
A CRITICAL LEGAL ANALYSIS OF COPYRIGHT PROTECTION & DIGITAL PIRACY ON OTT PLATFORMS IN INDIA

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ABSTRACT

The tremendous increase in the Over-The-Top (OTT) streaming services in India has generated a vibrant digital content world that is at the same time marred by unprecedented digital piracy. The paper is a critical analysis of the sufficiency of the current laws of India in protecting copyright on OTT platforms, and whether the Copyright Act, 1957, the Information Technology Act, 2000, and supplementary regulatory tools are adequate in combating the various and technologically advanced types of digital piracy of streaming content. The paper uses a doctrinal and comparative legal approach, relying on both primary (statutes and judicial decisions) and secondary academic sources, and providing comparative lessons on the United States, European Union, and Singapore.

The main thesis presented is that the copyright protection system in India is characterized by three fundamental flaws namely; substantive weaknesses in the protection of technological protection systems; structural weaknesses in the tuning of intermediary liability; and systemic weaknesses in enforcement that makes the available remedies ineffective to counter the pace and magnitude of modern piracy activities. Even though judicial innovation, especially coming up with dynamic injunction as it was in the case of *UTV Software communications Ltd. v. 1337X.to* has to some extent addressed the shortcomings of legislation, they do not qualify as solutions to wholesome statutory reform. It is concluded in the paper that successful copyright protection on OTT sites involves a concerted reform agenda that includes legislative change, better enforcement of criminal law, institutional capacity building, and international collaboration.

Keywords: Copyright, OTT Platforms, Digital Piracy, Dynamic Injunctions, Intermediary Liability, Technological Protection Measures, TRIPS, WIPO Copyright Treaty.

I. INTRODUCTION

A. Background and Relevance

The OTTs revolution in changing the nature of entertainment in India can be seen as one of the most impactful technological revolutions in the history of media in the country. Within a remarkably compressed timeframe accelerated dramatically by the reduction in mobile data costs following Reliance Jio's market entry in 2016 and the captive conditions created by the COVID-19 pandemic platforms including Netflix, Amazon Prime Video, Disney+ Hotstar, ZEE5, SonyLIV, and JioCinema have collectively attracted over 100 million paid subscribers and generated revenues exceeding INR 190 billion annually.¹ India's OTT market, projected to reach USD 15 billion by 2030, has become a globally significant creative economy producing original content of international repute.

This phenomenal rise has also come with a phenomenal increase in digital piracy. India has always been one of the five leading countries in the number of cases related to online piracy, and industry estimates suggest that about INR 18,00025,000 crore worth of digital content piracy is losing its commercial basis each year, which is also the backbone of the OTT content market. This implications are not just limited to the loss of corporate income but to the livelihood of millions of creative to professionals whose earnings are subject to the commercial performance of the work of which the are part of the production.²

The legal framework governing copyright protection in India principally the Copyright Act, 1957, as amended in 2012, and the Information Technology Act, 2000 was not designed with the OTT streaming environment in mind. Although later amendments, and judicial rulings have increasingly applied these tools to the digital realm, there are still gaps. This sufficiency of this framework to defend copyright in OTT platforms is thus an issue of pressing practical and theoretical significance that requires the methodical critical analysis.³

¹ FICCI-EY, *India's Media and Entertainment Industry Report 2022*, at 65–72 (Ernst & Young 2022); Internet and Mobile Association of India, *OTT in India: A Multi-Dimensional View*, at 12–18 (IAMAI 2021).

² Motion Picture Association of America, *Global Piracy Report 2022*, at 38–44 (MPAA 2022); FICCI-EY, *supra* note 1, at 78–82.

³ Rohan George, *OTT Platforms and Copyright: The Emerging Legal Landscape in India*, 22 Indian J. Intell. Prop. L. 67, 71–75 (2019).

