

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume 2 Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

IJLRA

EDITORIAL TEAM

EDITORS



Megha Middha

Megha Middha, Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar

Megha Middha, is working as an Assistant Professor of Law in Mody University of Science and Technology, Lakshmangarh, Sikar (Rajasthan). She has an experience in the teaching of almost 3 years. She has completed her graduation in BBA LL.B (H) from Amity University, Rajasthan (Gold Medalist) and did her post-graduation (LL.M in Business Laws) from NLSIU, Bengaluru. Currently, she is enrolled in a Ph.D. course in the Department of Law at Mohanlal Sukhadia University, Udaipur (Rajasthan). She wishes to excel in academics and research and contribute as much as she can to society. Through her interactions with the students, she tries to inculcate a sense of deep thinking power in her students and enlighten and guide them to the fact how they can bring a change to the society

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain



Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019

Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr. Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr. Ambedkar Law College, Pudupakkam. Published one book. Published 8 Articles in various reputed Law Journals. Conducted 1 Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC - NET examination and has been awarded ICSSR - Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

THE PROTECTOR OF CREATIVITY AND INNOVATION **- DIGITAL RIGHTS MANAGEMENT**

AUTHORED BY - HARI SHANKAR SINGH

ABSTRACT

The introduction of the Digital Rights management system marked the emergence of a new approach towards the Digital content uploaded on the cyberspace. The sole purpose behind the adoption of this new approach was to make sure that the rights of the content creator and the rights of the society are safeguarded and balanced. This system protects the various right that the content creator has including the right to protection against the unauthorized access and distribution of the content, right to protection against the act of pirating the content by any third party etc. This paper has dealt with the multifaceted nature of the said system.

This paper has tried to explain what DRM really is and how it operates in the cyberspace. There are various steps that are involved in the operation of the DRM system, these steps are also discussed in this paper. This paper has also shed light on the objectives for which this system was introduced. With the advancement of technology, the use of the DRM system has been increased by various industries including the music and entertainment industries, software companies and other corporate offices.

The benefits as well as the challenges of the DRM system are also discussed in this paper. This paper has also discussed about the legal support to the DRM system along with the question regarding the disruption of the balance between the rights of the content creator and the rights of the society with respect to the content on the cyberspace.

After coming across the challenges that the DRM system face, suggestions for overcoming the challenges have also been mentioned.

KEYWORDS

- Digital rights management
- DRM

- History of DRM
- Digital watermarking
- Challenges of DRM
- Copyrights
- Fair use

1. INTRODUCTION

In the current era, where the technological development is constantly on the rise, the market for digital content creation has also emerged as a profession. As the digital content creation has emerged as an employment option, people from different background has started exploring the ambit of digital content creation. The advancement of technology has provided the individuals the freedom to express their ideas and present the same in front of other people as a mode of expression. A content worthy of generating profits to the creators requires innovation and creativity. The advancement of the technology has allowed a lot of the individuals to make their career in the field of content creation.

Just like Every professional employees have some rights with regard to their employment, the field of content creation too felt the need to safeguard the rights of the creators. Amongst others challenges that the digital content creators Faces, one of the very prominent challenges that they face or suffer from is the unauthorizes use of their content by any third party. In order to prevent this from happening, various methods like copyright and DRM have been introduced. It acts as a reward for the digital content creators and these methods protect the work of the creators from being used or exploited by any third person for income generation.

The content creators Authorizes some of the users to get the access to their content under a contractual agreement in exchange of some compensation and in accordance to certain terms and conditions of the creator. But the advancement of the technology has made it very for the third parties to get the access of the contents without the permission of the owner and made the content present of various other places for the normal public to access without consenting to pay any amount or consenting to any terms and condition of the owner. This Phenomena is also called as piracy.

The act of piracy poses a threat on the profitability and the viability of the content. In order to

keep an eye on the copies that are being made and to get the content creator their fair share for the duplication of their content, there are certain business models that carry out functions like these on behalf of the content creators. The method of copyright protects the duplication of the product in the offline world whereas methods like DRM protects the duplication of the content in the virtual world.

