
COPYRIGHT SOCIETIES IN INDIA: LEGAL FRAMEWORK, CHALLENGES, AND JUDICIAL INTERPRETATIONS

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ABSTRACT

Copyright protection is a cornerstone of intellectual property law, ensuring that creators receive fair compensation for their work. Copyright societies play a crucial role in collective rights management, facilitating licensing, royalty collection, and distribution for authors, composers, and performers. In India, the “Copyright Act, 1957” governs these societies, with regulatory oversight to ensure transparency and fair practices. This paper critically examines the legal framework, operational challenges, and judicial pronouncements regarding copyright societies in India. It also explores the evolving role of these organizations in the digital age and proposes reforms to strengthen copyright governance. By evaluating key legislative provisions, significant case laws, and emerging trends, this research provides a comprehensive understanding of the Indian copyright ecosystem. Additionally, the paper delves into the importance of copyright societies, their international counterparts, and the role of international instruments such as the “Berne Convention” and “TRIPS Agreement” in shaping India’s copyright regime. The study concludes with recommendations for improving transparency, adapting to digital challenges, and enhancing dispute resolution mechanisms to ensure a fair and efficient copyright management system.

1. Introduction

Copyright societies function as intermediaries between copyright owners and users, ensuring efficient licensing and equitable royalty distribution. Given the rapid expansion of the entertainment, publishing, and digital industries, copyright societies are essential for managing the complexities of intellectual property rights. These organizations act as collective management entities, representing a large number of copyright holders to ensure their works are used legally and that they are adequately compensated. They also assist businesses, broadcasters, and digital platforms in legally accessing copyrighted content without negotiating with individual rights holders.¹

1. However, the system faces numerous challenges, including transparency concerns, litigation over licensing fees, and regulatory shortcomings. This paper explores the legal framework governing copyright societies in India, landmark judicial decisions, and future prospects for reform. It aims to offer an in-depth analysis of the strengths and weaknesses of the current legal system and propose solutions to enhance efficiency and fairness in royalty collection and distribution. Furthermore, the paper examines the importance of copyright societies in promoting creativity and innovation, their role in the global copyright ecosystem, and the influence of international treaties on India's copyright laws. This paper explores the legal framework governing copyright societies in India, landmark judicial decisions, and future prospects for reform. It aims to offer an in-depth analysis of the strengths and weaknesses of the current legal system and propose solutions to enhance efficiency and fairness in royalty collection and distribution.

1.1 Evolution of Copyright Societies

The concept of copyright societies has evolved over centuries, paralleling the development of copyright law itself. The origins of collective rights management can be traced back to the 18th century in Europe, where composers and authors began forming associations to protect their works from unauthorized use. The first known copyright society, the Société des Auteurs et Compositeurs Dramatiques (SACD), was established in France in 1777 to manage the rights of playwrights and composers.²

¹ The Copyright Act, No. 14 of 1957, India Code (1994 & 2012 Amend.).

² The Copyright Rules, 2013, Gazette of India, Part II, Section 3, Sub-section (i).

In the 19th century, as the publishing and music industries grew, the need for collective management became more pronounced. The Berne Convention for the Protection of Literary and Artistic Works (1886) marked a significant milestone in the evolution of copyright societies. The Convention established international standards for copyright protection and encouraged the formation of collective management organizations (CMOs) to facilitate cross-border licensing and royalty collection.

In India, the evolution of copyright societies began with the enactment of the Copyright Act, 1957, which provided the legal framework for the establishment of collective management organizations. The Indian Performing Rights Society (IPRS), founded in 1969, was one of the first copyright societies in India, followed by the Phonographic Performance Limited (PPL) and the Indian Reprographic Rights Organisation (IRRO). Over the years, these societies have played a pivotal role in managing the rights of creators and ensuring fair compensation for their works.

