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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.

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COPYRIGHT INFRINGEMENT IN THE INDIAN ENTERTAINMENT INDUSTRY IN THE INDUSTRY AGE

AUTHORED BY - NISHA KUMAWAT

1. CHAPTER 1-INTRODUCTION

Cyberspace stands as one of man's most profound advancements to date, indicating a rapid expansion in communication and data dissemination. This digital realm has revolutionized the way information is transferred, enhancing both its mode and speed across the globe. With its boundless accessibility, content can now be evaluated, viewed, printed, and downloaded from virtually anywhere. Yet, the absence of centralized control renders cyberspace a realm often characterized by its lawlessness, especially within the context of digital technologies.

The Indian Entertainment Industry, with a history spanning over a century, traditionally gauged success through metrics like ticket sales and album purchases. However, the advent of piracy has posed significant challenges. Today, success metrics have evolved, with social media platforms such as YouTube and Facebook serving as barometers of popularity. Reviews and reactions shared on these platforms often dictate the fate of movies and music releases.

Reflecting on the Internet's trajectory, its rapid evolution has surpassed early predictions. In just two decades, from the 1990s to the present, global Internet users burgeoned from a mere million to an estimated 70 million by 1997. The proliferation of smartphones has further democratized Internet access, with Asia and Latin America projected to witness the fastest growth in user numbers.¹

In today's landscape, the Internet has shifted from being a luxury to a necessity, particularly underscored by the COVID-19 pandemic. Its ubiquitous presence has enabled seamless connectivity and facilitated a myriad of tasks across various domains. From education to healthcare, from business meetings to entertainment, the Internet has become the backbone of

¹ Gururaj D. Devarhublia and Dr. Anjani Singh Tomar, 'A Critical Study on Copyright Violations in the Indian Entertainment Industry in the Internet Age' (2021) 12 Turkish Online Journal of Qualitative Inquiry 1084-1092.

modern society.

The introduction of 4G network speeds by Reliance Jio in 2016 revolutionized Internet accessibility in India, garnering widespread acceptance due to its speed and affordability.

However, this advancement exacerbated challenges for intellectual property (IP) owners, particularly copyright-holders. The proliferation of high-speed Internet facilitated faster and more accessible piracy, impacting the rights and revenues of content creators.

Accompanying the growth of the internet and the emergence of knowledge-based industries is the advent of a new form of asset: intellectual property (IP). Intellectual property encompasses creations of the human mind, spanning literary works, fine arts, digital media, architectural designs, and more. This unique form of property entails a bundle of rights that can be bought, sold, or leased, providing protection for copyrights, patents, trademarks, and industrial designs.² Unlike tangible assets, intellectual property possesses uncertain values and utilities, compounded by its widespread accessibility, rendering it susceptible to theft. Its production heavily relies on intellect, making it inherently challenging to safeguard against infringement. Unfortunately, advancements in science and technology, while elevating digital learning tools and methods of information exchange, have also fueled piracy. The proliferation of cheap electronics and internet access has led to dwindling profits for creators across various industries, notably impacting sectors like the cinema industry.

² Paramita Choudhury, 'Global Online Piracy of Films: The Concept of Right to Internet Access vis-à-vis John Doe Orders & Online Censorship' 2022 6(5) Journal of Positive School Psychology 4336-4347.

2. CHAPTER 2- CONCEPTUAL FRAMEWORK

2.1. Copyright Law in India

Copyright, a form of Intellectual Property, confers an exclusive monopoly, as highlighted in the preamble of the Indian Copyright Act, which aims to consolidate and amend laws pertaining to copyright. Also known as author's rights, copyright grants creators' exclusive control over their literary or artistic works, spanning a wide range from books, music, and films to computer programs and technical drawings. "Section 14 of the Indian Copyright Act, 1957 defines 'copyright' as the exclusive right to perform or authorize certain acts concerning literary, dramatic, artistic, musical works, cinematograph films, and sound recordings."³

In the context of the entertainment industry, copyright infringements are commonly referred to as 'piracy'. However, the economic ramifications of such piracy on films and music remain subject to debate. The advent of digital mediums for content consumption has fueled industry growth while also facilitating digital piracy. For instance, online streaming has emerged as a primary channel for music consumption, contributing significantly to industry revenues. As of December 2018, the audio OTT market was valued at USD 250 million, with weekly music consumption averaging 21.5 hours, surpassing the global average of 17.8 hours.

