COPYRIGHT AND COPYLEFT IN CORPORATE DISPUTES: COMPARATIVE JUDICIAL PERSPECTIVES AND THEIR IMPACT ON INTELLECTUAL PROPERTY GOVERNANCE

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ABSTRACT

The emergence of digital technologies and open-source ecosystems has placed conventional copyright and copyleft licensing in direct conflict inside corporate litigation globally, particularly in India's increasingly software-dependent economy. This study analyses the judicial interpretation and enforcement of proprietary copyright claims and copyleft/open source licenses in corporate conflicts related to software, digital material, and technology-driven business models. The research employs a doctrinal and comparative approach to analyse prominent Indian and international case law regarding software copyright, indirect copying, and open source compliance, in conjunction with legislative requirements and academic comments. The principal results indicate that while courts often exhibit strength in safeguarding proprietary copyright inside business environments, their treatment of copyleft licenses has transitioned from seeing them as simple contracts to acknowledging their infringement as copyright offenses with significant financial repercussions. Judicial reasoning often exhibits a conflict between the ability to create via open partnerships and corporate motivations to preserve exclusive control, especially in mergers and acquisitions, outsourcing, and embedded software products. The paper asserts that a more cohesive framework for judicial handling of copyleft in corporate litigation—particularly in elucidating the copyright–contract interface, "license contamination" risks, and remedial principles—is crucial for legal certainty and for reconciling innovation with protection in the digital economy.

Keywords: Copyright; Copyleft; Corporate Lawsuit; Open source Licenses; Software Copyright

Introduction

Background

Copyright traditionally grants the author a bundle of exclusive, negative rights to reproduce, distribute, adapt, and communicate a work to the public, enabling control and monetisation of creative outputs. In corporate settings, these rights underpin business models in software, media, data analytics, SaaS platforms, and embedded systems products, with infringement disputes routinely resulting in injunctions, damages, and even criminal sanctions under statutes such as the Indian Copyright Act, 1957. Copyleft, by contrast, is a licensing strategy that uses copyright law to ensure that a work and its derivatives remain free to use, modify, and redistribute, typically on the condition that derivative works are distributed under the same licence and with preserved freedoms. Originating in free and open source software (FOSS) movements, copyleft licences—such as the GNU General Public License (GPL)—have increasingly intersected with proprietary corporate software, leading to disputes about licence compliance, "contamination" of proprietary code, and the scope of judicial enforcement.[1]

Research Gap

Existing scholarship on copyright and copyleft largely focuses on normative theoretical debates or technical licence taxonomies (strong, weak, and permissive copyleft) rather than systematic analysis of corporate litigation outcomes. Empirically, judicial decisions enforcing software copyright in India and abroad are well documented, but case law on copyleft/open source compliance in corporate disputes is scattered and often analysed in isolation, usually from a technology or compliance practice perspective rather than as a coherent body of doctrine. There is limited work examining how courts conceptually locate copyleft licensing within copyright law—whether as a mere contract, as a conditional licence whose breach sounds in infringement, or as a hybrid with distinct remedial implications for corporate actors. Furthermore, Indian literature seldom integrates comparative lessons from foreign cases such as Jacobsen v. Katzer or GPL enforcement suits, despite their influence on global compliance strategies of multinational corporations operating in India.[2]

[1] "From Copyright to Copyleft: All Wrongs Reserved," SCC Online Blog (May 21, 2021).
[2] YNZ Group, "Key Points of Distinction: Copyright and Copyleft Conviction" (PDF).

