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ONLINE COPYRIGHT INFRINGEMENT IN INDIA: ENFORCEMENT CHALLENGES AND THE EFFECTIVENESS OF LEGAL REMEDIES

A Doctrinal Study of the Statutory Framework, Judicial Developments and Practical Enforcement in the Digital Era

Abstract

India's rapid digitalization, inexpensive mobile data and widespread use of streaming services have transformed the creation, distribution and consumption of creative works. The same environment has also made unauthorized copying and dissemination of protected material easier, faster and harder to control. Online piracy now includes illicit streaming, torrent distribution, unauthorized copies of films, music, books, academic resources and software, as well as emerging disputes concerning the use of copyrighted material in artificial-intelligence systems. This paper examines how Indian copyright and information-technology law respond to such conduct. It considers the Copyright Act, 1957, the Information Technology Act, 2000 and the intermediary framework, while tracing important judicial developments involving John Doe orders, website blocking, dynamic injunctions and dynamic-plus injunctions. The study also assesses civil, criminal and administrative enforcement and identifies recurring difficulties such as cross-border infringement, anonymous operators, mirror websites, procedural delay, institutional limitations and

uncertainty surrounding intermediary obligations. It concludes that India possesses a substantial legal toolkit, but its practical impact is uneven because enforcement often depends on the financial and technological capacity of the rights holder. Reforms should therefore improve institutional capacity and international cooperation while preserving fair dealing, lawful expression and access to knowledge.

Keywords

Copyright infringement; digital piracy; Copyright Act, 1957; Information Technology Act, 2000; intermediary liability; John Doe orders; dynamic injunctions; India.

1. Introduction

India has developed into one of the world's major internet markets, supported by low-cost data services, extensive smartphone use and the rapid growth of subscription as well as advertising-supported digital platforms. This expansion has opened significant commercial opportunities for cinema, television, music, publishing and software. At the same time, it has created an environment in which copyrighted works can be copied and redistributed almost immediately and on a very large scale.

The forms of online infringement are varied. Pirated films may appear on torrent services or illicit streaming sites shortly after theatrical or OTT release. Recorded cinema prints can circulate through messaging applications, while books, journals and other educational materials may be uploaded to unauthorised repositories. Music and software are similarly redistributed without permission. More recently, questions have arisen concerning the use of copyrighted text, images and news material in the development and training of generative artificial-intelligence systems.

Digital infringement differs materially from conventional physical piracy. A digital copy can be produced and distributed at negligible marginal cost, the activity may cross several national borders, and the person responsible may conceal their identity. Consequently, legal rules developed in an earlier technological environment face significant practical pressure.

This paper examines whether India's existing legal framework is capable of addressing these characteristics. It studies the statutory basis for protection, the principal forms of online infringement, the evolution of judicial remedies and the difficulties faced in enforcing them. Particular attention is given to the Delhi High Court's contribution to dynamic forms of injunction and to the continuing tension between effective copyright protection and the interests of intermediaries, lawful users and freedom of expression.

2. Objectives and Research Methodology

The study has four principal objectives. First, it examines the provisions of the Copyright Act, 1957 and the Information Technology Act, 2000 that are relevant to infringement occurring through digital networks. Second, it follows the development of judicial remedies, especially John Doe orders and dynamic and dynamic-plus injunctions. Third, it identifies the institutional, procedural, technological and jurisdictional barriers that reduce the effectiveness of online enforcement. Fourth,

it evaluates the practical adequacy of civil, criminal and administrative remedies and proposes measures for improvement.

The research follows a doctrinal method. Primary materials consist principally of legislation and reported judicial decisions. Secondary materials, including academic writing, industry reports and legal commentary, are used to provide context and analytical support. The paper is therefore descriptive and critical in character rather than an empirical study based on field surveys or interviews.

