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# **COPYRIGHT LAW IN INDIA; “THE CRITICAL ANALYSIS OF COPYRIGHT ACT 1957”**

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## **Abstract**

This paper presents a critical analysis of the Copyright Act of 1957, which serves as the principal legislation governing copyright law in India. The Copyright Act of 1957 has been the cornerstone of copyright protection in the country, providing a legal framework for the protection of various forms of creative expression, including literary works, musical compositions, artistic works, cinematographic films, and sound recordings. However, amidst rapid technological advancements and evolving societal needs, the Act has faced scrutiny and critique regarding its adequacy and relevance in the digital age. This paper examines key provisions of the Copyright Act of 1957, including the scope of protection, ownership and duration of copyright, rights of copyright owners, exceptions and limitations, registration and enforcement procedures, and international obligations. Through a critical lens, the paper evaluates the strengths and weaknesses of the Act in addressing contemporary challenges such as digital piracy, online infringement, access to knowledge, and the balance between the rights of creators and the public interest. Additionally, the paper explores potential areas for reform and enhancement to align copyright law with the changing dynamics of the creative industries, technological innovation, and global copyright standards. By conducting a critical analysis of the Copyright Act of 1957, this paper aims to contribute to ongoing discussions and debates surrounding copyright law reform in India and foster a deeper understanding of the complexities and implications of copyright regulation in the digital era.

## **Keywords**

Copyright Act 1957, Copyright law, Intellectual property, Creative expression, Digital age Technological advancements, Digital piracy, Online infringement, Balance of rights, Public interest, ReformLegal framework, Ownership, Duration of copyright, Rights of creators,

Exceptions and limitations, Registration procedures, Enforcement mechanisms, International obligations, Creative industries.

## INTRODUCTION

Copyright is a right given by the law to creators of literary, dramatic, musical, and artistic works and producers of cinematograph films and sound recordings. It can be termed as “The exclusive right. given by law for a certain term of years to an author, composer etc. (or his assignee) to print, publish. and sell copies of his original work”.

Indian copyright law is at parity with the international standards as contained in TRIPS. The (Indian) Copyright Act, 1957, pursuant to the amendments in the year 1999, fully reflects Berne. Convention for Protection of Literary and Artistic Works, 1886 and the Universal Copyrights Convention, to which India is a party. India is also a party to the Geneva Convention for the Protection of Rights of Producers of Phonograms and is an active member of the World Intellectual Property Organization (WIPO) and United Nations Educational, Scientific and Cultural Organization("UNESCO").

Copyright law is a branch of intellectual property law that grants exclusive rights to creators and authors for their original works of authorship. These rights provide creators with control over the use and distribution of their creations, enabling them to benefit financially and maintain artistic control over their work. Copyright law aims to strike a balance between protecting the interests of creators and promoting the public interest in accessing and using creative works. The concept of copyright dates back centuries, with early forms of copyright emerging in medieval Europe to regulate the copying and distribution of manuscripts. Over time, copyright evolved into a statutory framework that encompasses a wide range of creative works, including literary works, music, art, films, software, and more.

### **Origin and development of copyright**

The origin and development of copyright law in India trace back to colonial times, primarily influenced by British copyright legislation. The earliest copyright law in India was introduced through the Copyright Act of 1847, which was largely based on the British Copyright Act of 1842. This legislation aimed to protect the interests of British authors and publishers in India. However, it was primarily concerned with regulating the importation and publication of books rather than

fostering a culture of creativity among Indian authors. The Copyright Act of 1914 marked a significant milestone in the development of copyright law in India, introducing comprehensive provisions for copyright protection and enforcement. This legislation expanded the scope of copyright to include various forms of creative works beyond literary works, such as musical compositions, dramatic works, and artistic works. Following India's independence in 1947, efforts were made to revise and modernize the copyright law to better reflect the needs and interests of Indian creators and the public. The Copyright Act of 1957 was enacted to replace the colonial-era legislation and provide a comprehensive legal framework for copyright protection in independent India. This Act established the basic principles of copyright law in India, including the definition of copyright, the scope of protection, the duration of copyright, and the rights of copyright owners. Subsequent amendments to the Copyright Act have been made to address emerging challenges in the digital age, such as digital piracy, online infringement, and the protection of digital content. The evolution of copyright law in India reflects the country's commitment to fostering creativity, promoting cultural exchange, and protecting the rights of creators in a rapidly changing global landscape.