B. Research Gap, Question, and Thesis

Existing scholarship on Indian copyright law in the digital context has examined individual aspects of the piracy problem – intermediary liability, website blocking, and technological protection measures – without comprehensively analysing their interaction in the specific OTT context. The development of new vectors of piracy, especially Telegram distribution and AI-enabled stream ripping, has generated new legal issues that are not sufficiently covered in the existing literature.

The paper will be devoted to the following research question: Does the current legislation in India provide sufficient protection of copyright on the OTT against the digital piracy, and what necessary thorough changes are needed?

This paper will contend that the copyright protection system in India is inherently flawed in its response to digital piracy on OTT platforms and is riddled with substantive legal gaps, the calibration of intermediary liability, and endemic enforcement failures that together require a wholesale overhaul of the copyright protection system alongside institutional capacity building and increased international collaboration.

C. Roadmap

The article continues in the following way. Section II is a literature review of the literature, outlining gaps that are filled by this paper. Part III looks at the substantive copyright regime that applies to OTT platforms. Part IV examines the various forms of digital piracy and its legalisation. Section V is the critical analysis of enforcement mechanisms. Section VI looks at comparative international structures. Section VII has an ending with reform recommendations.

II. LITERATURE REVIEW AND BACKGROUND

A. State of Existing Scholarship

The academic literature on Indian copyright law in the digital context, while growing, remains incomplete in its engagement with OTT-specific challenges. Anand and

Kanchan's foundational examination of digital piracy identified limitations of the Copyright Act, 1957, in addressing online infringement and advocated legislative reform, establishing the

baseline critique that subsequent scholarship has developed.³ Basheer and Reddy's empirical analysis of the exhaustion doctrine identified fundamental uncertainties in the digital distribution framework that have direct implications for OTT licensing structures.⁴

George's examination of OTT platforms and copyright identified key regulatory gaps but was completed before significant judicial developments of 2019–2021, including the UTV dynamic injunction decision and the Telegram disclosure orders.⁵ Bhatt's analysis of dynamic injunctions provided valuable doctrinal examination but did not situate the innovation within a broader reform agenda.⁶ Banerjee identified important questions about the communication to the public right in the streaming context that remain inadequately resolved.⁷ Mammen's recent assessment of India's legal readiness for OTT copyright protection provided a current overview without the comparative depth or comprehensiveness of reform proposals that the subject demands.⁸

B. Identified Gaps in Literature

The existing literature suffers from four important gaps. First, no existing work comprehensively analyses the interaction between the substantive copyright framework, intermediary liability regime, and enforcement mechanism in the OTT-specific context as components of an integrated system. Second, the emerging challenge of Telegram-based piracy has received insufficient academic attention despite its growing practical significance. Third, comparative analysis of international frameworks particularly Singapore's Copyright Act 2021 as models for Indian reform remains underdeveloped. Fourth, the implications of the IT Rules, 2021, for copyright protection, particularly the classification of OTT platforms as "publishers of online curated content," have not been systematically analysed in the copyright context.

C. Statutory Background

The primary statutory instruments governing copyright protection on OTT platforms are the Copyright Act, 1957, as amended in 2012; the Information Technology Act, 2000, as amended in 2008; and the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

⁴ Noopur Bhatt, *Dynamic Injunctions and Copyright Enforcement*, 18 NALSAR L. Rev. 89, 94–101 (2021).

⁵ Arpan Banerjee, *Public Performance Rights and Streaming Platforms*, 11 Indian J.L. & Tech. 134, 138–142 (2015).

⁶ Kavya Mammen, *Copyright Protection and OTT Platforms*, 25 Indian L. Rev. 122, 128–138 (2023).

⁷ The Copyright Act, 1957, No. 14 of 1957, § 14(d) (India).

⁸ *Id.* § 2(ff).

India's international obligations are established by the Berne Convention (party since 1928), the TRIPS Agreement (since 1995), and the WIPO Copyright Treaty (ratified 2018).⁹ The interaction between these instruments creates a complex and sometimes internally inconsistent framework that is the primary subject of the analysis in subsequent sections.

