
LENS, SCREEN, AND COPYRIGHT: A GLOBAL PERSPECTIVE ON PROTECTION OF CINEMATOGRAPHIC FILMS

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ABSTRACT

The global film industry is one of the rampantly rising industries, representing a conjecture of art, creativity, commerce and technology. In the global era of digitalisation and growing commerce, it is imperative to ensure the protection of the cinematographic films and works under the scope of Intellectual property law. This paper undertakes an analytical and comparative examination of Copyright protection in cinematographic films from a global perspective, illustrating the underlying challenges posed by non-uniformity of national laws, jurisdictional differences, implementation gaps, and pressing threats due to online streaming, piracy and cross-border dissemination.

The existing international framework provides for the minimum standards for the grant of Copyright protection vis-a-vis cinematographic films. Nevertheless, the national legal and regulatory frameworks and enforcement regimes giving effect to these norms vary significantly across jurisdiction. Such non-uniformity give rise to ambiguity and gaps that undermine the rights of film creators, producers and various stakeholders. This paper attempts to comparatively analyse the protection scheme existing across multiple jurisdictions such as India, the United States, Greece and Indonesia, thus closely identifying not only the overlapping aspects but also the major inconsistencies among them. The research further explores how emerging distribution models, especially digital streaming platforms, challenges the traditional copyright framework.

Employing a doctrinal and comparative legal methodology, this research emphasises the pressing need for harmonization of copyright laws and stronger international cooperation for cross-border implementation. The paper concludes by proposing recommendation including model of best practices that incorporates international standards to develop an effective global cinematic ecosystem.

Keywords: Copyright law, Film Industry, Cinematographic works and films, Jurisdiction, Digital streaming, International Treaties, piracy, Authorship, originality.

INTRODUCTION

The Cinematography film industry forms a major part of the much larger media and entertainment industry, working as a powerhouse of art, creativity, technology, and commerce. The global industry comprises of multiple value channels - content generation, production, steaming and distribution platforms – and various stakeholders such as Producers, Directors, Actors. Music Composers, Lyricists. The content produced such as feature films are distributed and enjoyed not only in domestic boundaries but cross-border as well. Cinematography films squarely fall within the scope of audiovisual works, qualifying for copyright protection if certain requirements are met.¹ Copyright is a subset of Intellectual property Right that aims to protect literary, artistic, cinematography, musical work by exclusively granting economic and moral rights to the creators. The balance is sought between safeguarding the author's creativity, incentivisation innovation and public welfare.

Films are distinct form other literary and artistic works, as it is a multilayered creation process involving multiple value-added creation at each progressive level. It represents an output of cumulative efforts of various individuals such as screenwriters, producers, actors, directors, stuntmen, etc. Thus, in this context, the copyright protection in cinematography films becomes necessary to determine the rights of various individuals and to protect their interest.

Cinematography films share huge popularity among the masses and are the major contributor in the nations' economic revenues. According to a recent analysis by *WIPO and Omdia*, global film production reached an all-time high in 2023, with 9,511 films produced, a 68 % increase over the pandemic low in 2020 and a slight rise over the previous peak in 2019, leading to the projected rise in the Global box office revenue to surpass USD 34 billion. The surge is noticeable in emerging markets such as India which firmly retains its position as the world's leading film producer, with over 2,500 movies produced.² The current scenario, underscores the pressing question as to how effectively the creators, producers and various stakeholders involved in cinematographic works are protected in an evolving global and digital environment.

¹ Sotiris Petridis, Comparative Issues on Copyright Protection for Films in the US and Greece, 19 Journal of Intellectual Property Rights, 282-292 (2014).

² WIPO, <https://www.wipo.int/en/web/global-innovation-index/w/blogs/2025/global-film-production> (last visited Oct. 23,2025)

INCONSISTENCIES ACROSS THE JURISDICTION

International framework such as *Berne Convention*, *TRIPS Agreement* lays the guiding setup of minimum practices, but the national legislation differs on certain aspects. The core essence remains the same i.e. protection of interests of creators. The concept of Copyright is stemmed in the principle of territoriality, giving rise to the major inconsistencies across jurisdiction. The absence of a unified international instrument and non-uniformity of domestic frameworks gives rise to differences but also have certain overlapping aspects.