1. **Originality:** Copyright protection is granted to original works of authorship that possess a minimal degree of creativity. This originality requirement ensures that copyright protects only works that are the product of creative expression, rather than mere facts or ideas.
2. **Fixed Form:** Copyright protection applies to works that are fixed in a tangible medium of expression, such as writing, recording, or digital encoding. This requirement ensures that copyright protects the expression of ideas rather than the ideas themselves.
3. **Exclusive Rights:** Copyright grants creators a bundle of exclusive rights, including the right to reproduce, distribute, perform, display, and create derivative works based on their original creations. These rights enable creators to control how their works are used and to derive economic benefits from their creative endeavors.
4. **Limited Duration:** Copyright protection is not perpetual and is subject to a limited duration. In most jurisdictions, copyright protection lasts for the life of the author plus a certain number of years after their death. Once copyright expires, the work enters the public domain and can be freely used by anyone.
5. **Fair Use/Fair Dealing:** Copyright law typically includes exceptions and limitations to

copyright protection, such as fair use (in the United States) or fair dealing (in many other countries). These exceptions allow for the use of copyrighted works without the need for permission from the copyright owner under certain circumstances, such as for purposes of criticism, commentary, news reporting, teaching, scholarship, or research.

Copyright law plays a vital role in fostering creativity, innovation, and cultural exchange by providing incentives for creators to produce new works and ensuring that these works are widely disseminated and enjoyed by the public. However, copyright law also faces challenges in the digital age, such as the ease of copying and distributing digital content and the complexities of enforcing copyright across national borders. As technology continues to evolve, copyright law will continue to adapt to address these challenges while upholding its core principles of protecting creators' rights and promoting the public interest in accessing and using creative world.

## **History of copyright law in India**

The history of copyright law in India is intertwined with colonial rule, with significant developments occurring under British influence. During the British colonial period, India was subject to copyright legislation originating from England, aimed primarily at protecting the interests of British authors and publishers.

The earliest legislative efforts regarding copyright in India date back to the mid-19th century. The British Parliament passed the Copyright Act of 1842, which extended copyright protection to British authors in India. This act was followed by the introduction of the Copyright Act of 1847 in India, which largely mirrored its British counterpart and aimed to regulate the importation and publication of books in India. However, these early laws were primarily concerned with controlling the dissemination of British literature and did not focus on fostering creativity among Indian authors.

In 1914, a significant milestone was reached with the enactment of the Copyright Act of 1914 in India. This legislation expanded the scope of copyright protection beyond literary works to include other forms of creative expression, such as musical compositions, dramatic works, and artistic works. The Copyright Act of 1914 provided a more comprehensive framework for copyright

protection in India and laid the foundation for future developments in copyright law.

Following India's independence in 1947, there was a growing recognition of the need to revise and modernize the copyright law to better serve the interests of Indian creators and the public. In 1957, the Indian Parliament passed the Copyright Act of 1957, which replaced the colonial-era legislation and established a new legal framework for copyright protection in independent India. This act introduced key provisions defining copyright, specifying the scope of protection, determining the duration of copyright, and delineating the rights of copyright owners.

Since the enactment of the Copyright Act of 1957, there have been several amendments and revisions to the law to address evolving challenges and developments in technology and international copyright standards. These amendments have sought to adapt copyright law to the digital age, addressing issues such as digital piracy, online infringement, and the protection of digital content.

Overall, the history of copyright law in India reflects the country's journey from colonial rule to independence and its ongoing efforts to balance the rights of creators with the public interest in accessing and using creative works.

## **Copyright law in India**

The Copyright Act of 1957 is the primary legislation governing copyright law in India. It has been amended several times to accommodate changes in technology, international agreements, and evolving societal needs. Here's an overview of the Copyright Act of 1957 and its key provisions:

**Scope of Protection:** The Copyright Act of 1957 provides protection for various types of works, including literary works (such as books, articles, and computer programs), musical works, dramatic works, artistic works (including paintings, sculptures, and photographs), cinematographic films, sound recordings, and broadcasts.