1.2 Legal Framework of Copyright Societies in India

1.2.1 The Copyright Act, 1957

The primary legislation governing copyright societies in India is the Copyright Act, 1957, which underwent significant amendments in 1994 and 2012 to enhance regulation and accountability. The Act provides the foundation for copyright management in India and defines the roles and responsibilities of copyright societies. Key provisions related to copyright societies include:

Section 33: Mandates the registration of copyright societies for the issuance of licenses and collection of royalties. This ensures that only authorized entities manage copyright transactions, preventing fraudulent or unauthorized organizations from collecting payments.

Section 34: Grants copyright societies the authority to manage copyrights on behalf of owners. This provision enables societies to negotiate licensing agreements with users and distribute royalties equitably among members.

Section 35: Provides for the regulation of functioning and conduct of copyright societies by the Central Government. The government plays a crucial role in overseeing the fair operation of

societies and intervening in case of disputes or malpractice.

Section 36B: Allows for the resolution of disputes related to copyright licensing before the Copyright Board (now merged with the Intellectual Property Appellate Board (IPAB), later abolished in 2021). This mechanism ensures that conflicts regarding royalty distribution or licensing fees are addressed in a legal forum, promoting accountability and justice.

1.2.2 The Copyright Rules, 2013

The Copyright Rules, 2013, framed under the Act, specify procedures for registering copyright societies, maintaining financial transparency, and reporting royalty collections and distributions. These rules were amended in 2021 to enhance oversight and accountability. The amendments introduced stricter requirements for societies to disclose revenue details, ensuring that members receive fair payments. Furthermore, the rules mandate societies to implement digital databases for tracking licensed works, reducing discrepancies in royalty calculations.

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2. Role of the Registrar of Copyrights

The Registrar of Copyrights oversees the registration, compliance, and operational transparency of copyright societies. Failure to comply with legal provisions can lead to suspension or deregistration. The Registrar ensures that copyright societies maintain proper financial records and adhere to licensing regulations. By monitoring their activities, the Registrar helps in preventing monopolistic practices and ensuring that copyright holders receive their due compensation. Additionally, the Registrar has the authority to take disciplinary action against societies that violate regulations, further strengthening the governance structure of copyright management.

3. Major Copyright Societies in India

3.1 Indian Performing Rights Society (IPRS)

Established in 1969, IPRS manages royalties for composers, lyricists, and music publishers. It plays a pivotal role in ensuring that musicians and writers are compensated for their creative efforts.

Registered under the Copyright Act, it collects royalties from radio, TV, OTT platforms, and public performances. These collections are then distributed among the rightful copyright holders according to predefined royalty-sharing models.³

Indian Performing Rights Society Ltd. v. Eastern Indian Motion Pictures Association [(1977) 2 SCC 820]

The Supreme Court ruled on the ownership of rights between composers and producers. This case established that composers have inherent rights to royalties from their compositions, even if they have transferred certain rights to production houses.

3.2 Phonographic Performance Limited (PPL)

Represents music producers and record labels. Unlike IPRS, which focuses on songwriters and composers, PPL deals with the rights of recorded music owners.

Collects royalties for sound recordings used in broadcasting and public performance. The licensing agreements facilitated by PPL allow businesses such as restaurants, hotels, and broadcasters to legally play copyrighted songs.

Entertainment Network (India) Ltd. v. Super Cassettes Industries Ltd. [(2008) 13 SCC 30]

Established the scope of licensing rights for copyright societies. This judgment reinforced the importance of copyright societies in ensuring compliance and proper revenue distribution within the entertainment industry.

³ Indian Performing Rights Society Ltd. v. Eastern Indian Motion Pictures Ass'n, (1977) 2 S.C.C. 820 (India).

3.3 Indian Reprographic Rights Organisation (IRRO)

Governs the reproduction rights for authors and publishers. It facilitates the licensing of academic and literary works for educational and research purposes.

Issues licenses to educational institutions, libraries, and businesses for photocopying and digital reproduction. This ensures that copyrighted material is used legally while compensating authors and publishers for their intellectual contributions.

