

"COPYRIGHT IN THE STREAMING AGE: REDEFINING ENFORCEMENT FOR A BORDERLESS DIGITAL WORLD"

AUTHOR – ARJIT SINGH, STUDENT AT AMITY LAW SCHOOL, NOIDA

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Introduction

The rapid proliferation of digital streaming platforms has fundamentally transformed how content is created, distributed, and consumed globally. Platforms such as Netflix, Amazon Prime Video, Spotify, and Hotstar have disrupted traditional modes of entertainment consumption, making a vast array of films, music, and television shows available on-demand. With their global reach, these platforms have dismantled geographical barriers, offering consumers a personalized entertainment experience.

However, the advent of this borderless digital ecosystem has also introduced significant legal and regulatory challenges, particularly in the realm of copyright law. Traditional copyright frameworks, designed for a pre-digital era dominated by physical media, are struggling to keep pace with the dynamic nature of streaming technology. In India, the challenges are amplified due to the country's unique legal, cultural, and economic landscape.

Indian copyright law, codified under the **Copyright Act, 1957**, was primarily developed to address issues in the context of physical distribution, such as unauthorized reproduction and sale of books, music, and films. Although the Act has been amended to incorporate provisions addressing digital content, the enforcement mechanisms often lag behind the realities of streaming platforms. Issues such as territorial jurisdiction, cross-border piracy, the unauthorized sharing of digital files, and fair use exceptions have created significant hurdles for rights holders in protecting their intellectual property.

This article explores the multifaceted challenges faced by copyright enforcement in India within the context of the streaming era. It delves into how Indian courts have responded to these challenges, evaluates the gaps in the current

legal framework, and suggests reforms that can help bridge these gaps. By doing so, it aims to provide a comprehensive understanding of the evolving relationship between copyright law and the global streaming industry in the Indian context.

Copyright Act 1957

The Copyright Act, 1957, serves as the primary legislation governing copyright protection in India. It provides creators and authors with a bundle of exclusive rights, empowering them to control the use and dissemination of their works. These rights include:

- **The right to reproduce the work:** Creators have the exclusive right to make copies of their works, whether in physical or digital formats.
- **The right to distribute copies:** This includes the authority to decide how and when the work is distributed, such as through sales, licensing, or digital uploads.
- **The right to communicate the work to the public:** This encompasses the digital transmission of content, such as streaming, which is particularly relevant in the modern era.

Key Provisions Relevant to Streaming Platforms

Several sections of the Copyright Act, 1957, directly impact the functioning of streaming platforms:

1. Section 14:

This section defines the scope of copyright by detailing the exclusive rights of copyright owners. For streaming platforms, this includes rights such as communication to the public, which covers the transmission of movies, music, and shows via online platforms.

2. Section 51:

This section enumerates acts that constitute copyright infringement. Unauthorized reproduction, distribution, or communication of copyrighted material to the public—including streaming or hosting pirated content—can attract legal penalties under this provision.

3. Section 52:

While Section 51 focuses on infringement, Section 52 outlines specific exceptions to copyright, commonly referred to as “fair use” provisions. These exceptions permit the use of copyrighted works without the owner’s authorization for purposes such as education, criticism, review, and reporting. In the digital age, the interpretation of “fair use” has become a contentious issue, particularly when content from streaming platforms is used for commentary or analysis on platforms like YouTube.

The 2012 Amendment: Modernizing Copyright for the Digital Age

Recognizing the challenges posed by digital content and globalization, the Copyright (Amendment) Act, 2012, introduced significant changes aimed at aligning Indian copyright law with international standards, especially the WIPO Internet Treaties. Key reforms included:

1. Statutory Licensing for Broadcasting Organizations:

This provision allows broadcasting entities to use copyrighted works without prior negotiation,

provided they pay a standardized royalty. This framework aimed to streamline licensing but raised questions about its applicability to online streaming platforms.

2. Digital Rights Management (DRM):

Provisions were added to prohibit the circumvention of DRM technologies, which protect copyrighted digital content. These measures aimed to prevent unauthorized access and sharing of digital works, addressing concerns around piracy and unauthorized downloads.

Gaps in the Current Framework

While the amendments marked a significant step forward, the Act faces several limitations in addressing the unique challenges posed by streaming platforms:

1. Borderless Nature of Digital Content:

Unlike traditional forms of media distribution, streaming platforms operate across jurisdictions, complicating enforcement of copyright laws when content is accessed or pirated internationally.

