
COMPARATIVE ANALYSIS OF INDIAN COPYRIGHT LAWS WITH INTERNATIONAL DIGITAL COPYRIGHT STANDARDS

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ABSTRACT

In this digital age, intellectual property rights face strong challenges due to the robust and continuous evolution of the latest technology and the web. Thus this paper aims to provide a comparative analysis between Indian Copyright laws and digital copyright standards. It would highlight similarities and differences as well. A brief historical review particularly of the Indian Copyright Act of 1957 and the 2012 amendment is included as they have brought the Indian Copyright laws closer to the international copyright standards. It covers the key provisions related to the rights of authors, digital rights management and liabilities for internet intermediaries. This paper explores various approaches towards important topics like safe harbour provisions, fair use and enforcement mechanisms by comparing Indian Copyright Laws with the United States of America's Digital Millennium Copyright Act/DMCA and the European Union's Directive on Copyright in Digital Single Market. Significant or landmark case laws from Indian and international jurisdictions highlight the practical application of these laws. The paper concludes with suggestions that would bolster the Indian Copyright law, including clearer provisions for liability of the intermediaries, robust enforcement process, public awareness initiatives and international collaboration. These recommendations enhance digital rights protection and help in the alignment of Indian laws with international standards.

1. Introduction

The creation, distribution, and use of intellectual property (IP) have changed significantly in the digital age. Copyright law around the world now faces new challenges. As a result of these changes, new developments are needed to protect authors' rights and promote fair use in digital formats. This article presents a comprehensive comparison between domestic law and global digital copyright standards. The focus is on the legal protection of intellectual property. The analysis uses a significant case study to analyze the responsibilities of online brokers and how to apply copyright law in the changing digital age. The analysis undertakes key case studies, current legislative framework and historical legal developments.

2. Overview of Indian Copyright laws

Historical context and amendments

The Copyright Act of 1957, drafted after the United Kingdom's Copyright Act of 1956, is the principle legislation governing copyright law in India. One of the first comprehensive copyright laws in Indian law after independence. The Act follows the global trend of protecting copyright and ensuring fair treatment of copyrighted material. Several amendments have been made to the act since its enactment to address new issues arising in intellectual property discourse.

Copyright Amendment Act, 2012: The 2012 Copyright Amendment addressed the intricacies of digital works, changing the Copyright law in India significantly. These changes brought the Copyright Act of 1957, and along with it, the Indian Copyright law closer to the Global standard, specifically the one set up by the WTO that is the World Trade Organization. These changes pertain:

- **Terms that support the author:** Receiving royalties amongst the other areas related to the area of supporting the authors were focused upon in this amendment. It ensured that the authors received equitable payment if the use was made commercially, particularly within the music and film industries. Thus, the distribution of the payment has become fairer and is directly beneficial to the authors through ownership and protection measures.
- **Digital Rights Management:** To align the Indian Copyright laws with the globally

recognized agreements like the WCT and WPPT was the main aim of this amendment. It contained the measures that were planned to safeguard the author's digital rights, by including measures like the DRM provision. This amendment encompasses the mechanisms that prohibit unauthorized usage or circulation of digital material.

- **Liability of the Internet intermediaries:** The new amendment in Copyright laws has changed the status of the extent of the liability of the Internet intermediaries in copyright infringement cases. Information Technology Act, 2000's Section 79 would now protect the intermediaries against the user-posted infringing content provided that they comply with the takedown requests swiftly and promptly and that they had no prior knowledge regarding the said violations.

Key Provisions of the Copyright Act and Copyright Law

- **Section 52:** The section is for fair use. It allows certain usage of copyrighted material without the owner's permission, but under restrictions. These exemptions can be employed for reporting on ongoing events, providing critical commentaries and reviews, or studying in private. The ultimate objective is to achieve a balance between public-interest access to safeguard information and copyright.
- **Section 63:** Criminal legal ramifications: The penalties and imprisonment outlined in this section represent the criminal legal ramifications of violating the copyright laws. Its purpose is to protect the intellectual property rights of copyright holders while also deterring unauthorized use.
- **Section 79 of the IT Act, 2000:** This section provides safe harbour provisions for internet intermediaries who comply with the takedown notices without possessing actual knowledge of the infringements.

3. Digital Copyright Standards at the international level

United States of America:

The United States of America maintains the Digital Copyright Standards with **The Digital Millennium Copyright Act (DMCA)**.

The DMCA came into effect in 1998. It is a crucial US legislation that addresses digital copyright issues through substantive actions like:

- 1) **Safe Harbor Provisions:** Outlined in Section 512 of the DMCA, the Safe Harbour provisions offer legal protection to the internet intermediaries against user-generated content's infringement liability. For that to happen, the intermediaries are required to promptly act as per the proper takedown notice and eliminate the said infringing content. The intermediaries must prevent financial gain. Directly, from such infringing material and having explicit knowledge of such infringing activity or content's happenstance.
- 2) **Anti-circumvention measures:** The anti-circumvention measure refers to the prohibition of the circumvention of the safeguarding measures that protect copyrighted materials. They are an integral part of the DMCA's framework. The measures include the use or the creation of the hardware and software bypassing the digital rights management (DRM) protocols that are enacted by content creators to bolster the security of digital content.
- 3) **Mechanism of takedown notices:** The structured method known as notice and takedown is provided by the DMCA. The service providers are required to eliminate or block access to the infringing material promptly upon the receipt of an automatic notification from the copyright holders. It Leads the copyright holders to systematically protect and enforce their exclusive rights.