DRM provides various technological tools which are designed for the digital media publishers so that they can control any sorts of duplications and circulation of any the content of any creator. As the content is continuously being digitalized, the reliance of the creators along with the rightsholders and the intermediaries are increasing which as a result is influencing the traditional means of licensing intellectual property rights. DRM systems automates the licensing process and enforce the rights of the owner of the content in the digital environment.

2. WHAT IS DRM?¹

DRM which also means digital rights management refers to the systematic approach used for the purpose of protecting the copyrighted digital content which has been made available in the cyberspace. Hence we can say that DRM is uses the technological tools which are designed for facilitating the management of the rights of the owner of the digital content in the cyberspace. In simple words, we can infer that DRM manages the access and the control of the copyrighted material. It takes the control of the digital content away from the owner and providing it to the computer program.

The digital content often gets duplicated by any third party and is circulated without the permission of the owner and this act damages the income generation capability of the digital content in the cyberspace, the DRM prevents this act of piracy so that the rights of the owner can be protected.

DIGITAL ASSETS MANAGEMENT {DAM} is also an essential element in the DRM as it helps

¹ <https://egyankosh.ac.in/bitstream/123456789/7676/1/Unit-14.pdf>
<https://business.adobe.com/blog/basics/digital-rights-management#effective-digital-rights-management-strategies>
<https://www.vitrium.com/what-is-digital-rights-management-drm-and-how-does-it-work-for-you>
[https://smowl.net/en/blog/digital-rights-management/#:~:text=The%20history%20of%20digital%20rights%20management%20\(DRM\)%20can%20be%20traced,movies%2C%20and%20e-books](https://smowl.net/en/blog/digital-rights-management/#:~:text=The%20history%20of%20digital%20rights%20management%20(DRM)%20can%20be%20traced,movies%2C%20and%20e-books)
<https://nordvpn.com/blog/digital-rights-management/>

the businesses to store, organize, retrieve and share its content in its assets library.

DRM system has become very much relevant and the dependency on it has increased since the digital content creation is taken up as a profession by many individuals. It is also necessary for various organizations as it allows the organizations to know whether they have the right to use an asset and to what extent they can make use of the asset without getting a lawsuit against them. DRM systems are majorly used by the musicians, moviemakers and other content creators as a way to control the usage of their content in a certain manner and by any unauthorized individual.

3. **HISTORY OF DRM²**

The roots of the DRM can be traced back to the 20th century when the emergence of the digital media posed a challenge for the content creators and distributors as their copyrighted content was getting pirated by the third parties which hampered the income generation capabilities of the said content. DRM was brought up as a response against the concerns and challenges of copyright infringement and unauthorized distribution in the cyberspace.

The history of the DRM is marked with the development of the first copy protected systems in the 1980s. Secure digital music initiative {SDMI} introduced as a collaborative efforts between the various major music companies and technology firms for the purpose of laying down the standard for the secure distribution of the digital music was adopted by the recording industry. Earlier the digital media used to be transferred from one person to another or from one system to another in the CD/DVD format. As this format gained a lot of popularity, various methods of infringing the content transferred or pirating the content erupted. Hence the content creators started looking for the techniques to protect their content from getting stolen by the unauthorized users. Some of the companies started using simple encryption techniques in order to protect the data from getting stolen.

Then as the music industry grew and companies realized the potential of the music industry with regard to the revenue generation, companies like Apple brought in the system where the users had to pay a certain amount in order to get the song they want. In response to this system the third

² [https://smowl.net/en/blog/digital-rights-management/#:~:text=The%20history%20of%20digital%20rights%20management%20\(DRM\)%20can%20be%20traced,movies%2C%20and%20e%2Dbooks.https://target-video.com/what-is-drm/#3-how-does-drm-protection-work-behind-the-sceneshttps://opensource.com/life/11/11/drm-graveyard-brief-history-digital-rights-management-musichttps://www.vice.com/en/article/evbgkn/the-incredibly-technical-history-of-digital-rights-management](https://smowl.net/en/blog/digital-rights-management/#:~:text=The%20history%20of%20digital%20rights%20management%20(DRM)%20can%20be%20traced,movies%2C%20and%20e%2Dbooks.https://target-video.com/what-is-drm/#3-how-does-drm-protection-work-behind-the-sceneshttps://opensource.com/life/11/11/drm-graveyard-brief-history-digital-rights-management-musichttps://www.vice.com/en/article/evbgkn/the-incredibly-technical-history-of-digital-rights-management)

Parties users came up with techniques to breach this system and make unauthorized distribution. This leads to companies like Apple started making use of the DRM system with the intention of protecting the premium content from getting distributed without their permission to trap the income generation capability of the content.

