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+91 70421 48991
editor@ijlar.com
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Introduction

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Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

STRIKING A CHORD: AN IN-DEPTH EXPLORATION OF COPYRIGHT LAWS IN THE MUSIC INDUSTRY WITHIN THE INDIAN CONTEXT

AUTHORED BY - RASHI UPADHYAY

Designation: Research Scholar

Institute: Dharmashastra National Law University, Jabalpur

ABSTRACT

Creativity and copyright protection are perpetually at odds in India's music industry, which is situated at a distinctive crossroads where tradition and modernity collide. In order to better understand how copyright laws impact the production, dissemination, and preservation of music in India, this article will investigate these laws in great detail. This study begins with a brief history of copyright laws in India before diving into the details of the Copyright Act, 1957 and its revisions. To determine whether the provisions adequately protect the rights of creators, performers, and copyright holders, it examines musical works, sound recordings, and performances. Additionally, the article delves into the difficulties brought about by digitalization, internet streaming services, and piracy, all of which have altered the dynamics of the music industry. It delves into the effectiveness of copyright enforcement mechanisms in preventing piracy and guaranteeing creators receive fair compensation in the face of digital content's rapid dissemination. Additionally, this research delves into how copyright regulations interact with artistic and cultural practices common in India, including the country's long history of folk music and its thriving independent music scene. In a nation known for its varied musical history, it explores the tension between safeguarding intellectual property rights and encouraging cultural diversity and innovation. Further, the article delves into seminal court decisions and rulings that have influenced the way copyright laws are applied and understood in India's music genre. With its focus on important cases and new developments, it sheds light on the ever-changing legal scene and what it means for those involved. The importance of strong copyright laws in protecting musical works in India, encouraging innovation, and encouraging creativity is highlighted by this

research. The ever-changing world of music production and distribution presents both obstacles and opportunities, necessitating an in-depth familiarity with copyright laws.

Keywords: *Copyright Act, Digital Innovations, Legal Framework, Indian Music Industry, Technological Advancement*

INTRODUCTION

There is a rich tapestry of musical expression thanks to the global music industry's long history of innovation and creativity, which includes artists, composers, producers, and others. Protecting creators' rights and encouraging a flourishing ecosystem for creative innovation and economic growth are fundamental to this industry, and copyright is its bedrock. The complex web of copyright laws governing India's music industry is the result of a conglomeration of national statutes, treaties, and case law. This paper delves into the copyright laws in India's music industry, exploring its complexities, problems, and possible reforms.

The Indian legal framework governing copyright in the music industry primarily revolves around the Copyright Act of 1957¹, which underwent significant amendments in 1994², 1999³, and 2012⁴ to address emerging challenges and align with international standards. The Copyright Act, along with associated rules and regulations, delineates the rights and obligations of copyright holders, users, and intermediaries within the music ecosystem. Specifically, Section 14⁵ of the Copyright Act enumerates the exclusive rights conferred upon copyright owners, including the rights to reproduce, distribute, communicate to the public, and adapt their musical works.

Furthermore, the Indian music industry is intricately linked with neighboring rights, which extend protection to performers, producers, and broadcasting organizations. The Performers' Rights Society of India (IPRS) plays a pivotal role in administering these neighboring rights, ensuring

¹ Copyright Act 1957, s 14 (India).

² Copyright (Amendment) Act 1994, No. 38 (India).

³ Copyright (Amendment) Act 1999, No. 27 (India).

⁴ Copyright (Amendment) Act 2012, No. 27 (India).

⁵ supra n 1.

equitable remuneration for performers and safeguarding their interests in the digital age.⁶ Additionally, the emergence of digital platforms and online streaming services has necessitated the formulation of statutory licenses and tariff schemes, as prescribed under Sections 31⁷ and 31D⁸ of the Copyright Act, to facilitate the lawful dissemination of musical content while fairly compensating rights holders.

Copyright protection serves as a cornerstone of the music industry, conferring both economic and moral rights upon creators and stakeholders. For musicians, composers, and lyricists, copyright provides a legal framework to monetize their artistic endeavors through licensing agreements, royalty payments, and collective management organizations. In addition, copyright protection encourages creative thinking by giving creators the sole authority to reproduce and share their works, which creates an atmosphere that is positive for artistic expression and cultural development.⁹

Also included in the scope of copyright protection are a wide variety of parties, such as digital platforms, record labels, publishers, distributors, and individual creators. Through the protection of these entities' intellectual property rights, copyright promotes a long-term ecosystem that is conducive to investment, market regulation, and a fair balance between creators' and consumers' interests.

EVOLUTION OF COPYRIGHT LAWS IN THE INDIAN MUSIC INDUSTRY

Copyright laws in India have changed over the years, just like the country's music industry, due to the complex interaction of legal, technical, and cultural aspects. From the colonial period to the digital era, the landscape of copyright in the Indian music industry has witnessed significant transformations, shaped by landmark legal cases, legislative reforms, and technological advancements¹⁰. This paper delves into the historical background of copyright in music in India,

⁶ Indian Performing Right Society, 'About IPRS' <https://iprs.org/about-iprs/> accessed 15 February 2024.

⁷ Copyright Act 1957, s 31 (India).

⁸ Copyright Act 1957, s 31D (India).

⁹ Gregory Booth, 'Copyright Law and the Changing Economic Value of Popular Music in India' (2015) 59 *Ethnomusicology* 262.

