
THE CONCEPT OF COPYRIGHT PROTECTION OF MEMES, GIFS, AND VIRAL INTERNET CONTENT IN THE DIGITAL AGE: PROTECTING CREATORS' RIGHTS – A LEGAL PARADOX

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ABSTRACT

In the digital age, memes, GIFs, and viral internet content have become powerful tools of communication, cultural commentary, and artistic expression. However, their inherently derivative, collaborative, and rapidly disseminated nature challenges traditional frameworks of copyright law. This paper explores the legal paradox surrounding the protection of such content balancing the rights of original creators with the freedoms of digital culture. It examines whether current copyright mechanisms adequately protect creators without stifling the participatory ethos of the internet.

The exponential rise of digital communication and online culture has redefined how content is created, shared, and consumed, with memes, GIFs, and viral internet content emerging as dominant forms of expression in the digital age. These creative formats often humorous, rapidly shared, and frequently altered have raised intricate questions about authorship, ownership, and the scope of copyright protection. This dissertation explores the legal paradox that surrounds the copyrightability of such content, examining the tension between protecting the rights of original creators and preserving the collaborative, evolving nature of digital culture.

The study begins by tracing the legal foundations of copyright law, analyzing how traditional principles are challenged by the fluidity and transformative nature of internet memes and GIFs. It evaluates the application of doctrines such as fair use, parody, and transformative use in various jurisdictions, and critically assesses their effectiveness in addressing the complexities posed by viral content. Through a comparative legal analysis, this research investigates how countries like the United States, India, and members of the European Union interpret and enforce copyright laws in relation to digital user-generated content.

In addition, the dissertation delves into the challenges faced by content creators whose original works are repurposed without attribution or consent, exploring whether current legal remedies offer sufficient protection or

inadvertently discourage creative collaboration. It also considers the role of social media platforms, content-hosting websites, and algorithmic moderation in either enabling infringement or facilitating fair dissemination.

By synthesizing legal theory, case law, and scholarly debates, this research aims to uncover the nuanced interplay between intellectual property rights and the participatory nature of online expression. Ultimately, the dissertation argues for a reimagined copyright framework one that balances the protection of creators' moral and economic rights with the public interest in fostering free expression and digital creativity. The work concludes by proposing adaptive legal reforms and policy recommendations tailored to the evolving realities of content creation and dissemination in the digital landscape.

Keywords: Digital Age, memes, viral content, copyright, legal paradox

Chapter 1

Introduction

In the digital age, creativity spreads at the speed of a click. Memes, GIFs, and other viral internet content have become a dominant form of communication, humor, and social commentary across the globe. These digital artifacts are not only shared widely but are often repurposed, remixed, and recontextualized by millions of users daily. While this participatory culture fosters innovation and community engagement, it also raises complex legal questions about ownership, authorship, and intellectual property. The core issue lies in the tension between copyright law designed to protect original works and the inherently derivative and transformative nature of internet content. Can a meme, often based on a copyrighted photograph or film scene, be protected under copyright law? And if so, who holds the rights—the original creator, the person who modified it, or neither? These questions underscore a growing paradox: how to uphold the rights of content creators without stifling the free-flowing creativity that defines online culture. This paper explores the legal frameworks surrounding the copyright protection of memes, GIFs, and viral content, examining both the challenges and potential solutions for aligning traditional intellectual property principles with the realities of digital expression.

Moreover, the ease with which digital content can be copied, altered, and redistributed poses enforcement challenges. Tracking the origin of a meme or GIF is often difficult, and users rarely seek permission before sharing or remixing content. This creates a legal gray area where

content creators, platform owners, and users operate under vague and often misunderstood assumptions about ownership and fair use. As digital expression becomes more complex and widespread, understanding how copyright law applies to these evolving forms of media becomes not only necessary but urgent.

Statement of the Problem

In the digital age, memes, GIFs, and viral content have become powerful tools of expression, communication, and cultural commentary. However, these digital artifacts often originate from copyrighted materials or involve significant creative input from their original creators, whose rights are rarely acknowledged or protected.