With the advancement of technology, other contents like books, movies etc also started getting uploaded by the owners of the content on the cyberspace because of the wide reach that the cyberspace can provide to the content. With the introduction of these content on the cyberspace, DRM system expanded its reach over these content as well.

The DRM system also faced the backlash from users and advocacy groups because of its very strict implications. This event led to the companies using DRM system to move towards more flexible approach like companies allowing the users to access the content on various multiple devices.

The DRM system in the current era has been evolving in accordance with technological advancement and the need of the consumers. Methods like encryption, watermark and other digital content.

4. HOW DOES DRM WORK?³

The owner of the digital content gets their content copyrighted so that any other individual, company or any organization does make use their content without their permission. Still the third parties make use of some methods in order to get the unauthorized access of the content and they pirate it which leads to the content's income generation capability getting hampered. Hence in order to keep these activities in check, DRM is used. DRM monitors the web to catch any sort of illegal activities happening with regard to the said content. DRM system creates barriers in order to prevent the content from getting stolen.

The tools that DRM system makes use of operates through computer codes embedded in the digital content and encryption for limiting the access and the use of the digital content. These

³ [https://smowl.net/en/blog/digital-rights-management/#:~:text=The%20history%20of%20digital%20rights%20management%20\(DRM\)%20can%20be%20traced,movies%2C%20and%20e%2Dbooks.https://target-video.com/what-is-drm/#3-how-does-drm-protection-work-behind-the-sceneshttps://www.acquia.com/blog/digital-rights-managementhttps://business.adobe.com/blog/basics/digital-rights-management#effective-digital-rights-management-strategies](https://smowl.net/en/blog/digital-rights-management/#:~:text=The%20history%20of%20digital%20rights%20management%20(DRM)%20can%20be%20traced,movies%2C%20and%20e%2Dbooks.https://target-video.com/what-is-drm/#3-how-does-drm-protection-work-behind-the-sceneshttps://www.acquia.com/blog/digital-rights-managementhttps://business.adobe.com/blog/basics/digital-rights-management#effective-digital-rights-management-strategies)

tools are also used for controlling the number of times the content can be accessed by any individual or on any device, for setting an expiration date on the content, for establishing the ownership and tracking the content usage. These tools are can also be used for preventing the user from taking any screenshots of the digital content. These tools can also be used to decide whether the user has the power to edit, print, share or save the said content. The access of the content can also be restricted on the basis of the said IP address, location or device.

DRM basically protects the content from getting pirated by any third person by using the code embedded in the digital content that will only be read by devices or software which will have the key to unlock it. Along with this authority, the DRM also has the authority to decide who will have the permission to the said content and to which extent.

The steps that are followed in the working of the DRM system are:-

Step 1:- when the owner of the digital content uploads the content on a particular platform through his IP address, the content gets a specific encryption key from the DRM provider and the same gets uploaded in the DRM platform.

Step 2:- After the encryption key gets generated, the key along with the other necessary metadata are sent to a license server for distribution.

Step 3:- when the file gets uploaded to the platform of the publisher, the encrypted version gets packaged and sent.

Step 4:- when the user tries to access the content, a request for accessing the said content is sent on the proxy of the owner of the said content. The request Is sent for verifying with the owner whether the individual requesting to access the content has the right to access the said content or not.

Step 5:- if it is validated by the copyright holder that the person requesting has the right to access the said content, the DRM platform sends the decryption key to let the user access the content.

