

FAIR USE VS. COPYRIGHT INFRINGEMENT: A LEGAL ANALYSIS

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BEST CITATION – RUDRAVIR RAJ SHRIYAM, FAIR USE VS. COPYRIGHT INFRINGEMENT: A LEGAL ANALYSIS, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (13) OF 2025, PG. 505-509, APIS – 3920 – 0001 & ISSN – 2583-2344

Abstract

The doctrine of fair use plays a pivotal role in balancing the exclusive rights of copyright owners with the larger public interest in promoting creativity, education, and innovation. This paper undertakes a comprehensive analysis of fair use and copyright infringement, exploring their legal frameworks, judicial interpretations, and comparative perspectives in India and the United States. It discusses the evolution of copyright law, major legislative provisions, and landmark judicial precedents that have shaped the contours of fair use. The study also examines the challenges posed by digital technologies and the tension between creators' rights and public access. The analysis concludes that a balanced and flexible approach to fair use is essential to ensure that copyright law continues to foster creativity without stifling the freedom of expression or innovation.

Keywords:

Fair Use, Copyright Infringement, Intellectual Property Rights, Indian Copyright Law, U.S. Copyright Act, Judicial Interpretation, Digital Era, Transformative Use, Fair Dealing, Creative Freedom

1. Introduction

Copyright law is one of the foundational pillars of intellectual property rights, designed to safeguard the creative expressions of authors, artists, and innovators. Its primary objective is to reward creativity by granting exclusive rights to creators for a limited duration, thus incentivizing artistic and

intellectual advancement. However, this exclusivity must coexist with the need for public access to knowledge and cultural materials.

The doctrine of **fair use** (or **fair dealing**, as it is known in India) acts as a balancing tool between the monopoly rights of copyright owners and the

collective right of society to benefit from creative works. Fair use allows limited and reasonable use of copyrighted material without permission, for purposes

such as criticism, review, education, and news reporting. Conversely, **copyright infringement**

occurs when copyrighted material is reproduced, distributed, or adapted without authorization, in a manner that violates the rights of the copyright owner.

The line between fair use and infringement is often blurred, requiring judicial interpretation and contextual understanding. This paper aims to analyze the

legal, judicial, and theoretical aspects of fair use in comparison with copyright infringement, focusing on Indian and U.S. jurisprudence.

2. Evolution of Copyright Law

The concept of copyright protection emerged as a response to the invention of the printing press and the need to regulate literary reproduction. The **Statute of Anne (1710)** is widely recognized as the world's first copyright legislation,

granting authors ownership over their works. The statute also introduced the idea that copyright was not an absolute right but a limited one, intended to promote learning and knowledge

dissemination.

In India, copyright protection was initially governed by the **Indian Copyright Act of 1914**, modeled after the British Copyright Act of 1911. The post-independence **Copyright Act of 1957** replaced it and remains the principal

legislation governing copyright in India. The Act has been periodically amended to align with international conventions such as the **Berne Convention (1886)**, **Universal Copyright Convention (1952)**, and the **TRIPS Agreement (1995)**.

In the United States, the foundation of copyright law lies in **Article I, Section 8, Clause 8** of the U.S. Constitution, which empowers Congress “to promote the progress of science and useful arts.” The **U.S. Copyright Act of 1976**

consolidated and modernized copyright law, codifying the fair use doctrine under Section 107.

This historical evolution reflects the consistent effort to balance two competing interests – the creator’s right to control their work and society’s right to benefit from it. Fair use emerged as the principle mechanism to maintain this equilibrium.

3. Concept of Fair Use and Its Legal Framework

Fair use is an exception or limitation to the exclusive rights conferred by copyright law. It allows the use of copyrighted material without the copyright holder’s consent, provided such use serves legitimate public purposes like education, criticism, or research. The philosophy underpinning fair use is that creativity is cumulative; new works often build upon existing ones.

In contrast, **copyright infringement** arises when the use of copyrighted work exceeds the boundaries permitted by law. It involves unauthorized

reproduction, distribution, or public performance of the work, which adversely affects the economic and moral rights of the copyright holder.

Determining whether a particular act qualifies as fair use depends on multiple factors – the purpose and nature of use, the extent of copying, and the impact on the market value of the original work. Courts play a central role in interpreting these boundaries, ensuring that fair use remains dynamic and adaptable to new contexts.

4. Fair Use under Indian Copyright Law

The Indian equivalent of fair use is “**fair dealing**,” governed by **Section 52(1)** of the **Copyright Act, 1957**. The provision specifies that certain uses of copyrighted works do not constitute infringement, including:

- Private or personal use, including research;
- Criticism or review;
- Reporting of current events;
- Use for educational purposes by teachers or students;
- Use in judicial or legislative proceedings.

The Indian approach is thus **enumerative**, listing specific purposes that qualify as fair dealing. This makes it more restrictive than the open-ended American model. Nevertheless, Indian courts have interpreted the provision progressively, considering the social and cultural implications of each case.

Key Indian Judicial Decisions

1. **R.G. Anand v. Deluxe Films (AIR 1978 SC 1613)**

The Supreme Court held that copyright does not protect ideas, themes, or plots, but only the expression of an idea. The Court emphasized that substantial similarity in expression, not merely subject matter, determines infringement.

2. **Civic Chandran v. Ammini Amma (1996 PTC 16, Ker HC)**

The Kerala High Court ruled that using extracts

of a copyrighted play in another drama was permissible for purposes of criticism. The judgment highlighted that fair dealing should be interpreted liberally to promote freedom of expression.