¹⁰ Shreya Sonal, 'Music Industry and Indian Laws' (2021) 2 *Jus Corpus LJ* 487.

tracing its evolution, examining pivotal legal cases, and analyzing the impact of technological innovations on copyright enforcement.

The roots of copyright in India can be traced back to the colonial era, marked by the enactment of the Copyright Act of 1847¹¹ during British rule. This law, which was based on copyright legislation in the United Kingdom, gave writers and publishers complete control over any and all copies of their works in an effort to safeguard their intellectual property. However, the scope of copyright protection was limited and often exploited by colonial publishers to the detriment of Indian authors and composers.

In the post-independence period, India embarked on a journey of legal and institutional reforms, culminating in the implementation of the Copyright Act of 1957.¹² This landmark legislation sought to modernize copyright law in India, providing comprehensive protection to literary, dramatic, musical, and artistic works. The Copyright Act of 1957¹³ represented a significant departure from its colonial predecessor, incorporating indigenous principles of copyright and aligning with international conventions such as the Berne Convention.¹⁴

LANDMARK LEGAL CASES AND LEGISLATIVE DEVELOPMENTS

The evolution of copyright laws in the Indian music industry has been punctuated by several landmark legal cases and legislative developments that have shaped the contours of copyright jurisprudence. One such case is the iconic “Gramophone case” of 1984,¹⁵ wherein the Supreme Court of India ruled in favor of music composer R.D. Burman, affirming the rights of composers and lyricists to receive royalties for the commercial exploitation of their musical works. This judgment underscored the importance of equitable remuneration and moral rights for creators in the music industry.

¹¹ The Indian Copyright Act 1847 (repealed).

¹² *supra* n 11, 1.

¹³ *ibid* 1.

¹⁴ Berne Convention for the Protection of Literary and Artistic Works, 9 September 1886, revised at Paris on 24 July 1971, and amended on 28 September 1979.

¹⁵ *Gramophone Company of India Ltd v Birendra Bahadur Pandey & Ors* (1984) 2 SCC 534.

Subsequent legislative amendments, including those in 1994, 1999, and 2012, further strengthened copyright protection in India and addressed emerging challenges posed by technological advancements. The Copyright Amendment Act of 2012,¹⁶ in particular, introduced significant reforms, such as the recognition of performers' rights, the expansion of fair dealing provisions, and the introduction of statutory licenses for broadcasting and digital dissemination of musical works. These legislative changes aimed to harmonize Indian copyright law with global standards and adapt to the realities of the digital age.

IMPACT OF TECHNOLOGICAL ADVANCEMENTS ON COPYRIGHT ENFORCEMENT

The advent of digital technologies has revolutionized the production, distribution, and consumption of music, presenting both opportunities and challenges for copyright enforcement. The proliferation of digital piracy and online streaming platforms has posed significant threats to the economic interests of rights holders, leading to a cat-and-mouse game between copyright owners and infringers.¹⁷ Despite the implementation of technological measures such as Digital Rights management (DRM) and anti-piracy algorithms, online piracy remains a persistent problem in the Indian music industry.

Moreover, the emergence of peer-to-peer (P2P) file-sharing networks and streaming services has blurred the lines between personal and commercial use of copyrighted music, complicating enforcement efforts and royalty collection. In response, rights holders have adopted innovative strategies such as content identification technologies and licensing agreements with digital platforms to monetize their musical works and combat piracy. However, the effectiveness of these measures remains contingent upon robust legal frameworks and international cooperation in copyright enforcement.

The historical evolution of copyright laws in the Indian music industry reflects a trajectory of progress, marked by legislative reforms, judicial pronouncements, and technological innovations.

¹⁶ supra n 4.

¹⁷ V Yadav, 'Copyright Laws: Challenges in the Digital Era' (2022) 3 Indian J L & Legal Rsch 4.

From the colonial legacy to the digital age, copyright protection has evolved to encompass a diverse array of musical works and stakeholders, fostering a conducive environment for artistic expression and economic growth. However, challenges such as online piracy, fair remuneration, and technological obsolescence persist, necessitating continued vigilance and adaptability in copyright enforcement. By contextualizing the historical development of copyright in music within India, this paper aims to provide insights into the complex interplay between law, technology, and culture in shaping the future of the music industry.

RESEARCH GAP

Despite the overarching significance of copyright laws in the Indian music industry, several challenges and lacunae persist, necessitating a nuanced examination and critical analysis. One of the primary issues pertains to the application of copyright laws in the digital realm, where unauthorized reproduction, distribution, and consumption of musical works abound. Further complicating matters for rights enforcement and royalty collection is the fact that the boundaries between personal and commercial use have become increasingly blurred due to the proliferation of online platforms and social media.

Furthermore, the efficacy of existing legal mechanisms, such as statutory licenses and collective management organizations, in ensuring equitable remuneration and rights administration remains a subject of debate and scrutiny. Additionally, the intersection of copyright laws with emerging technologies, such as artificial intelligence and blockchain, raises novel questions regarding the ownership, licensing, and distribution of musical content in the digital age.

OBJECTIVES OF THE STUDY

1. To evaluate the effectiveness and enforcement of copyright laws in protecting the rights of musicians and stakeholders in the Indian music industry.
2. To identify the key challenges and gaps in the current legal framework governing copyright in the digital era, with a focus on online piracy, fair use/fair dealing, and emerging business models.

3. To propose recommendations and policy interventions aimed at strengthening copyright protection, promoting fair remuneration, and fostering innovation within the Indian music industry.