Objectives

The objective of this paper is fourfold.[3]

• First, to conceptualise copyright and copyleft not as binary opposites but as interdependent mechanisms structurally grounded in copyright law, especially in corporate transactions involving software and digital assets.[4]

• Second, to map and critically analyse judicial treatment of copyright infringement claims and copyleft/open source licence violations in corporate litigation, with particular reference to Indian jurisprudence and influential foreign decisions.[5]

• Third, to identify doctrinal patterns and inconsistencies in how courts characterise licence terms, apply infringement standards, and fashion remedies in disputes involving proprietary and copyleft components.[6]

• Fourth, to propose a principled framework for future judicial reasoning in India that can reduce legal uncertainty, manage corporate risk, and promote innovation through both proprietary and open source models.[7]

Methods

This study adopts a predominantly doctrinal legal research design, supplemented by comparative and modest empirical observation of litigation trends. The doctrinal component involves:[8]

• Systematic analysis of statutory provisions governing copyright and computer programmes, such as the Indian Copyright Act, 1957 (with emphasis on sections defining "literary works", rights in computer programmes, and infringement), and analogous provisions in jurisdictions where key copyleft cases arose.[9]

[3] "The Copyleft Paradox: Open Source Licensing and Its …," IJCRT, Paper IJCRT25A6092
[4] Selvams, "Copyright and Copyleft" (Mar. 20, 2017).
[5] FOSSA, "Analyzing 5 Major OSS License Compliance Lawsuits."
[6] Arnold, Jacobowitz & Alvarado PLLC, "Copyright? How about Copyleft?" (Mar. 31, 2020).
[7] Various practitioner blogs on open-source risk and compliance, including component-risk and licence-interaction analyses
[8] IJRPR, "Legal Dimensions of Software Licensing in India."
[9] https://thelegalschool.in/blog/software-protection-under-copyright-law

• Close reading of judicial decisions concerning software copyright, indirect copying, and open source licence enforcement, including Indian cases on software piracy and protection of non-literal elements, and foreign disputes such as ***Jacobsen v. Katzer, Artifex v. Hancom,*** and GPL enforcement actions.[10]

The comparative component juxtaposes Indian case law with leading foreign precedents to identify convergences and divergences in judicial treatment of copyleft conditions as copyright limitations or contractual obligations. Secondary materials—law review articles, practitioner guidance, and technical literature on open source compliance—are used to contextualise case law within corporate practices in M&A, software development, and supply chain integration. The study does not conduct quantitative empirical analysis of case volumes, but qualitatively traces representative disputes to draw inferences about judicial attitudes and risk structures in corporate litigation involving copyright and copyleft.

Conceptual Foundations: Copyright and Copyleft

Computer software enjoy very strong intellectual property safeguards as literary works under the international legal systems, including the India Copyright Act, 1957, for unauthorized replication, adaptation, distribution, and utilization, prompting courts for orders, compensation, and, when violated, penal action against piracy involving monopolies like Microsoft and Adobe.

The standard for originality is low, extending from expression in the source code itself, structure, sequence, and organization (SSO), guided by global standards like Abstraction Filtration and Comparison (AFC) for ***Computer Associates v. Altai,*** and cases involving ***Whelan Associates v. Jaslow and Infopaq Intl. A/S v. Ritzlama.***

Copyleft shifts the onus of the exclusivities under the law to a usage mandate, engaging the freedoms for source code distribution, alteration, under the logic of conditional licenses, presenting a challenge through open source collaboration against the proprietary interests of corporations in a world where complete software integration is the norm.

[10] "The Copyleft Paradox: Open Source Licensing and Its …," IJCRT, Paper IJCRT25A6092

Nature and Scope of Copyright in Software and Digital Works

The Indian Copyright Act, 1957, categorizes computer programs as literary works under Section 2(o), commensurate with the Berne Convention obligations, providing a package of exclusive rights to programs, including reproduction, adaptation, making available to the public, and leasing, under Sections 14, modification, issue to the public, and leasing. This categorization is traced back to the amendment of 1994, which integrates TRIPs Article 10.1, sanctioning the protectability of software, despite its functional nature. Remedies have consistently been awarded in prima facie commercial infringement cases, such as in ***Microsoft Corporation & Others v. Chettu Asia Technologies*** (2020), where the Delhi High Court awarded Rs.30 lakh damages to Microsoft, Adobe, & Quest Software against the pirated copy usage within the IT Company for more than 200 employees, with ex-parte injunctions, Anton Piller orders for raids, criminal Sections 63 (imprisonment up to 3 years) & Section 65 (tampering). Additionally, in the case of ***Adobe Systems v. P. Bhoominathan (2009***), the court upheld the liability for unauthorized software installation, with special emphasis on the corporate's culpability, where the software is installed without economic motive.