5. OBJECTIVES OF DRM⁴

⁴ <https://egvankosh.ac.in/bitstream/123456789/7676/1/Unit-14.pdf>

The primary objective behind the establishment of the digital rights management {DRM} is to prevent the threat of piracy of the digital content which are present in the cyberspace and to protect the rights of the owner of the content. Apart from these objectives, there are several other objectives which are mentioned below:-

- a) To prevent the unauthorized distribution of the paid content on the cyberspace.
- b) To establish a set of business rules regarding the usage of the content protected by the copyright law.
- c) To decide as to how long the user has the right to access the content.
- d) To decide in how many devices the user can access the content.
- e) To protect the revenue streams of the content.
- f) To facilitate the distribution and the licensing of the content.
- g) To prevent the users from downloading and modifying the content without the permission of the owner.
- h) To track the usage of the content.

6. BENEFITS ASSOCIATED WITH DRM⁵

A vast variety of benefits are associated with the DRM system which not only tackles the challenges but also provide a sense of security to the owner of the content with respect to the content. Some of the benefits are listed below:-

- a) Monitors unauthorized use:- DRM system makes sure that the user is using the content in accordance with the licensing information that sets the rules and the standard with regard to the usage of the content. The licensing information also lays down the standard for the duration and the number of devices in which the content could be accessed.
- b) Protects the confidential data:- DRM system is also very much beneficial to the business as it protects the confidential data of the business and allow only those individual who are entitled to have the access of the confidential document.
- c) Secures the revenue generation capability of the content:- DRM system makes sure that the exclusive content which requires the individuals to provide some sort of consideration

<https://www.acquia.com/blog/digital-rights-management#heading-3>

⁵ <https://www.acquia.com/blog/digital-rights-management#heading-5>

<https://business.adobe.com/blog/basics/digital-rights-management#digital-rights-management-use-cases>

<https://smowl.net/en/blog/digital-rights->

[management/#:~:text=The%20history%20of%20digital%20rights%20management%20\(DRM\)%20can%20be%20traced,movies%2C%20and%20e%2Dbooks.](https://smowl.net/en/blog/digital-rights-management/#:~:text=The%20history%20of%20digital%20rights%20management%20(DRM)%20can%20be%20traced,movies%2C%20and%20e%2Dbooks.)

back to the owner of the content, are only capable of accessing the content that too after the consideration have been provided to the owner.

- d) Maintains the exclusivity of the content:- DRM system makes sure that the content which is made with the intention of keeping it exclusive to a certain platform does not get pirated by any third party as piracy will hamper the revenue generation capability of the content.
- e) Facilitates the content distribution and production:- DRM system makes sure that the content is distributed in accordance with the terms and condition made by the organization having the ownership of the content or the direct owner of the content.
- f) Creates awareness regarding the copyright provisions:- DRM system creates awareness amongst the individuals regarding the provisions mentioned under the copyright laws with regard to the content uploaded on the cyberspace.
- g) Preserve the rights of the Owner:- It preserves the rights of the owner of the content by preventing the unauthorized users from editing, accessing, copying and sharing the content.

7. USAGE OF DRM IN DIFFERENT SECTOR⁶

All those sectors which involves the creation, distribution, sharing and storing the digital content uploaded on the cyberspace requires a system to protect the data provided to the user as well as the right of the owner of the content by preventing the third parties from unauthorizedly accessing the digital media. DRM system provides the protection to the content uploaded on the cyberspace platform. There are various industries which make use of the DRM system in order to safeguard their users and the creators right. Some of the industries making use of the DRM system are listed below:-

- a) **CORPORATE DATA PROTECTION**:- The companies work on the basis of the data which is either provided to them or collected by them hence the data is very much important for their functioning. Data is also something that helps them in staying ahead of their competitions. The companies contain sensitive document that needs protection and the companies make use of the DRM system to protect that sensitive data from being

⁶ [https://smowl.net/en/blog/digital-rights-management/#:~:text=The%20history%20of%20digital%20rights%20management%20\(DRM\)%20can%20be%20traced,movies%2C%20and%20e%2Dbooks.](https://smowl.net/en/blog/digital-rights-management/#:~:text=The%20history%20of%20digital%20rights%20management%20(DRM)%20can%20be%20traced,movies%2C%20and%20e%2Dbooks.)
<https://target-video.com/what-is-drm/#4-what-are-some-examples-of-drm-in-practice>
<https://business.adobe.com/blog/basics/digital-rights-management#digital-rights-management-use-cases>

accessed by the unauthorized users as DRM system allows only specific users or group of users to access the data.