3. Statutory Framework Governing Online Copyright Protection

Indian online copyright protection rests principally on the Copyright Act, 1957, supplemented by the Information Technology Act, 2000 and the rules governing intermediaries. Together, these laws provide rights, exceptions, liability standards and enforcement mechanisms relevant to digital activity.

3.1 The Copyright Act, 1957

The Copyright Act, 1957 is the central Indian statute for protecting original literary, dramatic, musical and artistic works, cinematograph films and sound recordings. Section 14 gives copyright owners a collection of exclusive rights, including reproduction, distribution, adaptation, public performance and communication of the work to the public. These rights are directly relevant to online dissemination.

Section 51 defines circumstances in which copyright is infringed and is sufficiently broad to cover electronic storage of protected material without authorisation. The provision therefore has application to activities such as unauthorised uploading, streaming and caching. Copyright protection is not absolute, however. Section 52 preserves fair-dealing exceptions covering areas such as private use, criticism, review, research, teaching and reporting of current events. Courts have applied these limitations in digital and educational settings, including the litigation concerning course-pack photocopying in The Chancellor, Masters & Scholars of the University of Oxford v. Rameshwari Photocopy Services.

The Copyright (Amendment) Act, 2012 introduced provisions specifically relevant to technological protection. Section 65A addresses circumvention of effective technological measures, including digital rights-management systems, while Section 65B protects electronic rights-management information from unauthorized removal or alteration. These provisions can support

action where technological safeguards or rights-management information associated with digital works are deliberately defeated or manipulated.

The Act also provides a range of remedies. Chapter XII permits civil relief including injunctions, damages, accounts of profits and delivery-up or destruction of infringing copies. Chapter XIII creates criminal offences and provides for imprisonment and fines, while Section 64 contains powers relating to search and seizure. In ordinary circumstances, an infringement action is subject to the applicable limitation period; courts have also recognised the significance of continuing or repeated infringement when determining a fresh cause of action.

3.2 The Information Technology Act, 2000 and Intermediary Liability

Online infringement frequently involves internet service providers, hosting companies, social-media services and other intermediaries. The Information Technology Act, 2000 therefore forms an important second layer of the legal framework.

Section 79 provides conditional safe-harbour protection to intermediaries for third-party information, subject to statutory conditions and due-diligence requirements. Among other considerations, the intermediary must not initiate the relevant transmission or select the recipient and must respond appropriately when the law requires disabling access to unlawful material. The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021 further establish grievance-handling and compliance mechanisms and prescribe obligations relating to removal of specified content.

The relationship between copyright protection and intermediary safe harbour has generated substantial litigation. Indian judicial decisions have generally distinguished between mere availability of infringing material on a platform and situations in which the intermediary receives sufficiently specific information about particular infringement and fails to respond as required. This approach attempts to prevent platforms from being subjected to an unrealistic duty to monitor every item uploaded by users while still providing copyright owners with a route to obtain removal of identified infringing material. Disputes nevertheless continue concerning the precision required in notices and the practical burden placed on rights holders.

4. Nature and Forms of Online Copyright Infringement in India

Online copyright infringement in India occurs through several channels. Film and television piracy remains a major concern, involving torrent-indexing services, unauthorised streaming

platforms, camcorded recordings and mirror or redirect domains that emerge after blocking measures. Music is distributed through unlicensed aggregators and file-sharing systems even though legitimate streaming services have expanded considerably.

Publishing and academic works are also vulnerable. Textbooks, articles, e-books and other learning materials may be digitised and circulated through unauthorised repositories, messaging groups and so-called shadow libraries. Software and video games continue to be distributed through cracked versions, illicit installers and tools designed to bypass licensing controls.

Social-media and short-video services create another route for unauthorised reproduction. Users may upload music, film extracts or broadcast footage without permission, sometimes generating advertising revenue from the material. A newer controversy concerns generative AI: copyright owners have questioned whether protected text, images and news material may lawfully be ingested for training large-scale AI systems. Litigation concerning such issues before the Delhi High Court demonstrates that existing statutory concepts may require careful interpretation, and possibly legislative clarification, when applied to machine-learning processes.

