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Digital Piracy and Copyright Infringement in India a Study of the Legislative Framework, Judicial Innovation and Enforcement Challenges

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Abstract

Digital piracy has become one of the most prevalent threats facing India's creative industry. This paper will discuss how the current laws in India regulate and punish online copyright infringement. This includes the Copyright Act 1957, Information Technology Act 2000, and Cinematograph (Amendment) Act 2023. Also, the Delhi High Court has issued dynamic and dynamic+ injunctions against rogue websites.[1] This paper will outline the intermediary liability framework following the cases of Myspace and Shreya Singhal. We'll also look at the economic and behavioural factors that contribute to piracy. Despite becoming more responsive, the enforcement is still ad hoc and judge-made. I'll wrap up by suggesting how the blocking procedure should be written into law. Additionally, further clarification around what constitutes a safe harbour should be provided. Lastly, market solutions should be made affordable.

Keywords: Digital piracy, Copyright infringement, Rogue websites, Dynamic injunction, Intermediary liability, Copyright Act 1957, Cinematograph (Amendment) Act 2023.

I. Introduction

The proliferation of digital technology allows creative works to be replicated and distributed across the world at nearly zero cost. This allows a film to be recorded in a cinema and uploaded within hours. Within that time, the film can be replicated across multiple domains and become available to the public. In India, which has one of the biggest film and streaming markets in the world, the implications of this are huge.

[1] Primary texts: the Copyright Act 1957 (India Code, text as on 15 June 2026) https://www.indiacode.nic.in/bitstream/123456789/1367/1/a195714.pdf; the Cinematograph (Amendment) Act 2023, Gazette of India Extraordinary, No. 12 of 2023 https://egazette.gov.in/WriteReadData/2023/247867.pdf.

An industry consultancy study found that India's "piracy economy" was worth a vast ₹22,400 crore in 2023.[2]

This paper will adopt a doctrinal approach to answer the following questions: (i) What statutory mechanisms exist under Indian law to combat digital piracy? (ii) How have judicial bodies developed civil and intermediary laws to deal with online infringement? (iii) What issues still persist? This paper starts by defining some terms in Part II, then outlines the legislation in Part III, and discusses case law in Part IV. Economic considerations will then be discussed in Part V. Finally, this will be critiqued in Part VI and recommendations for reform in Part VII.

II. Conceptual Framework

Under the Copyright Act 1957, piracy is not clearly defined. Piracy is more of an informal term used to describe the unauthorised reproduction, streaming, downloading and distribution of protected works on a commercial or large scale. Digital piracy can be seen in various ways. This covers things like camcording films in cinemas, P2P sharing, streaming and download sites that host or index infringing content, unlicensed apps and IPTV, and getting around the copy protection on content you're supposed to pay for. Depending on which right is being infringed by the pirate material, different laws will apply. If a film is made available online, then the public communication right has been breached. The definition of this right was amended in 2012 to reflect the digital world. If the pirate is breaching a paywall or encryption, the anti-circumvention provisions will apply. Due to the large number of people involved in the uploading, running of the site, hosting, domain registration and internet service providers (ISPs), Indian courts have had to develop remedies to target these intermediaries.

III. The Statutory Framework

A. The Copyright Act 1957

The Act provides both civil and criminal remedies. For instance, infringement is defined under section 51 of the Act, and civil remedies can be found in section 55.[3] However, knowingly infringing or abetting infringement is a criminal offence, and thus subject to imprisonment along with a fine (section 63). To bring the statute up to date in the internet age, the Copyright (Amendment) Act 2012 was passed. This introduced new sections into the Act: 65A and 65B. Both of these sections impose penalties for defeating effective technological measures (65A) and tampering with rights management information (65B). Circumventing with the intent to infringe rights can result in up to two years' imprisonment (section 65A). These amendments have been designed to bring Indian law into line with the WIPO Copyright Treaty (WCT) and WIPO Performances and Phonograms Treaty (WPPT). India officially became a party to both treaties in 2018.[4]

There are issues with the provisions made in 2012. The Act does not define the terms 'technological measure', 'effective' or 'circumvent'. This causes confusion for rights holders and users of the work. It is also unclear if a simple password or region lock would be classed as an 'effective' measure.