2.2. Copyright Protection to Cinematographic Works and its Violations

In the realm of the Entertainment Industry, copyright protection extends to cinematograph films and musical works. In the case of cinematograph films, copyright vests with the producer, while for musical works, it encompasses both the lyrics and music of the composition.

As per "Section 2 (p) of the Indian Copyright Act, 1957, "musical work" means a work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music⁴."

Thus, both the melody and lyrics of a song qualify for copyright protection as separate literary and musical works, respectively.

In the legal precedent of *Indian Performing Rights Society v. Eastern Indian Motion Picture Association*⁵, the Supreme Court defined "musical work" as a combination of melody and harmony, with emphasis on graphical representation. Similarly, *Sawkins v. Hyperion Records*

³ The Copyright Act, 1957 (14 of 1957) s 14.

⁴ The Copyright Act, 1957 (14 of 1957) s 2(p).

⁵ *Indian Performing Rights Society v. Eastern Indian Motion Picture Association* (1977) 2 SCC 820.

⁶highlighted that a musical work comprises melody and harmonies, considering notes as essential elements but not the sole determinants of the audible output. Originality, determined by the degree of skill, labor, and innovativeness, is crucial for copyright protection.

Regarding 'cinematograph films', "Section 2 (f) of the Indian Copyright Act, 1957 it means any work of visual recording and includes a sound recording accompanying such visual recording and "cinematograph" shall be construed as including any work produced by any process analogous to cinematography including video films⁷". Legal cases like *Restaurant Lee v. State of Madhya Pradesh* ⁸and *Balwinder Singh v. Delhi Administration* ⁹affirmed that the exhibition of movies through playback devices constitutes cinematography.

The definition of "cinematograph film" encompasses associated soundtracks, as upheld in *P. Thulasidas v. K. Vasanthakumari*.¹⁰ Soundtracks associated with films are protected under cinematograph film copyrights, not as separate sound recordings. However, independent copyright may exist for sound recordings derived from films, such as recording songs from film soundtracks.

Under the Indian Copyright Act, 1957, the economic rights granted to copyright owners encompass the right to broadcast and re-broadcast works¹¹, which involves communicating the work to the public through wireless or wired mediums in the form of signs, sounds, or images. The right of communication to the public includes making works available for public enjoyment through display or diffusion, excluding distribution of physical copies without authorization.

Additionally, the Doctrine of First Sale allows re-selling legitimate copies of a work after the first sale, but prohibits selling illegally reproduced copies without permission.

Section 51 of the Indian Copyright Act, 1957 categorizes infringement into primary and secondary acts. Primary infringement involves performing exclusive rights of the copyright owner without permission, while secondary infringement includes selling, hiring, or distributing infringing

⁶ *Sawkins v. Hyperion Records* (2005) EWCA Civ 565.

⁷ The Copyright Act, 1957 (14 of 1957) s 2(f).

⁸ *Restaurant Lee v. State of Madhya Pradesh* AIR 1983 MP 146.

⁹ *Balwinder Singh v. Delhi Administration* AIR 1984 Del 379.

¹⁰ *P. Thulasidas v. K. Vasanthakumari*. C.S. No. 1286 of 1988.

¹¹ The Copyright Act, 1957 (14 of 1957) s 37.

copies without authorization. ¹²Acts of piracy encompass both primary and secondary infringement, with offline piracy constituting primary infringement due to unauthorized distribution for commercial gain, and online digital piracy constituting secondary infringement through unauthorized exhibition on internet platforms and search engines for downloading, streaming, and sharing.

Section 65 of the Copyright Act, 1957 ¹³provides for copy control protection rather than access control protection. Broadcasting a film on cable television to paid subscribers without authorization constitutes infringement of the copyright holder's exclusive right. However, there is currently no specific provision under copyright law addressing online digital piracy, although the recent amendment to the Cinematograph Act, 1952 ¹⁴criminalizes cam-cording in theaters. Similarly, the Information Technology Act, 2000 ¹⁵does not address online piracy as a mode of infringement, and the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules 2021 lack specific provisions for combating online piracy of copyrighted content. Consequently, the existing legal framework lacks provisions to address or mitigate the adverse effects of online piracy.