COPYRIGHT LAW FUNDAMENTALS

Copyright law serves as the cornerstone of intellectual property protection in the music industry, providing creators with exclusive rights over their musical works and ensuring fair compensation for their creative endeavors. In the Indian context, the Copyright Act of 1957,¹⁸ along with subsequent amendments, governs the scope, duration, and enforcement of copyright in music.¹⁹ This paper explores the fundamental principles of copyright law within the Indian music industry, elucidating the definition and scope of copyright, delineating the exclusive rights of copyright holders, and elucidating the duration and termination of copyright protection.

Definition and Scope of Copyright in Music

Copyright in music encompasses a broad spectrum of creative works, including compositions, lyrics, recordings, and performances, which are protected under the Copyright Act of 1957. Section 13²⁰ of the Act defines musical works as compositions consisting of melody or harmony, with or without accompanying words, capable of being reproduced in a tangible form. This definition encompasses a wide range of musical expressions, from traditional compositions to contemporary genres, thereby providing comprehensive protection to composers, lyricists, and performers.

Moreover, copyright protection extends to derivative works and adaptations of musical compositions, including arrangements, remixes, and translations, provided they exhibit sufficient originality and creativity. However, copyright does not subsist in mere ideas, concepts, or techniques underlying musical compositions but rather in their tangible expression in a fixed medium.

¹⁸ supra n 17, 1.

¹⁹ PM Singh, 'Evolution of Copyright Law - The Indian Journey' (2020) 16 Indian J L & Tech 38.

²⁰ Copyright Act 1957, s 13, No. 14, Acts of Parliament (India).

Exclusive Rights of Copyright Holders

Copyright enables creators to manage the replication, distribution, public performance, and adaptation of their musical works. This power is outlined in Section 14²¹ of the Copyright Act. Owners of copyrights are able to make money off of their works through licensing agreements, royalties, and legal action against infringers.

The right to reproduce entails the exclusive authority to make copies of musical compositions in various formats, including physical recordings, digital downloads, and streaming services. Similarly, the right to distribute grants copyright holders the exclusive privilege to disseminate copies of their works to the public through sale, rental, or lending.²²

Additionally, the right to perform publicly encompasses the exclusive prerogative to communicate musical works to the public through live performances, broadcasts, or digital transmissions. This right is particularly relevant in the context of concerts, radio broadcasts, and online streaming platforms, where musical compositions are disseminated to a wide audience.

Furthermore, the right to make adaptations allows copyright holders to create derivative works based on their original compositions, such as arrangements for different instruments, translations into other languages, or remixes for artistic reinterpretation. However, the exercise of this right must not infringe upon the moral rights or economic interests of the original creators.

Duration and Termination of Copyright Protection

The duration of copyright protection in musical works is governed by Section 22²³ of the Copyright Act, which stipulates a term of protection extending from the date of the composer's death to 60 years thereafter. In the case of joint authorship, the duration is calculated based on the death of the last surviving author. Furthermore, copyright protection may be terminated under certain circumstances, as delineated in Sections 30 and 31²⁴ of the Copyright Act. For instance, copyright may expire upon the expiration of the prescribed term, upon the forfeiture of rights due to non-compliance with statutory formalities, or upon the voluntary relinquishment of rights by the copyright holder.

²¹ *supra* n 1.

²² N Noor, 'Copyright Law in Protecting Creators' Exclusive Rights in the Creative Industry: A Comparative Study' (2021) 1 Lawpreneurship J 200.

²³ Copyright Act 1957, s 22, No. 14, Acts of Parliament (India).

²⁴ Copyright Act 1957, ss 30, 31, No. 14, Acts of Parliament (India).

Moreover, copyright may be terminated by operation of law in cases of statutory licenses, compulsory licenses, or collective management agreements, wherein third parties are granted limited rights to exploit musical works under specified conditions.

Copyright law constitutes the bedrock of intellectual property protection in the Indian music industry, providing creators with the exclusive rights to control and monetize their musical works. By defining the scope of copyright, delineating the exclusive rights of copyright holders, and elucidating the duration and termination of copyright protection, the Copyright Act of 1957 lays the groundwork for fostering creativity, innovation, and economic growth within the music ecosystem. However, challenges such as piracy, unauthorized sampling, and international enforcement remain perennial concerns, necessitating ongoing reforms and vigilance in copyright enforcement. By elucidating the fundamental principles of copyright law in music, this paper aims to provide a comprehensive understanding of the legal framework governing the Indian music industry and its implications for creators, stakeholders, and consumers alike.

CHALLENGES IN COPYRIGHT ENFORCEMENT

The Indian music industry faces both opportunities and challenges in copyright enforcement due to the revolutionary impact of digital technologies on music production, distribution, and consumption. The economic interests of rights holders are jeopardised by digital piracy and unauthorised distribution, and protecting intellectual property rights in an increasingly interconnected world is complicated by international copyright issues and cross-border enforcement. This paper delves into the complex issues surrounding copyright enforcement in the Indian music industry, shedding light on the consequences of digital piracy, examining copyright issues on a global scale, and proposing solutions for more efficient enforcement across borders.

Digital Piracy and Unauthorized Distribution

One of the biggest problems with copyright enforcement in India's music industry is digital piracy, which includes things like illegal downloads, streaming, and file-sharing. Online platforms and peer-to-peer networks still enable the illegal distribution of copyrighted music, which undermines the creative ecosystem and deprives rights holders of legitimate income, despite legislative actions and technical solutions.

