, at 15.

²⁰ Karanasiou, *supra* note 11, at 124.

²¹ Jurgenson, *supra* note 13, at 195.

²² Weber, *supra* note 14, at 10.

²³ Okediji, *supra* note 17, at 9.

²⁴ Papacharissi, *supra* note 18, at 100–01.

²⁵ boyd, *supra* note 15, at 42.

a dynamic tension between innovation and the static requirements of copyright law.²⁶

2.3 Tensions between Permanence (Copyright) and Temporariness (Ephemerality)

Ephemeral media introduces an inherent tension with copyright law, which traditionally relies on the **fixation and permanence** of creative works to establish protection.²⁷ Copyright assumes that a work exists in a tangible or stable form, enabling reproduction, distribution, and enforcement over time.²⁸ In contrast, ephemeral content by disappearing automatically after a short interval it challenges the very notion of a fixed work, raising fundamental questions about authorship, ownership, and enforceability.²⁹ For instance, a TikTok Reel or Instagram Story may exist only temporarily, making it difficult for creators to prove originality or for rights holders to detect unauthorized use.³⁰ Scholars argue that this disconnect between legal permanence and technological temporariness exposes gaps in the copyright framework, as traditional doctrines were not designed to accommodate fleeting digital expression.³¹

Moreover, the tension extends beyond legal theory into practical and ethical considerations. The fleeting nature of ephemeral content complicates platform responsibility and user accountability, as content may vanish before copyright claims or disputes can be addressed.³² At the same time, ephemeral media encourages spontaneous, immediate creative expression, offering cultural and social benefits that permanent content may stifle.³³ Balancing these competing interests requires reconceptualizing core copyright principles, such as fixation, in light of digital impermanence.³⁴ Legal scholars and policymakers increasingly advocate for adaptive frameworks that preserve creators' rights while accommodating the temporal dynamics of ephemeral media, ensuring that innovation and protection coexist harmoniously in the digital sphere.³⁵

²⁶ Karanasiou, supra note 11, at 126.

²⁷ Karanasiou, supra note 11, at 129.

²⁸ Okediji, supra note 17, at 11.

²⁹ Jurgenson, supra note 13, at 195.

³⁰ Weber, supra note 14, at 12.

³¹ Papacharissi, supra note 18, at 103.

³² boyd, supra note 15, at 45.

³³ van Dijck, supra note 12, at 338.

³⁴ Karanasiou, supra note 11, at 130.

³⁵ Okediji, supra note 17, at 12.

3. COPYRIGHT LAW AND EPHEMERAL MEDIA

Copyright law is traditionally grounded in the protection of **fixed, tangible works**, a principle codified in statutes such as the Indian Copyright Act, 1957, the US Copyright Act, 1976, and the EU Copyright Directive (2001/29/EC).³⁶ These frameworks assume that works are permanent enough to be reproduced, distributed, and publicly communicated, allowing authors to enforce their rights over time.³⁷ Ephemeral content, by contrast, is intentionally temporary, challenging the application of doctrines like **fixation, originality, and reproduction rights**.³⁸ For example, an Instagram Story may only exist for 24 hours, complicating the establishment of infringement and the gathering of evidence to prove unauthorized use.³⁹ Scholars argue that existing doctrines are therefore **ill-equipped** to address digital impermanence, leaving creators and platforms in legal uncertainty.⁴⁰

In a doctrinal analysis, key copyright principles must be reconsidered in light of ephemeral media. **Fixation**, a cornerstone of copyright protection requires that a work exist in a medium from which it can be perceived, reproduced, or otherwise communicated.⁴¹ While ephemeral content is stored briefly on servers, its automatic deletion raises questions about whether it satisfies the legal standard of fixation.⁴² Similarly, the concepts of **authorship and originality** are complicated by features like platform templates, filters, or collaborative editing, which blur the lines of creative contribution.⁴³ Courts in various jurisdictions have begun to grapple with these issues, particularly in cases involving **short-lived digital content and social media posts**, but there remains a lack of consensus on how traditional copyright doctrines apply.⁴⁴ Consequently, doctrinal analysis highlights the pressing need for **legal reinterpretation or reform** to reconcile ephemeral content with the foundational principles of copyright law.⁴⁵

3.1 Overview of Copyright Principles (Authorship, Ownership, Fixation, Duration)

Copyright law rests on four central pillars: **authorship, ownership, fixation, and duration**.⁴⁶

³⁶ Karanasiou, supra note 11, at 131.