This raises a paradox: while copyright law is intended to protect creative expression, it struggles to keep pace with the fluid, remix-driven, and rapidly disseminated nature of internet culture. The legal framework governing copyright was not designed to address the unique challenges posed by user-generated content, especially content that is intended to be shared, modified, and reproduced across platforms.

Consequently, content creators, meme-makers, and original copyright holders find themselves in a grey legal area caught between recognition, fair use, and infringement. The core problem lies in the ambiguity of existing copyright law in relation to viral digital content and the tension between protecting intellectual property rights and preserving the open, participatory nature of internet culture.

Research Questions

1. What are the legal foundations of copyright as they apply to digital content such as memes, GIFs, and viral media?
2. To what extent do memes and GIFs qualify for copyright protection under existing intellectual property laws?
3. How does the doctrine of fair use apply to viral content, and where does it fall short in protecting either the original creator or the remix artist?
4. What are the legal implications of sharing and reusing viral internet content

across platforms without attribution or permission?

5. How can legal frameworks evolve to better balance the rights of original content creators with the inherently derivative and participatory nature of internet culture?

Research Methodology

This research will use an analytical and qualitative legal analysis approach, incorporating the following methods:

1. Comparative Analysis – Reviewing how different jurisdictions (e.g., U.S., EU, and selected common law countries) address copyright issues involving memes, GIFs, and viral content.
2. Case Studies – Examining real-world instances where copyright disputes over memes or viral content have arisen, analyzing legal arguments, court outcomes, and implications.
3. Legal Research – Analysis of statutory provisions (e.g., U.S. Copyright Act, Berne Convention), case law, and judicial interpretations relevant to digital content and fair use.

This methodology seeks to uncover inconsistencies in the application of copyright law and identify potential reforms or alternative frameworks.

Chapter: 2 - Literature reviews

1. Copyright and Fundamental Rights in the Digital Age : The Protection of Intellectual Work in the Digital Environment. Mielczarek, N., & Hopkins, W. W. (2021).

Over the past three centuries, granting exclusive rights to creators has become the dominant yet highly contested method of protecting intellectual works. This approach transforms creative output from a shared cultural asset into a legally protected monopoly. Creative works, viewed as intangible goods, possess a unique quality: they are deeply personal to their creator yet serve as a collective resource, contributing value to society. Rather than being driven solely by self-interest, the act of creation often emerges from a cooperative and communal intent. Except when creators choose to withhold their work from the public, most creative expressions are rooted in pre-existing ideas, either inspired by nature or influenced by earlier works. Each new creation can, in turn, fuel further innovation, generating a continual cycle of shared cultural development.

This reveals copyright's dual role: explicitly, it safeguards creators' legal and economic interests by restricting unauthorized use, but implicitly, it enables public access and promotes cultural growth. Every creator has, at some point, built upon the work of others and vice versa. The advent of the internet has challenged conventional copyright frameworks, undermining rigid legal boundaries and fostering a perception of knowledge as a public resource. This shift has prompted scholars to advocate for alternatives to exclusive rights, including more adaptive legal models.

In Europe, the rigid legal systems, such as Italy's closed definition of "economic use," often hinder flexible interpretation. Courts frequently face difficulty reconciling competing interests, especially in digital contexts. The lack of built-in mechanisms for balancing rights leads to inconsistent legal outcomes and delays, as national courts increasingly defer to the EU Court of Justice to resolve complex copyright issues.

2. Copyright, Transformativeness, and Protection for Internet Memes

Mielczarek and Hopkins explore the ongoing conflict between conventional copyright frameworks and the dynamic, participatory nature of meme culture. They argue that memes by their very definition rely on repurposing and altering pre-existing content to convey new cultural messages, thus defying classical legal interpretations of originality and authorship. The authors delve into how existing legal tools, particularly the doctrine of transformative use, fall short in addressing the viral, ever-evolving character of digital content creation.

Their analysis positions memes as communicative tools within digital environments, often reflecting societal commentary or humour. They emphasize that the repurposing of source material within memes often shifts its purpose and meaning, aligning with the principles of fair use. However, determining the threshold of transformation necessary to merit legal protection remains ambiguous and inconsistent in judicial practice.