[2] EY and IAMAI, *The Rob Report* (2024), as reported by DT Next (23 October 2024), puts the 2023 piracy economy at Rs 22,400 crore: https://www.dtnext.in/news/business/indian-entertainment-industry-lost-rs-22400-cr-to-piracy-in-2023-ey-iamai-report-808558#:~:text=lost%20Rs%2022%2C400%20cr.

[3] The Arrangement of Sections lists sections 51, 55, 63, 65A and 65B: https://www.indiacode.nic.in/bitstream/123456789/1367/1/a195714.pdf#page=5. Chapter XIII (Offences) is also reproduced by the Copyright Office: https://copyright.gov.in/Copyright_Act_1957/chapter_xiii.html.

[4] WIPO Lex records India's WPPT accession as deposited on 25 September 2018 and in force from 25 December 2018: https://www.wipo.int/wipolex/en/treaties/parties/remarks/IN/20. The WCT entry date of 25 December 2018 appears in WIPO Notification No. 108: https://dokumendiregistrid.karlerss.com/dokumendid/17837/notification. The Union Cabinet approved accession on 4 July 2018 (S.S. Rana & Co., 20 July 2018): https://ssrana.in/articles/india-cabinet-approves-accession-to-wipo-copyright-treaty-1996-and-wipo-performance-and-phonograms-treaty-1996/.

B. The Information Technology Act 2000

The IT Act does not constitute an independent copyright offence; however, it sets out when online platforms may be held liable for third-party infringement. Section 79 provides a conditional safe harbour provision and section 69A allows the government to issue a direction requiring online content to be blocked. In Shreya Singhal v Union of India, the Supreme Court decided that section 79(3)(b) had been read down to mean that actual knowledge only comes through a court order or a government direction. Section 69A was also reaffirmed as valid.[5] As such, the safe harbour provision is key in any enforcement strategy.

C. The Cinematograph (Amendment) Act 2023

The Cinematograph (Amendment) Act 2023 received assent on 4 August 2023 and came into force on 11 August 2023, and it adds section 6AA, which makes it illegal to record a film without the consent of the person who holds the licence for the premises where it's being shown. It also creates section 6AB, which makes it illegal to show a pirated copy of the film to members of the public with the aim of making a profit, or to help someone else do this.[6] You could face up to 3 years in prison and a fine of up to 5% of the film's audited production costs (section 7(1A))[7] if you break section 6AA or 6AB. If someone has suffered due to the provisions, they can seek redress under section 51 of the Copyright Act and relevant sections of the IT Act (section 7(1B)). This change tackles the first step in piracy by banning recording using a camcorder (usually where movies will be leaked). The commencement date was fixed by notification under section 1(2) of the Act.

IV. Judicial Responses to Digital Piracy

A. Rogue websites and the dynamic injunction

The most original contribution of Indian jurisprudence to anti-piracy measures can be seen in UTV Software Communication Ltd v 1337X.to [2019].[8] The Court issued a perpetual injunction through the decision of Manmohan J. This stated that any website which has been found to primarily facilitate infringement can be blocked. Using a precedent from Singapore, the Court implemented a 'dynamic injunction'. Once a website has been identified as being a blatant infringement, a defendant can be granted an injunction covering the mirror, redirect and alphanumeric versions. This is done by the plaintiff simply notifying the Court's registry, rather than having to bring a new claim in relation to the clones. The judgment also outlined various examples of when a website would be considered a rogue website and

[5] *Shreya Singhal v Union of India* (2015) 5 SCC 1: section 79(3)(b) is read down so that actual knowledge arises from a court order or government notification, and section 69A is upheld. Official judgment: https://digiscr.sci.gov.in/admin/judgement_file/judgement_pdf/2015/volume%205/Part%20I/Shreya%20Singhal%20_%20Union%20Of%20India_17011664 69.pdf. LiveLaw summary (24 March 2015): https://www.livelaw.in/summary-of-the-judgment-in-shreya-singhal-vs-union-of-india-read-the-judgment.