5. Judicial Response and the Evolution of Enforcement Tools

Indian courts, particularly the Delhi High Court, have played a significant role in adapting copyright remedies to online infringement. Courts have relied not only on the express provisions of copyright legislation but also, where appropriate, on procedural and inherent powers under the Code of Civil Procedure, 1908. This judicial development has produced increasingly flexible responses to anonymous infringers and rapidly changing piracy domains.

5.1 Intermediary Liability: The MySpace Litigation

The dispute in Super Cassettes Industries Ltd. v. MySpace Inc. is important to the development of intermediary liability in India. At the initial stage, the Delhi High Court considered whether MySpace could rely upon Section 79 safe harbour when infringing sound recordings belonging to Super Cassettes were available through its user-generated-content service.

The appellate Division Bench adopted a more restrained approach. It recognised that an intermediary cannot reasonably be expected to examine every file uploaded by users and emphasised the importance of actual and specific knowledge. A notice should identify the particular infringing material or URL rather than merely referring generally to an entire catalogue. When this decision is considered alongside the Supreme Court's ruling in Shreya Singhal v. Union of India, it contributes

to the principle that intermediary obligations cannot ordinarily be triggered simply by the possibility that unlawful content exists somewhere on a platform. At the same time, once specific infringement is properly brought to the intermediary's attention, failure to respond may affect the availability of safe harbour.

5.2 John Doe Orders and Website Blocking

Piracy websites are often operated anonymously or from outside India, making it difficult for rights holders to identify and sue the actual defendants. To address this problem, Indian courts have used John Doe, also known as Ashok Kumar, orders against unknown defendants. Such orders may direct relevant domestic intermediaries and governmental authorities to restrict access to identified infringing websites.

Judicial approaches have not always been identical. In Eros International v. Bharat Sanchar Nigam Ltd., the Bombay High Court favoured caution and stressed the identification of specific infringing URLs, thereby reducing the possibility that lawful material on the same domain would be unnecessarily blocked. In contrast, the Delhi High Court's approach in the Department of Electronics and Information Technology v. Star India litigation permitted broader website blocking where the evidence demonstrated that the website was substantially or flagrantly devoted to infringement. The difference illustrates the continuing balance between effective enforcement and protection against excessive restrictions on legitimate online content.

5.3 Dynamic and Dynamic-Plus Injunctions

A major development occurred in UTV Software Communication Ltd. v. 1337X.to in 2019. The Delhi High Court confronted a recurring practical problem: after a piracy domain was blocked, the operators could quickly create mirror sites, redirect domains or slightly altered web addresses carrying substantially the same unlawful material.

The Court developed the concept of a dynamic injunction. Once a rogue website had been identified and restrained, the injunction could, through a streamlined process, be extended to newly detected mirror or redirect versions without requiring the rights holder to commence an entirely new proceeding each time. The judgment also identified indicators relevant to determining whether a website should be treated as a rogue site, including anonymous ownership, a predominant purpose of infringement, a history of repeated violations, disregard of takedown communications and the use of domain variations to defeat earlier blocking measures.

The approach was subsequently extended through the idea of a dynamic-plus injunction. In Universal City Studios LLC v. Dotmovies Baby (2023), the Delhi High Court recognised protection that could extend beyond works already in existence to future works of the same rights holder. This reflects the practical reality that piracy services may target newly released material as soon as it becomes available.

Although these remedies increase the speed and effectiveness of enforcement, they also raise concerns. A broad blocking mechanism can affect legitimate material hosted on shared infrastructure, and proceedings are often conducted without the participation of anonymous website operators. Questions therefore arise concerning proportionality, procedural safeguards and the appropriate level of scrutiny before a domain is categorised as rogue. Similar dynamic reasoning has also appeared in other areas of online wrongdoing, including trademark-related phishing disputes.