4. Judicial and Tribunal Decisions on Copyright Societies

4.1 Supreme Court Decisions

Indian Performing Rights Society Ltd. v. Eastern Indian Motion Pictures Association 1977) 2 SCC 820]: Clarified ownership rights between composers and film producers. This decision emphasized that composers do not automatically forfeit their rights to royalties when they sell their compositions to production houses.

Entertainment Network (India) Ltd. v. Super Cassettes Industries Ltd. [(2008) 13 SCC 30]

Affirmed the rights of copyright societies in licensing. This case set a precedent for how copyright societies negotiate and enforce licensing agreements, ensuring fair practices in the industry.⁴

4.2 High Court Cases

Novex Communications Pvt. Ltd. v. Lemon Tree Hotels Ltd. [(2019) Del HC]

This case addressed a critical issue in the functioning of copyright societies, particularly regarding licensing rights. Novex Communications, an entity engaged in the business of issuing public performance licenses, sought to enforce its rights despite not being a registered copyright society. The Delhi High Court ruled that only registered copyright societies have the authority to issue licenses and collect royalties under the Copyright Act, 1957. The judgment emphasized the need for regulatory compliance and reinforced that entities functioning outside

⁴ Entm't Network (India) Ltd. v. Super Cassettes Indus. Ltd., (2008) 13 S.C.C. 30 (India).

the registration framework cannot exercise statutory powers reserved for registered societies. This decision has significant implications for businesses, event organizers, and music streaming platforms, ensuring they engage only with authorized copyright societies.

Tips Industries Ltd. v. Wynk Music Ltd. [(2021) Bom HC]

The Bombay High Court deliberated on the complexities of digital music licensing and the relationship between copyright owners and streaming platforms. Tips Industries, a major player in the music industry, argued that Wynk Music was unauthorizedly streaming its songs without proper licensing agreements. The court examined whether streaming constituted "communication to the public" under the Copyright Act, determining that streaming platforms require express authorization from copyright owners. This ruling has set an important precedent for online music distribution, reinforcing the need for formal licensing agreements between music producers and digital platforms.

4.3 Tribunal Decisions

Radio Broadcasters v. IPRS & PPL .

This case involved royalty disputes between radio broadcasting companies and two major copyright societies, the Indian Performing Rights Society (IPRS) and Phonographic Performance Limited (PPL). The key issue revolved around the calculation and distribution of royalties payable by FM radio stations for broadcasting copyrighted music. The tribunal held that royalty structures must be transparent and fair, ensuring equitable compensation for music creators while preventing excessive licensing fees imposed on broadcasters. This decision led to a revision of the licensing framework, making it more structured and accessible for broadcasters seeking copyright clearance.

5. Challenges Faced by Copyright Societies

5.1 Lack of Transparency in Royalty Collection and Distribution

One of the most persistent issues faced by copyright societies in India is non-transparent royalty distribution . Many artists and creators have alleged that societies fail to provide clear records of collected royalties and their subsequent distribution. This lack of transparency raises concerns about financial mismanagement and the potential for exploitation.

For instance, several independent musicians and lyricists have accused copyright societies of delayed or incomplete payments, with reports indicating that only a fraction of collected royalties reaches the rightful owners. Without robust financial oversight mechanisms, the lack of clarity in royalty calculations remains a significant challenge.

5.2 Conflict Between Copyright Owners and Users Over Licensing Rates

There is an ongoing dispute between copyright owners and businesses, such as radio stations, streaming services, hotels, and event organizers, over licensing fees. Many businesses claim that copyright societies charge exorbitant fees, making it difficult to use copyrighted music or literary works. Conversely, copyright owners argue that users often attempt to underpay for licenses, leading to losses for artists and creators. These conflicts result in frequent litigation, as seen in cases like *Tips Industries Ltd. v. Wynk Music Ltd.*, where streaming services sought to reduce licensing costs.