3. **India TV Independent News Service Pvt. Ltd. v. Yashraj Films Pvt. Ltd. (2012 (50) PTC 438 (Del))**

The Delhi High Court examined the extent to which copyrighted songs could be used in television programs. It held that the use must be proportionate, and the purpose, character, and market impact are crucial in assessing fair dealing.

These cases illustrate that Indian courts have moved from a rigid to a more **context-sensitive interpretation**, recognizing that fair dealing is vital for the democratic dissemination of information.

5. **Fair Use under U.S. Copyright Law**

In the United States, **Section 107 of the U.S. Copyright Act (1976)** codifies the fair use doctrine. It identifies four non-exhaustive factors that courts must

evaluate:

1. **Purpose and character of the use**, including whether the use is commercial or nonprofit;
2. **Nature of the copyrighted work**;
3. **Amount and substantiality** of the portion used;
4. **Effect of the use on the potential market** for or value of the copyrighted work.

These factors are applied collectively and flexibly, ensuring that fair use evolves with technological and societal changes.

Landmark U.S. Cases

1. **Folsom v. Marsh (1841)**

Justice Joseph Story first articulated the concept of fair use, emphasizing the purpose,

nature, and amount of use, and its impact on the market.

2. **Sony Corp. of America v. Universal City Studios (1984)**

Known as the “Betamax case,” the U.S. Supreme Court held that home recording of television programs for private use constituted fair use.

3. **Harper & Row Publishers v. Nation Enterprises (1985)**

The Court held that publishing excerpts from President Ford’s memoirs without permission was infringement, as it harmed the work’s market value.

4. **Campbell v. Acuff-Rose Music, Inc. (1994)**

The Court ruled that a parody can qualify as fair use even when commercially motivated, introducing the modern focus on “transformative use.”

5. **Google LLC v. Oracle America, Inc. (2021)**

The Court held that Google’s reimplementation of Java API for Android development was fair use, emphasizing innovation and public benefit.

These precedents collectively underscore that U.S. courts prioritize

transformation, public interest, and market effect when assessing fair use claims.

6. **Comparative Analysis: India and the U.S.**

While both India and the United States acknowledge the importance of balancing creators’ rights with public access, their methodologies differ significantly. The **Indian system is rule-based**, listing explicit exceptions, whereas the **U.S. system is principle-based**, allowing broader judicial discretion.

The U.S. doctrine’s open-ended nature enables it to adapt to new technologies and creative practices, such as memes, remixes, and digital sampling.

Conversely, India’s restrictive framework may at

times limit innovation but ensures greater certainty in application.

Despite these differences, both jurisdictions aim to uphold a **dynamic**

equilibrium between economic rights and public interest. Recent Indian cases, such as *Rameshwari Photocopy Services (2016)*, signal a shift toward the U.S.- style flexible interpretation, particularly in educational and digital contexts.

7. Judicial Interpretation and Case Studies

Judicial interpretation remains the cornerstone of fair use jurisprudence. In India, courts have begun recognizing the evolving nature of creativity and access.

In *The Chancellor Masters and Scholars of the University of Oxford v. Rameshwari Photocopy Services (2016 SCC OnLine Del 6226)*, the Delhi High Court held that photocopying portions of textbooks for classroom use constituted fair dealing. The judgment emphasized that copyright law should not hinder education in a developing nation, aligning with constitutional values of equality and access to knowledge.

In the United States, courts have emphasized transformative use and market effect. In *Campbell v. Acuff-Rose Music, Inc.* and *Google LLC v. Oracle America, Inc.*, the Supreme Court reaffirmed that transformative uses – those adding new meaning or purpose – are central to fair use.

These cases highlight how judicial reasoning evolves to accommodate

technological advances, ensuring copyright law remains responsive to modern realities.

8. Fair Use in the Digital Era

The digital revolution has redefined the landscape of copyright and fair use. The rise of social media platforms, streaming services, and user-generated content has blurred the line between private and public use. Remixing, parody, and meme culture challenge traditional notions of authorship and originality.

Platforms such as YouTube and TikTok employ

automated copyright filters that sometimes remove legitimate fair uses, raising concerns about over-

enforcement. Additionally, artificial intelligence (AI) and generative tools trained on copyrighted data introduce new complexities. Questions arise regarding whether the use of copyrighted materials to train AI models constitutes fair use.

These developments necessitate adaptive legal frameworks. Both India and the United States must update their fair use doctrines to address digital realities

while safeguarding creative freedom and innovation.

9. Conclusion

The doctrine of fair use represents the moral and functional balance within copyright law – a bridge between protection and access. While copyright

ensures that creators are rewarded, fair use ensures that creativity is not stifled by overprotection.

In India, the concept of fair dealing remains more restrictive but has shown a gradual shift toward liberal interpretation. The U.S. fair use doctrine, by

contrast, provides greater judicial flexibility but carries inherent uncertainty. Both models demonstrate that fair use is not an exception to copyright but an integral component that fulfills its constitutional purpose – to promote creativity, learning, and the progress of arts and sciences.

As society becomes increasingly digital, the interpretation of fair use must evolve to protect not just creators but also innovators, educators, and the

public at large. The ultimate goal should be a **balanced copyright regime** that rewards originality while preserving the democratic value of access to

knowledge.

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