**Ownership and Duration of Copyright:** Copyright protection is generally granted to the author or creator of the work, with certain exceptions for works made in the course of employment or commissioned works. The duration of copyright protection varies depending on the type of work.

In most cases, copyright protection lasts for the lifetime of the author plus 60 years after their death.

**Rights of Copyright Owners:** The Copyright Act grants copyright owners several exclusive rights, including the right to reproduce the work, communicate it to the public, adapt it, and distribute copies of the work. These rights enable creators to control how their works are used and to derive economic benefits from their creative endeavors. **Exceptions and Limitations:** The Act includes certain exceptions and limitations to copyright protection, such as fair dealing for purposes such as research, private study, criticism, review, or news reporting. These exceptions balance the rights of copyright owners with the public interest in accessing and using copyrighted works.

**Registration and Enforcement:** While copyright protection exists automatically upon the creation of a work, the Act provides for the voluntary registration of copyrights with the Copyright Office. Registration can serve as evidence in legal proceedings and is required for certain remedies in case of infringement. The Act also outlines procedures for the enforcement of copyright claims through civil and criminal proceedings.

**International Treaties:** The Copyright Act of 1957 incorporates provisions to comply with international treaties and agreements related to copyright, including the Berne Convention for the Protection of Literary and Artistic Works and the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS).

**Amendments:** Since its enactment, the Copyright Act of 1957 has undergone several amendments to keep pace with technological advancements and international developments in copyright law. These amendments have addressed issues such as digital piracy, online infringement, and the protection of performers' rights.

The Copyright Act of 1957 serves as the cornerstone of copyright law in India, providing a comprehensive framework for the protection of intellectual property rights. Enacted to replace colonial-era legislation, this law governs various creative works including literary, musical, dramatic, and artistic creations, as well as cinematographic films, sound recordings, and

broadcasts. Under this legislation, copyright protection is generally granted to the creators or authors of works, with exceptions for works made in the course of employment or commissioned works. The Act specifies the duration of copyright protection, typically lasting for the lifetime of the author plus 60 years after their death. It grants copyright owners exclusive rights to reproduce, communicate to the public, adapt, and distribute their works, enabling them to control the use and distribution of their creations. While copyright protection is automatic upon the creation of a work, voluntary registration with the Copyright Office is available and can provide additional legal benefits. The Act includes provisions for exceptions and limitations to copyright protection, such as fair dealing, balancing the rights of copyright owners with the public interest in accessing and using copyrighted works. Furthermore, the Act incorporates provisions to comply with international treaties and agreements related to copyright, ensuring alignment with global standards. Over the years, the Copyright Act of 1957 has been amended to address emerging challenges such as digital piracy and online infringement, reflecting India's commitment to fostering creativity, innovation, and cultural exchange within a rapidly evolving global landscape.

### **Berne Convention and the Universal Copyright Convention:**

The Berne Convention, adopted in 1886 in Berne, Switzerland, is one of the oldest and most important international treaties governing copyright law. Its primary aim is to establish a framework for the protection of literary and artistic works among member countries. Key features of the Berne Convention include National Treatment: The convention requires member countries to provide foreign creators with the same level of protection as their own nationals. This principle, known as "national treatment," ensures that creators from member countries receive equal protection regardless of their nationality.

Automatic Protection: The convention provides automatic copyright protection upon the creation of a work, without the need for registration or other formalities. This principle of automatic protection ensures that creators' rights are recognized and enforced without undue bureaucratic hurdles.

Minimum Standards of Protection: The Berne Convention establishes minimum standards of protection that member countries must adhere to, including the duration of copyright protection,

the rights of authors, and limitations on copyright exceptions.

**Rights Granted:** The convention grants authors several exclusive rights, including the right to reproduce, distribute, display, and perform their works. These rights enable authors to control the use and exploitation of their creations and derive economic benefits from their intellectual property.