[6] Act 12 of 2023 received presidential assent on 4 August 2023, and section 1(2) leaves commencement to a notification: https://egazette.gov.in/WriteReadData/2023/247867.pdf. Sections 6AA and 6AB and the new section 7(1A)–(1B) appear on page 3 of the Gazette text: https://egazette.gov.in/WriteReadData/2023/247867.pdf#page=3. Commencement was fixed by S.O. 3587(E), dated 10 August 2023, with effect from 11 August 2023: https://egazette.gov.in/WriteReadData/2023/248022.pdf.

[7] S.S. Rana & Co. summarises the section 7(1A) penalty range of three months to three years, with fines from three lakh rupees up to five per cent of audited production costs: https://ssrana.in/articles/government-tightens-noose-cinematograph-amendment-bill-2023/. Khurana & Khurana explains the section 7(1B) civil route: https://www.mondaq.com/india/broadcasting-film-tv-radio/1362264/everything-about-the-cinematograph-amendment-bill-2023.

[8] *UTV Software Communication Ltd v 1337X.to*, CS(COMM) 724/2017 (Del HC, 10 April 2019, Manmohan J). SCC Online reports a decree of permanent injunction against rogue websites: https://www.scconline.com/blog/post/2019/05/06/del-hc-rogue-websites-ordered-to-be-blocked-dynamic-injunction-issued-against-hydra-headed-websites-for-curbing-piracy/#:~:text=passed%20a%20decree%20of%20permanent%20injunction. SFLC.in gives the case number and date: https://sflc.in/policies-and-cases/utv-software-communication-ltd-ors-v-1337x-to-ors-dynamic-injunctions-for-website-blocking-case. SpicyIP describes the Singapore precedent behind the dynamic injunction: https://spicyip.com/2019/04/breaking-delhi-high-court-issues-indias-first-dynamic-website-blocking-injunction-for-copyright-infringement.html. Columbia's case note records a mixed outcome: https://globalfreedomofexpression.columbia.edu/cases/utv-software-communications-ltd-v-1337x-to/.

discussed the issue of proportionality. The outcome was viewed by commentators to be somewhat ambiguous in relation to free speech.

This was widened in Universal City Studios LLC v Dotmovies.baby [2023].[9] Pratibha M Singh J granted a dynamic+ injunction. This protected not only current titles of the plaintiffs but also future works. This acknowledged that new content can be made available on pirate sites as soon as it is released. Sixteen websites, including their mirrors and variants, were prohibited and the ISPs and Registrars were required to comply with this. In November 2023, the Court followed this format to block forty-five rogue websites.[10] It was notified by the plaintiffs that the domain registrars were blocking the domains and users were moving to legal sites. This remedy has now been used to protect individual productions. For example, in Applause Entertainment, the Court granted a summary judgment along with a dynamic injunction.[11]

This area of law is still developing. There are differing views from different judges on how broad a dynamic injunction should be. In 2026, the Court granted a dynamic injunction in Home Box-Office Inc v Streamzy.to.[12] However, they concluded that it is ultimately up to the Court to decide if a newly discovered website is a rogue one. This highlights efforts to ensure that while blocking injunctions are efficient, there is still judicial control.

B. Intermediary liability

Where there is user uploaded content, the main case in this area is Myspace Inc v Super Cassettes Industries Ltd (2016).[13] This was decided by a Division Bench that overturned the judgment of a single judge. They stated that sections 79 and 81 of the IT Act and 51(a)(ii) of the Copyright Act had to be interpreted together. They also said that there needs to be actual knowledge of specific infringements to make them liable. This meant that platforms are not under an obligation to pre-review content from their users; however, they do have to take action when given specific notification of infringement. This case is the first clear application of section 79 of the IT Act. Along with the Shreya Singhal case, it highlights the policy conflict between having a strong safe harbour that protects online expression and innovation and the fact that this can cause delays in removing infringing content.