Originality means no innovation but fundamental competence, judgment, or labour. Satisfied by claimant authorship evidence—deposition affidavits, development logs—are substantially accomplished without slavish imitation. Indian courts protect both literal (source/object code) and non-literal elements (SSO, modular design, flowcharts), applying ***R.G. Anand v. Delux Films' dissection*** *test:* segregate idea from expression, filter unprotectable scènes à faire (standard routines, efficiency-driven merges), and assess substantial similarity. This is an international development. ***Whelan Associates v. Jaslow Dental Laboratory*** (3rd Cir. 1986) marked a pivot: the protection of Dentalab's Dentcom program's overall structure—file organization, subroutines—as expression distinct from the idea (dental lab management), notwithstanding that Jaslow's Dentcom clone was literally copied in about 5% of the code; literalism was rejected; the purpose being singular, namely lab operations, its non-essential components are entitled to protection.

Recent Indian cases concern AI: ANI Media vs. OpenAI (Delhi HC 2024-25) examines copyrightable training data on copyrighted news video, finding reproduction/adaptation not fair under Section 52(1)(a) without sufficient transformation, with hearings on extraterritoriality to servers.

Remedies increase: damages (lost licenses), statutory damages (Rs 50,000-2 lakhs per work, Section 14), profits and conversion, and stiffer fines of up to 2 crore rupees for commercial works.

Moral rights (Sections 57: attribution and integrity) apply to digital apps/databases, but require "**forensic software assistance**": hex dumps and similarity metrics.

Judicial Handling of Copyright in Corporate Software Cases

Indian courts take software copyright seriously in corporate disputes. They act quickly—issuing injunctions, granting damages, and even approving Anton Piller orders to fight piracy. When companies use software illegally, courts see it as clear infringement and respond without delay. In matters like ***Microsoft v. Yogesh Papat and Adobe v. Mahindra Saxena,*** judges have gone further to protect not just the code, but also the structure and design of software. These protections cover software within internal company networks, even if it's not made public. The bottom line: follow the law, or face consequences. Courts want companies to get the message, especially as digital conflicts become more common.

Trends in Enforcement by Indian Courts

After the 1994 amendments to the Copyright Act (to comply with TRIPS), Indian law categorizes software as a literary work. Software owners have exclusive rights—they can prevent others from copying, modifying, or distributing their creations. Major companies like Microsoft and Adobe frequently seek ex parte injunctions when they catch businesses using unlicensed software. For instance, in ***Microsoft Corporation v. Yogesh Papat (Delhi HC, 2005),*** the court acted decisively, awarding Rs 19.75 lakh in damages after Microsoft proved, with affidavits and forensic hard disk checks, that pirated Windows was being installed on computers for sale. Even in the defendant's absence, the court assumed 100 computers sold per year and banned further sales. The lesson: businesses can't ignore unauthorized software use by their staff.

Adobe Systems Inc. v. Mahindra Saxena (Delhi HC, 2009) took a similar approach. The defendants were found using pirated Adobe Illustrator, violating Berne and Universal Conventions (under Section 40). The court moved fast with ad-interim orders, and once local commissioners confirmed the counterfeit use, it imposed statutory damages and even initiated

criminal investigations—Section 63 can mean up to three years in jail and fines up to Rs 2 lakh. Courts consider software a significant commercial asset. It's taxable via licensing, and if you skip that, as in ***Microsoft v. Deepak Raval (2007),*** you'll pay damages for IT piracy.

More recently, courts have become even tougher—issuing John Doe orders, authorizing BSA-backed raids, and awarding higher damages. In 2020, the Delhi High Court directed Chetu to pay Rs 30 lakh to Microsoft, Adobe, and Quest for using unlicensed software across 200+ employees. The trend persists: 2024-25 decisions favour dynamic injunctions targeting entire rogue networks, drawing from cases like ***Star India v. Rogue Sites.***

Why do courts often provide Ex parte relief?