2.3. Issues & Challenges

The Copyright Act of 1957 confronts various issues and challenges within the Entertainment Industry, particularly concerning film and music piracy. While commercial gain remains a primary motive for copyright infringement, several other factors contribute to the proliferation of unauthorized copies:

- i. Accessibility: Free availability of content incentivizes piracy.
- ii. Convenience: Piracy offers a quick and convenient alternative.
- iii. Low Risk: Perceived low risk of detection and punishment encourages unlawful dissemination.
- iv. Illusion of Free Content: Misconception that online content is inherently free contributes to piracy.
- v. Affordability: High costs of original products drive consumers towards pirated alternatives.

¹² The Copyright Act, 1957 (14 of 1957) s 51.

¹³ The Copyright Act, 1957 (14 of 1957).

¹⁴ The Cinematograph Act, 1952 (37 of 1952).

¹⁵ The Information Technology Act, 2000 (21 of 2000).

- vi. Internet Access: Easy and affordable access to the internet, especially through smartphones, fuels online piracy.

Online piracy, in particular, has surged with the widespread adoption of high-speed internet technologies like 2G/3G/4G/5G. Various sources contribute to online piracy, including P2P networks, cyber lockers, streaming sites, torrent sites, and social media platforms such as WhatsApp and Telegram.

Notably, film and music piracy are global challenges affecting both developing and developed countries. A 2019 report revealed that online piracy of U.S.-produced movies and TV shows amounted to billions of views annually, resulting in substantial economic losses. Digital video piracy not only impacts the entertainment industry but also leads to significant revenue losses, job cuts, and reduced GDP.



3. CHAPTER 3 – ONLINE DIGITAL PIRACY IN INDIAN FILM INDUSTRY

The traditional concept of piracy, once confined to seafaring plunder, has transformed into the illicit copying and unauthorized downloading of digital content online. This encompasses a vast array of media, from movies and music to video games and ebooks. In the realm of film piracy, within convergent consumption, it entails the unauthorized acquisition, possession, reception, interference, and conversion of copyrighted materials, whether or not financial gain accrues to the creator.

The IP Crime Group outlines digital piracy as the unlawful duplication of various content types for profit, including music, films, literary works, broadcasts, computer games, and software. It encompasses reproducing, utilizing, or distributing information products in digital formats without the consent of their legal owners.¹⁶ Such practices undermine the traditional aim of copyright regimes, which seek to safeguard the interests of content creators.

Media piracy spans various internet-related activities, including peer-to-peer (P2P) file-sharing, streaming media, aggregator websites, and internet service providers (ISPs), facilitating unauthorized access to copyrighted content. Worldwide distribution of copyrighted films and movies online involves content accessible via subscription-based over-the-top (OTT) platforms, accessed through cyberlockers, ripped from cinemas or online services, and streamed or rebroadcasted from local TV stations or live TV.¹⁷

Despite efforts to combat piracy, the contemporary movie distribution model has failed to effectively curb illegal activities, such as unauthorized video recordings in theaters and unauthorized downloads from legitimate streaming applications. Online piracy manifests through various avenues, including P2P file sharing, user-uploaded content aggregation websites, and social media sharing via embedded links.

In essence, digital piracy poses a formidable challenge to copyright enforcement efforts, necessitating ongoing adaptation and innovation in countermeasures. While legal frameworks

¹⁶ 'Digital Piracy' (Interpol) <<https://www.interpol.int/en/Crimes/Illicit-goods/Shop-safely/Digital-piracy>> accessed 26 March 2024.

¹⁷ Gunjan Chawla and Nidhi Buch, 'Impact of Online Digital Piracy on the Indian Film Industry: An Empirical Investigation into Consumer Behaviour' (2023) 28 Journal of Intellectual Property Rights <<https://nopr.niscpr.res.in/bitstream/123456789/61786/1/JIPR-28%281%29%2021-31.pdf>> accessed 26 March 2024.

exist to address these issues, the dynamic nature of digital piracy demands continuous vigilance and proactive strategies from stakeholders across industries to protect intellectual property rights and combat illicit activities in the digital domain.