V. Economic and Behavioural Dimensions

This industry-commissioned study estimates that out of the total 22,400 crore piracy ecosystem in 2023, 13,700 cr came from cinematic piracy and 8,700 cr from OTT piracy. Overall losses could be as high as 4,300 cr in GST. Further, it was found that 51% of media consumers in India use pirated content. Streaming sites were the main source of piracy (63%). Piracy is higher in Tier II cities as opposed to Tier

[9] *Universal City Studios LLC v Dotmovies.baby*, CS(COMM) 514/2023 (Del HC, 9 August 2023, Prathiba M Singh J). The first page of the order gives the decision date and bench: https://copyrightalliance.org/wp-content/uploads/2023/09/High-Court-of-Delhi-Order.pdf#page=1. AZB & Partners records the 16 defendant websites and the dynamic+ relief for future works: https://www.azbpartners.com/?p=55206.

[10] *Universal City Studios LLC v Fztvseries.Mobi*, CS(COMM) 833/2023 (Del HC, decided 21 November 2023). LiveLaw reports a dynamic+ injunction against 45 rogue websites, published 27 November 2023: https://livelaw.in/high-court/delhi-high-court/delhi-high-court-restrains-rogue-websites-disseminating-universal-netflix-copyrighted-content-243088. The order itself is on the DoT website: https://dot.gov.in/sites/default/files/19%20%20833%20of%202023.pdf?download=1.

[11] *Applause Entertainment Pvt Ltd v www.9xmovies.com.tw* (Del HC, 19 March 2025): summary judgment and a permanent injunction for the third season of *Undekhi*: https://www.maheshwariandco.com/press-releases/applause-entertainment-copyright-case-win-in-hc/. The judgment is reported as 2025 Latest Caselaw 2864 Del: https://lawlens.in/doc/af0f5729-0d10-5b43-b08f-8a249a251c1d.

[12] *Home Box Office Inc v Streamzy.to*, CS(COMM) 740/2026 (Del HC, judgment of 27 July 2026, Bhambhani J; 2026:DHC:5967). The order is ad-interim: https://www.verdictum.in/delhi-high-court/home-box-office-inc-v-streamzyto-2026dhc5967-30-piracy-websites-streaming-hbo-content-1618663. The court held that intermediaries may verify mirror sites technically but cannot decide rogue status: https://ssrana.in/articles/the-moving-target-how-indian-courts-built-the-dynamic-injunction-to-fight-digital-and-broadcast-piracy/. Later commentary (18 September 2026): https://ssrana.in/articles/the-delhi-high-courts-new-anti-piracy-balance-dynamic-injunctions-against-rogue-streaming-sites-and-chasing-pirates-that-keep-changing-masks/.

[13] *MySpace Inc v Super Cassettes Industries Ltd*, FAO(OS) 540/2011 (Del HC, DB, pronounced 23 December 2016). Division Bench judgment: https://delhihighcourt.nic.in/app/case_number_pdf/2016:DHC:8178-DB/SRB23122016FAOOS5402011.pdf. SCC Online summarises the harmonious reading of sections 79 and 81 of the IT Act with section 51(a)(ii): https://www.scconline.com/blog/post/2017/01/21/sections-79-81-of-it-act-and-section-51-of-copyright-act-have-to-be-harmoniously-construed/.

I cities. India ranks first globally in online video piracy with around 90.3 million users.[14] The top reasons cited for piracy are multi-subscription management, lack of availability of desired content and high subscription costs. Around 70% of people who consume pirated content do not want to pay for subscriptions on the OTT platforms.[15]

This highlights an important policy concern. Simply implementing enforcement will only address the supply side. This does not take into account the cost incurred by rights holders to purchase protection technology. Platforms are paying anywhere between 30 Lakh to 5 Crore based on the volume of content they have. As this is based on surveys and modelling techniques, these numbers are not exact.[16]

VI. Critical Analysis

Firstly, the law is not proactive, having been created by judges. The dynamic injunction is innovative; however, it is created via the intrinsic powers of the High Court, and so lacks consistency due to a lack of statutory procedures. Rights holders are also put under the onus to continually monitor. Secondly, the blocking orders do cause issues around proportionality. There can be over-blocking if the whole site is blocked as opposed to just the infringing material. This was compounded by the issue of the determination of whether a new mirror was actually infringing. This has only been dealt with on a case-by-case basis. Thirdly, there is an issue around safe harbour. The knowledge criteria created through orders from the courts (Shreya Singhal) do not fit well within copyright cases where rights holders will want fast removals. The knowledge criteria can also be satisfied by targeted notice in copyright cases as acknowledged by Myspace.[17] Fourthly, the anti-circumvention measure is very specifically worded and lacks definitions. This makes it difficult to apply to modern streaming piracy. It also gives little guidance on legitimate uses. Finally, the cinematograph amendments (2023) have dealt with camcording; however, have not considered the wider implications of streaming applications. Their enforcement also depends on the capabilities of the police, now that the provisions are in force.[18]