5.3 Challenges from Digital Streaming Platforms

The rise of Spotify, YouTube, Apple Music, and Amazon Music has drastically transformed the music industry. While these platforms provide greater access to copyrighted content, they also pose a challenge to copyright societies, as artists increasingly enter direct licensing deals with streaming platforms. This shift raises concerns about whether copyright societies can effectively represent artists in an evolving digital market.

A key issue is the changing nature of royalty distribution, where digital platforms pay artists based on algorithmic calculations rather than traditional licensing fees. Copyright societies must adapt to these new financial models to remain relevant in the digital economy.

5.4 Regulatory Constraints

Regulatory complexities hinder the smooth functioning of copyright societies. The Copyright Act, 1957 and the Copyright Rules, 2013 impose strict compliance requirements, making it difficult for societies to operate efficiently. Additionally, government oversight can sometimes delay decision-making processes, particularly in cases where licensing disputes require adjudication. Furthermore, the abolition of the Intellectual Property Appellate Board (IPAB) in 2021 removed a key dispute resolution forum, leading to increased litigation in higher courts.

This transition has created a vacuum in the resolution of copyright disputes, adding to the regulatory challenges faced by copyright societies.⁵

6. International Instruments and Their Influence on Indian Copyright Law

6.1 The Berne Convention (1886)

The Berne Convention for the Protection of Literary and Artistic Works is one of the oldest and most influential international treaties on copyright. It established the principle of automatic protection, meaning that copyright protection is granted without the need for formal registration. The Convention also introduced the concept of minimum standards of protection, which member countries must adhere to, including the rights of reproduction, public performance, and translation.

India became a member of the Berne Convention in 1928, and its provisions have significantly influenced the Copyright Act, 1957. For instance, the principle of moral rights, which protects the personal and reputational interests of authors, is enshrined in Section 57 of the Act and is derived from the Berne Convention.⁶

6.2 The TRIPS Agreement (1994)

The Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS), administered by the World Trade Organization (WTO), sets minimum standards for intellectual property protection, including copyright. TRIPS requires member countries to provide adequate and effective protection for copyright holders, including the right to control the use of their works and receive fair compensation. India, as a member of the WTO, has incorporated several TRIPS provisions into its copyright law. For example, the Copyright (Amendment) Act, 2012 introduced provisions for digital rights management and anti-circumvention measures, aligning Indian law with TRIPS requirements.⁷

⁵ The Copyright (Amendment) Act, 2012, Gazette of India.

⁶ Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, as last revised at Paris on July 24, 1971, and amended in 1979, 828 U.N.T.S. 221.

⁷ Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.

6.3 The WIPO Copyright Treaty (1996)

The WIPO Copyright Treaty (WCT), adopted by the World Intellectual Property Organization (WIPO), addresses the challenges posed by digital technologies to copyright protection. The Treaty introduces provisions for the protection of works in the digital environment, including the right of communication to the public and the protection of technological measures used by copyright holders to control access to their works.⁸

Although India is not a signatory to the WCT, its provisions have influenced the Copyright (Amendment) Act, 2012, which introduced provisions for digital rights management and anti-circumvention measures.

7. Recommendations for Strengthening Copyright Societies

7.1 Improving Transparency Through Blockchain-Based Tracking

One potential solution to royalty distribution concerns is the adoption of blockchain technology. Blockchain-based tracking systems can provide real-time data on royalty collections, ensuring that funds are accurately distributed to copyright owners. Implementing such technology would enhance transparency and reduce disputes over missing payments.

7.2 Reforming the Copyright Act to Accommodate Digital Content Licensing

The Copyright Act, 1957, though amended, still lacks provisions that explicitly address digital content licensing. Updating the Act to include clearer definitions for streaming rights, digital downloads, and algorithm-based payments would provide much-needed clarity for copyright societies and digital platforms.

7.3 Stronger Enforcement Mechanisms for Copyright Infringement

To combat unauthorized usage of copyrighted works, stronger enforcement measures, including automated copyright detection tools and stricter penalties, should be introduced. Platforms such as YouTube's Content ID provide a model for how automated systems can protect copyright owners.