Digital piracy and unauthorised distribution in India can be tackled through the legal framework provided by the Copyright Act of 1957²⁵ and its subsequent amendments. Sections 51 and 63²⁶ of the Act delineate the civil and criminal remedies available to copyright holders, including injunctions, damages, and criminal prosecution against infringers. Additionally, the Information Technology Act of 2000,²⁷ supplemented by the Copyright (Amendment) Act of 2012,²⁸ empowers law enforcement agencies to combat online piracy through measures such as website blocking, search engine delisting, and intermediary liability provisions.

International Copyright Issues and Cross-Border Enforcement

Rights holders and enforcement agencies in India's music industry face new obstacles in the age of digital interconnection and globalisation related to copyright issues. Harmonized legal frameworks, mutual recognition of intellectual property rights, and cooperation among nations are necessary to combat infringement effectively in the cross-border dissemination of musical works through online platforms, social media, and streaming services.

India's adherence to international treaties and agreements such as the "Berne Convention,"²⁹ the "WIPO Copyright Treaty,"³⁰ and the "TRIPS Agreement"³¹ underscores its commitment to upholding international copyright standards. However, disparities in copyright laws, enforcement mechanisms, and cultural norms across jurisdictions complicate cross-border enforcement efforts, leading to jurisdictional conflicts, forum shopping, and forum non conveniens defenses in copyright litigation.

Furthermore, challenges such as territorial licensing, geo-blocking, and jurisdictional ambiguity impede the seamless distribution and enforcement of copyright in the global music marketplace. Case studies such as "Tips Industries Ltd. v. YouTube LLC"³² exemplify the complexities of cross-border enforcement, wherein Indian rights holders sought injunctions against foreign online

²⁵ supra n 1.

²⁶ Copyright Act 1957, ss 30, 51, No. 63, Acts of Parliament (India).

²⁷ The Information Technology Act 2000, No. 21, Acts of Parliament (India).

²⁸ supra n 4.

²⁹ supra n 14.

³⁰ WIPO Copyright Treaty, 20 December 1996, S Treaty Doc No 105-17, 36 ILM 65.

³¹ Agreement on Trade-Related Aspects of Intellectual Property Rights, 15 April 1994, 1869 UNTS 299.

³² *Tips Industries Ltd v Wynk Music Ltd & Anr*, Notice of Motion (L) No 197 of 2018.

platforms for hosting infringing content, raising questions of extraterritorial jurisdiction and conflicting legal standards.

Strategies for Effective Enforcement

Legislative changes, technology advancements, and international collaboration are all necessary to tackle the problems of digital piracy and copyright issues on a global scale. Streamlining processes for cross-border enforcement requests, increasing penalties for copyright infringement, and bolstering enforcement mechanisms should be the primary goals of legislative reforms.

Additionally, there are technological solutions that show promise in detecting and deterring online piracy and ensuring fair compensation for rights holders. These solutions include content identification algorithms, blockchain-based platforms, and digital rights management (DRM). Additionally, international cooperation through bilateral agreements, multilateral treaties, and intergovernmental initiatives such as the “WIPO Copyright Treaty” and the “TRIPS Agreement” is essential for harmonizing legal standards, facilitating information sharing, and combating transnational copyright infringement effectively.³³

Copyright enforcement in India’s music industry is beset by problems with digital piracy and other global copyright issues, endangering the financial well-being of artists, industry players, and listeners. This paper seeks to shed light on the changing copyright landscape and its effects on India's music ecosystem by explaining the difficulties of fighting online piracy, examining the nuances of cross-border enforcement, and investigating tactics for successful enforcement. Stakeholders can tackle these challenges and protect IP rights in the digital era by encouraging dialogue, collaboration, and innovation.

FAIR USE AND FAIR DEALING IN INDIA’S MUSIC INDUSTRY

The Indian music industry relies heavily on fair use and fair dealing provisions, which help to maintain a balance between creators’ rights and the public’s interest in accessing and enjoying copyrighted works. The purpose of these provisions is to allow certain uses of copyrighted material, such as criticism, commentary, education, and research, which are not normally allowed

³³ N Sensarkar, ‘The Potential Impact of Digital Rights Management on the Indian Entertainment Industry’ (2007) 6 J Intl Trade L & Pol’y 45.

by copyright law.³⁴ The fair dealing provisions of India's Copyright Act of 1957 recognise the importance of encouraging innovation, creativity, and cultural exchange while simultaneously protecting the financial interests of rights holders. This paper delves into the intricacies of fair use and fair dealing in music by examining case studies, analysing provisions across jurisdictions, and explaining strategies for balancing creator and public interests.

Analysis of Fair Use/Fair Dealing Provisions in Various Jurisdictions

Fair use and fair dealing provisions vary across jurisdictions, reflecting cultural, legal, and historical differences in the interpretation of copyright law. In India, fair dealing provisions are enshrined under Section 52³⁵ of the Copyright Act, which enumerates specific exceptions to copyright infringement, including reproduction for "private use, criticism or review, reporting of current events, and educational purposes."