**Recognition of Moral Rights:** The Berne Convention recognizes authors' moral rights, such as the right to attribution and the right to integrity of the work. These moral rights protect authors' reputations and ensure that their works are not subjected to derogatory treatment.

**International Enforcement:** The convention facilitates international cooperation and enforcement of copyright law among member countries. It establishes mechanisms for resolving disputes and enforcing copyright claims across national borders.

## **Universal Copyright Convention (UCC)**

The Universal Copyright Convention, adopted in 1952 under the auspices of the United Nations Educational, Scientific and Cultural Organization (UNESCO), is another important international treaty governing copyright law. While the Berne Convention focuses on minimum standards of protection, the UCC provides a more flexible framework for international copyright relations. Key features of the Universal Copyright Convention include **Voluntary Membership:** Unlike the Berne Convention, which has over 170 member countries, membership in the Universal Copyright Convention is voluntary. This allows countries to choose whether to join the convention and adopt its principles.

**Mutual Recognition of Rights:** The UCC establishes principles of mutual recognition and reciprocity among member countries. While it does not require national treatment, it encourages countries to extend copyright protection to works of authors from other member countries.

**Minimum Standards:** Like the Berne Convention, the UCC sets minimum standards of protection for literary and artistic works. However, these standards are generally less stringent than those of

the Berne Convention, allowing for greater flexibility in implementation. Flexibility in Enforcement: The UCC provides flexibility in enforcement and allows member countries to implement copyright protection according to their national laws and priorities. This flexibility accommodates differences in legal systems and cultural contexts among member countries.

Promotion of International Cooperation: While the UCC does not establish a comprehensive system of international enforcement like the Berne Convention, it promotes international cooperation and dialogue on copyright issues. It provides a forum for countries to exchange information and best practices in copyright law and enforcement. Overall, both the Berne Convention and the Universal Copyright Convention play important roles in shaping international copyright law and promoting the protection of intellectual property rights on a global scale. While the Berne Convention sets minimum standards of protection and emphasizes automatic protection and national treatment, the Universal Copyright Convention provides a more flexible framework for international copyright relations and encourages mutual recognition among member countries.

### **Subject matter of protection**

The subject matter of protection in copyright law refers to the types of creative works that are eligible for copyright protection. Different copyright laws around the world may have slightly different definitions and categories of protected works, but generally, the subject matter of protection includes the following: **Literary Works:** This category encompasses written works of any kind, including novels, short stories, poems, essays, articles, blog posts, and computer programs. Literary works are protected by copyright if they are original and fixed in a tangible form of expression. **Musical Works:** Musical works refer to compositions consisting of music, whether with or without words. This category includes songs, instrumental pieces, melodies, and musical scores. Copyright protection extends to both the musical composition itself and any accompanying lyrics. **Dramatic Works:** Dramatic works encompass plays, scripts, screenplays, choreographic works, pantomimes, and other works intended for performance.

copyright protection covers the dialogue, characters, plot, and other elements of dramatic expression. **Artistic Works:** Artistic works include visual arts and crafts, such as paintings, drawings, sculptures, photographs, graphic designs, architectural works, and applied art. Copyright

protection extends to the visual representation or expression of ideas and concepts. Cinematographic Films: Cinematographic films consist of sequences of moving images recorded on any medium, including film, videotape, digital media, or other formats. Copyright protection covers the entire film, including the screenplay, direction, cinematography, editing, and sound recording. Sound Recordings: Sound recordings are fixed representations of sounds, whether musical, spoken, or other auditory expressions. This category includes recordings of music, spoken word, lectures, speeches, and other audio content. Copyright protection extends to the recording itself, separate from any underlying musical or literary work. Broadcasts: Broadcasts refer to transmissions of sounds or images intended for public reception, including radio broadcasts, television broadcasts, internet streaming, and other forms of dissemination. Copyright protection covers the transmission of the broadcast signal and may also extend to the content being broadcast.

These categories represent the primary subject matter of protection in copyright law, but copyright laws may also protect other types of works, such as databases, compilations, performances, and derivative works. The eligibility for copyright protection depends on factors such as originality, fixation in a tangible medium, and compliance with statutory requirements.