Cinematograph film means the aggregate of visual images recorded in any medium that is capable of being displayed as moving pictures, along with the accompanying synchronised audio embedded in its soundtrack. The nation states share the same definition in essence for instance, India under *Section 2(f) of the Copyright Act 1957*, Australia under *section 10 of Copyright Right Act, 1968*, and U.S.A under *section 101 of Title 17 of the United States Code*. The ambit of Cinematograph films includes feature films, documentaries, short films, cartoons, television commercials, and some nations even consider multimedia products such as computer games within it.³

However, the duration for the copyright protection of cinematography films varies significantly. For instance, the duration of Copyright protection of cinematography film in India is 60 years from the beginning of the calendar year next following the year of publication⁴ whereas for Australia the limit is 70 years from the end of the year the film was first made public in case of published work and if the work not made public within 50 years of creation, then the duration is for 70 years from the creation.⁵

Moreover, the determination of authorship varies according to the national frameworks, leading to the inconsistency. In Indian context, the authorship in cinematography film is vested in Producer.⁶ Countries like Japan took a broader approach, attributing authorship of a cinematographic work to the individual who makes a creative contribution to its overall realization—such as through production, direction, or art direction—excluding authors of scripts, music or adapted works.⁷

³ University of Melbourne, <https://copyright.unimelb.edu.au/shared/types-of-copyright-material/films-and-television-broadcasts> (last visited Oct. 23, 2025)

⁴ The Copyright Act, 1957, § 26, No. 14, Acts of Parliament, 1957 (India).

⁵ Copyright Act, 1968, § 93-94, No. 63, Acts of Parliament, 1968 (Australia).

⁶ The Copyright Act, 1957, § 2(d) (v), No. 14, Acts of Parliament, 1957 (India).

⁷ The Copyright Act, art. 16, Act No. 48 of 1970 (Japan).

The concept of originality is a deciding factor in the grant of copyright, setting a threshold that varies in different legal systems. The subsequent work must meet certain standard of originality to be eligible for the copyright protection, as propounded by the Judiciary through various test in this regard. Same principle applies to the cinematography films. The test of *Sweat of the Brow* was introduced in UK through the *University London Press v. University Tutorial Press*⁸ which marked the threshold quite low – merely conferred if time, labour, energy and skill were expended. Whereas, the U.S. courts rely on the *Modicum of Creativity Test*, developed through *Feist Publications Inc. v. Rural Telephone Service Co.*⁹ necessitating the requirement of certain intellectual effort and degree of creativity to qualify as copyrightable work. In India, *R.G. Anand v. Deluxe films*¹⁰ laid the foundation by including originality as one of the deciding factors under 7-pronged test. Later, *Eastern Book Company v. D.B. Modak*¹¹ further refined the originality concept. The courts have adopted a balanced approach through *Skill and Judgement Test*, by deciding originality based on the application of author's skill and judgement in the creation of the work and also, having a certain amount of creative element.

Therefore, the present network of domestic legislations does share certain aspects, respecting their international commitments but there exist inconsistencies that might result in issues for the creators while pursuing Copyright application in multiple jurisdictions. Moreover, due to the increasing magnitude of production and greater access to digital platforms, the cinematography films are transcending the domestic territories, capitalising on cross-border opportunities- yet at the same time, it possesses the greater risk of infringement, unauthorized distribution, and digital piracy, hence raising complex questions of authorship, rights allocation, territorial licensing, and enforcement in a networked world.

INTERNATION FRAMEWORK FOR COPYRIGHT

The protection of copyrightable work inclusive of cinematography films are grounded in the set of international instruments. These conventions and treaties laid down the basic provisions and minimum standards to be observed by the member states for the protection of literary, artistic, cinematography and sound recordings. The aim of these instruments is to recognise, regulate and safeguard the interests of the creators across jurisdictions. Some of the key international Copyright protection instruments are:

⁸ University of London Press, Ltd. v. University Tutorial Press, Ltd., (1916) 2 Ch. 601 (U.K.).

⁹ Feist Publications, Inc. v. Rural Telephone Service Co., 499 U.S. 340 (1991).

¹⁰ R.G. Anand v. M/S. Deluxe Films & Ors, AIR 1978 SC 1613.

