

COPYRIGHT PROTECTION IN THE DIGITAL AGE: ISSUES AND CHALLENGES

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ABSTRACT

The evolution of digital technology has transformed the way information, art, and media are created, distributed, and consumed. While digitalization has democratized content creation and accessibility, it has also posed significant challenges to copyright protection. The ease of duplication, online sharing, and global reach of digital platforms have blurred the lines between fair use and infringement. This paper explores the evolution of copyright laws, the impact of digital technologies on copyright protection, major global and Indian legal frameworks, and the emerging issues and challenges faced in the digital environment. It concludes with suggestions for strengthening copyright enforcement in the modern era.

Introduction

Copyright law aims to protect the original works of creators, ensuring that their intellectual and creative labor receives due recognition and compensation. Traditionally, copyright covered tangible forms such as books, music, and visual art. However, with the onset of the digital revolution, the reproduction and distribution of creative works have become effortless and nearly cost-free. This digital transformation has redefined the dynamics of ownership, authorship, and infringement.

The “**digital age**”—marked by the rise of the internet, social media, and streaming services—has necessitated the modernization of copyright laws to address complex challenges related to piracy, artificial intelligence (AI), and cross-border enforcement.

Evolution of Copyright in the Digital Context

The roots of copyright protection can be traced to the **Statute of Anne (1710)** in England, which provided authors exclusive rights for a limited period. With technological advancements such as printing, photography, and film, copyright laws evolved to include newer forms of media.

In the **late 20th century**, the advent of computers, compact discs, and the internet led to massive digitization of creative content. The **World Intellectual Property Organization (WIPO)** responded with the **WIPO Copyright Treaty (1996)** and the **WIPO Performances and Phonograms Treaty (1996)**—collectively known as the **Internet Treaties**—which sought to harmonize global standards for digital copyright protection.

Copyright Protection under Indian Law

In India, copyright protection is governed by the **Copyright Act, 1957**, which has undergone several amendments to adapt to digital realities. The **Copyright (Amendment) Act, 2012** introduced major reforms to align with the WIPO Internet Treaties, focusing on digital reproduction and online distribution.

Key Provisions Relevant to the Digital Age

- **Section 2(ff)**: Introduces the concept of “communication to the public,” covering digital transmission and streaming.
- **Section 65A and 65B**: Provide legal protection for technological measures (like DRM) and digital rights management information.

- **Fair Use Exceptions:** Expanded to include certain digital uses for education, research, and libraries.

Enforcement Mechanisms

The Act provides both **civil** and **criminal remedies** against infringement, including injunctions, damages, and imprisonment. However, enforcement in cyberspace remains complex due to anonymity, jurisdictional issues, and the transient nature of digital content.

Major Issues and Challenges in the Digital Era

Online Piracy

The most persistent threat to copyright in the digital space is **piracy**. Unauthorized downloading, streaming, and sharing of movies, music, software, and e-books have become rampant. Peer-to-peer networks, torrent sites, and cyberlockers make enforcement extremely difficult.

Jurisdictional and Enforcement Issues

The internet is borderless, but laws are territorial. Infringing content uploaded in one country can be accessed globally, complicating the determination of applicable law and jurisdiction.

Digital Rights Management (DRM)

While DRM technologies help prevent unauthorized copying and distribution, they have been criticized for restricting legitimate use and interoperability. Balancing protection and user rights remains a challenge.

Fair Use and User-Generated Content

Platforms like YouTube, TikTok, and Instagram encourage remix culture, where copyrighted works are reused creatively. Determining what qualifies as **“fair use”** or **“transformative use”** in such contexts is highly subjective and often contested.

Artificial Intelligence and Copyright

AI tools can now generate art, music, and text, raising questions about **authorship** and **ownership**. If a machine

creates content using copyrighted datasets, who holds the copyright—the developer, user, or AI itself?

Intermediary Liability

Online platforms hosting user content face challenges under **safe harbor provisions**, which protect intermediaries if they act promptly against infringing material. However, determining the extent of platform responsibility remains debated.

Global Perspectives

United States

The **Digital Millennium Copyright Act (DMCA) 1998** introduced provisions for online copyright protection, including notice-and-takedown procedures and anti-circumvention rules for DRM systems.

European Union

The **EU Directive on Copyright in the Digital Single Market (2019)** emphasizes fair remuneration for creators and requires platforms like YouTube and Facebook to obtain licenses for user-generated content.

WIPO and TRIPS

Both the **WIPO Internet Treaties** and the **TRIPS Agreement (1994)** set international standards for protecting digital works and technological measures, emphasizing cooperation among member states.

Judicial Developments in India

- **Super Cassettes Industries Ltd. v. MySpace Inc. (2011):** The Delhi High Court held that intermediaries are liable if they fail to remove infringing content after notice.
- **UTV Software v. 1337x.to (2019):** The Delhi High Court recognized **dynamic injunctions**, allowing blocking of mirror websites hosting pirated content.
- **The Cricbuzz and Hotstar Cases:** Reaffirmed the importance of protecting live broadcasts and online streaming rights.

Recommendations

1. **Strengthening International Cooperation:** Cross-border digital piracy requires global enforcement mechanisms.
2. **Awareness and Education:** Public awareness on copyright ethics and fair use is essential.
3. **Technological Innovation:** Use of blockchain and watermarking to trace ownership and track usage.
4. **Revisiting Fair Use Doctrine:** To accommodate transformative and educational digital uses.
5. **AI Regulation:** Develop specific guidelines on authorship and data usage in AI-generated works.

Conclusion

The digital age has fundamentally altered the scope and meaning of copyright. While technology has democratized creativity, it has also amplified the risks of infringement. Balancing the rights of creators with public access and innovation remains the central challenge of modern copyright law. A harmonized global framework, combined with robust domestic enforcement and technological adaptation, is essential for ensuring sustainable and fair copyright protection in the digital world.

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