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FROM THEATRE TO OTT: IPR CHALLENGES IN THE FILM INDUSTRY

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ABSTRACT

"Streaming services offer convenience, but they can also exploit creators. We need fair contracts that ensure artists are compensated." - Aaron Sorkin, Screenwriter

The Indian film industry, a Collection of creativity and commerce, faces Challenges of intellectual property (IP) rights. This paper explores the challenges and opportunities surrounding exclusive rights like reproduction, distribution, public communication, adaptation, and moral rights within the context of evolving technologies, cross-border collaborations, and the ever-present threat of piracy.

Examining the interplay of copyright, patent, design, and trademark laws, we delve into their effectiveness in addressing contemporary issues. How do streaming platforms and block chain reshape ownership? How do we navigate conflicting legal frameworks when collaborating internationally? What impact does piracy have on the industry's economic and social fabric?

Through critical analysis of case studies and legal precedents, we propose solutions and strategies. Strengthening the legal framework, fostering ethical practices, and encouraging industry-wide anti-piracy initiatives are crucial steps. Ultimately, this research aims to illuminate the path toward a sustainable and vibrant creative ecosystem for the Indian film industry, ensuring that filmmakers reap the rewards of their artistry.

Keywords: *Indian Film Industry, Piracy, Copyright, Patent, Trademark Law.*

1. INTRODUCTION

Media and Entertainment Industry is one of the fastest-growing industries in the world. The United States is the Largest in media and entertainment market whereas India holds the 5th position in the world. Media & Entertainment industry is comprised of movies, TV shows, commercials, music, broadcast, video games, etc. Among this film industry is the multi-billion dollar industry that significantly impacts the social, cultural, and economic status in many countries. However, filmmaking is a complex process. But how do IP rights fit into the scenario? The answer is, from

script to Screen. Intellectual Rights Shape each & every stage of film maker's journey. Intellectual Property is a key asset for film production. Intellectual Property assists the producers in collecting funds and it encourages technological innovation to go beyond the limit and make the impossible possible.

Among all the Intellectual Property rights, copyrights are considered the backbone of the filmmaking industry. Copyright protects the rights of the creator or owner by preventing unauthorized use of their original work. Another one is Patent law which provides an exclusive and legal right to the owner to protect the innovation and ideas of the work or their creation for a specific period. Likewise, trademarks, and laws recognize certain symbols, designs, and logos. Movie studios use trademark law to secure their movie titles, key characters, etc. Similarly, we have a Design law that protects design by costume designers. In India, we have Copy Right Act, 1957, Patent Act, 1970, Trademark Act, 1999, and Designs Act, 2000.

In the digital era, copyright protection has become a major concern with the widespread availability of digital technologies, it become easier to distribute and access the materials. However, this ease of access has also made it difficult to enforce Intellectual property rights and protect intellectual property rights. In this paper, we are going to discuss how IPR is related to the film industry and its challenges.

2. INTERPLAY OF IPR

a) Copyright

According to the World Intellectual Property Organisation (WIPO), Copyright¹ is a legal term used to describe the rights that creators have over their literary and artistic work. It is considered as the backbone of Intellectual Property Rights. Works covered by copyright range from books, music, paintings, sculptures, and films, to computer programs, databases, advertisements, maps, and technical drawings.

The copyright law of a country grants authors, composers, Software writers, website designers, and other creator's legal protection for their literary and artistic creations, which are usually referred to as "works". Copyright law gives the author of a work a bundle of exclusive rights

¹ Copywrite, WIPO,

[https://www.wipo.int/copyright/en/#:~:text=Copyright%20\(or%20author's%20right\)%20is,%2C%20maps%2C%20and%20technical%20drawings](https://www.wipo.int/copyright/en/#:~:text=Copyright%20(or%20author's%20right)%20is,%2C%20maps%2C%20and%20technical%20drawings). (last visited Feb 23, 2024)

over his work for a limited period. Copyright law also provides "moral rights" which protect an author's reputation and integrity.