- b) **SOFTWARE INDUSTRY:-** The software industry make use of the DRM to prevent the parties who are not provided the right to access the paid software from accessing it through unfair and unauthorized means. The software industry makes use of the activation key and online authentication to verify the legitimacy of the user.
- c) **GAMING INDUSTRY:-** The gaming industry make use of the license validation methods and the activation keys for the purpose of verifying whether the person accessing the content has the right to access the content or not. DRM system provides these techniques for the purpose protecting the paid or licensed games from unauthorized access.
- d) **ENTERTAINMENT INDUSTRY:-** Media houses and the entertainment companies create content for the general public but the general public has to pay a certain amount to get the access of the said content. Other than this method, the media houses provide access to the streaming platforms to screen their content on their platform while maintaining the revenue system and the copyright compliance.
- e) **HEALTHCARE INDUSTRY:-** The healthcare industry contain the sensitive data regarding their customers. DRM system provides the protection of the medical records of the patients along with the patients history in order to protect the privacy of their patients.
- f) **EDUCATION INDUSTRY:-** Digital publications are also pirated on a very large scale. In order to protect the digital publications from getting pirated by the third parties which will hamper the distribution of the published content, DRM systems are brought into picture. DRM system make use of various technique like watermarking for the purpose of protecting the publication from unauthorised distribution.

8. CHALLENGES REGARDING THE USAGE OF DRM⁷

⁷ <https://business.adobe.com/blog/basics/digital-rights-management#digital-rights-management-use-cases>

Despite of all the benefits that the DRM system provide with respect of the content uploaded on the cyberspace. DRM system poses some challenges to the users with respect to the usage of the DRM system. DRM system has to maintain a balance between legal, economic, technological and other social factors in order to fulfil its purpose of providing protection to the content. Some of the challenges that the DRM system faces are mentioned below:-

- a) **Interoperability:-** Compatibility is a very important factor for proper working of the DRM system. If there are compatibility issues between the DRM system and the platforms then in that case the choice of the user gets limited. This issue results in users facing difficulties in accessing and transferring the data and the content across those devices which are incompatible with the DRM system.
- b) **Complexities in Usage:-** Imposing way too many restrictions and terms and conditions can make it complex for the users to access the data properly. Unnecessary complexities can lead to the user being unsatisfied.
- c) **Legal and regulatory Compliance:-** In order for the DRM system to work properly, there are certain legal and regulatory requirements like copyright laws and consumer protection laws. Keeping up with these provisions can be challenging for the DRM system especially in the global cyberspace with varying legal requirements.
- d) **Data collection:-** DRM systems collect data regarding the individuals making use of the system in order to make the more user centric. Users are sometimes hesitant in sharing their information. This process of data collection poses the threat on privacy and security of the user.
- e) **Continuous development:-** DRM system has to continually keep on adapting to the evolving technologies and the demands of the consumers. Constant change in the technological base can pose a very big challenge to the DRM system as the enforcement will become difficult.

https://www.splunk.com/en_us/blog/learn/drm-digital-rights-management.html

<https://www.impelsys.com/blog/overcome-content-protection-challenges-by-implementing-scholar-2-0-drm-solution/>

- f) **Balancing rights and Responsibilities:-** The DRM system has always been pointed fingers at regarding the protection of the intellectual property rights and the right of the individuals with respect to accessing the content. it poses a fundamental duty for the DRM system to maintain a balance between the rights and the responsibilities. It should brought in provision which are not of the violative nature and against the rights which are provided to the users.
- g) **Security Concerns:-** As we know that the DRM system collects the data of the users for making the environment of the system user friendly, any vulnerability in the security system of the DRM can lead to the sensitive information collected by the DRM system getting leaked.

9. LEGAL ASPECT REGARDING THE DRM⁸

As we know that the DRM system is being used by various industries on a very large scale for protecting the copyrighted content from getting pirated, the threat of this mechanism being circumvented has also increased. The increase in the threat of the process of circumvention has led to the drafting of certain provisions and treaties for the purpose of preventing the act of circumvention.

a) WORLD INTELLECTUAL PROPERTY ORGANIZATION

Article 11 of the WIPO copyright treaty [WCT] states that the contracting parties shall offer adequate legal protection and effective legal remedies against the circumvention of effective technological measures that are used by authors in connection with the exercise of their rights under this treat or the Berne convention and that restricts acts in respect of their works, which are neither permitted by the law nor by the author.