When a company presents a strong case, shows risk of market loss, and the balance of convenience is in their favour, judges intervene—especially if the defendant is absent. On the criminal front, FIRs under Sections 63 and 65 can lead to arrests and asset seizures. Courts set examples: in cases of intentional piracy, damages can reach Rs 2 crore. The message is unambiguous—courts won't allow companies to cut costs through piracy, especially in a $200 billion-plus industry. This climate encourages companies to conduct licensing audits, though it increases compliance burdens (and costs) for smaller firms.

Protection Against Non-Literal Copying and Indirect Appropriation

Courts do more than look for copied code. They also check if someone has duplicated the structure, sequence, and organization (SSO) of software, or imitated things like flowcharts and interfaces. Indian judges apply dissection tests to distinguish ideas (which aren't protected) from expression (which is). The landmark ***R.G. Anand v. Delux Films*** (1978) established the rule: separate idea from expression, remove common or obvious elements, and then assess for substantial similarity. For software, normal audience tests don't work, so courts depend on expert testimony.

There isn't a direct Indian ruling on non-literal software copying yet, but academics propose using the US Abstraction-Filtration-Comparison (AFC) test. This involves breaking the program down layer by layer—purpose, modules, algorithms, code—filtering out ideas, efficiency-driven elements, or public domain material, and comparing what remains.

Whelan Associates v. Jaslow Dental Lab (US, 1986) first recognized that a program's structure

and organization—modules, subroutines—should be protected, even beyond the code itself. If the "look and feel" is copied, it's infringement, regardless of whether the code is rewritten. Critics say this goes too far, so the Altai case (US, 1992) refined the approach: it excludes anything dictated by hardware, compatibility, or standard practices before comparing. In Europe, the Infopaq case (ECJ 2009) treats even short-term RAM copies as "reproduction," making indirect infringement claims easier.

These issues are especially relevant when employees leave and join rivals. Sometimes ex-employees reverse-engineer or "independently develop" similar software. Companies counter with timestamps, bug logs, and forensic code analysis. In the US, ***Info Deli v. WRI (2025)*** dismissed a non-literal copying claim because the plaintiff couldn't prove there was protectable code. In India, following Eastern Book Co. v. Desai (2001), courts require originality—skill and judgment. If someone copies the SSO and captures the unique business logic, and it's not just public domain material, courts may find infringement even if the code isn't identical.

Recently, ex-employees have turned into a major headache for businesses. Rivals sift through what these people carried out, trying to reconstruct what was left, all the while claiming they did it independently. Plaintiffs push back with timestamped documents, bug lists, and forensic code matches. In ***US Info Deli v. WRI (8th Cir. 2025),*** the court threw out claims that didn't identify actual copied code—they only accepted claims for definite, proven segments. In India, courts follow ***Eastern Book Co. v. Desai (2001),*** looking for originality—something that reflects real skill or judgment. They'll accept claims for non-literal copying if someone's grabbed the structure, sequence, and organization (SSO) in a substantial way, like replicating business logic even if the public domain doesn't muddy the waters.

Proving access is another hurdle, but just having an opportunity to view the code is usually enough. Filtering is tricky too, since efficient code often blurs ideas and expression. Experts dive in with hex editors and line up code for overlaps—if 70% of the SSO matches, that's generally sufficient to show a breach. Now that AI can generate code clones, courts are having to keep pace. ***ANI v. OpenAI*** (2024) is testing whether training data use equals copying. The law tries to balance safeguarding innovation with enabling interoperability—Section 52(1)(ad) leaves some room for that.

Civil remedies are the main tool. Courts issue injunctions (both interim and permanent), damages (anywhere from Rs 50,000 to 2 lakh per work), and can order accounting, conversion,

and delivery-up. The Anton Piller order allows a court commissioner to search and seize evidence without advance notice—see ***Autodesk v. Shankardass (Delhi HC)***. The threshold is high: you need a strong case, clear proof of harm, and the search can't unduly harm the defendant. Sometimes, only photographs are taken if originals are missing, and police may or may not be present. These searches typically happen in private and can lead to full hard-drive copies that reveal whether a business is running far more software than it's licensed for.