A significant contradiction emerges while memes depend on copyrighted elements to exist, they simultaneously risk infringing upon those very rights. The authors propose that courts should contextualize fair use evaluations by considering the cultural and communicative role that memes play, rather than solely focusing on source dependency. Their work offers critical insights into how viral media reshapes traditional understandings of intellectual property by fostering new cultural narratives that may not fit existing legal molds.

3. The Law of Memes: Internet Memes and Copyright, Adler & Fromer (2019).

Adler and Fromer challenge the tendency to dismiss memes as trivial artifacts, asserting that these digital creations raise significant legal questions. Their research centers on how viral memes, especially those gaining commercial traction like Grumpy Cat, expose deep-seated flaws in traditional copyright systems. They argue that the iterative, collaborative process behind meme creation disrupts long-held assumptions about authorship, originality, and the necessity of exclusive rights to foster creativity.

The authors explore memes as a form of shared cultural communication content built upon communal references and collective humor. This inherent collectiveness, they note, clashes with copyright's rigid emphasis on individual ownership and proprietary rights. In doing so, they question whether exclusive control is truly required for creative innovation in the digital age.

Importantly, Adler and Fromer highlight the dilemma of protecting meme creators through copyright law while also preserving the open, remix-friendly environment that enables memes to flourish. They propose that legal interpretations of fair use must evolve to account for the unique social function memes serve acting as tools of commentary, satire, and mass participation.

Ultimately, their work calls for a rethinking of intellectual property frameworks in digital contexts. By grounding legal theory in the realities of internet culture, they present a compelling case for reforming fair use doctrine to better align with the participatory, iterative processes that define meme production.

4. Internet Memes and Copyright: Facilitating the Memetic Remix Discourse by Viewing Joint Authorship Flexibly? Leung, W. (2024).

Leung's recent work addresses the evolving landscape of internet meme copyright by proposing a flexible approach to joint authorship that could better accommodate the collaborative nature of meme creation. The author argues that traditional copyright law's emphasis on individual authorship fails to capture the reality of how memes are created through collective, iterative processes involving multiple contributors. This research explores how viewing memes through the lens of joint authorship might resolve some of the legal paradoxes surrounding creator

protection in viral content.

The study examines how user-creators approach meme creation differently from traditional content creation, noting that copyright incentives play a minimal role in motivating meme production. Leung argues that this challenges fundamental assumptions about how creative works are created and exploited in the digital age. The research suggests that memes represent a form of cultural expression that operates outside traditional intellectual property frameworks, requiring new legal approaches that acknowledge their collaborative nature.

The author proposes that flexible joint authorship models could better protect meme creators while preserving the open, remixable nature of internet culture. This approach would recognize that memes often involve multiple contributors—original image creators, text authors, and remix artists—who collectively contribute to the final work. The research contributes to understanding how copyright law might evolve to better accommodate digital creative practices while maintaining incentives for original content creation.

5. The Problem of Modern Monetization of Memes – How Copyright Law Can Give Protection to Meme Creators

This study examines how the rising commercial value of internet memes has transformed them from informal cultural artifacts into monetizable assets, prompting a reassessment of copyright protections. The author argues that the increasing use of memes in merchandising, branding, and influencer marketing highlights the need for clearer legal safeguards to protect meme creators' rights.

The research outlines how memes, once perceived as ephemeral and community-driven, are now being leveraged for profit across digital platforms. Despite their often derivative origins, meme creators frequently add sufficient originality through design choices, captions, and commentary to potentially qualify for copyright protection. However, determining ownership becomes complicated when pre-existing copyrighted content is involved.

The study further explores how monetization introduces new legal risks. As memes shift from personal expression to commercial use, the legal scrutiny around infringement intensifies. The author stresses the importance of updating copyright frameworks to support originality while preserving the collaborative and adaptive spirit of meme culture.

By addressing the tension between creative freedom and commercial exploitation, this work contributes to a broader understanding of the copyright paradox in digital environments. It emphasizes that protecting meme creators does not necessarily mean curbing the openness of the internet, but rather finding a balanced framework that respects both originality and shared expression.

6. The Dangers of Controlling Memes Through Copyright Law

This European-focused study critiques the impact of strict copyright regulation on internet memes, arguing that excessive legal control could undermine the cultural and comedic freedoms these digital expressions represent. The author frames memes as a form of intertextual humor that thrives on reusing and reinterpreting existing media to produce new, socially relevant meanings.