VII. Recommendations

Based on the above analysis, there are five areas for reform. First, blocking orders should be codified. Parliament should legislate to provide a statutory regime relating to website blocking orders, giving clear rules regarding notification requirements, evidential requirements, review procedures, limited duration and appeal procedures. Second, the safe harbour should be clarified. There should be clear statutory or official guidance on what counts as actual knowledge under s79 of the IT Act, and on how that relates to s51 of the Copyright Act. Third, more specific definitions for "technological measure" and "effective" should be provided. Exceptions should also be created for accessibility, research and fair dealing. Fourth,

[14] The Media Partners Asia analysis, quoted in the EY-IAMAI study, ranks India first with over 90.3 million users: https://www.wionews.com/entertainment/bollywood/scam-worth-rs-22-400-crore-killing-bollywood-piracy-hurting-business-of-hindi-films-1747881065974/amp. A later joint study by Media Partners Asia, IP House and CII (May 2025) estimates about 90 million users accessed pirated video in 2024, with losses of about US$1.2 billion: https://piracymonitor.org/mpa-report-online-video-piracy-cost-india-us1-2-billion-in-2024-alone-a-call-for-action/.

[15] BestMediaInfo reports the 51% and 63% figures from the EY-IAMAI report (October 2024): https://bestmediainfo.com/mediainfo/mediainfo-digital/51-of-indian-media-consumers-access-pirated-content-streaming-services-lead-at-63-report-7350936. BizzBuzz reports that around 70% of pirated-content consumers did not wish to buy OTT subscriptions (24 October 2024): https://bizzbuzz.news/entertainment/piracy-costs-entertainment-industry-rs-22400-cr-1340171#:~:text=Around%2070%25%20of%20pirated.

[16] exchange4media reports that OTT platforms often spend Rs 30 lakh to Rs 5 crore on content security, depending on their content slate: https://www.exchange4media.com/digital-news/price-of-piracy-ott-platforms-bleed-up-to-25-per-cent-revenue-140897.html#:~:text=Rs%2030%20lakh%20to%20Rs%205%20crore. This is a trade-press account of cost estimates, not an audited figure.

[17] IIPA's 2019 Special 301 report (p. 38, "Clarification of the Safe Harbor Provisions") argues that safe harbours should cover only technical, automatic and passive services: https://www.iipa.org/files/uploads/2019/02/2019SPEC301INDIA.pdf#page=38. The Myspace position is discussed above.

[18] Under S.O. 3587(E), the amended provisions have been in force since 11 August 2023: https://egazette.gov.in/WriteReadData/2023/248022.pdf. The critique above therefore concerns enforcement practice rather than pending commencement.

the demand for content is driven by affordability and fragmentation. The industry should consider offering packages, flexible access periods and availability in regional languages. Finally, specialist policing and prosecution units should be developed along with collaboration between industry and government to ensure the criminal provisions can work in practice.

VIII. Conclusion

India has evolved its approach to combat digital piracy. It has now created a multi-faceted approach with various statutory offences, intermediary liability provisions and inventive judicial remedies. The Delhi High Court has implemented dynamic injunctions demonstrating the ability for equitable remedies to be applied when dealing with fast-paced piracy online. The Cinematograph (Amendment) Act 2023 demonstrates a legislative willingness to tackle the root cause of piracy. However, the framework still lacks coherence within the current framework. To make a sustainable way to tackle piracy, we need clear legal rules for blocking that include proportionality protections, a consistent standard for intermediary liability, and market strategies that encourage users to get licences instead. Otherwise, enforcement will continue to be an uphill struggle with pirates constantly updating their domain names.

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