6. Challenges in the Enforcement of Online Copyright

Despite significant judicial innovation, practical enforcement remains difficult. The principal challenges concern territorial jurisdiction, rapidly changing mirror domains, intermediary compliance, limited institutional resources, the competing risks of over-blocking and under-blocking, and new technological questions raised by generative AI.

6.1 Jurisdictional and Cross-Border Limitations

Many piracy services use infrastructure located outside India, privacy-protected domain registration and operators whose identities are difficult to establish. Indian courts can direct domestic ISPs and relevant government authorities to restrict access from within India, but such orders do not automatically bind foreign hosting providers or unknown operators abroad. The original website may therefore continue operating outside India and may remain reachable to Indian users through VPNs, proxy services or other circumvention methods. Cross-border enforcement consequently requires cooperation beyond the reach of a purely domestic order.

6.2 The ‘Hydra-Headed’ Problem of Mirror Websites

Website blocking frequently produces a temporary result because infringers can reproduce the same service under another domain. The dynamic injunction framework responds to this phenomenon, but it still requires rights holders to detect new domains and act promptly. Continuous monitoring is costly and technically demanding. Large entertainment companies may be able to

maintain such programmes, whereas individual authors, small publishers and independent creators may struggle to do so.

6.3 Intermediary Compliance and the Limits of the Actual-Knowledge Standard

The actual-knowledge approach developed in the MySpace litigation protects legitimate platform activity by avoiding an unlimited proactive-monitoring obligation. However, it also places a significant identification burden on copyright owners. Where the same work appears across thousands of accounts, requiring a separate identification of every URL can be difficult in practice. As a result, large volumes of infringing material may remain online even after a platform has been informed that a particular work is being widely pirated.

6.4 Resource and Institutional Constraints

Effective online copyright enforcement depends on technical expertise, digital-forensic facilities and coordinated action by the judiciary, police cyber units, the Department of Telecommunications and MeitY. Capacity is uneven across institutions and states. Criminal proceedings also present evidentiary difficulties because Sections 63 to 65 generally require proof of the relevant mental element, which can be particularly challenging when the operator is anonymous or located overseas. Civil proceedings are more commonly used, but litigation and repeated applications can be expensive and slow. These costs affect independent creators and smaller businesses most severely.

6.5 Over-Blocking versus Under-Blocking

The contrast between URL-specific blocking and whole-site blocking reveals an unresolved policy choice. Narrow orders provide stronger protection against accidental restriction of lawful material but can be easily circumvented by moving infringing content within the same domain. Broad blocking can more effectively disrupt piracy infrastructure, yet it may also restrict legitimate content and may be imposed before the affected website operator has a meaningful opportunity to respond. Effective policy must therefore combine enforcement efficiency with proportionality and procedural fairness.

6.6 Emerging Frontiers: Generative Artificial Intelligence

Generative AI creates a new category of copyright questions. Training large models may involve processing very large quantities of text, images or other protected material. Existing copyright concepts, developed decades before machine learning became widespread, do not expressly provide a complete answer to all such activities. Litigation before the Delhi High Court concerning the use of

copyrighted news material in AI training illustrates the uncertainty. The application of the reproduction right and Section 52's fair-dealing provisions to industrial-scale machine ingestion may require judicial development and, potentially, targeted legislative clarification.

7. Effectiveness of Legal Remedies: A Critical Assessment

India's legal framework appears comprehensive in formal terms, but its practical effectiveness is mixed. Civil remedies, particularly interim and permanent injunctions, damages and accounts of profits, remain the principal instruments used by copyright owners. Dynamic and dynamic-plus injunctions have made judicial relief more responsive to the speed with which piracy domains are reproduced. Large studios, broadcasters and other well-funded rights holders can use these mechanisms to respond to successive mirror sites without starting completely new litigation for every domain.