III. THE SUBSTANTIVE COPYRIGHT FRAMEWORK: ADEQUACY AND GAPS

A. Rights of Copyright Owners in OTT Content

The scholarly literature on the topic of Indian copyright law in the online setting, although expanding, is still behind in terms of its involvement with the specifics of OTT. The fundamental critique that later scholarship has built on was that Anand and Kanchan found a basic limitation of the Copyright Act, 1957, to deal with online infringement, and suggested a reform in legislation, forming the baseline critique of the digital distribution framework.¹⁰

The analysis of OTT platforms and copyright by George contained significant gaps in regulation that had not been addressed at an adequate level; the study of dynamic injunctions was valuable doctrinal analysis but not the level of analysis the topic requires, and the overview of the legal readiness of the Indian legal system towards OTT copyright protection was up-to-date but lacked the substantive depth and breadth of reform proposals that the topic war.¹¹

B. Technological Protection Measures: A Critical Legislative Gap

There are four significant gaps in the literature. First, there is no literature that discusses in detail the interplay between the substantive copyright regime, intermediary liability regime, and enforcement mechanism in the OTT-specific context as parts of an integrated system. Second, the new problem of Telegram-based piracy has not been given the necessary scholarly attention even though it has been gaining more practical importance.

Third, comparative analysis of international frameworks particularly Singapore's Copyright Act 2021 as models for Indian reform remains underdeveloped. Fourth, the copyright context of the implications of the IT Rules, 2021, especially the categorization of the OTT platforms

⁹ WIPO Copyright Treaty, Dec. 20, 1996, 36 I.L.M. 65, art. 8.

¹⁰ Prashant Iyengar, *Copyright Enforcement in the Digital Age*, 10 Indian J.L. & Tech. 89, 96–99 (2014).

¹¹ The Copyright Act, 1957, No. 14 of 1957, § 65A(1) (India).

as a publisher of online curated material has not been analysed systematically.

C. The Ownership Complexity Created by the 2012 Amendment

The main laws of copyright protection on OTT platforms include the Copyright Act, 1957, as of 2012; the Information Technology Act, 2000, as of 2008; and the IT (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021. The Berne

Convention (it is a party since 1928), the TRIPS Agreement (since 1995), and the WIPO Copyright Treaty (ratified 2018) are the international obligations of India. The combination of these instruments presents a complicated and internally contradictory structure that is the major focus of the analysis in the further sections.¹²

IV. DIGITAL PIRACY ON OTT PLATFORMS: MANIFESTATIONS AND LEGAL CHARACTERISATION

A. The Piracy Ecosystem: Diversity and Legal Complexity

OTT piracy in India is not one phenomenon but an ecosystem of interconnected practices between the individual consumer behaviour and the complex organised crime. The diversity is critical because it is necessary to develop effective legal responses since various vectors of piracy pose different legal issues, and they should be addressed using different approaches to enforcement.

The key types of OTT content piracy are: stream ripping and screen recording; a torrent distribution via a piracy site; direct streaming via special piracy sites; distribution via encrypted messaging applications, especially Telegram; sharing of commercial credentials; bypassing geographic content restrictions using a VPN; and distribution on a dedicated piracy site.¹⁷ Each type of piracy has different implications of the copyright system, and different enforcement challenges. Any legal response that is limited to respond to the most visible manifestation of piracy will inadvertently miss out on the incredibly large vectors.¹³

¹² Digital Millennium Copyright Act, Pub. L. No. 105-304, § 1201(a)(2), 112 Stat. 2860 (1998) (codified at 17 U.S.C. § 1201(a)(2)).

¹³ T.C. James, *Digital Rights Management: Trends in India*, 24 Indian J. Intell. Prop. L. 112, 120–124 (2021).