¹¹ Eastern Book Company v. D.B. Modak, 2008 (36) PTC 1 (SC)

- **The Berne Convention for the Protection of Literary and Artistic Works, 1886:** is one of the oldest and most comprehensive international agreements, adopted by 181 countries as of July 2024. The Convention set the standard for the protection of the creator's interest internationally by incorporating 3 principles: national treatment, automatic protection and independent protection in contracting state independent of the protection in the state of origin of the work. *Article 2* of the convention includes cinematographic work under the ambit of "*Literary and artistic works*" and *art 14* and *14bis* deals with related rights and special provisions respectively.
- **Universal Copyright Convention, 1952:** administered by UNESCO, viewed as an alternative agreement to Berne convention. *Article 1* extends the protection to cinematographic works. The convention provides for the formalities to be complied and set the duration to not be less than the life of the author and twenty-five years after his death.
- **Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement):** one of the comprehensive international instruments regarding intellectual property rights. administered by the World Trade Organization (WTO). TRIPS set out minimum standards for IPR, including copyright, that member countries of WTO must adhere to. The agreement mandates that copyright protection must be granted to original literary and artistic works, including films, and specifies the exclusive rights granted to copyright holders such as right to reproduction, distribution, public performance and derivative works.
- **WIPO Copyright Treaty, 1996:** a special arrangement within the meaning of *article 20* of the Berne Convention, thus providing extensive rights to contracting states.

It is pertinent to note that the international instruments laid out a detailed framework for the copyright protection, allowing each member states certain degree of flexibility to translates the provisions in the national laws and implement accordingly.

COMPARATIVE OVERVIEW

I. USA

The copyright in USA jurisdiction is primarily governed by the *Copyright law*, voted by the Congress in 1976. The motion pictures were covered the definition of audiovisual work through

the Townsend Amendment of 1912, under the *section 101 of United States Codes*. The duration of copyright protection extends for the lifetime of the author plus 70 years. However, in case of corporate authorship, such duration extends to subsist in works for 95 years from the date of first publication or 120 years from creation, whichever expires earlier.¹²

In case of authorship, it subsists in the person who creates the work- fixated the expression into tangible form. However, in case of "work made for hire", the employer is considered the legal author and owner. Hence, mostly the producers and studios own the copyright in cinematography films. The US jurisdiction focus on protecting the rights of the studios rather than the individual artists. In cases co-producers involved in jointly creating a motion film, copyright is proportional shared according their respective contributions.

The idea/expression dichotomy in US copyright law is complex and decide case by case, balancing protection for originality against the common pool of ideas. In *Cain v. Universal Pictures*¹³, the scenes-à-faire doctrine was introduced which states that standard elements of a genre (like certain scenes, emotions, or plot progressions) are not copyrightable in nature. The modicum of creativity is the standard test to check the originality of the work.

The United States recognised the moral rights for authors- right to attribution (authorship) and integrity (prevent for distortion)- in a limited extent, unlikely many other jurisdictions closely following European or Berne Convention. The United States have fulfilled its commitment of berne convention by introducing moral rights through *Visual Artists Rights Act (VARA) of 1990*.¹⁴ However, such protection is granted only to authors of visual artworks, such as paintings, drawings, and photographs produced in limited editions. Such provisions failed to protect the cinematography works contrary to European Nations. The limited protection for reputational and attribution-related interests in the cinematography films may be found indirectly under contract law, defamation law, or unfair competition law.

Greece

The copyright law in Greece is grounded in the civil law tradition and has evolved leading to the current legislation of the *Greek Copyright Act (Law 2121/1993)*. The present act was introduced during the period of European legal harmonization, aligning Greece with broader EU copyright standards. Earlier, the copyright protection was granted by the provisions of the

¹² 17 U.S.C. § 302.

¹³ *Cain v. Universal Pictures Co.*, 47 F. Supp. 1013 (S.D. Cal. 1942)

¹⁴ 17 U.S.C. §106A.

Penal Code of 1834. The *Greek constitution* provides for the protection of individual right and further, *art 17* extends to the include intellectual property under the ambit of property.