The research emphasizes that memes often emerge organically from public discourse, with everyday users adapting images, video clips, and text to reflect current events, critique institutions, or express shared sentiments. Attempts to tightly regulate this form of expression through copyright enforcement, the author warns, risk suppressing public engagement, humor, and democratic dialogue online.

Highlighting the grassroots nature of meme production, the study explores how individuals use easily accessible online content to craft parodies, satire, and commentary. These expressions often qualify as cultural participation rather than commercial exploitation. As such, applying rigid copyright laws may threaten a vital space for free expression and social critique.

The author suggests that memes should be evaluated through a different legal lensone that accounts for their unique communicative purpose and their role in public discourse. By emphasizing freedom of expression and user-driven creativity, this work advocates for a copyright model that recognizes the cultural importance of memes without stifling their development.

7. Copyright Fair Use and the Digital Carnavalesque – Towards A New Lexicon of Transformative Internet Memes

This article introduces a novel framework for analyzing memes through the concept of the “digital carnivalesque,” inspired by Mikhail Bakhtin’s theory of carnival. The author argues

that memes function as a form of cultural rebellion subverting authority, disrupting social norms, and challenging dominant narratives which warrants a rethinking of how they're treated under copyright law.

The study contends that traditional categories like satire and parody are too narrow to fully capture the expressive range of memes. Instead, memes often operate as chaotic, participatory forms of discourse that invert and remix meaning in ways that resist neat legal classification. The author proposes that this "carnavalesque" quality where power is mocked and norms are overturned gives memes a transformative character deserving of special protection under fair use.

Rather than judging memes solely based on how much they alter their source material, the research suggests that courts should evaluate their broader cultural function. By doing so, legal systems could more accurately assess the unique communicative role memes play in online culture

The paper makes a strong case for expanding current legal interpretations of fair use to better reflect the realities of digital participation. It emphasizes that memes are not just creative reworks of existing content, but powerful tools of cultural expression that operate under a new logic of remix, humor, and social commentary.

8. Modern Problems Require Modern Solutions –Internet Memes and Copyright (Texas Law Review)

This article presents a thorough legal analysis of how internet memes expose the limitations of traditional copyright frameworks, emphasizing the need for updated doctrines that reflect the realities of digital culture. The author argues that the collaborative and rapidly evolving nature of meme creation defies conventional assumptions about authorship, originality, and the function of copyright protection.

A central focus of the study is how the transformative use testone of the four core components of fair useapplies to memes. The author highlights that while memes often reuse copyrighted material, they typically repurpose it to communicate different meanings, often related to humor, critique, or commentary. These new functions, the research argues, make memes fundamentally distinct from their source materials and therefore deserving of legal recognition

as transformative works.

The paper also addresses the challenges courts face in applying the fair use test, particularly when assessing market impact or defining “purpose and character” in digital content. The author suggests that legal evaluations should consider the memetic function of content, how it operates culturally and socially, rather than relying solely on how much the original work is altered. By identifying where traditional copyright law falls short, this study advocates for a more flexible legal standard that reflects how users interact with content online. It provides practical recommendations for legal reform that balances creators’ rights with the participatory ethos of meme culture.

9. Memes, Fair Use, and Privacy – Intersections of Copyright and Digital Rights

This interdisciplinary analysis explores the complex legal landscape surrounding memes, highlighting how issues of copyright, fair use, and privacy frequently intersect in the digital age. The author argues that evaluating memes solely through the lens of intellectual property law fails to account for the broader legal and ethical challenges posed by viral content particularly when personal images or sensitive information are involved. The study points out that memes often draw from real-life content shared online, such as personal photos or public posts, which can implicate not only copyright law but also individual privacy and publicity rights. The author emphasizes that the rapid spread of memes across platforms can magnify potential legal violations, particularly when individuals depicted in memes have not consented to their use or become subject to ridicule.

By combining elements of copyright analysis with privacy law and free speech considerations, the research advocates for a more comprehensive legal framework. The author suggests that a narrow focus on fair use misses the full scope of harms and rights at stake, especially in cases where memes invade personal boundaries or repurpose private content for mass entertainment.