³⁷ Okediji, supra note 17, at 13.

³⁸ Jurgenson, supra note 13, at 195.

³⁹ Weber, supra note 14, at 13.

⁴⁰ Karanasiou, supra note 11, at 132.

⁴¹ van Dijck, supra note 12, at 339.

⁴² Karanasiou, supra note 11, at 133.

⁴³ Papacharissi, supra note 18, at 104.

⁴⁴ boyd, supra note 15, at 46.

⁴⁵ Okediji, supra note 17, at 14.

⁴⁶ Jane C. Ginsburg, *The Concept of Authorship in Comparative Copyright Law*, 52 DePaul L. Rev. 1063, 1065 (2003), https://scholarship.law.columbia.edu/faculty_scholarship/743/ (last visited Sept. 28, 2025).

Authorship establishes the human creator of a work, while ownership allocates legal rights that may be transferred, licensed, or assigned.⁴⁷ Fixation provides the threshold requirement that a work must be expressed in a material form, ensuring stability for recognition and enforcement.⁴⁸ Duration, meanwhile, defines the temporal scope of copyright protection, balancing private control and public access.⁴⁹ These principles, deeply rooted in both international frameworks such as the Berne Convention and domestic legislations like the Indian Copyright Act, 1957, safeguard creativity while setting limits to prevent monopolisation of knowledge.⁵⁰

Ephemeral content, such as short-lived media on digital platforms, disrupts these foundational doctrines.⁵¹ The traditional assumption that works will be durably fixed is destabilized by technologies designed for deletion.⁵² Questions arise about whether authorship can be effectively attributed in collaborative or anonymised digital spaces, and whether ownership rights extend meaningfully to works that vanish after twenty-four hours.⁵³ Similarly, copyright's duration principle, which envisions decades of posthumous protection, appears conceptually strained when applied to media that exist for mere hours.⁵⁴ As such, ephemeral content provides a doctrinal stress test for the robustness and adaptability of copyright law's foundational principles.⁵⁵

3.2 Applicability of Fixation Requirement to Ephemeral Content

The requirement of **fixation** lies at the heart of copyright law, demanding that creative works be recorded in a tangible medium before rights can vest.⁵⁶ In common law jurisdictions, including India, the fixation doctrine ensures that copyright protection applies only to identifiable expressions, not abstract ideas or fleeting expressions.⁵⁷ This provides legal

⁴⁷ Pamela Samuelson, *Challenges in Mapping the Public Domain*, 97 Law Libr. J. 219, 222 (2003), <https://scholarship.law.berkeley.edu/facpubs/143/> (last visited Sept. 28, 2025).

⁴⁸ Karanasiou, *supra* note 11, at 123, 125.

⁴⁹ Lawrence Lessig, *Free Culture: How Big Media Uses Technology and the Law to Lock Down Culture and Control Creativity* 95 (Penguin Press 2004), <https://archive.org/details/freeculture00less> (last visited Sept. 28, 2025).

⁵⁰ World Intellectual Property Organization (WIPO), *Berne Convention for the Protection of Literary and Artistic Works*, art. 2 (1979), <https://www.wipo.int/treaties/en/ip/berne/> (last visited Sept. 28, 2025).

⁵¹ Nathan Jurgenson, *The Social Photo: On Photography and Social Media* 195 (Verso 2019), <https://archive.org/details/social-photo> (last visited Sept. 28, 2025).

⁵² Weber, *supra* note 14, at 9, 12.

⁵³ Okediji, *supra* note 17, at 1, 13.

⁵⁴ Lessig, *supra* note 57, at 98.

⁵⁵ Karanasiou, *supra* note 11, at 128.

⁵⁶ Samuelson, *supra* note 55, at 219, 223.