The Copyright Act, 1957

After the independence, the Act needed thorough revisions given the advanced means of communication like photography. There also arose the necessity of creating administrative bodies to implement the several provisions of the Act. Accordingly, the Copyright Act, 1957, was re-enacted making a provision for the establishment of a Copyright office and a Copyright board. The definition of copyright was extended to cover radio diffusion, and cinematograph film which was given a separate- copyright apart from its various components such as Story, music, etc. A new procedure for the issue of general and special licenses for public performance was introduced.

The Copyright Act, 1957 was amended in 1983, 1984, 1994, 1999, and the latest amendment is The Copyright (Amendment) Act 2012². This amendment makes Indian Copyright law compliant with the Internet Treaties, WIPO Copyright Treaty, and WIPO Performances and Phonograms Treaty.

India is a member of most of the important international conventions governing the area of copyright law, including the Berne Convention, 1886, the Universal Copyright Convention of 1951, the Rome Convention of 1961, and the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS).

Berne Convention

The most important international treaty on copyright is the Berne Convention for protection of literary and artistic works. It was first adopted in 1886 at a conference in Berne, Switzerland, and has been ratified by over 170 countries. It was difficult for creators to protect these rights in other countries during that time because there were no International Standards or procedures in existence. The Berne Convention sought to address this issue by establishing a variety of policies to protect the intellectual property rights and copyrights of the creators.

One of the fundamental principles of the Berne Convention is the principle of national treatment. It requires that creators of literary and artistic works be given the same level of protection in other countries as they would receive in their own country. The Convention is administered by the World

² The Copyright (Amendment) Act 2012 (29 of 2012)

Intellectual Property Organisation (WIPO). It continues to play a vital role in protecting IPR and promoting creativity and innovation around the world.

Copyright In The Film Industry

"Create your own visual style... let it be unique for yourself and yet identifiable to others" - Orson Welles

Films are highly personal to the filmmaker as they are creative with their thoughts and ideas. It is wondering how their filmmakers protect their creative works like movies from those who try to copy their works. This is where copyright contracts come into play. Filmmakers have a series of exclusive rights to their work, including the right to make copies and the right to control public performance of the work. However, a lawsuit alleging copyright infringement cannot be filed unless the work has been registered.

In *Nicholas v. Universal Pictures Corp*³, the author of the hit play *Abie's Irish Rose* about a Jewish boy marrying a Catholic girl sued Universal Pictures for making a film, *The Cohens and Kelly's* about feuding Jewish and Catholic Families who were neighbours. The Federal Court found that both works utilized the stock characters and the play could not own their Stock character any more than he could own an idea.

Stories based on the lives of real people do not involve copyright issues as facts and Ideas are not copyrightable, but there are issues involving piracy rights, publicity rights, and disparagement to consider. In India, a filmmaker entering into a copyright contract registered under the Copyright Act, 1957, gets ownership rights over their films and movies. Various rights are granted to the owner under Sec 14 of the Copyright Act, 1957, by the registrars of copyrights. Suppose a filmmaker wants to make a film based on a novel. He can't just go and start manifesting his ideas. He needs to find out if that novel is in the public domain or copyrighted.

Cinematographic Film

Every item of copyrighted content in a film, from music to acting, performances to painting in the backdrop of a scene, and even some architectural works that may appear in a shot is subject to a similar concept. If another individual wants to use the film or any part of it, he will have to get

³ *Nichols V. Universal Pictures Corporation et al.* 45 F.2d 119 (2d Cir. 1930)

permission from the filmmaker. Such permission can be taken by entering into a copyright license contract.

In the case, *R G Anand vs Deluxe Film & Ors*⁴, R G Anand wrote and produced a play called “Hum Hindustani” in 1953 which was a tremendous success. With the play's growing popularity, Mr. Mohan Sehgal got in touch with Anand. And Anand recounted the whole play to him. In May 1955, Sehgal began filming the film “New Delhi” which Anand felt was based on his play despite Sehgal assuring him that the film bore no similarity to his play and was unrelated to it. However, after seeing the film, Anand concluded that it was a copy of his play and sought a permanent injunction against Sehgal for infringing on his copyright on the play “Hum Hindustani”. The Supreme Court held that the movie although based on the same concept, was not a copy of the play. Therefore, there was no infringement of copyright in this case. In the above case, it was held that there exists no copyright in relation to an idea, subject matter, themes, plot, or legendary facts. Infringement occurs when a substantial or fundamental portion of the work has been copied.