P2P file-sharing networks, popularized by platforms like Napster, Gnutella, FastTrack, and BitTorrent, facilitate data transfer at the expense of security, enabling the sharing of pirated files regardless of size or type. BitTorrent remains a widespread platform for film file sharing globally. In India, the Telegram application has emerged as a significant facilitator of P2P sharing via private chats, contributing to India's prominence in P2P file sharing traffic.

Despite the prevalence of piracy, service providers typically evade liability due to their lack of control over file transmission. This legal loophole exempts them from accountability, allowing piracy to proliferate without consequence, resulting in revenue loss and diminished tax collection for official channels such as theaters and streaming platforms.

3.1. Impact of Online Digital Piracy on Industry Stakeholders

Online digital piracy significantly impacts industry stakeholders, leading to both financial losses and adverse effects on employment. The Indian film industry suffers an estimated annual loss of INR 22,000 crores and approximately 60,000 jobs due to piracy. While piracy may boost film popularity among audiences with limited access to authorized content, its negative ramifications outweigh any perceived benefits.

Several notable films, such as "Udta Punjab," "Great Grand Masti," "Kabil," "Manjhi," and "Paa," have fallen victim to piracy, resulting in substantial revenue losses. The leak of "Bahubali" alone led to INR 1,064 crores in financial losses for the Telugu film industry. Industry stakeholders, including actors, producers, and directors, have voiced concerns over piracy's detrimental impact on revenue and employment opportunities.¹⁸

Piracy not only affects revenue but also demotivates industry stakeholders, discouraging future creative endeavors. Charles George, a regional head of Newstream Operations, highlighted the adverse effects of piracy on independent and first-time producers, potentially reducing the frequency of film productions and affecting livelihoods.

¹⁸ Paramita Choudhury, 'Global Online Piracy of Films: The Concept of Right to Internet Access vis-à-vis John Doe Orders & Online Censorship' 2022 6(5) Journal of Positive School Psychology 4336-4347.

Industry combats piracy with innovative strategies. For instance, "URI – The Surgical Strike" creators uploaded a deceptive video on YouTube to deter piracy. Yash Raj Films urged consumers to report piracy and swiftly removed illicit links. These proactive measures reinforce the fight against piracy in the entertainment sector.

Despite efforts to combat piracy, the courts' interventions, such as John Doe orders and dynamic injunctions, have proven ineffective. However, certain production houses, like Fox Star Studios, have successfully curtailed piracy through vigilant measures, including accompanying analog reels worldwide and shutting down illegal DVD-making facilities.

3.2. Legislative measures for Copyright Infringement

The Indian courts have devised various remedies to address rampant copyright infringements, including civil, criminal, and administrative measures.

THE COPYRIGHT ACT, 1957

Under Chapter XII of the Indian Copyright Act 1957, civil remedies are available to copyright owners. Section 55 outlines several civil remedies, including injunctions to restrain infringement, claims for damages, accounts of profit, and damages for conversion.

Criminal remedies, detailed in Chapter XIII (Sections 63-70) of the Act, include imprisonment, fines, and seizure of infringing copies.

“Section 63: Offence of infringement of copyright or other rights conferred by this Act -

Any person who knowingly infringes or abets the infringement of -

- a) the copyright in a work, or
 - b) any other right conferred by this Act [except the right conferred by section 53A],
- [shall be punishable with imprisonment for a term which shall not be less than six months but which may extend to three years and with fine which shall not be less than fifty thousand rupees but which may extend to two lakh rupees]:

Provided that 1 [where the infringement has not been made for gain in the course of trade or business] the court may, for adequate and special reasons to be mentioned in the judgment, impose a sentence of imprisonment for a term of less than six months or a fine of less than fifty thousand rupees.]¹⁹

¹⁹ The Copyright Act, 1957 (14 of 1957) s 63.

Explanation. - Construction of a building or other structure which infringes or which, if completed, would infringe the copyright in some other work shall not be an offence under this section.”