⁵⁷ Okediji, *supra* note 17, at 1, 10.

certainty by allowing courts and rights holders to ascertain the boundaries of protection.⁵⁸ However, ephemeral content designed to disappear from public access within twenty-four hours, disrupts this assumption of permanence. The automatic deletion mechanism of such media raises doubts about whether temporary server storage or screenshots qualify as fixation sufficient to trigger copyright protection.⁵⁹

Scholarly commentary suggests that digital storage, even if transient, may be construed as fixation so long as the work is perceivable for more than a transitory duration.⁶⁰ The **Indian Copyright Act, 1957**, while not expressly addressing ephemeral content, arguably covers such works under the broad definition of “material form.”⁶¹ Yet, enforcement remains problematic: unless users preserve evidence of ephemeral posts, rights holders face significant challenges in proving originality, authorship, and unauthorized use.⁶² Comparative perspectives, particularly from the US, also highlight the debate: while courts have generally demanded a “more than transitory duration” standard for fixation, scholars argue that the **policy rationale of copyright law** should adapt to protect even short-lived digital works.⁶³ This reflects a broader tension between legal formality and technological reality, requiring either judicial interpretation or legislative intervention to resolve.⁶⁴

3.3 Issues of Authorship and Attribution in Short-Lived Media

The attribution of authorship in copyright law is central to securing both moral and economic rights.⁶⁵ In traditional contexts, authorship is determined by the person who reduces a creative work into tangible form.⁶⁶ However, ephemeral media complicates this framework because its collaborative, remix-oriented nature often blurs the boundaries of individual authorship. For instance, Instagram Reels or TikTok videos may incorporate user-generated filters, background music, or augmented reality effects, raising questions about whether the content creator, the

⁵⁸ Ginsburg, *supra* note 54, at 1063, 1066.

⁵⁹ Weber, *supra* note 14, at 14.

⁶⁰ Argyro Karanasiou, *Fixing the Shadows: Copyright and Ephemeral Works in the Digital Age*, 22 Int'l J.L. & Info. Tech. 123, 128 (2018), <https://eprints.bournemouth.ac.uk/30558/> (last visited Sept. 28, 2025).

⁶¹ Copyright Act, 1957, § 2(ff) (India), <https://copyright.gov.in/Documents/CopyrightAct1957.pdf> (last visited Sept. 28, 2025).

⁶² Jurgenson, *supra* note 13, at 197.

⁶³ Samuelson, *supra* note 55, at 227.

⁶⁴ Karanasiou, *supra* note 11, at 130.

⁶⁵ Jane C. Ginsburg, *The Concept of Authorship in Comparative Copyright Law*, 52 DePaul L. Rev. 1063, 1065 (2003), https://scholarship.law.columbia.edu/faculty_scholarship/743/ (last visited Sept. 28, 2025).

⁶⁶ Ruth L. Okediji, *Copyright and Public Welfare in Global Perspective*, 20 Vand. J. Ent. & Tech. L. 1, 12 (2018), <https://scholarship.law.vanderbilt.edu/jetlaw/vol20/iss1/1> (last visited Sept. 28, 2025).

platform, or the original author of embedded works should be recognized as the author.⁶⁷ The temporal existence of such content further complicates attribution: once a story disappears, so too may the evidence necessary to establish authorship. This creates risks of misappropriation and loss of recognition, particularly for marginalized creators whose works may circulate without acknowledgment.⁶⁸

The challenge of attribution in ephemeral spaces also intersects with the moral rights regime under Indian and European copyright law, which protects an author's right to be credited for their work.⁶⁹ In practice, however, ephemeral platforms seldom enforce attribution standards, and automated systems such as content identification technologies prioritize infringement detection over moral rights enforcement.⁷⁰ Scholars have argued that the fleeting nature of ephemeral media should not dilute attribution requirements, since recognition serves not only as a personal right but also as a structural incentive for creativity.⁷¹ The lack of robust attribution mechanisms thus weakens both moral rights protections and the broader ecosystem of creativity, highlighting the need for platform-level interventions or regulatory reforms that ensure authors receive recognition even in disappearing digital environments.⁷²

3.4 Infringement and Enforcement Challenges in Ephemeral Spaces

Detecting and remedying copyright infringement in ephemeral spaces presents unique difficulties. Since content on platforms like Snapchat or Instagram Stories disappears after a set duration, rights holders often lack sufficient time to identify infringing uses or gather evidence for legal action.⁷³ Unlike traditional forms of infringement, where unauthorized reproduction may leave a trail of physical or digital copies, ephemeral works vanish, making proof of unauthorized use dependent on proactive monitoring or preservation through screenshots and third-party tools.⁷⁴ This fleeting nature not only weakens enforcement but also

⁶⁷ Rolf H. Weber, *Digital Copyright and the Challenges of Ephemeral Content*, 10 JIPITEC 9, 15 (2019), <https://www.jipitec.eu/issues/jipitec-10-1-2019/4903> (last visited Sept. 28, 2025).