Now a day the subject matter of protection of Copyright is same throughout the globe because. copyright is become of international nature and due to advancement of technology any one can. violate the rights of others from any part of the world. As per different sub-sections of section 2 of Copyright Act,1957 and judicial interpretations from time to time many matters are eligible to get the protection. Analyzing all the classifications and categorizations of the works as provided under different sub-Sections of Section 2 of the Copyright Act, 1957 and taking reference from the judicial views of different High Courts and the Supreme Court of India, the following heads of copyrighted and related works will enjoy copyright protection under the current up to date.

works.

- Work
- Dramatic works.
- Musical works.

- Artistic work including sculpture, painting, engraving, architect, and all Literacy works were artistic.
- craftsmanship is involved.
- Cinematograph film.
- Sound recording.
- Literary, dramatic works or musical works in the form of computer programming or
- computer generated program including computer software.
- Adaptation, Translation and Reproduction of work.
- Creating unpublished works.
- Foreign works including the works of international Organization.
- Literary works such as poems, articles, works of fiction, factual works such as
- encyclopedias as dictionaries etc.
- Thus, question papers set for the examination.
- Research theses and dissertations prepared by students.
- Compilation of a book on household and accounts and domestic arithmetic.
- Schools textbooks.
- Guidebooks.
- Dictionary.
- A book of scientific questions and answers.
- Questionnaire for collecting statistical information.
- Head notes of a judgment; and
- Lecture notes have all come under the class of literary works entitles for copyright protection.
- Musical work such as songs operas, instrumental music etc.
- Works of art and architecture.
- Photographs, technical drawings, motion picture (Cinematograph film), computer program
- etc.
- Live performance of a drama fixed in a storage device such as a compact disk etc.

## Registration of Copyright

Under Indian law, registration is not a prerequisite for acquiring a copyright in a work. A copyright in a work is created when the work is created and given a material form, provided it is original.<sup>3</sup> The Copyright Act provides for a copyright registration procedure. However, unlike the U.S. law, the Indian law registration does not confer any special rights or privileges with respect to the registered. copyrighted work. The Register of Copyright acts as prima facie evidence of the particulars entered. therein. The documents purporting to be copies of the entries and extracts from the Register certified. by the Registrar of Copyright are admissible in evidence in all courts without further proof of original. Thus, registration only raises a presumption that the person in the Register is the actual author, owner, or right holder. The presumption is not conclusive. But where contrary evidence is not forthcoming, it is not necessary to render further proof to show that the copyright vests in the person. mentioned in the Register. In infringement suits and criminal proceedings, when time is of essence to obtain urgent orders, registration is of tremendous help. Copyright notice is not necessary under the Indian law to claim protection.

However, registration of works is not a condition precedent to avail copyright protection.

Registration serves as a prima facie evidence of copyright ownership in the Court of Law. In the case of Asian Paints (I) Ltd. Vs Jaikishan Paints & Allied Products, the High Court of Bombay has observed:

"Registration under the Copyright Act is optional and not compulsory. Registration is not necessary. to claim a copyright. Registration under the Copyright Act merely raises prima facie presumption. in respect of the particulars entered in the Register of Copyright. The presumption is however not. conclusive. The Copyright subsists as soon as the work is created and given a material form even if it. is not registered".

### **In Blackwood v. Parasuraman,**

2 Madras High Court held that: "translation of literary work is itself. A literary work and is entitled to copyright protection; reproduction of publication of translation without consent or license of the owner of copyright in the original would amount to infringement."

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<sup>3</sup>AIR 1959 MAD 410.  
 Section 45, Copyright Act, 1957  
 42002 (6) Born CR 1: (2002) 4 Born LR 941: 2002(4) MAH L

## Duration/Term of Copyright

In the case of original literary, dramatic, musical and artistic works, the duration of copyright is the lifetime of the author or artist, and 60 years counted from the year following the death of the author.<sup>5</sup> In the case of cinematograph films, sound recordings, photographs, posthumous publications, anonymous and pseudonymous publications, works of government and works of international organizations are protected for a period of 60 years which is counted from the year following the date of publication. Assignment of Copyright As mandated by Section 19, no assignment of copyright shall be valid unless such assignment is in writing and signed by the assignee and the assignee. Such assignment ought to identify:

- the work and the rights assigned,
  - the territorial extent and,
  - the duration of the assignment
- Where, the territorial extent and the duration of the assignment has not been specified, it shall be deemed that the assignment extends to the territory of India and the duration of assignment is for a period of five years respectively.