This work contributes significantly to digital rights discourse by underscoring the need for integrated legal approaches that recognize the overlapping legal zones memes inhabit. It highlights the urgency of legal reform that addresses copyright without overlooking privacy and ethical concerns in meme creation and distribution.

10. When Does the Use of A Meme Infringe on Copyright?

This article investigates the key legal distinctions between commercial and non-commercial use of memes, highlighting how these categories influence the interpretation of copyright infringement. The author underscores that while many memes are created for personal amusement or social commentary, others are increasingly used in marketing, branding, or monetized platforms blurring the line between fair use and infringement. The study argues that courts often grant more leniency to memes used in non-commercial settings, especially when they fall within the scope of parody, commentary, or critique. In such cases, even when copyrighted material is involved, the transformative nature and lack of profit motive can weigh in favor of fair use. However, when memes are used by influencers, businesses, or content creators to promote goods or services, the legal protections become more complex.

The author explains that the shift from casual sharing to strategic deployment of memes introduces new legal risks. Memes used in a commercial context may be seen as substituting or exploiting original works, especially if the source material is still actively licensed or monetized. This commercial angle alters the balance in fair use analysis raising questions about market impact, purpose, and intent.

This research contributes to legal discourse by emphasizing that context plays a critical role in determining whether meme usage constitutes copyright infringement. It advocates for clearer guidelines that distinguish between creative reuse and unauthorized commercial exploitation.

Chapter 3: Theoretical Framework of Copyright

Understanding the legal protection or lack thereof surrounding memes, GIFs, and other viral content requires a closer look at the core principles of copyright law. At its foundation, copyright grants creators the exclusive right to reproduce, distribute, display, perform, and adapt their original works. However, this exclusive control is not absolute. Copyright law also contains limitations and exceptions, the most notable of which is the doctrine of fair use.

3.1 Introduction to Copyright in the Digital Age

Copyright law is designed to incentivize creativity by granting authors and creators exclusive rights over their works. In the digital era, however, content is no longer consumed, distributed, or adapted in the same way as in the print or broadcast eras. Digital technologies enable instantaneous copying, editing, and dissemination of works across borders, undermining

traditional enforcement mechanisms and challenging the boundaries of “originality.”

3.1.1 Fair Use and Transformative Works

The fair use doctrine, particularly in jurisdictions like the United States, allows for limited use of copyrighted material without permission, under certain conditions. Courts typically consider four factors:

The purpose and character of the use, including whether it is commercial or educational.

The nature of the original copyrighted work.

The amount and substantiality of the portion used.

The effect of the use on the potential market for the original work.

One of the most relevant considerations for memes and GIFs is whether the use is transformative. A transformative work adds new expression, meaning, or message to the original material. Many memes, for instance, rely on repurposing an image or video in a new, humorous, or satirical context. Courts have increasingly acknowledged that such transformation may weigh in favor of fair use. However, this assessment is highly case-specific, and there is no guarantee of protection.

3.2 Core Principles of Copyright

Copyright protects “original works of authorship” fixed in a tangible medium of expression. The principal rights include reproduction, distribution, public display, performance, and creation of derivative works. These rights are balanced by limitations such as fair use (U.S.) or fair dealing (India and the EU), which recognize the social benefits of reusing works for commentary, criticism, education, or parody.

3.2.1 Platform Liability and DMCA

With the proliferation of user-generated content, platforms like Instagram, Twitter, and Reddit play a crucial role in content distribution. Under the U.S. Digital Millennium Copyright Act (DMCA), platforms are generally protected from liability for copyright infringement by their users, provided they act to remove infringing content when notified. This has led to a rise in

automated takedown requests, which can suppress even legitimate uses under fair use, creating a chilling effect on digital creativity.

3.4 Copyright and Derivative Works

Memes and GIFs usually qualify as derivative works because they are based on pre-existing content. However, derivative status does not necessarily negate protection. Courts may recognize originality in the selection, arrangement, and transformation of elements, but this varies across jurisdictions.

3.4.1 Derivative Works and Ownership

Another central concept is that of derivative works. If a meme or GIF is based on a pre-existing work but includes new creative elements, it may be considered a derivative. Legally, only the copyright holder of the original work has the right to authorize derivative works. This creates a tension between creative reinterpretation and the original creator's rights. For example, adding a humorous caption to a copyrighted film may still technically produce a derivative work, which could be infringing if done without authorization.