The Copyright (Amendment) Act, 2012 has reformed the Copyright regulations in India by amending piracy laws in India. Section 65A safeguards Technological Protection Measures (TPM) utilized by copyright owners against any breach. TPM is used by copyright owners to safeguard their right in the copyrighted work. If somebody evades TPM to infringe the owner’s IPR, then, at that point, the infringer can be punished with imprisonment upto 2 years along with fine.

Both civil and criminal remedies can be pursued simultaneously by the copyright holder, but establishing mens rea or knowledge of the infringement is essential for criminal prosecution.

Under Section 70, only Metropolitan Magistrates or Judicial Magistrates of First Class can try offenses under the Copyright Act. Complaints can be filed by any individual, and the Magistrate must take cognizance upon receiving the complaint. Administrative remedies involve authorities such as the Registrar of Copyright, the Copyright Board, and Copyright Societies, empowered for copyright enforcement. Copyright owners can seek their intervention in cases of infringement.

The Cinematograph (Amendment) Act, 2023

The Cinematograph (Amendment) Bill, 2023, passed by Parliament, marks the first significant update to the Cinematograph Act since 1984. Aimed at combatting piracy, it addresses a menace causing estimated losses of Rs 20,000 Crores to the film industry. This landmark legislation reflects efforts to modernize legal frameworks and safeguard intellectual property rights in the digital age.²⁰

Effective implementation of these amendments is crucial to achieving their objectives and combating piracy effectively in the digital era.

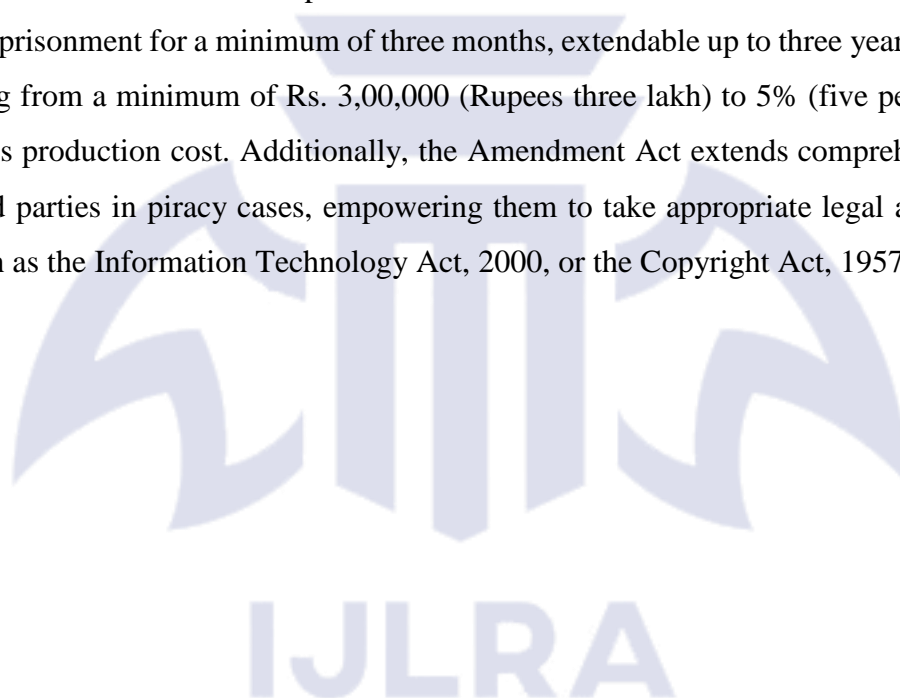
The Amendment Act represents a pivotal step towards upholding the fundamental legal principle of safeguarding 'original work' by introducing Sections 6AA and 6AB into the existing legislation, aimed at curtailing unauthorized recording.

²⁰ PIB Delhi, ‘Parliament Passes Cinematograph (Amendment) Bill, 2023’ (PIB, Ministry of Information & Broadcasting, 31 July 2023) < <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1944435>> accessed 20 March 2024.

According to Section 6AA, individuals are prohibited from using any audio-visual recording device in licensed film exhibition venues with the intent to create or transmit infringing copies of films. An audio-visual recording device encompasses both digital and analogue photographic or video cameras, as well as any other technology capable of recording or transmitting copyrighted cinematographic material, regardless of its primary purpose.