Challenges of Copyright in Film Industry

In the film industry, copyright challenges encompass a spectrum of issues that pertain to the unauthorized use, reproduction, and distribution of creative content. One such problem involves plagiarism and unauthorized borrowing. Plagiarism involves the uncredited replication of someone else work, including scripts, storylines, or scenes, resulting in a lack of acknowledgment for the original creator. Unauthorized borrowing includes the use of elements from another work without proper attribution or permissions, leading to potential Copyright infringement Issues.⁵ The magnitude of these problems affects both the creative and financial aspects of the film industry. Financially, copyright infringement, unauthorized distribution, and plagiarism result in significant economic losses. Creatively, these issues hinder artistic innovation and raise ethical concerns as they undermine the principles of originality and creative ownership. Unauthorized online distribution, has exacerbated the issue. Piracy and illegal file-sharing platforms have led to billions of dollars in revenue for the film industry, impacting both major studios and independent filmmakers. All these are including fuel to the fire.

⁴ R.G. Anand v. Delux Films and Ors. AIR 1978 SC 1613

⁵ Lipson JC; Law of Copyright (5th edition), oxford press

Solutions

To address these challenges, solutions such as watermarking, blockchain, copyright education, legal action, etc are needed.

- Watermarking: It is a kind of process that embeds unique identifiers into digital content. It can be used to track and identify the source of content to find the rightful owner.
- Copyright awareness: There is a need to spread awareness among the people. Educating the user about copyright laws and the consequences of copyright infringement can help reduce piracy to a great extent.
- Digital Rights Management: DRM⁶ is a technology that restricts access to digital content and prevents unauthorized copying and distribution.
- Fair use guidelines: It is a legal concept that allows for the limited use of copyrighted materials without permission from the rightful owner. Developing clear and comprehensive fair guidelines can help to promote the responsible use of copyrighted material.
- International Collaboration: Collaboration between governments, Industry, and international organizations can help to develop and enforce consistent copyright laws.
- Blockchain technology: Blockchain technology offers a potential solution by controlling access to movie content and ensuring authorized usage. Additionally, it could incentivize legal consumption through unique tokens granting access to exclusive content at a fair price. This approach aims to encourage lawful streaming and combat piracy among internet viewers.

In the film industry, copyrights are crucial because they ensure that proper procedures are followed both before and after the film is made and released. Copyrights act as a bodyguard for a film's creator and contributors. The application of copyright law has had a positive overall effect on the film Industry the Indian Copyright Act of 1957 is the primary piece of legislation governing copyright law in India. With new films released each year, the demand for copyright protection rises dramatically and continues to give filmmakers opportunities to safeguard and protect their creations.

⁶ What Is DRM? Digital Rights Management Explained – Fortinet, [https://www.fortinet.com/resources/cyberglossary/digital-rights-management-drm#:~:text=Digital%20rights%20management%20\(DRM\)%20is,it%20to%20a%20computer%20program.](https://www.fortinet.com/resources/cyberglossary/digital-rights-management-drm#:~:text=Digital%20rights%20management%20(DRM)%20is,it%20to%20a%20computer%20program.) , (last visited Feb 24, 2024)

b) Trademark

The Trademarks Act of 1999⁷ engages theatre producers to protect their brand character through names, titles, words, letters, graphic works of art, etc. This protection grants them particular advantages within the market, including setting up a special identity, separating themselves from competitors, and looking for lawful plans of action against infringement. A trademark is registered for 10 years and renewal is essential within 6 months.⁸ The Trade Marks Act, 1999, and the Trade Marks Rules, 2002 came into force on September 15, 2003. The Trade Marks Rules, 2002 has been supplanted by the Trade Marks Rules, 2017 since March 6, 2017.

Trade Marks Act, 1999

- Section 2(zb)⁹: Defines a trademark, providing a legal framework for what elements producers can register for protection.
- Section 9¹⁰: Outlines absolute grounds for refusal of registration, ensuring that only distinctive marks that meet specific criteria are granted protection. This section stipulates conditions under which a trademark application may face refusal, underscoring the need for marks that stand out in a crowded market.
- Section 29¹¹: Defines trademark infringement, equipping producers with legal tools to combat unauthorized use of their protected marks.