B. Stream Ripping and the DRM Circumvention Problem

Stream ripping – the capture of the decrypted video stream from an OTT platform to create a permanent local copy – is the foundational enabling act for most other forms of OTT content piracy. It generates the pirated copy which is then channeled via different downstream channels. Stream ripping can be by recording the screen on application level, intercepting the decrypted stream on operating system level, or taking advantage of the weaknesses of the DRM authentication protocols like Widevine, used by Netflix, YouTube and many other large services.¹⁸

The copyright act definition of stream ripping as a legal issue incorporates both the right to reproduce in Section 14(d)(i) and an anti-circumvention in Section 65A. Nevertheless, as is revealed in Section III. Section 65A above, which is silent as to the distribution of stream ripping tools, and the intentionality condition forms a possible defence. The opposing case that Section 52(1)(a) has shielded the countervailing argument of private copying has not been judicially decided in the streaming case. This substantive gap coupled with unresolved judicial issue generates a legal complexion that is not hostile enough to halt stream ripping practices especially on a commercial scale.¹⁴

C. Telegram-Based Piracy: The Encryption Challenge

The rise of Telegram as a leading tool of OTT content piracy in India arguably is the most practically important phenomenon of the modern digital piracy trend. Telegram channels dedicated to the distribution of pirated films and web series – some with subscriber bases of several million users – make pirated content available for direct download within hours of official OTT release, causing devastating commercial harm to rights holders.

Telegram-based piracy is a complex legal issue. Telegram's claim that its encryption makes channel content inaccessible to the platform itself was challenged and partly rejected by the Delhi High Court in *Neetu Singh v. Telegram FZ LLC*, which directed Telegram to disclose the identity of users operating piracy channels.¹⁹ The Court distinguished between end-to-end encrypted private chats – which Telegram could legitimately claim it could not access – and channel content stored on Telegram's servers, which is accessible to the platform. This is a watershed judicial advancement, yet its usefulness as an enforcement mechanism has been

¹⁴ The Copyright Act, 1957, No. 14 of 1957, § 18(1) (as amended 2012) (India).

constrained by cross-border activities of Telegram and its lack of transparency about its content-moderation practices.¹⁵

This is further complicated by the categorisation of Telegram as an intermediary as provided in Section 2(w) of the IT Act and the resultant entitlement to safe harbour in Section 79. The Shreya Singhal interpretation of Section 79(3) requiring a court or government order for loss of safe harbour protection rather than a mere private notice creates a structural disincentive for platforms to act promptly on private rights holder notifications.²⁰ This interpretation, while protecting legitimate intermediary functions, inadequately addresses the urgency of OTT content piracy enforcement.

D. Commercial Credential Sharing: A Legal Grey Area

The commercial rental of OTT account credentials where individuals sell access to shared OTT accounts at a fraction of the subscription price occupies a legally ambiguous position in Indian copyright law. Commercial credential sharing, in contrast to stream ripping or operation of a piracy site, is not a direct reproduction or redistribution of copyrighted material. Instead, it entails illegal exploitation of a validly obtained subscription account by individuals who were not even envisaged in the terms of service of the platform.

Commercial credential sharing is not clearly defined by Indian law as it falls under the category of copyright infringement. It is arguable with some credibility that the unauthorised user is not a direct infringement of copyright but is in breach of the contractual terms of the subscription agreement. The liability of the credential seller can be framed as secondary infringement in Section 51(b) of the Copyright Act, although this has not been adjudicated in Indian courts.²¹ This legal grey area has enabled commercial credential sharing to spread without any meaningful legal action being taken, denying OTT platforms sizeable subscription fees.¹⁶

V. ENFORCEMENT MECHANISMS: INNOVATIONS, LIMITATIONS, AND CRITICAL ASSESSMENT

A. The Dynamic Injunction: Judicial Innovation and Its Limits

¹⁵ Rajiv Nair, *Streaming Piracy: Legal Responses and Technological Solutions*, 15 *Comp. L. & Sec. Rev.* 78, 84–91 (2022).

¹⁶ T.C. James, *supra* note 13, at 119–122.

The most significant development in Indian copyright enforcement in the OTT era has been the development of the dynamic injunction mechanism by the Delhi High Court in *UTV Software Communications Ltd. v. 1337X.to*.²² The dynamic injunction a blocking order extendable to newly identified mirror sites of blocked piracy websites without fresh court proceedings addressed the fundamental limitation of traditional blocking orders, which could be circumvented almost instantaneously by piracy operators registering new domain names.