Under Section 18 of the Copyright Act, even the copyright in a future work can be assigned in accordance with Section however, such assignment shall come into effect only upon date of creation of the work. It has now been added by the Amendment that no assignment shall be applied to any medium or mode of exploitation of the work, which did not exist or was not in commercial use at the time when the assignment was made, unless the assignment specifically referred to such medium or mode of exploitation of the work. Section 22, Copyright Act, 1957. 6Assignment of copyright.— The owner of the copyright in an existing work or the prospective owner of the copyright in a future work may assign to any person the copyright either wholly or partially and either generally or subject to limitations and either for the whole term of the copyright or any part thereof: Provided that in the case of the assignment of copyright in any future work, the assignment shall take effect only when the work comes into existence... Mode of assignment. —No assignment of the copyright in any work shall be valid unless it is in writing signed by the assignor or by his duly authorized agent. The assignment of copyright in any work shall identify such work and shall specify the rights assigned and the duration and territorial extent of such assignment... Infringement of a Copyright A copyright is infringed if a person without an appropriate license

does anything that the owner of the copyright has an exclusive right to do. However, there are certain exceptions to the above rule (e.g., fair dealing). The Copyright Act provides for both civil and criminal remedies for copyright infringement. When an infringement is proved, the copyright owner is entitled to remedies by way of injunction, damages, and order for seizure and destruction of infringing articles.

Enforcement of Copyright in India the law of copyright in India not only provides for civil remedies<sup>9</sup> in the form of permanent injunction, damages or accounts of profits, delivery of the infringing material for destruction and cost of the legal proceedings. etc. but also makes instances of infringement of copyright, a cognizable offence punishable with for a term which shall not be less than six months, but which may extend to three years with a fine which shall not be less than INR 50,000 but may extend to INR 2,00,000. For the second and subsequent offences, there are provisions for enhanced fine and punishment under the Copyright Act.

The (Indian) Copyright Act, 1957 gives power to the police authorities to register the Complaint (First Information Report, i.e., FIR) and act on its own to arrest the accused, search the premises of the accused and seize the infringing material without any intervention of the court.

## **Digital impact on copyright law in INDIA and USA**

### **India:**

The advent of digital media has revolutionized the landscape of copyright law in India, presenting both opportunities and challenges for creators, rights holders, and policymakers. With the widespread availability of the internet and digital platforms, access to copyrighted content has become more accessible than ever before. However, this increased accessibility has also led to rampant digital piracy, with unauthorized copying and distribution of movies, music, software, and other creative works being prevalent across online platforms. India's copyright law, as embodied in the Copyright Act of 1957, has faced significant pressure to adapt to the digital environment. In response, legal reforms have been introduced to strengthen copyright enforcement and combat online infringement. Amendments to the Copyright Act, such as the incorporation of provisions related to digital rights management (DRM) and intermediary liability, aim to address the challenges posed by digital piracy and protect the interests of rights holders. Additionally,

India's international obligations, including commitments under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the WIPO Copyright Treaty, have influenced the country's approach to copyright enforcement in the digital age.

**Access and Distribution:** The proliferation of digital media has significantly increased access to copyrighted works in India. With the rise of the internet and digital platforms, consumers can easily access and distribute content, leading to challenges in enforcing copyright law.

**Digital Piracy:** India faces substantial challenges with digital piracy, with widespread unauthorized copying and distribution of copyrighted material, including movies, music, and software. Online piracy platforms and peer-to-peer networks facilitate the illegal sharing of copyrighted content, resulting in significant revenue losses for rights holders.

**Legal Reforms:** In response to the challenges posed by digital piracy, India has introduced legal reforms to strengthen copyright enforcement and combat online infringement. Amendments to the Copyright Act, such as the insertion of provisions related to digital rights management (DRM) and intermediary liability, aim to address the unauthorized distribution of copyrighted content online.