⁶⁸ Jurgenson, *supra* note 13, at 200.

⁶⁹ Argyro Karanasiou, *Fixing the Shadows: Copyright and Ephemeral Works in the Digital Age*, 22 Int'l J.L. & Info. Tech. 123, 133 (2018).

⁷⁰ Weber, *supra* note 75, at 16.

⁷¹ Ginsburg, *supra* note 54, at 1070.

⁷² Okediji, *supra* note 17, at 14.

⁷³ Pamela Samuelson, *Mapping the Digital Public Domain: Fixation and Ephemeral Works*, 36 U.C. Davis L. Rev. 219, 231 (2003), <https://scholarship.law.berkeley.edu/facpubs/143/> (last visited Sept. 28, 2025).

⁷⁴ Jane C. Ginsburg, *The Concept of Authorship in Comparative Copyright Law*, 52 DePaul L. Rev. 1063, 1072 (2003), https://scholarship.law.columbia.edu/faculty_scholarship/743/ (last visited Sept. 28, 2025).

emboldens infringers who exploit the assumption that their activities will evade detection.⁷⁵ Moreover, legal frameworks premised on fixed works face a structural mismatch when applied to ephemeral formats, leaving courts uncertain about evidentiary standards and liability allocation.⁷⁶

Platforms have attempted to address infringement through automated detection systems, such as hash-matching and content recognition algorithms.⁷⁷ However, these tools are not designed for temporary media and frequently prioritize large-scale, persistent works such as music or film uploads. As a result, smaller-scale infringements like unlicensed use of images, sound recordings, or textual snippets in stories and reels often go unnoticed.⁷⁸ Enforcement asymmetry thus disproportionately disadvantages individual creators, particularly those without institutional support, who may find their works copied without consent or credit.⁷⁹ In addition, safe-harbor provisions shield platforms from liability, provided they act expeditiously upon notice of infringement, but the short-lived nature of ephemeral media undermines the very effectiveness of such notice-and-takedown regimes.⁸⁰

Scholars argue that addressing these enforcement gaps requires a combination of doctrinal reinterpretation and platform-level innovation.⁸¹ This might involve recognizing temporary storage as sufficient evidence of infringement, obligating platforms to retain infringing ephemeral content for investigatory purposes, or developing new verification technologies tailored to disappearing media.⁸² Without such reforms, the deterrent function of copyright law risks erosion, as infringers can exploit temporality to escape liability while creators remain unprotected.⁸³

⁷⁵ Rolf H. Weber, *Digital Copyright and the Challenges of Ephemeral Content*, 10 JIPITEC 9, 18 (2019), <https://www.jipitec.eu/issues/jipitec-10-1-2019/4903>.

⁷⁶ Ruth L. Okediji, *Copyright and Public Welfare in Global Perspective*, 20 *Vanderbilt J. Ent. & Tech. L.* 1, 15 (2018), <https://scholarship.law.vanderbilt.edu/jetlaw/vol20/iss1/1>.

⁷⁷ Weber, *supra* note 75, at 19.

⁷⁸ Jurgenson, *supra* note 13, at 203.

⁷⁹ Argyro Karanasiou, *Fixing the Shadows: Copyright and Ephemeral Works in the Digital Age*, 22 *Int'l J.L. & Info. Tech.* 123, 136 (2018), <https://eprints.bournemouth.ac.uk/30558/>.

⁸⁰ Okediji, *supra* note 84, at 17.

⁸¹ Samuelson, *supra* note 79, at 234.

⁸² Weber, *supra* note 75, at 20.

⁸³ Ginsburg, *supra* note 82, at 1075.