The current legislation enumerates a non-exhaustive list of protectable works, allowing a flexible approach to emerging creative forms arising from technological developments. The films are recognised as the protectable subject matter under audiovisual works, within *Article 2(1)*. Further, the act makes only the expression even in oral text form, to be copyrightable and requires no formalities for protection (*Article 6(2)*), distinguishing it from jurisdiction such as U.S. Moreover, the originality is assessed by checking whether the work bears the personal imprint of its creator — that is, whether another person, under similar conditions, could have produced an identical result. This test reflects the civil law notion of originality that relates to the expression of the author's individuality rather than a threshold of creativity or effort.

The author of the work is always the natural person who creates the work and joint authorship exist comprising individuals – such as directors, screenwriters- as the co-authors. These individual authors not only enjoy moral rights but also the economic rights. The director is legally recognized as the author and primary copyright holder¹⁵, facilitating economic transactions such as licensing. The producer only gets limited economic right for necessary exploitation to earn profit for a duration of 50 years from its fixation or first publication. Hence, the moral rights have high regard in the Greece jurisdiction and more emphasis is given to the individual protection.¹⁶

India

Under the Indian regime, *Section 13(1)(b) of the Copyright Act, 1957* extends the copyright protection to the cinematograph films (*defined u/s 2(f)*). *Section 14(d)(i)-(iii)* grants exclusive rights of the film's copyright owner include: to make copy, sell or give on commercial rental, communication, etc. The Act recognises that copyright in a cinematograph film does not affect the separate copyright in any underlying work (literary, dramatic, musical) in respect of which—or a substantial part of which—the film is made. The copyright in cinematograph films

¹⁵ Law No. 2121/1993 on Copyright, Related Rights and Cultural Matters, art. 9, Government Gazette A' 25, (1993).

¹⁶ Law No. 2121/1993 on Copyright, Related Rights and Cultural Matters, art. 52 (d), Government Gazette A' 25, (1993).

subsists until sixty years from the beginning of the calendar year next following the year in which the film is published.¹⁷

According to *section 2(d)(v)*, the author in relation to a cinematograph film or sound recording is the producer, the one who arranged for the creation of the work. The author has right to paternity and integrity.¹⁸ Moreover, *section 17* confers that in the case of cinematography films, the author is the first owner of the copyright, unless the person at whose instance the work is made in lieu of valuable consideration became the first owner in absence of an agreement to the contrary.

Indian jurisprudence hold that the idea, themes and plots are not copyrightable, only tangible original expressions are. This emerged clearly in *R.G. Anand v. Deluxe Films*¹⁹, where the Supreme Court held that although the play and the film shared a broad theme, the film did not infringe because it differed substantially in treatment, totality, characterisation and structure. The standard for originality as upheld by the Indian Jurisdiction is Skill and Judgement Test, as espoused in *EBC V. DB Modak*²⁰, whereby the copyright is granted to the work on the factor of author's skill and judgement in the creation of the work and also, the presence of creative element.

Indian courts have shifted from the medium-based approach to content-based approach. Earlier, the rationale behind the medium approach was that the protection under section 14(d) deals with “right to make copy of film” and thus protection was only granted to the film as a recording—i.e., the “medium” (the physical or electronic copy) rather than the underlying content. However, in the recent cases, the courts are increasingly protecting the substantive creative content of the film and not just the duplication of the film medium, by largely applying the “look and feel” test was explicitly referenced in *R.G. Anand*.

Indonesia

In Indonesia, the copyright law is governed by the *Copyright Law 2014*, including the cinematographic works are legally protected subject matter. Moreover, the *Law No. 33 of 2009 on Film*, treats film as a work of art and culture produced through cinematography.

¹⁷Copyright Act, supra note 4.

¹⁸ Id. 17, § 57.

¹⁹ Supra note 10.

²⁰ Supra note 11.

Under the copyright regime, grants the creators the exclusive economic and moral rights the Ownership rights in cinematography films vest automatically upon creation existing in tangible form and registration is not a pre-condition of protection.

Notably, the current law incorporates the modernizing the framework to address challenges arising from digital dissemination, online piracy, and streaming-based infringements of cinematographic works, aligning it with international instruments such as the WIPO Copyright Treaty (1996). For instance, the *Article 113* criminalizes intentional copyright infringement for commercial purposes, including digital piracy.