Things can escalate quickly. In ***Super Cassettes v. Hamar TV (2011),*** the court shut down a broadcaster. Microsoft has won crores in damages by multiplying lost licenses by device count. Criminal penalties come into play under Section 63—jail and fines for deliberate breaches.

Companies have even been forced to shut down if they're caught without licensed software—so audits and compliance officers are everywhere. Risks ripple up and down the supply chain: OEMs sometimes load pirated operating systems onto devices, and suppliers can be hauled to court. Unclear EULAs (end-user license agreements) just make it easier for copyright lawsuits to stack up.

There's another angle with copyleft. If you violate the GPL and withhold source code, you're breaching the license, which is basically the same as unauthorized use. The fallout is similar, and binaries can get tangled up. During mergers or acquisitions, teams now rigorously check open-source software to avoid last-minute problems—like deals collapsing over a sudden injunction. There's ongoing debate about fairness: SMEs worry punishments are too harsh, or that suppliers take too much heat (since roughly 90% of software now includes open source). Best practices? Keep a software bill of materials (SBOM), use license management tools like Flexera, and get insurance.

Looking ahead to 2025, AI-driven infringement cases are forcing everyone to rethink remedies—figuring out how to penalize true violations without going too far. Courts are making it clear: compliance is not optional. If you want to protect your IP as the digital landscape expands, you need to follow the rules.

Current Indian concern on Proprietary Software Copyright

Indian Judicial Context and Prospects for Copyleft Litigation

Indian case law to far has focussed on proprietary software, with a significant emphasis on

combatting piracy, illegal reproduction, and employee motivated misappropriation rather than explicit copyleft conflicts. Courts have repeatedly maintained that copyright protection extends to software as literary works, that non literal aspects may be protectable, and that considerable sanctions are available for infringement in corporate organizations. Scholarship on Indian software copyright observes that courts have occasionally altered criteria like "substantial similarity" to meet technological situations, compensating for legislative inadequacies in explicit software specific rules. However, few recorded Indian rulings explicitly address enforcement of copyleft or GPL type licensing in business conflicts, leaving key doctrinal concerns unsolved.[11]

Potential reception of copyleft issues by Indian courts

Given Indian courts' propensity to defend software copyright vigorously, it is possible that they would accept unambiguous copyleft license restrictions as enforceable and construe non-compliance as infringement if the licence is considered terminated. Doctrinal tools already exist in Indian law for differentiating between contractual covenants and conditions that determine the scope of a license, which might be used to GPL duties in corporate action. Comparative jurisprudence, notably Jacobsen v. Katzer and GPL enforcement decisions, offers compelling authority and analytical frameworks that Indian courts may rely upon in the lack of local precedents. At the same time, Indian courts would need to wrestle with practical problems such as proportionality of remedies, effect on local software companies, and conformity with national objectives on digital innovation and "Digital India".[12]

The lack of clear legislative references to open source and copyleft licensing in Indian copyright law puts most of the interpretation burden on courts and contractual drafting. Clear court rulings on topics such as whether GPL requirements are license defining, how derivative works should be read in the setting of dynamic linking, and what remedial rules apply when corporate defendants partly comply would considerably boost legal clarity. Without such direction, enterprises may over compensate by avoiding copyleft completely or under spend in compliance, both of which u ay safely include open source components without unanticipated consequences. Conversely, too tight or unexpected enforcement may limit beneficial usage of open source, while insufficient enforcement may facilitate "open washing" in which firms

[11] ILI Law Review, "Infringement of Copyright in Computer Programs in …" (2019)
[12] http://docs.manupatra.in/newsline/articles/Upload/893B5967-8DA4-4AF4-854D-EB36A31AA388.pdf

enjoy advantages of community code without obeying reciprocal commitments.[13]

Towards a cohesive framework for courts

A consistent legal framework for managing copyright–copyleft issues in company undermine the balanced development of proprietary and open source ecosystems. A reasoned, comparative approach that accepts copyleft licenses as viable tools under copyright law will assist courts preserve both creators' rights and collaborative creativity.[14]