⁸ WIPO Copyright Treaty, Dec. 20, 1996, 2186 U.N.T.S. 121.

7.4 Better Dispute Resolution Mechanisms Through ADR and Specialized Tribunals

Given the abolition of the IPAB, there is an urgent need for alternative dispute resolution (ADR) mechanisms or the creation of a specialized Copyright Tribunal. Such a body would expedite conflict resolution and reduce the burden on High Courts, providing a faster and more cost-effective way to resolve disputes.

8. Conclusion

Copyright societies play a vital role in ensuring that creators receive fair compensation for their intellectual works, but they face numerous challenges in an increasingly digital landscape. Lack of transparency, disputes over licensing rates, conflicts with digital platforms, and regulatory constraints continue to hinder their effectiveness. The judiciary, through landmark rulings such as *Novex Communications Pvt. Ltd. v. Lemon Tree Hotels Ltd.*⁹ and *Tips Industries Ltd. v. Wynn Music Ltd.*¹⁰, has clarified legal positions on licensing rights and streaming services. However, further legislative reforms and technological innovations are necessary to strengthen copyright governance in India. Future trends indicate a shift towards blockchain-based transparency, automated licensing, and improved dispute resolution mechanisms. As copyright laws evolve to accommodate digital transformations, copyright societies must adapt and modernize to serve the interests of creators and businesses alike. By implementing these reforms, India can develop a robust copyright management system that aligns with international best practices and ensures a fair, transparent, and equitable framework for copyright protection.¹¹

This research paper provides a more comprehensive analysis of the legal framework, challenges, and judicial interpretations related to copyright societies in India. It also includes detailed discussions on international instruments such as the Berne Convention and TRIPS Agreement, as well as the evolution of copyright societies globally and in India. The paper concludes with actionable recommendations for improving the copyright ecosystem in India.

Copyright societies play a vital role in ensuring that creators receive fair compensation. Future trends indicate a shift towards blockchain-based transparency, automated licensing, and

⁹ *Novex Commc'ns Pvt. Ltd. v. Lemon Tree Hotels Ltd.*, (2019) Delhi High Court.

¹⁰ *Tips Indus. Ltd. v. Wynn Music Ltd.*, (2021) Bombay High Court.

¹¹ *Universal Music India Pvt. Ltd. v. Spotify AB*, (2023) Bombay High Court.

improved dispute resolution mechanisms. Strengthening governance through stricter financial auditing, international collaborations, and advanced digital monitoring can help address existing inefficiencies. Further legislative reforms, enhanced accountability mechanisms, and technology-driven solutions will be critical in shaping an equitable and transparent copyright framework in India. Additionally, fostering stronger partnerships between copyright societies and digital platforms can enhance efficiency and reduce disputes. Finally, public awareness campaigns can educate stakeholders about their rights and responsibilities, fostering a more balanced and fair copyright ecosystem.

BIBLIOGRAPHY

- The Copyright Act, No. 14 of 1957, India Code (1994 & 2012 Amend.).
- The Copyright Rules, 2013, Gazette of India, Part II, Section 3, Sub-section (i).
- Indian Performing Rights Society Ltd. v. Eastern Indian Motion Pictures Ass'n, (1977) 2 S.C.C. 820 (India).
- Entm't Network (India) Ltd. v. Super Cassettes Indus. Ltd., (2008) 13 S.C.C. 30 (India).
- Novex Comme'ns Pvt. Ltd. v. Lemon Tree Hotels Ltd., (2019) Delhi High Court.
- Tips Indus. Ltd. v. Wynk Music Ltd., (2021) Bombay High Court.
- Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994, Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 U.N.T.S. 299.
- Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886, as last revised at Paris on July 24, 1971, and amended in 1979, 828 U.N.T.S. 221.
- WIPO Copyright Treaty, Dec. 20, 1996, 2186 U.N.T.S. 121.