**International Obligations:** India's copyright law has been influenced by international obligations, including commitments under the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the WIPO Copyright Treaty. These agreements require India to provide effective enforcement mechanisms against copyright infringement, including in the digital environment.

#### **USA:**

In the United States, the impact of digital media on copyright law has been profound, reshaping the way intellectual property is created, distributed, and consumed. The rise of digital media has led to the development and adoption of technologies such as digital rights management (DRM) to protect copyrighted works from unauthorized use and distribution. Online streaming services like Netflix, Amazon Prime Video, and Spotify have transformed the entertainment industry, offering consumers access to vast libraries of content through licensing agreements with copyright owners.

However, digital media has also raised complex legal issues, particularly regarding fair use and digital sampling. Courts in the USA have grappled with determining the boundaries of fair use in cases involving the use of copyrighted material in digital works such as music, videos, and memes. Additionally, the Digital Millennium Copyright Act (DMCA) provides a legal framework for addressing online copyright infringement, including the notice-and-takedown system for removing infringing content from online platforms. The DMCA's safe harbor provisions offer protection to internet service providers and online platforms, balancing the interests of copyright owners with the need to foster innovation and freedom of expression in the digital environment.

**Digital Rights Management (DRM):** In the USA, digital media has prompted the development and adoption of technologies such as DRM to protect copyrighted works from unauthorized use and distribution. DRM technologies enable copyright owners to control access to their content and impose restrictions on how it can be used or shared.

**Online Streaming and Licensing:** The rise of digital media has transformed the entertainment industry in the USA, with the growth of online streaming services such as Netflix, Amazon Prime Video, and Spotify. These platforms rely on licensing agreements with copyright owners to distribute content legally, generating new revenue streams and business models for rights holders.

**Fair Use and Digital Sampling:** Digital media has also raised questions about the application of fair use principles in copyright law, particularly in the context of digital sampling and remix culture. Courts in the USA have grappled with determining the boundaries of fair use in cases involving the use of copyrighted material in digital works such as music, videos, and memes.

**DMCA and Safe Harbor:** The Digital Millennium Copyright Act (DMCA) in the USA provides a framework for addressing online copyright infringement, including the notice-and-takedown system for removing infringing content from online platforms. The DMCA also includes safe harbor provisions that shield internet service providers and online platforms from liability for copyright infringement by their users under certain conditions.

In both India and the USA, the impact of digital media on copyright law and infringement is multifaceted, requiring ongoing adaptation and reform to address the challenges and opportunities

presented by the d

## **Some Solutions To Address Copyright Infringement In The Digital Age:**

**Enhanced Enforcement:** Strengthening enforcement mechanisms to combat digital piracy is crucial. This includes allocating resources for specialized law enforcement units and implementing technologies for monitoring and detecting online copyright infringement. Collaboration between government agencies, law enforcement, and copyright holders can help streamline enforcement efforts and improve effectiveness.

**Public Awareness and Education:** Educating the public about the importance of respecting copyright laws and the consequence of piracy is essential. Awareness campaigns can help foster a culture of respect for intellectual property rights and discourage individuals from engaging in or supporting copyright infringement. These campaigns can target consumers, creators, educators, and businesses alike.

**Technological Solutions:** Embracing technological solutions such as digital rights management (DRM), watermarking, and content recognition technologies can help deter copyright infringement and protect digital content. These technologies enable copyright holders to control access to their content and track its distribution across digital platforms.

**Legal Reforms:** Updating and amending copyright laws to address the challenges posed by digital piracy is necessary. This may include clarifying liability for internet service providers and online platforms, introducing stricter penalties for copyright infringement, and modernizing copyright regulations to accommodate digital distribution models.

**International Cooperation:** Enhancing international cooperation and collaboration among countries is crucial for addressing cross-border copyright infringement. This includes harmonizing copyright laws, sharing best practices for enforcement, and facilitating information exchange and mutual assistance among law enforcement agencies.

**Promotion of Legal Alternatives:** Providing accessible and affordable legal alternatives to piracy can help reduce copyright infringement. This may include expanding licensed streaming services, offering fair pricing models, and simplifying licensing processes for content creators and distributors.