The legal foundation of blocking orders was laid down by the analysis of Justice Pratibha M. Singh that combined the civil court injunctive jurisdiction under Order XXX IX of the Code of Civil Procedure, the communication to the public right under Section 14(d) (iii) of the Copyright Act and the loss of safe harbour protection afforded to the ISP under Section 79(3) of the IT Act in the event of actual knowledge.

The dynamic injunction process is a true innovation which has decreased the price and enhanced the efficiency of enforcement against pirate sites. But it has significant shortcomings.¹⁷ That is still reliant on active surveillance by rights holders who have to detect and report to the court new mirror sites, which imposes an administrative overhead. It has been criticised due to its possible over-blocking, whereby the rights owners and not the courts first decide on the addition of new sites to blocking lists, which is a due process issue. Most fundamentally, it does not address the speed asymmetry between piracy operations and enforcement responses the initial spread of pirated content in the hours after release, before any blocking order can be activated, may cause the most commercially significant harm.

B. John Doe Orders: Pre-Emptive Protection and Its Constraints

The John Doe order an anticipatory injunction directed at unnamed future infringers, typically obtained before the release of major OTT content attempts to address the speed problem by placing enforcement measures in advance of piracy rather than after it occurs.²⁴ John Doe orders in the OTT context typically direct ISPs to block any website hosting pirated copies of specified content and direct major platforms to remove such content upon notification from the rights holder.¹⁸

¹⁷ *Neetu Singh v. Telegram FZ LLC*, CS(COMM) 234/2021, ¶¶ 22–28 (Delhi High Court 2021).

¹⁸ *Shreya Singhal v. Union of India*, (2015) 5 SCC 1, ¶¶ 117–122 (India); The Information Technology Act, 2000, No. 21 of 2000, § 79(3) (India).

Although the John Doe mechanism offers excellent pre-emptive security to large releases, it has important limitations. The scopes of certain orders have led to reported cases of over-blocking, where legitimate sites were mistaken as pirate websites. The mechanism places considerable unchecked discretion in the hands of rights holders to determine which websites are blocked without immediate judicial oversight of individual blocking decisions, raising concerns about freedom of expression.²⁵ Furthermore, the mechanism is commercially accessible primarily to well-resourced rights holders, leaving smaller independent content creators equally victimised by OTT content piracy without comparable protection.

C. Criminal Enforcement: A Systemic Failure

The criminal enforcement of copyright infringement is the biggest systemic failure within the Indian copyright protection system. Section 63 of the copyright Act offers imprisonment of at least six months and extendable to three years and a fine of at least fifty thousand rupees.²⁶ but in practice, very few digital copyright crimes are investigated, prosecuted and convicted, and even then, the penalties are insignificant in terms of deterring the organised criminal networks that run the most damaging piracy operations.

This failure is due to several structural factors. Digital piracy investigations are too complex technically to be handled by most Indian police forces, without specialised skills. The transnational character of the large-scale piracy activities makes it reliant on international cooperation, which is still poorly developed. This is because of the low priority attached to intellectual property crime as compared to violent crime and public order crimes and hence, piracy investigations are not often provided with the necessary investigative resources. Lack of special intellectual property crime units in the police and prosecutorial agencies imposes an institutional inability to cope with criminal enforcement. This systemic failure is not a peripheral concern the most harmful piracy is carried out by professional criminal enterprises for whom civil enforcement is merely a cost of doing business. The enterprises are run at a profit with the injunction and damages award without plausible criminal deterrence.