3.5 Originality and Fixation

Most legal systems demand a minimal threshold of originality the work must be independently created and exhibit at least a small degree of creativity. Internet memes and GIFs often borrow from existing copyrighted material (film clips, images, news footage), raising difficult questions about whether their recontextualization constitutes a new, protectable work or an infringement of the original.

3.5.1 Moral Rights and Attribution

In some jurisdictions, particularly those following civil law traditions (e.g., many European countries), creators have moral rights, including the right to be credited and to object to derogatory treatment of their work. These rights can further complicate the legal standing of memes and GIFs, especially when the original content is used in ways the creator finds offensive or misleading. In countries where moral rights are enforceable, even transformative or parodic uses may be legally challenged.

3.6 The Challenge of Enforcement in Borderless Spaces

Digital content flows seamlessly across platforms such as Twitter, Instagram, Reddit, and TikTok. This makes identifying infringers, determining the applicable law, and enforcing judgments extremely complex. As a result, rights holders face a tension between protecting their interests and accepting the viral, transformative nature of online culture.

Chapter 4 – Memes, GIFs and Digital Culture

4.1 The Emergence of Memes and GIFs

Memes and GIFs have evolved from niche internet jokes to powerful tools of communication, marketing, and political commentary. Their rapid replication and remixing form the backbone of participatory digital culture. While memes were originally non-commercial, many creators now monetize them through merchandise, sponsorships, and NFTs, intensifying debates about ownership and attribution.

4.2 Copyrightability of Memes and GIFs

Whether a meme or GIF is copyrightable depends on:

Originality: Has the creator added sufficient creative input?

Fixation: Is it stored in a tangible medium (server, file)?

Transformative Use: Does it comment on or parody the original work

Some courts have begun to recognize protectable expression in meme formats (e.g., original templates or captions).

4.3 Tension Between Culture and Law

Memes and GIFs function as social commentary, parody, or satire categories that often receive heightened protection under free speech doctrines. The law must balance freedom of expression against the legitimate rights of original authors.

4.4 Comparative Perspective: U.S. Law vs. Indian Law

United States: The fair use doctrine (17 U.S.C. §107) offers a flexible, four-factor test purpose, nature of work, amount used, and effect on the market. U.S. courts are generally receptive to transformative uses, such as parody and commentary.

India: Indian copyright law (Copyright Act 1957, as amended) provides fair dealing exceptions but is narrower than U.S. fair use. It specifically lists purposes like private research, criticism, review, and reporting. The absence of a broad transformative-use test means memes and GIFs may be more vulnerable to infringement claims in India.

Other Jurisdictions: The EU Copyright Directive (2019) explicitly carves out parody and pastiche exceptions but imposes stricter platform liability under the “upload filter” regime.

4.5 Platform Liability and Safe Harbours

Both U.S. and Indian laws provide certain “safe harbours” for intermediaries (e.g., DMCA Section 512 in the U.S., and Section 79 IT Act in India). These provisions shape how quickly platforms remove allegedly infringing memes or GIFs upon notice, affecting the viral spread of digital content.

Chapter 5: Case Studies and Contemporary Challenges

The intersection of copyright law and viral internet content is not just theoretical; it plays out frequently in legal disputes, takedown notices, and public debates. Real-world case studies highlight both the ambiguity in current laws and the conflicting interests of original creators, remix artists, and online communities.

5.1.1 The “Success Kid” Meme

One of the most iconic internet memes, “Success Kid,” features a toddler clenching his fist in a gesture of triumph. The image, taken by the child’s mother, became widely shared and modified across the internet. While the family embraced the meme’s popularity, they retained the copyright and have licensed it for commercial use, including in advertisements and promotional materials. They have also issued legal threats against unauthorized commercial uses. This case shows that even widely shared memes can be protected under copyright, and their creators may choose to enforce their rights selectively.