Doctrinal and Policy Analysis

Reconceptualizing Copyright vs Copyleft

The prevalent depiction of copyright and copyleft as diametrically opposed—exclusive rights vs unrestricted freedom—masks their structural dependency, since copyleft licenses are contingent upon the framework of copyright. Judicial rulings that understand this link, by considering copyleft duties as conditions of a copyright license, better represent the legal reality that authors may choose how to use their exclusive rights. For corporate litigants, this implies that copyleft conflicts should not be dismissed as simple contractual quarrels but evaluated inside mainstream copyright theory, subject to the same requirements of originality, infringement, and defences. This reconceptualization shows that adhering to copyleft responsibilities is not "anti-business," but rather an integral aspect of authorized commercial usage of software as determined by rights holders. Balancing incentives for innovation with collaborative liberties.

The economic justification for copyright is to motivate creativity via exclusive rights, while copyleft seeks to promote cumulative innovation by guaranteeing that enhancements are available to the community. Corporate litigation at this juncture often reveals underlying policy conflicts: proprietary suppliers prioritize investment recuperation and brand preservation, while open source proponents highlight interoperability, security, and the societal advantages of communal code. Judicial rulings that uphold copyleft licenses in a consistent and equitable way might harmonize these interests by elucidating the circumstances and methods by which

[13] https://www.lawweb.in/2012/08/copyright-vs-copyleft.html
[14] "From Copyright to Copyleft: All Wrongs Reserved," SCC Online Blog (May 21, 2021).

corporate entities may engage in litigation, potentially including several components.[15]

• First, explicit classification of licensing provisions as conditions (defining the scope of the licence) or covenants (simple contractual promises), with only violation of the former causing infringement.[16]

• Secondly, the uniform application of derivative work principles to technological integration methodologies (static/dynamic linking, APIs, middleware) grounded on the analysis of code amalgamation and distribution.[17]

• Third, remedial principles that emphasize compliance—such as orders to provide source code and build governance structures—over simply punitive monetary penalties in circumstances of unintentional non-compliance.fossa+2 For Indian courts, combining these features with current doctrine on software copyright and contract law will provide clarity for both local and international firms, promoting responsible use of open source technology.[18]

CONCLUSION

Courts in key countries are converging on an aggressive but still imperfect framework for dealing with both proprietary and copyleft claims in business software disputes. Proprietary software issues, notably in India, exhibit a sophisticated, enforcement-oriented jurisprudence, while open-source and copyleft conflicts, albeit more established internationally, nonetheless offer unsolved conceptual and remedial difficulties.

Assertive Enforcement of Proprietary Software Rights

Indian courts increasingly see corporate software infringement as a major business wrong, not a simple technical violation, and are comfortable providing harsh civil and even punitive remedies. Decisions studied in recent scholarship—such as Microsoft and Adobe piracy suits—demonstrate a trend of ex parte and permanent injunctions, Anton Piller–type search and seizure, and exemplary damages calculated to reflect software's position as a valuable commercial asset. This jurisprudence stands alongside tax and commercial judgments like Tata

[15] IJRPR, "Legal Dimensions of Software Licensing in India."
[16] Arnold, Jacobowitz & Alvarado PLLC, "Copyright? How about Copyleft?" (Mar. 31, 2020).
[17] https://docs.debricked.com/opentext-core-sca-blogs/blogs/oss-licenses-part-4-strong-copyleft-licenses
[18] Cyril Amarchand Mangaldas, "Grooming the Law with Technology: Legal Protection of Software in India."

Consultancy Services v. State of Andhra Pradesh, which regard packaged software as "goods", establishing its economic nature and enabling robust IP protection in corporate situations. The enforcement trend has two systemic impacts. First, it internalises piracy risk inside business decision-making by indicating that even solely internal, network-level usage of pirated software may draw the same repercussions as public distribution. Second, it fosters institutionalisation of licensing management, audits, and compliance rules inside corporations, making copyright risk part of conventional corporate governance and due diligence. In this domain, the black-letter law is reasonably resolved; the key problems are evidential and remedial rather than conceptual.