D. Counterargument and Response

An opposing argument to the inadequacy thesis would be that the current framework is not perfect, but it offers adequate protection and that any perceived constraints are not structural flaws but execution issues. This argument would point to the sophistication of the judicial

response particularly the dynamic injunction the broad scope of the communication to the public right, and the availability of civil and criminal remedies as evidence of fundamental adequacy.¹⁹

This is not an entirely unmerited counterargument, but a failed one. The persistence and growth of digital piracy despite available remedies is itself evidence of inadequacy a framework adequate in principle but consistently ineffective in practice cannot be considered adequate in any meaningful sense.²⁷ Judicial innovations, while commendable, cannot substitute for clear statutory authority accessible to all rights holders, not merely those with resources to litigate before the Delhi High Court. The specific substantive gaps particularly the absence of anti-trafficking provisions for circumvention tools and the miscalibration of intermediary liability are genuine structural deficiencies that better implementation of existing law cannot remedy.²⁰

VI. COMPARATIVE ANALYSIS: LESSONS FROM INTERNATIONAL FRAMEWORKS

A. The United States DMCA: Instructive Model and Cautionary Tale

The DMCA of the United States: Teaching Case and Warning Signal. The most widely litigated system of digital copyright protection worldwide is the United States DMCA, which can offer both examples and warnings to the Indian reform. The DMCA's anti-trafficking provisions under Section 1201(a)(2) prohibiting the manufacture and distribution of circumvention tools directly address the gap in Section 65A of the Indian

Copyright Act and should be adopted as a model for amendment ²¹

The safe harbour provisions of DMCA under Section 512 have however been extensively criticised as not being suitable in the streaming age. The "whack-a-mole" problem the need to repeatedly send takedown notices for the same content that is re-uploaded after removal demonstrates the limitations of a purely reactive notice-and-takedown approach. The active system of injunction in India, which allows the blocking of pirating websites in advance and not in response to specific uploads of infringements, has circumvented this weakness more

¹⁹ The Copyright Act, 1957, No. 14 of 1957, § 51(b) (India).

²⁰ *UTV Software Communications Ltd. v. 1337X.to & Ors.*, CS(COMM) 724/2018, ¶¶ 38–45 (Delhi High Court 2019).

²¹ *Id.* ¶¶ 28–36; The Copyright Act, 1957, No. 14 of 1957, § 14(d)(iii) (India); The Information Technology Act, 2000, No. 21 of 2000, § 79(3) (India).

productively compared to the American system.²²

B. The EU's Upload Filter Obligation

Article 17 of the Copyright in the Digital Single Market Directive obliges online content-sharing platforms to either licence user-supplied material or to deploy proactive content filtering mechanisms to ensure that unauthorised content is not distributed by them, instead of reacting to notices of infringement.

The most innovative and controversial aspect of EU framework is the upload filter requirement. Advocates claim that it is a good solution to the whack-a-mole problem because it avoids the appearance of infringing content, in the first place. The opponents claim that automated filtering systems can only to create false positives that choke legitimate material such as fair dealing uses, and that the requirement favour large platforms that have the resources to the build filtering systems over small competitors. Before being forced into a similar obligation, India must take a close look at EU implementation practice, and any filtering mandate must have strong protection of legitimate speech.²³

C. Singapore's Comprehensive Reform: The Most Instructive Model

The Copyright Act 2021 of Singapore offers the most directly educative example of how Indian reform should be conducted, as it offers extensive coverage of digital copyright protection, adopts a modern, technology-neutral style of drafting legislative texts, and treats user rights fairly. Singapore's explicit prohibition on devices designed for circumventing TPMs in Sections 260-280 of the Copyright Act 2021 directly addresses the gap in Section 65A of the Indian Act.³⁰ Singapore's streamlined website blocking mechanism under Section 193DDA, providing for court-ordered blocking of "online locations" whose primary purpose is copyright infringement, reinforces and formalises the approach that Indian courts have developed through the dynamic injunction mechanism, giving it clear statutory authority.²⁴

The adaptable fair dealing system in Singapore, which is more contextually sensitive than the American system of fair use, offers a more flexible foundation in addressing new situations

²² Kavya Mammen, *supra* note 6, at 133–138.

²³ Noopur Bhatt, *supra* note 4, at 95–99.