European Union

The Digital Single Market contains a Copyright directive within the Single Market that addresses Digital Copyright matters in the European Union. The European Union's Directive on Copyright in the Digital Single Market was passed back in 2019 to modernize the Copyright laws for the Digital Age.

The important components of the directive are as follows:

- 1) **Online Platform's Liability:** As for the liability of the online platforms, failing to execute appropriate measures to prevent unauthorized use of the copyrighted content would lead to direct liability for copyright infringement as has been stated in the directive. It involves the

requirement of actively ensuring that the protected works are not exploited without authorisation. It is to be done proactively.

2) **Data and text mining:** This legislation allows authorized use of text and data mining for scientific research. It encourages the researchers to extract information from digital material for non-commercial and scientific use alone without copyright or copyright-related infringement to encourage and study data and text mining.

3) **Fair remunerative for authors and performers:** This directive makes sure that the authors and performers get fairly compensated for the use of their works on digital platforms by outlining policies to ensure the receipt of fair and equitable payment when their creations are used in digital media.

4. Comparative Analysis

4.1. Liabilities for Internet intermediaries

Regarding the liability of the internet intermediaries, the United States of America, the European Union and India have differentiated the legal framework.

- **India**

Safe harbour provisions for internet intermediaries are enumerated in Section 79 of the Information Technology Act of 2000. So long as they follow the takedown notices and do not have knowledge regarding such infringing acts or content, they are not held liable for the user-generated infringing content. Regardless of this present protection mechanism, due to the lack of clarity or specifications regarding some of the provisions compared to the international standards, confusion during and after the application period by the concerned parties occurs.

- **United States of America**

Section 512 of the DMCA provides a systematic safe harbour mechanism for the intermediaries that are available in the United States of America. Intermediaries are obligated to act promptly on the receipt of the authentic notice from the copyright holder as per DMCA's notice and takedown policy. Regulations that must be adhered to by the intermediaries such as those

concerning the designating agents and procedural requirements to avoid liability are outlined by the DMCA's particular notifications.

- **European Union**

A proactive approach to the intermediary's liability is established by the European Union's Directive on Copyright. The shift towards holding the intermediaries accountable for their management of copyrighted material and avoiding infringement is signified by the requirements imposed on online platforms t.

4.2. Sharing of the rights and royalties

Both the European Union's Directive on Copyrights in Digital Single Market and India's Copyright Amendment Act of 2012 focus on fair compensation for the authors. However, their approaches differ.

- **India**

The Copyright (Amendment) Act of 2012 aims at ensuring that the authors or creators, preferably those associated with the film and music industry receive their due royalties for the usage or commercial application of their works. This initiative strives for the enhancement of the fair distribution of profits as well as directly benefits the authors by safeguarding them against commercial exploitation.

- **The United States of America**

DMCA provides robust protection for the copyright holders. However, it does not mandate specific legislative measures from the government for the distribution of royalties. Instead, the reliance on industry standards and agreements is used by the parties.

- **The European Union**

The European Union mandates fair remuneration for writers and performers through its regulations. In India, Equitable royalty sharing is similarly prioritized but falls within a broader legal infrastructure.

4.3. Technologic Protective Measures and Digital Rights Management.

Indian Copyright Law incorporates Digital Rights Management and protective technological measures. Just as the Indian Copyright Law, both the European Union's Directive on the Copyright in the Single Digital Market and the United States of America's DMCA.

- **India**

Safeguarding of the author's rights in the digital realm along with the introduction of the Digital Rights Management was done by the Copyright (Amendment) Act of 2012. Its purpose was to ensure that the Indian laws align with the global standards by prohibiting unauthorized distribution or access to digital content.

- **United States of America**

The Digital Millennium Copyright Act enumerates the prohibition of circumventing the technological measures that protect copyrighted material in the United States. These measures are necessary for safeguarding and maintaining the security and quality of digital content.

- **European Union**

The European Union's directive on copyright in the single digital market emphasizes the importance of using technological measures to protect copyrighted materials against unauthorized usage including provisions for digital rights management and anti-circumvention techniques.

4.4. Enforcement and compliance.

Methods used by various governments to ensure the protection of copyrights substantially differ in the approaches towards ensuring adherence.

- **India**

The judiciary oversees enforcement of the copyright laws through both civil and criminal channels. Upon violation of these laws, those who violate are bearing fines or imprisonment as per the legal provisions and as the court sees fit part of the penalties for such infringement. Additionally, the authors whose works have been infringed can claim against the infringer for

monetary damages or injunctions against further or ongoing violations or the accounts of the profits earned by such infringements committed by others. Nevertheless, the complexities in this manner are common given the resource limitations and the burdensome procedures that hinder the effective implementation within the Copyright industry in India.