**Support for Creators:** Supporting and empowering creators by providing them with tools, resources, and incentives to protect their works and earn a fair income is essential. This may involve establishing platforms for creators to monetize their content, offering legal assistance for copyright enforcement, and promoting initiatives that recognize and reward creative contributions. By implementing these solutions in a coordinated manner, countries can mitigate the impact of digital piracy, protect intellectual property rights, and foster a sustainable ecosystem for creativity and innovation in the digital age.

## **STATEMENT OF THE PROBLEM**

There is an acute lack of awareness on various issues relating to copyright and related issues. The awareness of Intellectual Property (IP) Laws is considerably low among the enforcement authorities in India, and most of the IP litigation is confined to metropolitan cities owing to which the major section of the society is deprived of legal remedies as provided by the copyright act and it needs to be determined that whether the ones filing under the copyright act are vested with remedy or not!

## **Scope of study**

This study aims at critically evaluating the various facets of copyright law in India including the historical background of the Copyright law in India as well as keeping in view the international perspective. The study also aims at understanding the concept of copyright infringement and various remedies provided therein.

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Section 51, Copyright Act, 1957

9 Section 55, Copyright Act, 1957 10Section 63 A, Copyright Act, 1957

## **OBJECTIVES OF THE STUDY**

The Research aims:

- To study the concept of copyright.
- To study the application of copyright law in India.
- To study the impact of registration of copyright.
- To study the infringement of copyright and the penal provisions provided therewith.
- To study the remedies available at the instance of infringement of copyright.
- To study the emerging trends in copyright Law in India.

## **Hypothesis- The copyright law in India can curb copyright infringement instances.**

### **METHODOLOGY**

The paper is an attempt of doctrinal research, towards the “Copyright Law in India: Critical Analysis. The researcher has taken help of both primary and secondary sources. The primary sources include – Statutory legislations, Regulations: International and National Judgments. The secondary sources include – articles, journals, books, newspapers and websites etc.

### **REVIEW OF LITERATURE**

In an attempt to frame a detailed note on critical appraisal on copyright laws in India, the researcher. has consulted the following books in compilation of this researcher work: -

- 1) Narayanan, Intellectual Property law, ed. 1997.
- 2) P.S. Sangal and K. Ponnusamy, Intellectual property law ed. 1994.
- 3) S. R. Myneni, Law of Intellectual property ed. 2001.
- 4) W.R. Cornish, intellectual property ed. 1999
- 5) Agreement established world trade organization (WTO)
- 6) Draft treaty on copyright of electronic record 1990

### **Organization of chapters**

In this study, an attempt has been made to examine and evaluate the provisions of the Copyright Act, 1957 and the amendments made therein. The present study has been divided into 6 chapters.

The concept and significance of copyright protection has been examined in First Chapter. An attempt would be made to explain the meaning of copyright and to define its need and scope. For proper appreciation and understanding, the historical background and different international Conventions. have been proposed to be discussed under the chapter.

The Second Chapter deals with the international regime of the Copyright Law. In this chapter, the different conventions and treaties would be discussed.

The Third Chapter deals with the Utility of Berne Convention for the protection of literary and Dramatic works. An attempt has been made to analyze the different articles of the convention which. prescribes National treatment to the copyright holders.

The Fourth Chapter deals with the exclusive features of the copyright Law in India. It deals with the framing of the provisions related to copyrights which are conferred and protected in India by the Copyright Act, 1957. An attempt has also been made to analyze the subject matter of copyright and ownership of copyright.

The Fifth Chapter deals with the copyright infringement and remedies provided under the copyright.

Law. The various exclusive rights of copyright owner, the infringement of these rights and remedies available to the copyright owner would be discussed.

The last chapter, i.e., sixth chapter deals with the conclusion and suggestions of the study. Here, an attempt has been made to draw conclusion from the present study and to provide suggestions for protection of copyright in India. throughout this study, the relevant provisions of the legislations, pertaining to the copyright Law, have been xamined and evaluated. The important judicial Pronouncements of the various High courts and Supreme Court of India have been referred to, analyzed, and evaluated at the appropriate places.

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