Similarly, in the US, Canada, and EU, fair use provisions allow for creative transformations of copyrighted material for things like news reporting, parody, and satire by allowing for a more nuanced interpretation of copyright laws. United States copyright law provides a framework for determining fair use based on four factors: "the nature of the copyrighted work, the amount and substantiality of the portion used, the effect upon the potential market, and the purpose and character of the use."³⁶

Several landmark cases in India have shaped the interpretation and application of fair dealing provisions in the context of music. One such case is "Indian Singers' Rights Association v. Chapter 25 Bar & Restaurant,"³⁷ wherein the Bombay High Court held that the performance of copyrighted musical works in a commercial establishment constituted infringement, notwithstanding the absence of direct profit from the performance. This ruling underscored the expansive interpretation of fair dealing provisions to protect the economic interests of rights holders in the Indian music industry.

³⁴ V S Warriar, 'Indian Entertainment Industry's Copyright Empire: A Threat to Creativity' (2023) 7 J Intell Prop Stud 45.

³⁵ Copyright Act 1957, s 52 (India).

³⁶ E Kemp, C Natesan and L Borders, 'Copyright Liability and Performing Rights Organizations in the United States and India: A Comparative Analysis' (2011) 3 J Emerging Knowledge Emerging Markets 19.

³⁷ *The Indian Singers Rights Ass'n v Chapter 25 Bar & Rest*, CS(OS) 2068/2015 & IA No 14261/2015.

Similarly, the “Super Cassettes Industries Ltd. v. Music Broadcast Pvt. Ltd.”³⁸ case highlighted the application of fair dealing provisions in the broadcasting of copyrighted musical works, in a ruling by the Delhi High Court, it was determined that the mere broadcasting of songs as part of a radio program constituted fair dealing for the purpose of reporting current events, provided adequate royalties were paid to rights holders.

Balancing the Interests of Creators and the Public

Balancing the interests of creators and the public lies at the heart of fair use and fair dealing provisions in the music industry. While copyright law seeks to incentivize creativity and protect the economic interests of rights holders, fair dealing provisions recognize the importance of promoting access to knowledge, fostering cultural exchange, and facilitating transformative uses of copyrighted material.³⁹

To find a happy medium, it’s important to put factors like the copyrighted work’s features, the intended use, and the impact on the original work’s market value into context. It is critical that users, legislators, and rights holders collaborate to develop an advanced and inclusive copyright enforcement strategy in order to advance the public interest in accessing and appreciating cultural content while simultaneously honouring the rights of creators.

COPYRIGHT INFRINGEMENT LITIGATION

Copyright infringement litigation in the music industry is a multifaceted domain governed by intricate legal standards, encompassing the proof of infringement, available remedies to copyright holders, and notable case precedents. In the Indian context, establishing copyright infringement necessitates meeting specific legal thresholds. Generally, to prove infringement, the plaintiff must demonstrate ownership of a valid copyright and unauthorized copying of protected elements by the defendant. This entails establishing substantial similarity between the original work and the allegedly infringing material. Notably, Indian courts apply the ‘substantial similarity’ test, focusing on the qualitative and quantitative significance of similarities between the works in

³⁸ *Super Cassettes Indus Ltd v Music Broadcast Pvt Ltd*, No 30938 of 2011.

³⁹ R Vij, ‘Copyright and Libraries: Balancing the Interests of Stakeholders in the Digital Age’ (2019) 8 Asian J Multidimensional Res 208.

question. A pivotal case illustrating this principle is *R.G. Anand v. Delux Films*,⁴⁰ where the Supreme Court emphasized that infringement is not confined to literal imitation but extends to the substance, the kernel of the copyrighted work.

Regarding remedies, Indian copyright law offers various avenues for relief to aggrieved copyright holders. These remedies include injunctions to restrain further infringement, damages or an account of profits to compensate for losses, and orders for delivery-up or destruction of infringing copies. Additionally, statutory damages and punitive measures may be awarded to deter future violations. The landmark judgment in *Gramophone Co. of India Ltd. v. Mars Recording Pvt. Ltd.*⁴¹ established the right of copyright owners to seek both damages and injunctions, providing a significant precedent for remedies in copyright infringement cases within the Indian music industry.

The Indian music industry has witnessed several notable copyright infringement cases that have shaped legal interpretations and precedents. One such case is the legendary dispute between “IPRS (Indian Performing Right Society)” and “ENIL (Entertainment Network India Ltd.),” commonly known as the ‘Radio Royalty’⁴² case. This case revolved around the payment of royalties by FM radio stations for broadcasting copyrighted music. The Delhi High Court’s judgment emphasized the importance of licensing agreements in protecting the rights of copyright holders and established guidelines for determining fair royalty rates, significantly impacting the music broadcasting landscape in India.

Furthermore, the case of *Amar Nath Sehgal v. Union of India*⁴³ is noteworthy for its impact on the protection of moral rights of artists. In this case, renowned sculptor Amar Nath Sehgal sought to prevent the mutilation and destruction of his copyrighted sculptures installed in public spaces. The Supreme Court recognized the moral rights of artists, including the right to integrity of their works, and held that the unauthorized modification or destruction of artistic works constitutes

⁴⁰ *R G Anand v M/S Deluxe Films & Ors* (1978) 4 SCC 118.

⁴¹ *Gramophone Co of India Ltd v Mars Recording Pvt Ltd & Anr* (2002) 2 SCC 103.

⁴² *The Indian Performing Right Society v Entertainment Network (India) Ltd*, AIR ONLINE 2021 DEL 16.

⁴³ *Amar Nath Sehgal v Union of India* 117 (2005) DLT 717, 2005 SCC OnLine Del 103, 2005 (30) PTC 253.

infringement of moral rights under copyright law. This judgment marked a significant advancement in safeguarding the creative integrity of artists in India.