The landmark case of R.G. Anand vs. M/s Deluxe Films (1978)¹² serves as a crucial precedent, emphasizing the importance of distinctiveness in trademarks. This case reinforces the need for producers to choose marks that clearly set their productions apart from others in the competitive landscape.

The increasing popularity of franchises has led to a surge in movie title trademarking, potentially creating conflicts with copyrighted book and movie titles. To address this challenge, theatre producers can:

⁷ The Trade Marks Act, 1999 (47 Of 1999)

⁸ The Trade Marks Act, 1999 (47 Of 1999), Sec. 25

⁹ The Trade Marks Act, 1999 (47 of 1999), Sec. 2(Zb)

¹⁰ The Trade Marks Act, 1999 (47 of 1999), Sec. 9

¹¹ The Trade Marks Act, 1999 (47 of 1999), Sec. 29

¹² R.G. Anand vs. M/s Deluxe Films (1978), 1978 AIR 1613; 1979 SCR (1) 218; 1978 SCC (4) 118

- Conduct exhaustive trademark searches: Before setting up a new production or theatre company title, a comprehensive search guarantees there are no existing trademarks causing confusion and potential lawful issues.
- Register their trademarks: Registering marks related to productions or company names offers legitimate protection and prevents others from utilizing comparable marks.
- General Awareness: Raising awareness among production faculty, from journalists to entertainers, around the significance of copyright and trademark compliance makes a difference in relieving inadvertent infringement.

Trademarks protect distinctive symbols, names, logos, and slogans used to identify goods or services. While trademarks focus on brand identifiers, copyrights pertain to creative expressions. Registration requirements, duration of protection, and granted rights also differ between the two. By combining these strategies and seeking legal guidance when necessary, the creative industries can create a more collaborative and conflict-free environment for both authors and filmmakers. Ultimately, choosing trademark registration alongside copyright protection offers a comprehensive approach to securing exclusive rights to creative works, fostering innovation, and protecting the unique identities of theatre productions.

c) Patent

While copyright remains the cornerstone of protecting creative expression, the role of patents in fostering technological innovation within the industry deserves closer examination.

As defined by the Patent Act, 1970, a patent grants inventors exclusive rights for a limited period (typically 20 years¹³) to make, use, and sell their inventions. This incentivizes innovation and fosters technological progress across various sectors. Recent statistics reveal a 24.64% increase in patent application filings in India (2022-23), highlighting the growing emphasis on IP protection.¹⁴

Patent protects inventions that are novel, non-obvious, and industrially applicable. This could encompass novel film technologies, or specific equipment used in filmmaking, like those employed by companies like Disney in their recent robotic advancements such as Realistic bipedal robots.¹⁵

¹³ Patents Act, 1970 (No. 39 of 1970)

¹⁴ Intellectual Property India, Annual Report 2023-24,

https://ipindia.gov.in/writereaddata/Portal/IPOAnnualReport/1_114_1_ANNUAL_REPORT_202223_English.pdf

¹⁵ John DeStefano, Interesting patents: Disney's bipedal-entertainment-robots April 22, 2021,

<https://founderslegal.com/interesting-patents-disneys-bipedal-entertainment-robots/>

Despite the potential benefits of patents, the current legal framework in India presents certain challenges for the film industry, such as:

- Exclusion of Software and Algorithms: The Patent Act explicitly excludes software and algorithms from patentability.¹⁶ This hinders the protection of innovative film software or AI-powered tools, potentially stifling advancements like Netflix's computer-implemented approach to renting. Navigating the interplay between copyright and patent in the Indian film industry requires a nuanced understanding of both legal frameworks and their limitations.

d) Design

Industrial design is essentially the activity of creating new physical products and environments. It's similar to filmmaking in that it's a creative activity but is limited to the film's physical appearance or set design. A designer could help to establish a unique style or era in the film industry. Industrial designers are key to a production design with fantasy, and even more, Science fiction. Spaceship exteriors and interiors, space suits, robots, ray guns, and much more, are all basic elements of the overall film design. Science fiction films are great projects for designers, they don't have to worry about consumer acceptance or manufacturing cost, they only have to make it look good. The power of industrial design in filmmaking lies in its ability to transcend the fictional. Consider For some of the following incredible examples:

Barbie, the now widely popular movie, has produced toys that nearly every girl in America has owned. Apart from that, many of the dolls include accessories, furniture, or vehicles that now appear in the movie.