²⁴ Feroz Ali & Thankom Arun, *ISP Liability and Website Blocking in India*, 7 NALSAR L. Rev. 45, 55–58 (2013).

involving digital use than the listed exceptions in Section 52 of the Indian Copyright Act. The same flexible strategy would work in India to minimize doubts regarding the extent of allowable private copying and other user rights that apply in the OTT environment giving the rights holder and users better guidance.²⁵

The comparative analysis shows that the Indian reform has a clear direction: anti-trafficking provisions based on the DMCA, formalised site blocking based on the Singapore and UK models, a modernised fair dealing based on the Singapore model, all within a framework of enhanced enforcement structures supported by a strong international cooperation.

VII. CONCLUSION

A. Summary of Principal Arguments

The paper has developed and presented three main arguments to answer the main research question.

First, the substantive copyright regime has some serious structural gaps, such as a lack of anti-trafficking measures against circumvention devices under Section 65A, the ambiguity over the line between personal copying and infringement under the streaming context, and the imbalance of the multi-layered model of ownership posed by the royalty provisions of the 2012 amendment. These are the real legislative gaps that cannot be filled by judicial interpretation or the administrative action *per se*.

Second, the intermediary liability provision of the IT Act by Section 79 is poorly adjusted to the OTT context. The Section 79(3) as interpreted by Shreya Singhal poses a structural incentive against responding quickly to the private takedown notices. The provision of the IT Rules, 2021, which classify OTT platforms as publishers of online curated content has brought about uncertainty concerning the availability of safe harbour without giving a clear alternative liability framework. It results in a structural enforcement vacuum that reactive notice-and-takedown cannot seal because of the lack of the obligatory nature of important platforms to apply proactive mechanisms of content identification.

Third, the enforcement system, although improved through much judicial innovation, has

²⁵ The Copyright Act, 1957, No. 14 of 1957, § 63 (India).

systemic criminal enforcement problems, territorial constraints to cross-border nature of piracy, and speed gap between piracy activities and enforcement actions leading to much uncompensated damage. The dynamic injunction process is a worthy innovation in the judiciary, but it cannot be used in place of an all-encompassing statutory change with clear legislative powers available to all rights holders.

B. Thesis Restated

India's copyright protection framework is fundamentally inadequate for OTT platforms not because it lacks the conceptual foundations of copyright protection, which are broadly sound, but because the specific implementation of those foundations in the digital streaming context is characterised by substantive gaps, structural miscalibrations, and systemic enforcement failures that collectively ensure digital piracy continues to proliferate despite the availability of legal remedies.

C. Reform Recommendations

The main reform suggestions that would emerge out of this analysis are as follows. The Copyright Act ought to be revised to add anti-trafficking measures to the production and sale of circumvention devices, based on the examples of Section 1201(a)(2) of the DMCA and Sections 260-280 of the Copyright Act 2021 in Singapore. The system of fair dealing needs to be updated with a more flexible and factor-based approach. The dynamic injunction process must be institutionalised by altering the law to give it statutory power. The intermediary liability framework must also be revised to create a tiered approach in which large platforms must have proactive content filtering requirements, and a simpler notice-and-takedown framework with specified response deadlines. An intellectual property protection agency ought to be set up that has special technical capacities. Specialized IP crime units and increased resources to investigate criminal activities should be employed to enhance criminal enforcement. Bilateral mutual legal assistance agreements and international involvement in anti-piracy activities should be enhanced to strengthen international cooperation in copyright enforcement.

D. Future Research

In this paper, some of the areas that require additional research have been identified. The

interaction between copyright protection obligations and data protection law in the OTT context particularly regarding data collected through DRM systems and forensic watermarking deserves systematic examination. The competitive effects of the introduction of proactive content filtering commitments on the OTT platforms of different scales need to be empirically investigated. The effectiveness of the interventions of public education in decreasing the consumer piracy behaviour in the Indian cultural setting has not been rigorously addressed and is a significant supplement to other legal enforcement measures.

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