Furthermore, Section 6AB prohibits the use or facilitation of infringing copies of films for public exhibition with profit motives, either in unlicensed venues or in a manner constituting copyright infringement under the Copyright Act, 1957, or other relevant laws.

The Amendment Act also delineates penalties for violations of Sections 6AA and 6AB. Offenders may face imprisonment for a minimum of three months, extendable up to three years, along with fines ranging from a minimum of Rs. 3,00,000 (Rupees three lakh) to 5% (five percent) of the audited gross production cost. Additionally, the Amendment Act extends comprehensive relief to aggrieved parties in piracy cases, empowering them to take appropriate legal actions under statutes such as the Information Technology Act, 2000, or the Copyright Act, 1957.



4. CHAPTER 4- JUDICIAL TRENDS IN INDIA

In addition to legislative measures, Indian courts have employed various remedies to safeguard the rights of copyright holders, particularly in the face of technological advancements facilitating internet piracy.

One such remedy is the issuance of John Doe Orders, also known as 'Ashok Kumar orders', utilized when the identity of infringers is unknown or untraceable. These orders were first introduced by the Delhi High Court in the case of *Taj Television Ltd. & Anr. v. Rajan Mandal & Ors.*²¹ These orders allow copyright holders to act against unknown perpetrators. However, they can be time-consuming and ineffective as they only address unidentified parties, potentially burdening copyright holders financially through repeated applications.

The 'notice-and-take-down' procedure, a remedy in copyright infringement cases, involves courts ordering online intermediaries to block access to infringing websites. The liability of intermediaries in India is a contentious issue. Courts stipulate that intermediaries cannot be held accountable unless furnished with accurate information and a valid order from the competent authority, as per Section 79 of the Information Technology Act, 2000. This recognition underscores the nuanced approach to intermediary liability in Indian copyright law.

In 2021, the Indian Parliament introduced the Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. These rules empower authorized officers to examine digital media content during emergencies. The Secretary, Ministry of Information and Broadcasting (MIB), may issue interim directions for blocking content, pending approval from the Inter-Departmental Committee. If the Committee does not approve, the content must be unblocked.

A recent addition to the arsenal of remedies is 'dynamic injunctions'. In *UTV Software Communications Ltd. v. 1337x.to*²², the Delhi High Court introduced dynamic injunctions, allowing copyright holders to extend injunctions to other websites sharing infringing content. This concept originated in the Singapore Supreme Court, targeting 'Flagrantly Infringing Online Locations' (FIOLs) primarily sharing infringing content.

²¹ *Taj Television Ltd. v. Rajan Mandal* (2003) FSR 22.

²² *UTV Software Communication Ltd. and Others v. 1337X.To and. Others*, 2019 SCC OnLine Del 8002.

'Live blocking' is a lesser-explored strategy to combat copyright infringement, specifically targeting live event streaming servers like those for cricket, football, Olympics, and F1 racing. Unlike traditional website blocking orders, live blocking orders mandate Internet Service Providers (ISPs) to restrict access. Although prevalent in regions like the U.K., India's adoption of live blocking remains scarce.

In *Balaji Motion Pictures v. Bharat Sanchar Nigam Ltd*²³, the film named 'Udta Punjab' was released online before its release in theaters. The duplicate which was made to show the film to CBFC for certification was leaked on the Internet. The producers moved to the court to request that BSNL bring down completely concerned links from the web. The Bombay High Court conceded the request to do as such.

Rights holders often seek these John Doe orders to halt access to websites facilitating illegal downloads of movies or music. While effective in combating piracy, such orders have faced criticism for their broad reach, potentially leading to the unintended blocking of legitimate websites serving non-infringing purposes. In the case of *Star India v. Sujit Jha and Ors*²⁴, the Delhi High Court issued a preemptive order to block 73 websites entirely, citing the lack of alternative remedies for the plaintiff. On appeal, the Divisional Bench of the Delhi High Court mitigated the order's impact by restricting the blocking to specific URL links rather than entire websites. However, this adjustment came after the relevant sports series had concluded, underscoring the challenges in timely recourse.