Article 18 in the WIPO performance and Phonograms Treaty {WPPT}, states that the contracting parties shall provide appropriate legal protection and effective legal remedies against the act of circumvention of the technological measures used by performers or producers of phonograms in connections with respect of their rights under the saidTreaty and that restrict acts, in respect of

⁸ <https://thelawbrigade.com/wp-content/uploads/2019/05/Reshmaa-B.pdf>
<https://egyankosh.ac.in/bitstream/123456789/7676/1/Unit-14.pdf>
<https://egyankosh.ac.in/bitstream/123456789/15469/1/Unit-11.pdf>

their performance or phonograms, which are neither authorized by the performer/producer nor by the law.

Both the Articles mentioned above have stated the same thing that legal protection with the effective legal remedies should be provided against the Act of circumvention of the technological measure used by the holder of the right for the purpose of protecting their right.

b) EUROPEAN UNION LEGISLATION

The European Union adopted the DRM concept in 2001 in its directive of May 22. It was adopted for the purpose of transposing the obligations mentioned in the WIPO treaties into the European community's legal structure. The whole concept of DRM was adopted in Article 6 under the title "obligations as to technological measures" and in Article 7 under the head "obligations concerning the rights management information".

Apart from the Above Mentioned Article of the Copyright Directives, there is another legal regime that was established by the Conditional Access Directive, which applies only to the radios and the televisions.

The Copyright Directives tries to harmonize the laws regarding the copyright and related right among the member states by setting specific objectives for the establishment of an internal market while avoiding the distortion of competition.

Article 6[3] of the copyright directive defines the DRM concept as the "Effective technological measure". The DRM system can claim protection under the article 6{3} only in the cases where they contain the control access measures regarding the digital material. The DRM system protects the digital content in a specific architecture. And In article 7{2} of the copyright directive, which covers the head "right management information", the owner of the digital content has to provide relative information regarding the content for the purpose of identification. The information consists of the means of the identification and the term and condition for the usage of the content in the cyberspace.

c) INDIAN LEGISLATION

The Anti-circumvention provision in Indian legislation has been laid down in section 65A and 65B of the copyright act, 1957. The technological protection measure which are used by the

copyright holders for the purpose of protecting their copyrighted work is protected under section 65A.

The provisions relating to the Anti circumvention was introduced by the U.S. legislation through the DMCA in the year 1998. These provisions restricted the circumvention of the access control measures. The copy control measures was prohibited because copying the work can be carried out in the pretext of fair use under appropriate circumstances. The DMCA in addition to criminal remedies, also provide for a civil right of action. The person who incurred damages and injury due to the circumvention of the technological measures can seek monetary damages against the offender in the U.S. federal court. The Indian legislation is a bit different from the DMCA as the copyright laws of India only provides the criminal remedies and not the civil rights of action to the copyright holder.

The punishment for removing or altering the rights management information without the permission or authority and knowingly distributing the altered work of any person is punishable under section 65B. Knowledge of the said alteration in the copyrighted work while disseminating the said content by the third party is an important essential for this section to punish an individual.

10. BALANCE BETWEEN THE SOCIETY'S INTEREST AND CREATOR'S INTEREST⁹

The provision of the copyright was introduced for protecting the right of the creator with respect to the content uploaded on the cyberspace. The author has an exclusive right with respect to the benefits generated from the content and the copyright provision protects that exclusive right. In simpler words, the copyright provision prevents the content from getting stolen.

Section 51 of the Indian copyrights act, 1957 deals with the provisions regarding the infringement of the copyright and Section 52 deals with the acts that will not amount to infringement of the copyright. The rights under section 51 of the Indian copyrights act, 1957 remains with the author even after the content has been assigned to some other third party. The exclusive rights which are provided to the authors under the Indian copyright act, 1957 has been expanded because of the working of the DRM system. The DRM system has disrupted the balance between the rights of

⁹ <https://thelawbrigade.com/wp-content/uploads/2019/05/Reshmaa-B.pdf>
<https://egyankosh.ac.in/bitstream/123456789/7676/1/Unit-14.pdf>

public and the rights of the authors.