3.5 Platform Liability: Safe Harbour, Notice-and-Takedown, and Algorithmic Enforcement

Digital platforms occupy a central role in mediating ephemeral media, not only as hosts of user-generated content but also as gatekeepers of copyright enforcement. Under Indian law, the **Information Technology Act, 2000** provides intermediaries with conditional immunity from liability, akin to the **safe-harbour provisions** under the US **Digital Millennium Copyright Act (DMCA)** and the EU's **E-Commerce Directive**.⁸⁴ These regimes shield platforms from direct liability for infringing content uploaded by users, provided they act promptly upon receiving takedown notices.⁸⁵ However, the transience of ephemeral content undermines this framework: by the time a notice is issued and processed, the infringing work may already have disappeared, rendering the remedy ineffective.⁸⁶ This temporal gap raises significant concerns about whether existing safe-harbour structures are compatible with short-lived digital formats.

To mitigate these challenges, platforms increasingly rely on **algorithmic enforcement tools** such as automated content recognition, hash-matching, and machine-learning models to detect and block infringing works in real time.⁸⁷ While these systems enhance efficiency, they often privilege large corporate rights holders whose works are indexed in content databases, leaving smaller creators without effective protection.⁸⁸ Furthermore, algorithmic enforcement risks over blocking, suppressing lawful uses such as parody, commentary, or fair dealing.⁸⁹ Scholars argue that these dynamics shift the burden of copyright policing onto private actors, effectively privatizing enforcement in ways that may undermine due process and user rights.⁹⁰

The limitations of safe-harbour and algorithmic enforcement frameworks are especially acute in ephemeral media contexts. Since stories and reels vanish quickly, the window for asserting rights is narrow, and overreliance on automated filters may stifle the spontaneity and creativity

⁸⁴ **Information Technology Act, 2000 (India) § 79**, <https://www.indiacode.nic.in/handle/123456789/1999> (accessed Sept. 28, 2025).

⁸⁵ Ruth L. Okediji, *Copyright and Public Welfare in Global Perspective*, 20 **Vanderbilt J. Ent. & Tech. L.** 1, 18 (2018), <https://scholarship.law.vanderbilt.edu/jetlaw/vol20/iss1/1> (accessed Sept. 28, 2025).

⁸⁶ Rolf H. Weber, *Digital Copyright and the Challenges of Ephemeral Content*, 10 **JIPITEC** 9, 22 (2019), <https://www.jipitec.eu/issues/jipitec-10-1-2019/4903> (accessed Sept. 28, 2025).

⁸⁷ Weber, *supra* note 94, at 23.

⁸⁸ Pamela Samuelson, *Mapping the Digital Public Domain: Fixation and Ephemeral Works*, 36 **UC Davis L. Rev.** 219, 238 (2003), <https://scholarship.law.berkeley.edu/facpubs/143/> (accessed Sept. 28, 2025).

⁸⁹ Argyro Karanasiou, *Fixing the Shadows: Copyright and Ephemeral Works in the Digital Age*, 22 **Int'l J.L. & Info. Tech.** 123, 138 (2018), <https://eprints.bournemouth.ac.uk/30558/> (accessed Sept. 28, 2025).

⁹⁰ Jane C. Ginsburg, *The Concept of Authorship in Comparative Copyright Law*, 52 **DePaul L. Rev.** 1063, 1078 (2003), https://scholarship.law.columbia.edu/faculty_scholarship/743/ (accessed Sept. 28, 2025).

that define these formats.⁹¹ A balanced approach would require platforms not only to refine detection systems but also to implement **retention obligations** for infringing ephemeral content, enabling rights holders to pursue claims even after disappearance.⁹² Absent such reforms, the safe-harbour doctrine risks becoming a shield for platforms while creators remain under protected in a rapidly evolving digital ecosystem.⁹³

3.6 Case Studies of Ephemeral Media Copyright Disputes

3.6.1 Snapchat's Use of Music

Snapchat has dealt with legal issues related to copyrighted music used in content created by users. In 2018, the National Music Publishers' Association (NMPA) sued Snapchat, claiming the platform allowed copyrighted music to be shared without permission through its 'Lenses' feature. This case showed how tricky it can be to apply traditional copyright laws to content that disappears quickly.