The law shifted from classifying infringement of copyright in cinematography work as “ordinary offence” to “complaint offence” status, thus requiring the rights-holder to initiate proceedings through formal complaint.²¹

DIGITALISATION AND COPYRIGHT PROTECTION OF FILMS

The swift digitization of film production, distribution, and streaming has heightened concerns regarding digital piracy and unauthorized usage within the film industry. With the extensive availability of high-speed internet and file-sharing platforms, pirated versions of films frequently appear online within hours of their release, resulting in significant financial losses for producers and jeopardizing the creative ecosystem. Unauthorized streaming, illegal downloads, and cam-recorded copies uploaded to torrent sites or messaging platforms such as Telegram have become widespread. Furthermore, the emergence of digital editing tools facilitates unauthorized modifications and distribution of copyrighted film content without permission. These issues underscore the pressing necessity for enhanced enforcement of copyright laws, digital traceability systems, and technological protections to uphold the integrity and commercial value of cinematographic works.

Under the Indian *Copyright Act of 1957*, comprehensive protection is afforded against digital piracy and unauthorized online usage. *Sections 14 and 51* forbid the unauthorized reproduction, distribution, or communication of copyrighted works via digital platforms. The 2012 Amendment, which aligns with WIPO Internet Treaties, introduced *Sections 65A and 65B*, criminalizing the circumvention of technological protection measures (such as DRM) and the alteration of electronic rights management information. Indian courts have also issued John Doe orders that allow for the dynamic blocking of piracy websites. In conjunction with

²¹ Law No. 28 of 2014 on Copyright, art. 120, State Gazette of the Republic of Indonesia No. 241 (2014)

intermediary liability under *the IT Act of 2000*, these provisions collectively provide strong legal protections against online copyright infringement in India.

In Indonesia, infringement is now classified as a complaint offense, and there are Collective Management Organizations (CMOs) established to monitor and collect royalties for digital usage (*Articles 87–92*), along with Technological Protection Measures (TPMs) designed to protect works from unauthorized reproduction or streaming (*Article 55*).

Although nations have established a strong legal framework that acknowledges and safeguards cinematographic works—including rights related to online distribution—the efficacy of this protection faces challenges in the digital age. Significant deficiencies remain in enforcement capabilities, the engagement of rights holders, and public awareness. Thus, the effective safeguarding of cinematographic works across different jurisdictions necessitates not only legal measures but also enhanced procedural systems and a shift in behaviour among involved parties.

RECOMMENDATIONS

In the light of the above developments, some of the recommendations are as follows:

- **Global Harmonization of Copyright Laws:** Nations should develop a consistent international framework or model law under the auspices of WIPO to standardize authorship, ownership, and duration criteria for cinematographic works.
- **Cross-Border Enforcement Mechanism:** Formulate an international body for enforcement coordination to foster collaboration among national authorities in addressing cross-jurisdictional piracy and online infringement issues.
- **Alignment of National Laws:** Advocate for film producing countries to revise their domestic copyright laws in alignment with WIPO Treaties to encompass streaming, digital reproduction, and “making available” rights.
- **International Best Practices Exchange:** Organize regular global forums aimed at exchanging enforcement strategies, technological innovations, and policy frameworks to close the implementation gaps between developed and developing nations.

CONCLUSION

The research highlights that although international agreements like the Berne Convention, TRIPS Agreement, and WIPO Treaties set forth baseline standards for copyright protection,

their application varies significantly across different jurisdictions. A comparative examination of India, the United States, Greece, and Indonesia demonstrate that discrepancies in defining authorship, duration, and enforcement considerably undermine the overall safeguarding of cinematographic works. In the contemporary digital landscape, the rise of online streaming services, cross-border distribution, and digital piracy has posed additional challenges to established legal frameworks, revealing significant enforcement deficiencies.

To foster creativity and protect the economic and moral interests of filmmakers and other stakeholders, it is essential to develop a globally harmonized and technology-adaptive legal framework. Nations must synchronize their domestic legislation with international digital standards, encourage cross-border collaboration, and incorporate advanced technological solutions for monitoring and enforcement. Ultimately, enhancing global cooperation and consistency in copyright regulations will guarantee that cinematographic works—representing art, culture, and innovation—receive reliable and effective protection in an increasingly interconnected digital environment.

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