2. Piracy and Unauthorized Sharing:

Despite robust laws, the rise of torrent sites and unauthorized streaming mirrors has highlighted gaps in enforcement mechanisms, making it difficult for rights holders to secure their content.

3. Ambiguity in Fair Use Exceptions:

The broad interpretation of fair use under Section 52 often leads to conflicts, particularly when creators claim unauthorized use of their works for commentary, parodies, or education.

4. Licensing Complexity for Streaming Platforms:

While statutory licensing helps broadcast entities, its applicability to modern streaming platforms remains unclear. This creates legal uncertainty in securing rights for global and Indian content libraries.

Challenges in Copyright Enforcement in the Streaming Age

The rise of streaming platforms has introduced a new set of complexities in enforcing copyright

laws in India. Although the legal framework has been updated to address some of the challenges posed by digital content, several issues persist, including jurisdictional conflicts, piracy, licensing disputes, and the balancing act between fair use and copyright protection. These challenges are magnified by the borderless nature of the internet, the dynamic character of piracy, and the fast-paced evolution of digital content consumption. Below, we explore these challenges in more detail.

1. Jurisdictional Issues

One of the most significant challenges in enforcing copyright law in the streaming age is the jurisdictional issue. Since streaming platforms operate globally, they often distribute content across multiple territories with differing legal frameworks. Copyright laws, however, are territorial in nature, meaning they apply only within the boundaries of a particular jurisdiction. This creates several complications for copyright enforcement in India:

- **Pirated Content on Foreign Servers:** Illegal content is often hosted on servers located in jurisdictions with more lenient or even non-existent copyright enforcement. This pirated material remains accessible to Indian users, and Indian courts may struggle to exert control over foreign servers. For instance, if pirated content is streamed or downloaded from a server in a jurisdiction that has weak intellectual property protections, it becomes nearly impossible to hold the platform accountable in India.

- **Determining Jurisdiction Over Foreign Entities:**

Legal disputes often arise when determining whether Indian courts have jurisdiction over foreign streaming platforms that distribute content to Indian audiences. In many instances, Indian courts must decide whether they have authority over platforms that operate outside India but provide services to Indian consumers. The complex nature of digital content

distribution makes it hard to apply traditional legal principles to determine jurisdiction.

Judicial Precedent:

In the landmark case of *Shreya Singhal v. Union of India (2015)*, the Supreme Court of India clarified the intermediary liability under Section 79 of the Information Technology Act, 2000. The ruling established that intermediaries, including streaming platforms, are not liable for third-party content unless they fail to act on specific takedown requests once informed. While this decision helped define the scope of intermediary liability, it also highlighted the challenges in holding streaming platforms accountable for the content they host or distribute. This judgment underlined the absence of specific regulatory mechanisms, which complicates efforts to address piracy and copyright infringement in the digital domain.

2. Piracy and the Dynamic Nature of Infringement

Piracy in the digital age is dynamic and increasingly difficult to combat due to the proliferation of illegal streaming websites and applications. These pirated platforms often exhibit several characteristics that complicate enforcement:

- **Anonymity:**

Many illegal streaming platforms operate under pseudonyms or in ways that obscure their identity. This anonymity makes it difficult for copyright holders or law enforcement to trace the individuals or entities responsible for infringing content.

- **Evading**

Pirated streaming websites frequently change their domain names or use different hosting services to avoid being detected and blocked. Even if a website is taken down, new sites with similar content emerge almost immediately. This constantly shifting nature of illegal streaming platforms makes it nearly impossible

- **Detection:**

to mount an effective, long-term anti-piracy strategy.

Dynamic Injunctions:

To address this dynamic piracy landscape, Indian courts have started granting dynamic injunctions. These injunctions enable copyright holders to block not only the primary infringing websites but also their mirror sites and new domains that may crop up. A notable case is *UTV Software Communication Ltd. v. 1337X.to (2019)*, in which the Delhi High Court recognized the evolving nature of digital piracy and ordered that not just the original infringing site be blocked, but also all of its mirror sites. This legal innovation underscores the judiciary's adaptability in combating the ever-changing landscape of piracy.

3. Content Licensing Disputes

Content licensing is the backbone of streaming platforms, determining how, where, and to whom content is made available. However, licensing agreements often create legal and commercial disputes:

- **Music Licensing:**
In particular, the music industry has been a site of contention. Platforms like **Spotify** and **JioSaavn** have faced multiple lawsuits for the unauthorized use of copyrighted music. Content owners, especially record labels, have raised concerns that streaming platforms fail to properly license music or underreport plays, leading to disputes over royalties and compensation.