The Star Wars galaxy of film and television shows continues to produce clothing, toys of all varieties, games, and even an entire walkable "city", Black Spire Outpost in Galaxy's Edge where you can interact with many of the world's well designed products, furniture, architecture, etc. Artists and firms working with retro designs or long established products have the remarkable vision of breathing new life into iconic products to retroactively capture our imagination today. For example, the skateboards, cassette players, backpacks, and more from Stranger Things are instantly recognizable, despite being designed many decades ago.

¹⁶ Patents Act, 1970 (No. 39 of 1970), Sec. 3(l)

Design Act, 2000

The Design Act, 2000¹⁷ in India protects unique industrial designs that are created to be commercialized, improved, or have their aesthetic value enhanced. The act protects any Composition of lines, patterns, shapes or colors, whether those two dimensional or three dimensional.

The Design Act gives the proprietor of a design the exclusive right to use the design and prevent others from using it without their consent. Designs encompass the visual appearance of a product, offering protection for the entire product, specific components, or decorative elements. In filmmaking, costumes hold the significant role as they contribute to a performer's visual portrayal. In cases where a design is genuinely distinctive, it can qualify for protection under both copyright Act, 1957 and Designs Act of 2000.

This dual protection ensures the safeguarding of creative and one-of-a-kind costume designs in the film industry. The designs we create, establish, and place on the sets of filmmaking have the power to shape how we think and act in the world. This, in turn, influences the many kinds of designs we will invent and put to use and that's a good reminder of how powerful a creative idea really is. In an image-obsessed culture like ours, the role of the production designer has become essential.

3. BLOCKCHAIN AND VIDEOSTREAMING

Cinema entered the digital age with agility, flexibility, and globalization But a new revolution is unfolding not within cinema itself, but behind the scenes. Blockchain, a digital ledger. A new way to store data, in which individual records, or blocks, are linked together in a single digital list, or chain. That information is then compiled, and decentralized in an encrypted database, available to everyone.

Video Streaming

Let's dive into video streaming before exploring the blockchain revolution. In 2022, the over-the-top (OTT) video revenue reached an estimated 154 billion U.S. dollars, with the United States accounting for the largest share of revenue worldwide.¹⁸ In the Global Top 10 Applications Video

¹⁷ The Designs Act, 2000 (16 Of 2000)

¹⁸ [Julia Stoll](https://www.statista.com/topics/7527/video-streaming-worldwide/), *Video streaming worldwide - statistics & facts*, STATISTA, Dec 18, 2023, <https://www.statista.com/topics/7527/video-streaming-worldwide/>

Category, Netflix was first among all.¹⁹ Netflix has said it is spending USD 13.6 billion on content, as it is feeling the heat from fast-encroaching Disney+ (4.20% of traffic); Amazon Prime, which still registers in the top-10 in terms of total volume (at 2.67%); and HBO Max, which did not make the top-10 in terms of internet volume.²⁰ These all show how relevant video streaming platforms have become in the modern world.

Blockchain Technology

According to expert predictions²¹, block chain's paradigm shift will severely affect video streaming technology. Blockchain empowers coordinate interests within the organization for consumers, content makers, and framework suppliers. Blockchain innovation not only permits clients to remain in control of their possess data but also empowers them to share that information for machine learning in a trustless way. Essentially you're permitting an algorithm to process your private information without having to pass it to a third party. Blockchain Technology and Video Streaming can reshape Ownership With²²:

- **Smart Contracts**: Smart contracts automate authorizing and contracts, streamlining commerce administration.
- **Accessibility And Ownership**: Owning online media like CDs might end up conceivable. Blockchain innovation might let you own videos rather than fair renting access on platforms. Videos would be encrypted and put away safely, and you'd get to them anyplace with special keys utilizing smart contracts. This may mean transparency, possession, and better approaches to enjoying and sharing your digital content. It scrambles the video and stores these permanently through the interplanetary file system (IPFS) swarm. The same can be done by the maker of a story, thought, or script. They can enlist it on a blockchain, and the consequent transfer of these rights will construct an exchange history, ensuring the original maker and all rights holders on the list. With no requirement for the inclusion of a third party, it can extend the microfinancing market, keeping records of the different stakeholders.