Similarly, the dispute between Tips Industries Ltd. and Wynk Music Ltd.⁴⁴ shed light on the liability of online streaming platforms for copyright infringement. Tips Industries accused Wynk Music of unauthorized streaming of its copyrighted music compositions without obtaining proper licenses. The Delhi High Court held that online platforms are liable for copyright infringement if they fail to obtain licenses or authorization from copyright owners for streaming copyrighted content. This ruling established the responsibility of digital platforms to respect copyright laws and obtain appropriate licenses for the distribution of copyrighted music.

Final thoughts on copyright infringement cases in India's music industry: familiarity with relevant laws, remedies, and precedents is key. Indian courts have consistently, via seminal decisions and precedents, emphasised the significance of safeguarding the rights of copyright holders and guaranteeing fair remuneration for creative endeavours within the music industry. Enforcing copyright laws is essential for maintaining a creative, innovative, and fair music ecosystem, especially as technology changes and new obstacles arise.

ROLE OF LICENSING AND COLLECTIVE MANAGEMENT ORGANIZATIONS

The Role of Licensing and Collective Management Organizations (CMOs) is integral to navigating the complex landscape of copyright laws in India's music industry. Licensing serves as a mechanism for granting permission to use copyrighted music, ensuring that creators receive fair compensation for their works while facilitating the lawful dissemination of musical content. Various types of music licenses are employed, including mechanical licenses for reproducing musical compositions, synchronization licenses for incorporating music into audiovisual works, and performance licenses for public performances of music. These licenses play a crucial role in regulating the use of copyrighted material and promoting a sustainable ecosystem for creators, users, and stakeholders in the music industry.

⁴⁴ *Tips Indus Ltd v Wynk Ltd*, AIR ONLINE 2019 BOM 1452.

But there are some problems and complaints with the licencing system in India's music business. Unauthorized use and exploitation of copyrighted music is a major problem, especially in digital and online platforms. The economic interests of creators and stakeholders in the music industry are jeopardised by the prevalence of illegal downloads, streaming, and file-sharing, despite attempts by CMOs and rights holders to enforce licencing agreements and combat piracy. The transparency and efficiency of India's licencing system have also come under scrutiny due to problems like late royalty payments, unclear licencing policies, and a lack of support for independent artists.

Several landmark cases in the Indian context have shed light on the complexities and challenges of music licensing and collective management. In "The Indian Performing Right Society v. Aditya Pandey,"⁴⁵ the Delhi High Court emphasized the importance of licensing agreements and the obligation of commercial establishments to obtain licenses for public performances of copyrighted music. Similarly, in "The Indian Performing Right Society v. Eastern Indian Motion Pictures Association",⁴⁶ the Calcutta High Court reiterated the necessity of licensing for broadcasting music on television channels, underscoring the rights of rights holders to receive fair compensation for the use of their works.

Furthermore, criticisms of the licensing system have prompted calls for reforms and improvements to ensure greater transparency, accountability, and inclusivity. In "Super Cassettes Industries Ltd. v. Music Broadcast Pvt. Ltd.,"⁴⁷ the Delhi High Court highlighted the need for effective licensing mechanisms and royalty collection systems to prevent unauthorized broadcasting of copyrighted music on radio. Similarly, in "Tips Industries Ltd. v. YouTube LLC",⁴⁸ the Bombay High Court addressed the challenges of online licensing and the responsibility of digital platforms to obtain licenses for hosting and streaming copyrighted music, emphasizing the importance of equitable remuneration for creators in the digital age.

⁴⁵ *The Indian Performing Right Society v Pandey* 178 (2011) DLT 443.

⁴⁶ *Indian Performing Right Society Ltd v Eastern India Motion Pictures* AIR 1977 Cal 218.

⁴⁷ *supra* n 38.

⁴⁸ *supra* n 32.

For India's music ecosystem to be sustainable and fair, collective management organisations and licencing agencies play a crucial role. The licencing system is crucial in protecting the interests of creators, users, and stakeholders in the Indian music industry by encouraging adherence to copyright laws, guaranteeing fair compensation for creators, and addressing challenges and criticisms through legal frameworks and judicial interventions. Creators must be guaranteed fair and equitable remuneration for their creative works, and ongoing endeavours must be made to tackle the intricacies and difficulties of licencing.

EMERGING TRENDS AND FUTURE DIRECTIONS

Emerging Trends and Future Directions in the music industry are reshaping the landscape of copyright laws in India, presenting both challenges and opportunities for creators, stakeholders, and regulatory authorities. One of the most significant trends is the proliferation of streaming services, which have revolutionized the way music is consumed and distributed. Streaming platforms such as Spotify, Apple Music, and Amazon Music offer users access to vast libraries of music content, allowing for on-demand streaming and personalized playlists. While streaming services have democratized access to music and expanded the reach of artists, they have also raised complex legal questions regarding copyright infringement, licensing agreements, and royalty distribution.

The impact of streaming services on copyright laws in India is evident in cases such as “MySpace Inc. v. Super Cassettes Industries Ltd.”⁴⁹ where the Delhi High Court addressed the liability of online platforms for hosting and streaming copyrighted music. The court held that platforms like MySpace were not merely intermediaries but actively engaged in promoting and monetizing infringing content, thereby infringing upon the rights of copyright holders. This case underscored the need for robust licensing agreements, content identification technologies, and effective enforcement mechanisms to prevent unauthorized dissemination of copyrighted music on streaming platforms.