5.1.2 The “Pepe the Frog” Controversy

Created by cartoonist Matt Furie, Pepe the Frog was initially an innocent character featured in his comic series. Over time, the image was widely co-opted and modified by internet users some of whom associated it with offensive or political content. In response, Furie took legal action to reclaim control of the character’s image, including lawsuits and takedown requests against companies and individuals who misused the meme in commercial or harmful ways. This case underscores the tension between viral spread and authorial intent, as well as the difficulty of controlling a digital creation once it becomes embedded in internet culture.

5.1.3 The “Rickrolling” Phenomenon

The viral practice of "Rickrolling" tricking users into watching Rick Astley’s Never Gonna Give You Up music video has been a long-running internet joke. While the practice involves the use of copyrighted content, Astley himself has publicly expressed amusement and support for the meme’s popularity. Interestingly, the video is still subject to copyright by its label, which could, in theory, assert rights over its use. This case illustrates the informal social norms that often override formal legal boundaries in the digital age, depending on the rights holder’s stance.

5.1.4 Giphy and Tenor: GIF Platforms Under Scrutiny

GIF-sharing platforms like Giphy and Tenor have been widely used to circulate short video clips from movies, TV shows, and sports broadcasts many of which are technically copyrighted. While these platforms often argue that such use falls under fair use or constitutes promotional exposure for the source material, they operate in a gray legal zone. Content owners have begun to push back, raising questions about licensing, attribution, and the need for formal agreements between media companies and tech platforms.

5.2 Contemporary Challenges

These cases reveal several recurring challenges:

Attribution is rarely preserved. Meme creators and original copyright holders are often uncredited, making it difficult to track ownership or usage rights.

Enforcement is inconsistent. Rights holders may choose to tolerate some uses while aggressively pursuing others, leading to unpredictability and legal uncertainty.

Cultural norms conflict with legal rules. The internet thrives on sharing, remixing, and humor all of which clash with the restrictive nature of copyright law.

Commercial use blurs the lines. When viral content is monetized via branded memes, sponsored posts, or merchandise the stakes around copyright enforcement rise significantly.

Chapter 6 – The Legal Paradox

The central paradox is that memes and GIFs gain cultural relevance precisely because they are easy to share, remix, and repurpose activities that copyright law traditionally restricts. Excessive enforcement could chill creativity and silence grassroots expression. Conversely, lack of protection may discourage original meme creators from investing time and creativity.

6.2 Attribution and Moral Rights

Even where economic rights are waived or hard to enforce, moral rights (attribution, integrity) remain important, especially in jurisdictions like India and the EU. Yet the viral nature of memes makes attribution practically impossible.

6.3 Enforcement in the Age of AI and Automation

AI-generated memes and GIFs complicate the question of authorship. If no human author can be identified, existing copyright frameworks may fail, leaving works in a grey area of protection.

6.4 Emerging Alternative Models

Creative Commons Licensing: Some creators pre-license their work for remixing under certain conditions.

Blockchain/NFTs: Used to authenticate original creators and track downstream uses, though this approach raises its own legal and ethical challenges.

Collective Management Models: Industry-wide agreements between platforms and rights

holders to permit limited remixing while compensating creators.

Chapter 7 – Findings and Conclusions

7.1 Key Findings:

Copyright law, designed for analog media, struggles to accommodate memes, GIFs, and viral content.

U.S. law's flexible fair use approach better supports transformative digital culture than India's more rigid fair dealing system.

Moral rights and attribution remain underexplored in the meme economy.

Platforms act as quasi-regulators, determining what stays online through automated takedowns.

7.2 Recommendations

Clarify Fair Use/Dealing Standards: Legislatures could update statutes to explicitly address memes and GIFs.

Promote Licensing Frameworks: Encourage creators to license content for viral reuse under standardized terms.

Improve Attribution Technology: Develop metadata standards or blockchain solutions for automatic crediting.

Digital Literacy: Educate users on the legal implications of sharing and remixing copyrighted content.

7.3 Conclusion

The tension between protecting creators' rights and fostering participatory culture constitutes a genuine legal paradox. A balanced approach flexible exceptions, recognition of transformative creativity, and technological solutions for attribution can help copyright evolve with the realities of digital culture. Ultimately, the goal should be to encourage creativity without stifling the collaborative, humorous, and politically vibrant ecosystem that memes and GIFs represent.

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