At interim stages, courts typically focus on establishing a prima facie case, deferring more detailed judicial tests to the main hearing. Given the unknown identities of defendants, proceedings often occur ex-parte, potentially leading to the unintended blocking of legitimate websites, adversely affecting their operations. This issue surfaced prominently in the case of *Reliance Big Entertainment Pvt. Ltd. vs. Jyoti Cable Network & Ors.*²⁵, concerning the film 'Singham'. The court's order resulted in the blocking of various websites, including those merely reviewing movies, underscoring the heightened burden of proof on plaintiffs seeking John Doe Orders against unidentified parties.

²³ *Balaji Motion Pictures v. Bharat Sanchar Nigam Ltd*, 2016 SCC On-line Bom 4636.

²⁴ *Star India v Sujit Jha and Ors* CS (OS) 3702/2014.

²⁵ *Reliance Big Entertainment Pvt. Ltd. Vs Jyoti Cable Network & Ors.* 2011 SCC OnLine Del 5709.

5. CHAPTER 5- CONCLUSION & SUGGESTIONS

The Indian film industry has long been a cornerstone in shaping Copyright laws within the country. Movies are not just a source of entertainment but also a form of contemporary art, contributing significantly to the economy. However, the growing concern of piracy in India poses a threat to both annual revenue and employment opportunities within the industry. Moreover, it undermines the morale of producers, hindering future film production. Despite the implementation of anti-piracy regulations, the pirate industry continues to thrive, indicating a deeper-rooted issue. To combat this, stricter governmental regulations are imperative, alongside enhanced industry oversight to prevent unauthorized distribution and leakage of content. Additionally, raising consumer awareness about the detrimental effects of piracy is crucial. Curbing piracy is not only the responsibility of individuals but also requires collective action from society as a whole.

Prime Minister Narendra Modi has articulated a vision for India to emerge as the global content hub, leveraging its rich heritage and cultural diversity as key strengths. In alignment with this vision, the Union Minister for Information and Broadcasting acknowledges Indian Cinema's pivotal role as a major contributor to India's soft power. Indian cinema not only promotes the country's culture, society, and values on a global scale but also serves as a powerful tool for projecting India's narrative to the world. He said *“the empowerment of Indian Film Industry with Ease of Doing Business and its protection from the menace of Privacy, would go a long way in growth of content creation ecosystem in India, and would help safeguard the interests of all artists and artisans working in the sector”*.

The Indian film industry, producing over 3,000 films annually in 40+ languages, stands as one of the largest and most globalized sectors worldwide. Amidst technological advancements, piracy has surged, exacerbated by the internet and social media.

The passage of the Cinematograph (Amendment) Bill, 2023 by Parliament signifies a crucial step towards combating piracy and empowering the Indian film industry. This legislative action not only addresses piracy challenges but also enhances the Ease of Doing Business for the industry.

If it is a fact that there is widespread availability of pirated products in the Indian online media despite new digital rights management provisions promulgated by the parliament and the massive John Doe orders granted by the Indian Judiciary. All these also do not provide adequate solutions to the problem of piracy. There are however two important aspects to consider in this regard.¹⁸⁰ Firstly, as discussed earlier, there are many consumers and many hosts of Indian online pirated

movies overseas, the promulgation of Digital Rights Management provisions under the Indian Law on Intellectual Property Law will never be a solution to this type of piracy, taking into accounts the territorial limitations of the Copyright Law. The same territorial limitations of copyright also limit the scope of the orders like John Doe to Internet Service Providers in India.

Secondly, and most importantly, the piracy of Indian film products abroad is mainly due to the inability of the Indian film industry to serve these markets with legitimate products. For example, as shown in the above section, the number of cinemas in which Indian films are released abroad is much smaller than that of (potential) consumers living in the country and the number of films produced in the Indian film industry. And most importantly, the Indian film industry is not exploiting the opportunities offered by new digital technologies to deliver content safely, quickly and directly to (potential) consumers abroad. As long as the industry does not provide for lawful access to consumers, we should expect that more pirates enter this lucrative but neglected market. While the Indian legislature and judiciary have acknowledged the issue of piracy, and new remedies have been adopted to address online piracy, the effectiveness of these measures remains questionable in light of the rising instances of piracy. Moreover, Indian courts have yet to extensively explore the nuanced aspects requiring attention for a more effective combat against piracy, a gap particularly evident when compared to developed nations' legal precedents and measures.

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