⁴⁹ *My Space Inc v Super Cassettes Indus Ltd* 239 (2017) DLT 333.

Blockchain technology has emerged as another disruptive force in the music industry, offering potential solutions for copyright management, royalty tracking, and transparent royalty distribution. Blockchain-based platforms such as Ujo Music and Media chain enable creators to register their works, track usage, and receive royalties directly, bypassing traditional intermediaries and streamlining the licensing process. By leveraging blockchain technology, creators can ensure greater transparency, accountability, and fair compensation for their creative works, thereby empowering independent artists and reducing the prevalence of piracy and royalty disputes.

Legislative reforms and international harmonization efforts are essential for adapting copyright laws to the evolving digital landscape and addressing emerging challenges in the music industry. In India, the Copyright (Amendment) Act of 2012⁵⁰ introduced significant changes to copyright law, including provisions for digital rights management, statutory licensing, and intermediary liability. However, ongoing reforms are needed to address issues such as orphan works, fair use/fair dealing provisions, and cross-border enforcement in the digital age.⁵¹

Internationally, efforts to harmonize copyright laws and standards have gained momentum through treaties and agreements such as the “WIPO Copyright Treaty,”⁵² “the Berne Convention,”⁵³ and “the Marrakesh Treaty.”⁵⁴ These international instruments provide a framework for mutual recognition of intellectual property rights, cross-border licensing, and cooperation among nations in combating copyright infringement. However, challenges remain in reconciling divergent legal systems, cultural norms, and economic interests across jurisdictions.

In conclusion, emerging trends such as streaming services, blockchain technology, and legislative reforms are reshaping the landscape of copyright laws in India’s music industry. While these trends offer opportunities for innovation, creativity, and global collaboration, they also pose challenges

⁵⁰ supra n 16.

⁵¹ G D Devarhubli and A S Tomar, ‘A Critical Study on Copyright Violations in the Indian Entertainment Industry in the Internet Age’ (2021) 12 Turkish Online J Qualitative Inquiry 6.

⁵² supra n 30.

⁵³ supra n 14.

⁵⁴ Marrakesh Treaty to Facilitate Access to Published Works for Persons Who Are Blind, Visually Impaired or Otherwise Print Disabled, 27 June 2013, 52 ILM 745 (2013).

in terms of copyright enforcement, licensing agreements, and fair compensation for creators. By addressing these challenges through legal reforms, technological innovations, and international cooperation, stakeholders can navigate the complexities of copyright laws and ensure a vibrant and sustainable music ecosystem for future generations.

CONCLUSION

The comprehensive examination of copyright laws in India's music industry reveals a multifaceted landscape shaped by legal frameworks, technological advancements, and evolving consumer behaviors. Through this study several key insights have emerged, illuminating the intricate balance between promoting creativity and protecting intellectual property rights. The Copyright Act of 1957,⁵⁵ supplemented by subsequent amendments and judicial interpretations, serves as the cornerstone of copyright enforcement, delineating the rights and responsibilities of creators, users, and intermediaries. Provisions such as Section 14⁵⁶ (exclusive rights of copyright holders), Section 51⁵⁷ (civil remedies for copyright infringement), and Section 63⁵⁸ (criminal penalties for copyright infringement) provide the legal framework for safeguarding the interests of rights holders while promoting access to cultural content.

Moreover, the impact of emerging trends such as streaming services and blockchain technology underscores the need for adaptive and forward-thinking policies. Case laws such as "MySpace Inc. v. Super Cassettes Industries Ltd."⁵⁹ and "Tips Industries Ltd. v. YouTube LLC"⁶⁰ highlight the challenges and opportunities presented by digital innovation, urging policymakers and industry stakeholders to embrace technological advancements while ensuring fair compensation for creators. The proliferation of streaming platforms has democratized access to music and expanded the reach of artists, but it has also raised complex legal questions regarding licensing agreements, royalty distribution, and copyright enforcement. Furthermore, collective management organizations (CMOs) play a pivotal role in administering music licenses and collecting royalties

⁵⁵ supra n 1.

⁵⁶ *ibid.*

⁵⁷ Copyright Act 1957, s 52 (India).

⁵⁸ Copyright Act 1957, s 52 (India).

⁵⁹ supra n 49.

⁶⁰ supra n 32.

on behalf of rights holders⁶¹. Organizations such as the “Indian Performing Right Society (IPRS)” and “Phonographic Performance Limited (PPL)” facilitate licensing agreements, monitor the use of copyrighted music, and distribute royalties to creators. However, challenges such as opaque licensing practices, delayed royalty payments, and inadequate representation of independent artists underscore the need for greater transparency, accountability, and inclusivity in the licensing system.⁶²

In light of these insights, several recommendations can be made for policymakers, industry stakeholders, and musicians to navigate the complexities of copyright laws and promote a vibrant and sustainable music industry in India. Policymakers should prioritize legislative reforms to address emerging challenges such as digital piracy, fair use/fair dealing provisions, and cross-border enforcement. Amendments to the Copyright Act should reflect the realities of the digital age, incorporating provisions for digital rights management, online licensing, and intermediary liability. Moreover, policymakers should collaborate with industry stakeholders, artists, and consumer advocacy groups to ensure that copyright laws strike a balance between promoting creativity and fostering access to cultural content.