¹⁹ Sandvine, Global Internet Phenomena Report January 2023, https://www.sandvine.com/hubfs/Sandvine_Redesign_2019/Downloads/2023/reports/Sandvine%20GIPR%202023.pdf

²⁰ *Id.*

²¹ [Mark John Hiemstra](https://www.haivision.com/blog/live-video-streaming/future-video-streaming-technology/), *What You Need to Know About the Future of Video Streaming Technology*, HAIVISION, Dec 20, 2017, <https://www.haivision.com/blog/live-video-streaming/future-video-streaming-technology/>

²² Sasha Shilina, *Video Streaming And Blockchain: A Tale of Two Paradigm Shifts*, ALTCOIN MAGAZINE, Nov 1, 2019

- Content Licensing And Effective Monetization: Embracing blockchain technology can assist you to effortlessly protect your Intellectual property rights. The blocks, which are found on a variety of servers around the world cannot be modified once they are made. Thus, content owners will have total control of their work, and the exchanges are automated at whatever point the content is accessed by viewers.

Although Hollywood's hierarchy has been settled for a long time, blockchain technology can likely affect the sector by advertising transparency, equality, and opportunities instead of industry giants imposing business models Hollywood can embrace a modern age of filmmaking by diminishing contractual instabilities cutting investment in restrictions and advertising clarity of ownership and financial rewards.

4. MOVIE PIRACY

Piracy means an authorised reproduction Importing or distribution of works protected by the copyright. The owner enjoys certain exclusive rights concerning his/her work. If any person exploits any of the copyrighted work will amount to infringement of copyright. So, copyright piracy is just like any other thefts which leads to loss of the owner of the property.

There are different way through which piracy take place some of them are: Literary work, Cinematographic work, Sound Recording, and Computer Software. Book piracy takes place when a hook is reproduced by someone other than the publisher and published in the market. In Cinematographic work, piracy generally takes place through the unauthorized reproduction of film in wide forms or displaying it through cable networks without proper authorization. A performer's right is violated when the live performance of an artist is recorded or without his/her permission. Computer software is pirated by copying it into another machine. In this paper, we are mainly focusing on the piracy in film industry.

Due to the COVID-19 circumstances, online film piracy ascended as high as 62% recently in the last week of March 2020.²³ According to the research led by the US-India Business Council (USIBC), the film industry of India experiences an 11% loss because of media piracy.²⁴ “Movie

²³ *India sees big spike in film piracy post Covid-19*, MINT (Feb 22, 2024, 5:46 PM), <https://www.livemint.com/news/india/india-sees-bigspike-in-film-piracy-post-covid-19-11589183182123.html>

²⁴ Earnings & Young, *The Effects of Counterfeiting and Piracy on India's Entertainment Industry*, (March 2008), http://producersguildindia.com/Pdf/Ernst&Young_U_SIBC%20Piracy%20Study_March%2027.pdf

piracy”, is a term that refers to the unauthorized duplication, distribution, or Streaming of films without the consent of copyright holders.

Duplicating a book and selling it without the author’s consent is book piracy likewise, recording a film in a theatre with a camera, downloading or steaming from an unauthorized website, etc amount to movie piracy. People pirate movies in a desire to access content for free, a lack of access to legal alternatives or to engage in illegal activities. However, piracy undermines the rights of creators and the sustainability of the film industry.

Kinds of Piracy in Films

Piracy is done in many ways like video piracy, cable piracy, CD/DVD piracy, etc.

- Video Piracy: Video piracy takes place when a film a produced in the form of a video cassette without proper authorization from the right holder. Often film producers sell video rights to another party (generally after 6 weeks or more of release in theatres), which makes video cassettes for selling or lending. The video cassettes on sale are meant for home viewing only.