- **United States of America**

Copyright enforcement through the DMCA by use of the notice and takedown framework in the United States is efficient and structured. This method allows the copyright owners or the users to remove the infringing content. It also provides such alleged infringers with an option to contest such requests.

- **European Union**

The E-CommerDirective and the Digital Services Act is established by the European Union as a way to enforce copyright regulations. The websites are subject to stricter requirements such as the notice and takedown procedures to ensure compliance with the rules.

5. Related case laws

5.1 India

1. **MySpace vs. Super Cassettes Industries Ltd.:** The Delhi High Court ruled that intermediaries can be held accountable for copyright infringement if they fail to remove infringing content after receiving a valid notice. The court emphasised the need for intermediaries to act quickly to safeguard their safe harbour protections under Section 79 of the Information Technology Act.
2. **Google India Pvt. Ltd. vs. Visaka Industries:** The Supreme Court of India held that intermediaries must only remove content after receiving a court order or government notification. This ruling established the scope of intermediary liability and highlighted the significance of judicial control during the takedown process.

5.2 International:

1. **Viacom International Inc. vs. YouTube, Inc.:** This seminal decision upheld the safe

harbour principles of the Digital Media Content Act (DMCA), holding that YouTube was exempt from liability for content infringement so long as it took prompt action to remove the offending video after receiving a valid notice.

2. **eBay International AG v. L'Oréal SA:** The CJEU decided that eBay might be held accountable for trademark infringements if it actively promoted products that violated trademarks. This case brought to light the EU's changing regulations regarding intermediary liability and underlined the necessity for platforms to use due diligence.

6. Suggestions to Strengthen Indian Copyright Law

Several suggestions can be made to improve the efficacy of Indian copyright legislation in the digital sphere based on the comparative analysis:

1. **Explicit Intermediary Liability Guidelines:** Both intermediaries and copyright holders would benefit legally from the establishment of more precise and unambiguous principles for intermediary liability and safe harbour protections. This might entail implementing best practices from the EU's proactive copyright enforcement measures and the DMCA's notice-and-takedown method.

2. **Simple Enforcement Procedures:** Establishing specialized IP courts and improving legal procedures will make enforcement of copyright laws easier, and addressing delays in establishing specialized courts to deal with intellectual property or copyright disputes. Especially in a more efficient way.

3. **Spread public awareness:** Educational initiatives are needed to inform people about copyright laws and the value of protecting intellectual property rights. It reduces piracy and promotes an environment where intellectual property is valued and respected.

4. **International cooperation:** Digital copyright protection can be improved by adopting best practices from other jurisdictions, and by strengthening India's copyright infrastructure through international cooperation, and material disposal procedures

7. Summary

India's copyright laws have a long history of addressing issues arising from the digital age,

however, enforcement processes could be strengthened. And the responsibilities of intermediaries can be clarified according to international standards. Improved regulatory frameworks such as WCT and DMCA compliance can improve digital. Providing greater legal clarity for all parties for copyright protection in India and better protection of intellectual property in the digital age. India can strengthen its copyright regime through ongoing legal changes, interpretations and international cooperation.

References

1. Anggara Hendra Setya Ali et al., *Liability of Internet Intermediaries in Copyright Infringement: Comparison between the United States and India* (EAI June 29, 2021), <https://doi.org/10.4108/eai.29-6-2021.2312595>.
2. Bli Kadek, *Copyright and the Digital Media Perspective* (Universitas Sumatera Utara ed., 2024), <https://www.us-edu.ac/copyright-digital-media>.
3. Barbara Ward, Progress for a Small Planet, *HARV. BUS. REV.*, Sept.-Oct. 1979, at 89, 90.
4. The World Intellectual Property Organization, *WIPO Copyright Treaty* (July 5, 2024), <https://www.wipo.int/treaties/en/ip/wct/>.
5. United States Congress, *Digital Millennium Copyright Act* (July 5, 2024), <https://www.congress.gov/bill/105th-congress/house-bill/2281>.
6. Copyright Liability and Performing Rights Organizations in the United States, *Universitas Diponegoro* (July 5, 2024), <https://www.undip.ac.id/copyright-liability>.
7. *MySpace v. Super Cassettes Industries Ltd.*, (2012) 189 D.L.T. 1 (India).
8. *Google India Pvt. Ltd. v. Visaka Industries*, (2011) 4 S.C.C. 457 (India).
9. *Viacom Int'l Inc. v. YouTube, Inc.*, 676 F.3d 19, 21 (2d Cir. 2012).
10. *L'Oréal SA v. eBay Int'l AG*, Case C-324/09, [2011] E.C.R. I-06041.
11. The Copyright Act of 1957, No. 14, Acts of Parliament, 1957 (India).
12. The Information Technology Act of 2000, No. 21, Acts of Parliament, 2000 (India).
13. Digital Millennium Copyright Act, 17 U.S.C. §§ 512 (2006).