- **Regional Licensing and Fragmented Access:**
Streaming platforms often enter into region-specific licensing agreements. As a result, content available in one country may not be accessible in another, creating a fragmented viewing experience. This geographical restriction sometimes leads consumers to bypass these legal limitations and access pirated content to gain broader access to global content libraries. The issue of fragmented

content access pushes users toward illegal streaming services, which can lead to further infringement.

4. Fair Use vs. Copyright Enforcement

The tension between **fair use** and copyright enforcement is another significant challenge in the streaming age. While Indian copyright law includes exceptions like fair use under **Section 52**, which allows for uses such as criticism, review, research, and education, these exceptions are often contested:

- **Disputes over User-Generated Content:**
Platforms like **YouTube** are often at the centre of legal disputes over fair use. Users upload videos that may incorporate copyrighted works, such as clips from films, music videos, or TV shows, and argue that these works are being used for purposes such as commentary, review, or parody. However, the boundaries of what constitutes fair use remain murky, leading to frequent legal conflicts.

- **Balancing Rights of Creators and Public Interest:**
Courts must navigate the tension between protecting the rights of copyright holders and promoting the public interest in transformative works, such as parodies, critiques, and educational content. For example, content that alters the original work significantly for purposes of satire or social commentary may fall under fair use. However, determining the precise line between infringement and fair use remains contentious and heavily debated.

Relevant Case:

In *Indian Performing Right Society Ltd. v. Aditya Pandey (2011)*, the Delhi High Court emphasized the importance of statutory exceptions like fair use in ensuring public access to copyrighted works, particularly for educational and non-commercial purposes. This case highlighted the need for a nuanced approach to fair use that accommodates both the interests of copyright holders and the

public's access to knowledge and creative content.

Judicial Trends in India: Addressing Digital Copyright Challenges

Indian courts have increasingly recognized the need to evolve with the challenges posed by the digital era. The judiciary has proactively adapted to the rapidly changing landscape of copyright infringement, particularly as it pertains to streaming platforms and digital content distribution. Several key judicial trends have emerged in response to these challenges, demonstrating the courts' commitment to enforcing copyright in an ever-changing digital environment.

1. Dynamic Injunctions

The concept of dynamic injunctions has become a critical tool in copyright enforcement in India, particularly in the context of piracy. **Dynamic injunctions** allow courts to extend their orders not just to specific websites but also to mirror or proxy sites that infringe copyright. This innovative approach is essential in combating the dynamic nature of piracy, where illegal streaming websites often evade detection by changing domain names or hosting locations.

UTV Software Communication Ltd. v. 1337X.to (2019):

This case set a significant precedent in the Indian judiciary for dynamic injunctions. The Delhi High Court granted an order to block not only the specific pirated site but also all its mirror sites and any future variations that might emerge. The decision demonstrated the courts' recognition that piracy sites are fluid, and a static order blocking a single site would be inadequate. This approach allows for a broader, more adaptive legal strategy to combat digital piracy and protect content creators' rights.

2. Blocking Orders for Live Broadcasting

The commercial value of live sports broadcasting is a key concern for copyright enforcement, especially in India, where cricket

and other sports attract massive viewership. Unauthorized live streaming of such events can lead to substantial revenue losses for rights holders. Courts have taken proactive measures to address the unlawful streaming of live events, ensuring that broadcasters' rights are protected.

Star India Pvt. Ltd. v. Haneeth Ujwal (2018):

In this case, the Delhi High Court granted an injunction to prevent the unauthorized streaming of live cricket matches. The court recognized the economic and commercial value of live sports broadcasts and emphasized the need for robust enforcement mechanisms to prevent illegal streaming. This judgment underscores the judiciary's awareness of the financial impact that piracy can have on legitimate broadcasters and the necessity of timely interventions to protect intellectual property in live digital content.

3. Intermediary Liability

The issue of intermediary liability, particularly regarding platforms that host user-generated content, has been a recurring theme in Indian case law. Streaming platforms and social media companies often act as intermediaries by hosting content uploaded by users, which can sometimes infringe on copyright. Indian courts have addressed the responsibility of intermediaries in such situations, focusing on the need for platforms to be more diligent in preventing infringements.