The same system is less accessible to independent creators, small publishers and regional-language producers. Their inability to finance continuous online monitoring and repeated court applications means that the advantages of judicial innovation are not distributed equally.

Criminal sanctions are potentially strong because the Copyright Act provides for imprisonment, fines and search-and-seizure measures. Nevertheless, criminal enforcement is comparatively limited. Identifying anonymous offenders, proving knowing infringement, securing appropriate digital evidence and overcoming differences in cyber-policing capacity can all impede prosecution. Copyright offences may also receive less operational priority than other forms of cybercrime.

Administrative measures, including directions affecting ISPs and other network intermediaries, have become an important component of enforcement. They can reduce access to particular rogue domains, but concerns remain about transparency in the preparation, review and removal of blocking lists. Overall, the practical success of copyright enforcement often depends as much on the persistence and resources of the rights holder as on the formal strength of the legal remedy. Institutional and legislative reforms could help reduce this inequality.

8. Recommendations

The following measures could improve online copyright enforcement while protecting lawful access and expression:

1. State police forces should develop specialised cyber-IP units with adequate staffing, training and digital-forensic capability. High Courts may also consider dedicated or fast-track intellectual-property benches to reduce procedural delay and develop consistent expertise.

2. The principles emerging from UTV Software and Dotmovies Baby should be clarified through legislation or subordinate rules. Clear criteria for identifying rogue websites, extending dynamic injunctions and applying procedural safeguards would reduce uncertainty and excessive reliance on case-by-case discretion.

3. A carefully designed notice-and-stay-down mechanism could be considered for large platforms in relation to works repeatedly identified as infringed. Such a mechanism should be proportionate and should not undermine the actual-knowledge framework in a manner that imposes unrealistic monitoring obligations on smaller or non-commercial services.

4. India should deepen international cooperation through mutual legal assistance, coordination with foreign domain registrars and engagement with overseas hosting providers. Cross-border piracy cannot be addressed effectively through domestic blocking alone.

5. Independent creators, regional-language publishers and small music businesses should have access to affordable and rapid complaint, notice and takedown processes. The objective should be to reduce the financial barrier to obtaining protection against recurring mirror domains.

6. The Copyright Act, 1957 should be reviewed in relation to text-and-data mining and AI training. Greater clarity is required concerning whether such activities fall within existing fair-dealing exceptions or require a separate statutory approach.

7. Public awareness and legitimate market alternatives should be strengthened. Affordable and convenient licensed streaming and publishing services can reduce consumer dependence on illicit sources, while education can reinforce awareness of the economic consequences of piracy.

9. Conclusion

Online copyright infringement in India reflects the tension between an established statutory system and a digital environment that changes faster than legal and institutional processes can easily follow. The Copyright Act, 1957, together with the Information Technology Act, 2000 and intermediary rules, supplies a substantial basis for protecting creative works. Judicial decisions such as Super Cassettes Industries Ltd. v. MySpace Inc., UTV Software Communication Ltd. v. 1337X.to

and Universal City Studios LLC v. Dotmovies Baby have further adapted the enforcement framework to anonymous operators and constantly changing piracy domains.

Nevertheless, formal legal remedies do not automatically produce effective protection. Large and repeated infringements can remain difficult to suppress where operators are anonymous, infrastructure is offshore and mirror websites can be created rapidly. Civil enforcement also places a disproportionate financial burden on creators who cannot maintain continuous monitoring and litigation. At the other end of the spectrum, overly broad blocking can interfere with legitimate content and raise questions of proportionality and procedural fairness.

The future of online copyright enforcement therefore requires a balanced approach. Judicial innovation should continue, but it should be supported by clearer legislation, stronger cyber-forensic and institutional capacity, improved international cooperation and affordable enforcement mechanisms for smaller rights holders. At the same time, reforms must preserve fair dealing, lawful speech and public access to knowledge. A calibrated system that combines effective disruption of piracy with procedural safeguards will be better suited to protecting creators while allowing India's digital creative economy to grow.

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