These video cassettes cannot be utilized for cable or any other commercial purpose. If the cassettes are used for any other commercial purposes, it should be violation under the law In India, It a violative under Indian Copyright Act, 1957.

Another form of violation in the video is that even if the producers have not sold the right for a film, the same can be seen in cable networks as well and cassettes containing such films can be Borrowed/bought from video libraries /shops. This takes place mainly in two forms;

- 1) Laser disc bought from a broad
- 2) Camera print taken in movie halls

As per law, one can bring a laser disc containing a movie from abroad to India for home viewing only. But the mass copies of these are made. Similarly, camera prints of the movies from the theatres are also made into mass copies. The prints of such movies are of low quality.

- Cable Piracy: Movies are also brought to the homes by the cable network. Since the cable network is a commercial venture, movies shown through the cables are required to have authorization. Cable piracy refers to the unauthorized transmission of films through cable networks. Very often, films, are shown through cable without permission from the right

holders. The cable operators violate the provisions of the law while showing movies of camera print, home viewing cassettes, and infringed copies.

In the case of IndusInd Media & Communications Vs State of Gujarat²⁵, the complaint is filed against 25 cable operators for indulging in unlawful acts of unauthorized distribution of signals by illegal exhibiting, screening, and playing unauthorized programs in violation of the Copyright Act, 1957 and Cable Television Networks (Regulations) Act, 1995.

Piracy is a rare phenomenon in satellite channels because they are organised and generally don't show films without buying proper rights.

Factors Behind Piracy

There are a variety of factors that impact the increase in the sale of pirated versions of films. They are: Market need, geographical or economic barriers of consumers, Pirated movies are low priced, some are free, the Pirate industry is more concerned about volume production, Innovation of new technologies such as DVD, Blu-ray, etc, and Accessibility to high-speed internet at low cost.

Movie piracy has significant negative consequences. It leads to financial Losses for the film industry, impacts job opportunities, raises ethical concerns, and can result in legal consequences for those involved.

Piracy is a theft. But because of its white color nature, many a time it is not recognized as a crime. This is perhaps one of the greatest problems associated with the effective control of piracy. It has been argued by many that the motive behind any piracy & the economic gain

- **Economic loss:** The film industry including producers, studios, distribution, and theatres, suffers significant financial losses due to piracy. As per a report by Digital TV Research, the loss of revenue for OTT players because of piracy in India is supposed to hit \$3.08 billion by 2022.²⁶ Pirated copies of movies are often available for free or at a fraction of the cost of legitimate copies, leading to decreased revenue for the industry. When they are distributed free or at significantly lower prices than official channels, it reduces the potential earnings from box office sales, and streaming services. DVD sales and other legitimate sources.

²⁵ IndusInd Media & Communications Ltd. v. State of Gujarat, Criminal Misc. Application No. 5050 of 2011 (Gujarat High Court, 2017)

²⁶ Karuna Sharma, Indian OTTs might lose \$3bn to piracy this year as leaked content sites see 62mn footfall, BUSINESS INSIDER, (Feb 22, 2024, 6:00 PM), <https://www.businessinsider.in/tech/enterprise/news/disney-star-is-the-latest-victim-of-online-piracywhich-is-expected-to-touch-3-billion-this-yearinindia/articleshow/91912088.cms>

- Job losses: The film industry employs a vast number of people from actors and directors to crew members and marketing teams, Economic losses due to infringement can lead to budget cuts, fewer productions, and ultimately job losses within the industry.
- Low revenue for theatres: Movie Theatres depend on ticket sales and concessions for this revenue. when pirated copies of films become widely available, fewer people may go to theatres, resulting in financial losses for these businesses.
- Quality concerns: Pirated copies of the film may have lower quality, including poor audio and video, Lack of subtitles or proper localization, etc. Viewers who watch pirated versions may miss out on the full cinematic experience and the intended artistic quality of the film.
- Cyber security risks: Websites and platforms that host pirated content may expose users to cyber security risks including malware and viruses that can be harmful to their devices and personal information.
- Market distortion & future productions: piracy can distort market dynamics. Legitimate businesses that invest in rights, distribution, and marketing have to compete with illegal, free alternatives which can lead to unfair market conditions and hinder competition. the financial losses due to infringement can affect the funding and feasibility of future film projects. This not only impacts the diversity and availability of new content but also affects technological advancements in filmmaking. As part of all this. Piracy can be seen as a disrespect to the artists and creators who invest time, effort, and creativity in producing film content. It undermines the value of their work and their intellectual property rights.