Myspace Inc. v. Super Cassettes Industries Ltd. (2017):

In this case, the Delhi High Court clarified the role of intermediaries under Section 79 of the **Information Technology Act, 2000**, which grants them safe harbour protection. The court ruled that intermediaries, while not directly liable for third-party content, must take proactive steps to prevent repeated instances of infringement. If an intermediary is made aware of infringing content and fails to act or does not implement effective mechanisms to

prevent its reoccurrence, it could be held accountable. This case highlights the growing expectation for intermediaries to adopt due diligence in monitoring content to avoid facilitating copyright violations.

Technological Solutions for Copyright Enforcement

As digital platforms and piracy evolve, so too must the tools and mechanisms used to enforce copyright. Technology plays a pivotal role in detecting, preventing, and addressing copyright infringement in the streaming age. Below are some of the key technological innovations that are enhancing copyright enforcement.

1. AI-Based Detection Systems

Artificial Intelligence (AI) is increasingly being utilized by streaming platforms to automatically detect and manage copyright infringement. AI systems are capable of scanning vast amounts of content to identify unauthorized use of copyrighted works, offering a more efficient and scalable solution than manual monitoring.

- **YouTube's Content ID:** One of the most well-known AI-based detection systems is YouTube's **Content ID**. This technology allows copyright holders to upload their works into a database, where it is matched against all videos uploaded by users. When a match is detected, the rights holder can choose to block, monetize, or track the infringing content. Content ID has become a cornerstone in copyright enforcement on YouTube, providing creators with a way to protect their works from unauthorized uploads while generating revenue from those uploads that comply with licensing agreements.

2. Blockchain for Ownership Verification

Blockchain technology offers a promising solution for verifying content ownership and simplifying copyright enforcement. By creating a decentralized, tamper-proof ledger of ownership, blockchain can provide indisputable

evidence of authorship and rights ownership, reducing disputes and enhancing transparency.

Decentralized

Blockchain's key feature is its ability to record transactions in a way that is immutable and transparent. By applying blockchain to copyright management, creators can register their works in a blockchain ledger, providing a verifiable proof of ownership. This can be particularly useful in digital environments, where content is easily replicated and distributed. Furthermore, blockchain can streamline the process of rights management and licensing, making it easier for creators to track usage and ensure they are compensated fairly.

Verification:

3. Dynamic Content Recognition

Dynamic content recognition refers to technologies such as **digital watermarking** and **content fingerprinting**, which allow rights holders to track their content across different platforms, even if it is altered or manipulated. These technologies make it possible to identify and trace pirated content back to its source.

Digital Watermarking and Fingerprinting:

Digital watermarking involves embedding a unique code within the content itself, which remains detectable even if the content is altered or compressed. **Content fingerprinting** works by analysing the content's audio or visual characteristics to create a digital signature that can be tracked across platforms. Both of these techniques help rights holders monitor and enforce copyright across multiple distribution channels, significantly improving the ability to detect and address unauthorized use of content.

Proposed Reforms to Indian Copyright Law

To address the unique challenges of the streaming age, India's copyright regime needs to evolve. Recommended reforms include:

1. Strengthening Digital Provisions

- Amend the Copyright Act to explicitly address streaming-related piracy and unauthorized content sharing.
- Introduce statutory guidelines for dynamic injunctions and intermediary liability.

2. Harmonizing International Laws

- Collaborate with global bodies like WIPO to harmonize copyright enforcement across borders.
- Advocate for international treaties addressing digital content distribution and infringement.

3. Promoting Affordable Licensing

- Encourage region-specific pricing models to reduce the appeal of pirated content.
- Develop mechanisms for collective licensing to simplify rights management for digital platforms.

4. Enhancing Public Awareness

- Launch awareness campaigns to educate consumers about the legal and ethical implications of consuming pirated content.

Conclusion

The streaming age has revolutionized content consumption, offered immense convenience while revealing significant gaps in copyright enforcement. Indian courts have taken proactive steps, such as granting dynamic injunctions and clarifying intermediary liability, but the existing copyright framework struggles to keep up with the complexities of digital piracy and streaming platforms.

To address these challenges, India must modernize the **Copyright Act, 1957**, to include provisions on digital rights management (DRM), licensing, and intermediary responsibilities. Embracing technological solutions like AI-based content detection and blockchain for ownership verification will also strengthen enforcement. Furthermore, fostering international cooperation to tackle cross-border piracy is essential, as the digital space is borderless.

It is crucial to strike a balance between protecting creators' rights and ensuring fair access to content for consumers. With these reforms, India can build a robust and adaptable copyright system that protects creators, promotes innovation, and ensures access to content in the digital age.