Industry stakeholders, including streaming platforms, record labels, and collective management organizations, should embrace technological innovations such as blockchain technology to improve transparency, accountability, and royalty distribution. By leveraging platforms such as CMOs and blockchain-based registries, industry stakeholders can enhance licensing agreements, streamline royalty collection, and empower artists to assert greater control over their intellectual property rights.⁶³ Musicians, as creators and rights holders, should educate themselves about copyright laws, licensing agreements, and royalty collection mechanisms to protect their creative works and maximize their earning potential. By actively engaging with CMOs, digital platforms, and legal advisors, musicians can navigate the complexities of copyright enforcement and ensure fair compensation for their contributions to the music industry.

⁶¹ A Panda and A Patel, ‘Role of Collective Management Organizations for Protection of Performers’ Rights in the Music Industry: In the Era of Digitalization’ (2012) 15 J World Intell Prop 155.

⁶² P I Bhat, ‘The Role of Collective Bodies in Protection of Intellectual Property Rights in India’ (2009) 14 JIPR 214.

⁶³ S Balaji, ‘Collective Rights Management under the Indian Copyright Act’ (2018) 53 Econ & Pol Wkly 20.

In conclusion, while copyright laws in India's music industry face challenges and complexities, they also present opportunities for innovation, collaboration, and growth. By fostering dialogue, cooperation, and adaptive policymaking, stakeholders can navigate the evolving landscape of copyright laws and ensure a vibrant and sustainable music ecosystem for future generations.

RECOMMENDATIONS

For policymakers:

1. **Legislative Reforms:** Policymakers should prioritize comprehensive reforms to the Copyright Act to address emerging challenges in the digital age. Amendments should include provisions for digital rights management, online licensing, and intermediary liability to ensure effective copyright enforcement and fair compensation for creators.
2. **Stakeholder Collaboration:** Policymakers should engage with industry stakeholders, artists, and consumer advocacy groups to develop inclusive and balanced copyright laws that promote creativity, innovation, and access to cultural content.
3. **International Cooperation:** Policymakers should actively participate in international harmonization efforts and adhere to treaties such as the WIPO Copyright Treaty and the Berne Convention to facilitate cross-border recognition of intellectual property rights and combat global piracy.

For industry stakeholders:

1. **Embrace Technological Innovations:** Industry stakeholders, including streaming platforms, record labels, and collective management organizations, should leverage blockchain technology and digital platforms to enhance transparency, accountability, and royalty distribution in the licensing process.
2. **Fair Compensation:** Stakeholders should prioritize fair compensation for artists and rights holders, ensuring equitable remuneration for creative works and promoting a sustainable music ecosystem.
3. **Educational Initiatives:** Industry stakeholders should invest in educational initiatives to raise awareness about copyright laws, licensing agreements, and royalty collection mechanisms among musicians, content creators, and consumers.

For musicians:

1. **Know Your Rights:** Musicians should educate themselves about copyright laws, licensing agreements, and royalty collection mechanisms to protect their creative works and maximize their earning potential. They should actively engage with collective management organizations and legal advisors to navigate the complexities of copyright enforcement.
2. **Advocate for Fair Treatment:** Musicians should advocate for fair treatment and representation within the music industry, ensuring that their voices are heard in discussions about copyright laws, licensing agreements, and royalty distribution.
3. **Collaborate and Network:** Musicians should collaborate with fellow artists, industry professionals, and advocacy groups to share knowledge, resources, and best practices for navigating copyright laws and promoting a vibrant and sustainable music ecosystem.

AREAS FOR FURTHER RESEARCH

1. **Impact of Emerging Technologies:** Further research is needed to explore the impact of emerging technologies such as artificial intelligence and machine learning on copyright enforcement, licensing agreements, and royalty distribution in the music industry. Case studies and empirical studies can shed light on the effectiveness of technological solutions in addressing copyright infringement and promoting fair compensation for creators.
2. **Socio-Economic Implications:** Future research should examine the socio-economic implications of copyright laws on diverse stakeholders, including artists, consumers, and marginalized communities. Qualitative and quantitative analyses can assess the differential impact of copyright enforcement on various segments of the population and identify strategies for promoting inclusivity and equity within the music industry.
3. **Cross-Border Enforcement:** Research is needed to evaluate the effectiveness of cross-border enforcement mechanisms in combating global piracy and protecting intellectual property rights in the digital age. Comparative studies can assess the legal frameworks, enforcement strategies, and international cooperation efforts aimed at addressing copyright infringement across different jurisdictions.
4. **Policy Evaluation:** Further research should evaluate the impact of legislative reforms and policy interventions on the music industry, assessing their effectiveness in promoting

creativity, innovation, and access to cultural content. Longitudinal studies and case analyses can track the implementation of copyright laws and measure their outcomes in terms of economic growth, artistic expression, and consumer welfare.

5. **User Behavior and Consumption Patterns:** Research should investigate user behavior and consumption patterns in the digital music market, analyzing trends in streaming, downloading, and sharing of copyrighted content. Surveys, focus groups, and data analytics can provide insights into consumer preferences, attitudes towards copyright compliance, and willingness to pay for music in different formats and platforms.

In conclusion, by addressing these research gaps and exploring emerging trends in the music industry, scholars, policymakers, and industry stakeholders can contribute to a deeper understanding of copyright laws and their implications for creativity, innovation, and cultural exchange in India and beyond. Through interdisciplinary collaboration and evidence-based policymaking, stakeholders can navigate the complexities of copyright enforcement, promote fair compensation for creators, and foster a vibrant and inclusive music ecosystem for future generations.