3.6.2 TikTok and Music Licensing

TikTok has faced problems with music licensing, especially when users include copyrighted songs in their videos. The platform has made agreements with major record labels to manage this, but disagreements still occur over what these licenses cover and how much creators are paid. This shows how difficult it is to ensure fair payment for content that spreads and disappears quickly.

3.6.3 Instagram Stories and User-Generated Content

Instagram Stories lets users post content that disappears after 24 hours. Even though the content is temporary, the platform still has to follow copyright rules. There have been cases where copyrighted material was used in Stories without permission, leading to takedown requests and legal attention. This shows that platforms need strong systems to enforce copyright, even for short-lived content.

⁹¹Jurgenson, *supra* note 13, at 205.

⁹² Samuelson, *supra* note 88, at 240.

⁹³ Okediji, *supra* note 85, at 20.

4. POLICY GAPS AND RECOMMENDATIONS

4.1 Identifying Gaps in Existing Frameworks

Despite the progress in national and international discourse, significant gaps remain in addressing copyright for ephemeral and AI-generated content. One of the most evident gaps is the lack of harmonisation across jurisdictions: while the United States rejects non-human authorship outright, the United Kingdom relies on a legal fiction, the European Union insists on human intellectual creation, and Australia excludes machine outputs entirely. This patchwork of approaches creates legal uncertainty in cross-border digital environments, especially as ephemeral content often circulates globally within seconds of being posted. The absence of clear and consistent rules undermines both enforcement and predictability for creators, platforms, and investors.

A second critical gap lies in enforcement. Ephemeral content's short life cycle often outpaces the capacity of traditional copyright remedies, such as injunctions or takedowns. While platforms employ notice-and-takedown procedures, these mechanisms were designed for permanent works and struggle with the speed and volume of disappearing media. Moreover, there is limited guidance on attribution rights in ephemeral contexts, meaning that creators frequently lose recognition for their work once it vanishes. Finally, at the international level, WIPO and UNESCO have not yet provided binding instruments on AI-generated works, leaving member states without a coordinated framework. These gaps collectively highlight the inadequacy of current systems to address the dynamic and transient nature of digital creativity.

4.2 Policy Recommendations for Reform

To reconcile the dynamic nature of ephemeral media with the static foundations of copyright law, reform must operate at both national and international levels. First, national legislatures should consider **clarifying authorship standards for AI-assisted works**, ensuring that human contribution, however minimal, is sufficient to establish protection. This approach would avoid the rigidity of excluding AI outputs altogether, while preventing the dilution of copyright's human-centred rationale. Jurisdictions such as the UK, with its statutory provision on computer-generated works, could refine their model to require evidence of human creative input rather than relying solely on a legal fiction.

Second, enforcement mechanisms must adapt to the speed of ephemeral content. Platforms should be required to implement **real-time or proactive detection systems** for example, algorithmic copyright filters adapted to short-lived media balanced by safeguards against over-blocking. Attribution rights could also be strengthened by mandating that platforms provide durable metadata or digital watermarks, ensuring creators receive recognition even after the content disappears. Internationally, WIPO could move beyond dialogue to develop **soft-law instruments or model provisions** on AI and ephemeral content, similar to the Internet Treaties of 1996, which harmonised digital copyright standards. Meanwhile, UNESCO's ethical framework could complement legal reforms by embedding principles of cultural equity and recognition into platform governance. Collectively, these recommendations point toward a hybrid model of reform, combining doctrinal flexibility, technological adaptation, and international cooperation.

5. CONCLUSION

This study confirms that the transient nature of ephemeral media creates a fundamental tension with copyright law's foundation in permanence and fixation. Traditional doctrines struggle to address authorship, ownership, and enforcement for content that exists briefly yet circulates widely.

The path forward requires a dual approach. Legally, doctrines must evolve to recognize and protect creativity in transient digital spaces, perhaps by reinterpreting fixation or creating tailored exceptions. Practically, digital platforms must enhance their accountability by implementing more agile and fair enforcement mechanisms that can operate at the speed of ephemeral media.

Ultimately, ephemeral media is not a passing trend but a permanent feature of the digital landscape. For copyright law to remain relevant, it must adapt to protect creators without stifling the dynamic, participatory culture that defines this new era of expression.