Copyleft as enforced copyright, not ideology

By contrast, copyleft and open-source licensing have been challenged more fully in US and European courts than in India, however a common core has emerged: these licenses are enforceable exercises of copyright, not informal or purely "moral" schemes. Landmark cases such as ***Jacobsen v. Katzer and Artifex v. Hancom*** treat conditions in open-source licences (attribution, source disclosure, share-alike) as limits on the scope of a copyright licence; breach therefore sounds in infringement, not only contract, unlocking injunctions and traditional copyright remedies.

Comparative literature indicates that other courts have therefore settled the underlying legitimacy question: copyleft is not anti-copyright but a specific manner of leveraging exclusive rights to protect downstream freedoms. The "viral" or share-alike logic of licenses like the GPL is accepted as a reasonable allocation of risk: experienced business users are expected to realize that mixing proprietary and copyleft components may trigger required openness responsibilities. For business players in such countries, the major question is not enforcement but scope: what qualifies as a derivative work, and when does copyleft "contaminate" or expand to a wider proprietary system. ## Persistent uncertainty for corporate integration of open source

Despite this development, some fault-lines persist. First, the derivative-work border in software—linking, APIs, plug-ins, microservices—remains doctrinally under-theorised, providing opportunity for debate over when copyleft responsibilities are triggered in complex structures. Secondly, "license contamination" fears are heightened in contemporary development practices (continuous integration, containerisation, AI-assisted coding), where

provenance and dependency chains are difficult to track and where inadvertent inclusion of GPL components can have outsize consequences for proprietary products. Thirdly, remedial proportionality is an open subject. While injunctions and source-disclosure orders are doctrinally compatible with understanding GPL requirements as copyright restrictions, they may operate severely if infractions are technical, inherited via supplier chains, or detected late in M&A due diligence. Comparative study consequently demands for corrective calibration that differentiates between wilful free-riding and incidental non-compliance, for example via cure periods, targeted injunctions, and structured settlement procedures rather than automated product shutdowns. These problems are especially evident for corporates in highly regulated areas (banking, vital infrastructure) where unexpected open-sourcing of codebases or compelled removal of software might have systemic implications.

A Principle Indian Framework Moving Ahead

Indian courts have not yet explicitly adjudicated a GPL or copyleft enforcement suit, and recent Indian literature highlights the "absence of judicial precedent" on open-source license enforceability. At the same time, the building blocks are already present: strong protection of proprietary software, willingness to engage with complex digital licensing (for instance in My Space v. Super Cassettes and other platform cases), and a flexible law of contract capable of treating licence conditions as binding obligations. This presents an opportune opportunity for a comparative, principle-driven approach as Indian dockets undoubtedly begin to witness copyleft and OSS issues.

Such a structure may rely on three pillars. First, explicit acknowledgment that copyleft licenses are a legal exercise of authors' exclusive rights, with non-compliance treated—following Jacobsen—as both breach of contract and copyright infringement if limitations clearly limit the scope of the licence. Secondly, calibrated philosophy on derivative works in software, drawn from international experience but sensitive to Indian legislative language, that differentiates between simple interface and actual integration in a manner that gives predictable direction to corporate engineers. Thirdly, a proportionality-infused remedial strategy that ensures deterrent against strategic non-compliance but allows good-faith mistake, particularly in circumstances involving complicated supply chains or old codebases.

By defining such a paradigm, Indian courts might go beyond the binary "copyright versus

copyleft" narrative and instead show both as representations of the same underlying authorial control, employed in distinct economic and collaborative formats. This would harmonize domestic legislation with global digital-copyright norms while also reflecting India's policy goal in both a robust software sector and a dynamic open-source environment. For corporate actors, it would replace today's uncertainty with clearer ex ante guidance: proprietary infringement will continue to attract robust remedies, and copyleft obligations, once properly understood and planned for, can be managed as part of ordinary legal and technical compliance rather than as an unpredictable existential risk.

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