To effectively address this complex issue, a Many-sided approach is fundamental, including collaboration between rights holders, industry affiliations, law enforcement organizations, and the public. By executing a combination of preventive measures, educational activities, and strong enforcement mechanisms, we will endeavor to make a more economical and moral environment for creative expression within the Indian film industry.

Anti-Piracy Measures

The following proposals lay a comprehensive methodology to combat copyright piracy, drawing upon different stakeholders' roles and duties:

- ***Firstly***, the rights holders should take enough precautions to protect copyright works. In case violations come to their notice/knowledge, they should file complaints with the police. They

should also help the police in conducting raids and producing evidence (e.g. proof of ownership in works) during the trial by the court.

- **Secondly**, the copyright industry associations/copyright societies should launch an extensive campaign through print and electronic media highlighting the adversities associated with piracy. Lectures, seminars, workshops, etc. could be organised in schools, colleges, universities, and other places to create a consciousness among people against the evils of piracy. The message should be conveyed in clear terms that in the long run, piracy is against the interest of all in the society excepting the pirates.
- **Thirdly**, the registration of copyright works may be encouraged since it is found that as of now very few cases are registered. While copyright exists on creation and protection of copyright is not subject to any formality like the registration, registering a work helps to establish ownership in a work which, in turn, may be useful for the right holders to prove ownership in cases of litigation. Towards this, the Copyright Office may publicize their activities including that of registration to the members of various associations and the general public through different media.
- Also, the software copyright holders should adopt a corporate license system for using a particular software in the place of a 'one software-one PC' system. They may consider bringing out low-priced editions of their software for developing countries like India, in their interest.

Most Importantly, The video cassettes and cassettes for cable should carry all the necessary details as mentioned in the Act.²⁷ Besides, they should also inscribe the duration of the rights on the cassettes. At present, some of the states do not have copyright cells under the Police Department. A separate copyright cell in each state should be formed and headed by a DIG or SP depending on the size of the state. Otherwise, the government may consider bringing all departments/bodies looking after matters of IPR separately under one umbrella organization. It is proposed that the Government of India may create an authority say the "Intellectual Property Authority of India" with jurisdiction over such aspects as patents, trademarks, etc.

In conclusion, piracy remains a significant challenge for the Indian film industry, undermining its revenue, creativity, and growth. Despite being one of the world's largest producers of films, the industry suffers considerable losses due to the widespread distribution of pirated content. Tackling

²⁷ The Copyright (Amendment) Act 2012 (29 of 2012), Sec. 52A(2)

piracy effectively is crucial for safeguarding the artistic and cultural wealth of the film industry, ensuring its continued success and contribution to the global entertainment landscape.

5. CONCLUSION

Intellectual property rights are legal rights that protect the creative landscape of the film. Industry Intellectual Property Rights are the foundation of the film industry. IPRS is the foundation of film production and preservation of valuable intellectual assets. By striking a balance between the interest of the creative and the wider public, the Intellectual Property system aims to foster an environment in which creativity and innovation can flourish. Copyright, Trademark, Patent, and Design are considered as the cornerstone of the Intellectual Property right. Copyright, Trademark, Patent, and Design are considered as the cornerstone of intellectual property rights. All these act together to give complete effect to Intellectual Property Rights. The landscape of IPR in the film industry is a multifaceted terrain where the legal framework serves as the cornerstone for creativity, protection, and economic, sustainability. Copyright law stands as stalwart, safeguarding scripts, screenplays, and audio-visual works, while the fair use doctrine injects flexibility. Trademark protection extends to film titles and licensing agreements become linchpins, enabling filmmakers to harness external elements. Patents delve into technological Innovations, and digital rights management emerges as a crucial shield against piracy.

As the film industry continues to evolve, the interplay of intellectual property rights and Legal frameworks will remain instrumental, protecting Investments and fostering a thriving cinematic ecosystem.