The interest of the public under the copyright law can be extracted from the directive principles of the state policy under part IV of the constitution of India. It directs the state to promote the welfare of the people and ensure the proper functioning of all the institution of the national life. It also contains the provisions which directs the state to form policies towards securing the ownership and control of the material resources.

There are certain limitations with respect to the right to freedom of speech and expression which is guaranteed under Article 19[1][a] of the Indian constitution. This fundamental right cannot be exercised without limitations. These limitations consist of the those mentioned under the Article 19[2]. Under the constitution of India, the states are obliged to make laws by the keeping the principle of common good and ownership in mind. The Rights of both the author and the society is protected. No party has the authority to get the benefit by violating the rights of the other person. No law can violate the freedom of speech and expression under Article 19[1][a] which is a fundamental right provided to every citizen of the country by the constitution of India.

11. SUGGESTIONS¹⁰

The use of the DRM system has increased a lot due to the rapid technological advancement. Increase in the usage of the system has led to the system through various types of situations which has reflected the shortcomings of the said system. The DRM system has some space for improvement. Some of the suggestion are mentioned below:-

- a) Transparent policies:- The DRM system should provide proper information regarding the restrictions, usage and storing of the content. The terms and conditions should be presented in a transparent manner so that it does not lead to some sort of ambiguity in mind of the user.
- b) Data Privacy:- An improved and more robust Data privacy protection should be introduced for the purpose of protecting the Data of the users collected by the DRM system in the course of the operations.
- c) User friendly:- The interface and the functioning of the DRM system should be more user friendly so that the user does not get confused and could make the most of this system.

¹⁰ <https://egyankosh.ac.in/bitstream/123456789/7676/1/Unit-14.pdf>

- d) Cross platform Compatibility:- The DRM system should be improved in the term of compatibility. It should be made for flexible so that the users can maximize the accessibility of the said system. One of problem that the users often face is the restriction on the devices in which the content can be accessed, improving the system in this sense can solve this problem.
- e) Adaptive security measures:- As the technology is continuously evolving, the threat to the unauthorized access to the content is also increasing. Therefore the DRM system should be designed in such a manner that the right of the creator does not get violated and the DRM system could keep up with the evolving technology.
- f) Raise Awareness:- Various initiative should be taken in order to raise proper awareness regarding the use and the working of the DRM system. The users should know about the functions and the framework of the said system. These initiatives might help in clearing all sorts of ambiguities regarding the DRM system.

12.CONCLUSION

Digital rights management [DRM] is a system which was introduced for the purpose of protecting the copyrighted content uploaded on the cyberspace. The unauthorized access to the exclusive content uploaded on the cyberspace started violating the rights of the creator. This unauthorized distribution of the content hampers the income generating capability of the content. Certain contents are exclusive and require something as a consideration for the purpose of getting the access, hence this act of unauthorize distribution of the content poses a sense of unfairness in the minds of the individual who have paid the required consideration to the organization or the creator for the purpose of getting the access of the content. This system of digital right management has been started using by many industries and companies, for example-software and gaming companies.

This system works in phases and uses many different techniques for the purpose of protecting the rights of the creator. some of the techniques used consist of watermarking, encryption codes and licensing etc. This system not only prevents the third parties from getting the access of the content without the permission of the right holder but also prevents the content from getting duplicated and modified. This system has many benefits due to which the usage of this system has been increasing day by day.

The legal framework of this system has been laid down in WIPO copyright treaty and WIPO performance and phonograms treaty. Certain provision with to the said system has also been mentioned by the Indian legislation in the section 65A and 65B of the copyrights act, 1957. Despite of the benefits provided by the system, there are still some challenges posed because of the working of this system. Among the other challenges, one of the major challenges is the disruption in the balance of the right of the society and the rights of the creators.

For the purpose of tackling the challenges and making the said system more reliable and beneficial, some improvements are required in the DRM system. The interface of the DRM system should be made user friendly so that it becomes easy for the users to operate the system and the adaptive security measures should also be provided so that the DRM system can keep up with the evolving threats to the content.

