
ADDRESSING DIGITAL PIRACY ON OTT PLATFORMS: INDIAN AND COMPARATIVE LEGAL PERSPECTIVES

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ABSTRACT

The present paper studies the problem of digital piracy on streaming platforms, with an emphasis on the Indian legal environment. Currently India's streaming market is flourishing, fueled by the widespread smartphone usage, affordable data, and a steady shift from the traditional television to digital space. Given this, this study critically analyses whether India's copyright laws and enforcement mechanisms are keeping pace with these rapid changes. Through doctrinal research, the analysis navigates statutory frameworks, landmark judicial decisions such as the UTV Software Communication Ltd. v. 1337x.to and international treaties that helped to shape India's approach to copyright in the digital era. This paper doesn't stop at India, it draws comparative insights from the United States and the European Union, highlighting where India's system aligns or diverges from global best practices. Technological interventions like the Digital Rights Management and the forensic watermarking are also considered, but these tools are not foolproof. Pirates copy quickly, using VPNs and stream-ripping tools to overstep restrictions. Indian courts have interrupted by developing dynamic injunctions, a flexible legal remedy aimed at keeping up with the constantly changing tactics of copyright infringers. The findings shows that though Indian courts show a degree of adaptability, enforcement remains ineffective hampered by legislative gaps and institutional obstacles. This paper ultimately argues for a hybrid model. In brief, to effectively safeguard creative works in the digital streaming age, India's copyright system must become more responsive t, moving beyond just solutions toward a comprehensive, forward-looking framework.

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KEYWORDS: Digital Piracy, OTT Platforms, Copyright Law, India, Intellectual Property, WIPO, Dynamic Injunctions, Enforcement Mechanisms

INTRODUCTION

The boost of OTT platforms has fundamentally altered the contemporary media consumption, leading to an unprecedented access to films, television series, and documentaries across borders. This International reach, while changing entertainment, has simultaneously helped in a dramatic rise in digital piracy. The Illegal streaming of original works, downloading, and redistribution of every protected content now happen at a speed and scale that were unimaginable in the earlier times. These circumstances have significant threats to the original content creators, weakening both their creative economies and their recurring subscription-based business models. In India, the widespread availability of affordable and cheap smartphones and low-cost data plans has led to an exponential increase in OTT usage. Unfortunately, this surge in accessibility is matched by a corresponding vulnerability, fresh and newly released contents are frequently pirated and made available online within just a few hours of its official release. Such activities erode industry revenues and cause serious tangible harm on the creative sector.

Enforcement of copyright law in this environment is filled with challenges. The anonymity provided by digital platforms, jurisdictional limitations, and the inadequacy of traditional legal remedies further complicates the effective regulation. The unfolding of peer-to-peer networks such as IPTV services, and illegal streaming sites has further complicated efforts to fight infringement. Unlike the old traditional piracy, digital piracy works and operate on a truly international scale and it often originates in jurisdictions with insufficient copyright protections.

As a consequence, stakeholders are forced to explore different and innovative solutions. Technological interventions including digital watermarking, ACR systems, and real-time takedown mechanisms have emerged as effective and potential tools to address these issues. This research paper seeks to critically examine the deficiencies in existing enforcement frameworks and

to evaluate the legal and technological strategies that may be most effective within the rapidly evolving OTT landscape.

SCOPE OF RESEARCH

This paper investigates into the drawbacks and difficulties of copyright enforcement on India's over-the-top (OTT) streaming platforms, focusing on the persistent challenge of digital piracy. It critically examines the efficacy of existing Indian laws and judicial practices in curbing unauthorized content distribution, while also reviewing the role of technological interventions such as blockchain, Digital Rights Management (DRM), and content identification systems.

Globally, the analysis extends to a comparative study of international approaches, particularly those adopted by the United States and the European Union, to identify the best strategies and the best practices. The present research further examines judicial interpretations of copyright statutes and legal framework in India, focusing the evolving jurisprudence and the courts' varying approaches to enforcement.

Finally, the study also aims to offer concrete policy recommendations and legal reforms that is suited to India's rapidly expanding digital content market, advocating for a more strong and adaptive copyright enforcement regime in the face of ongoing technological and regulatory hurdles.

ANALYSIS

I. Understanding Digital Piracy in the OTT Space

- Digital piracy within the OTT (over-the-top) platforms has emerged into a highly organized and widespread phenomenon. It now includes a broad range of unlawful activities, including unsanctioned streaming websites, mirror sites, modified streaming applications, and widespread stream usage. The boom of piracy relates with the widespread availability of reasonable high-speed internet, accessible screen-recording tools, and VPN

services. Disreputable platforms such as 1337x, The Pirate Bay, and numerous other Telegram channels have become prominent channels for rapid, extensive distribution of copyrighted material, frequently within minutes of official releases. Piracy has moved beyond vague online forums; it is now openly promoted and monetized through advertising on illegal platforms.

- Practical data, such as MUSO's 2023 Global Piracy Report³, underlines that India remains a leading consumer of pirated digital contents, especially in the entertainment sector. The increase of unlawful access to live sports broadcasts allowed by sites like Cricfree, Stream2Watch, and AceStream has extended piracy's reach beyond films and web series. The High-definition (HD) pirated streams frequently contain unwanted advertisements and, at times, virus, presenting significant cybersecurity risks to consumers. Organized distribution networks on platforms such as Discord and Telegram now regularly disseminate entire seasons of OTT original content within hours of release. The ready availability of screen recording tools and browser applications that avoid DRM protections further lowers the barrier for infringers to duplicate and distribute original content.
- Another significant challenge is "subscription hijacking," wherein the individuals unlawfully distribute or sell OTT platform credentials, resulting in considerable revenue losses for service providers. Some Factors such as inconsistent and ineffective law enforcement and a large, technologically skilful population in India have fostered an environment favourable to widespread piracy. Most of the consumers lack awareness of the ethical and lawful implications of their actions, whereas others may mistakenly perceive pirated sites as legitimate due to their professional connections and reliable services.
- Further complicating the issue, pirated content often appears above authentic versions in search engine results, driven by aggressive backlinking strategies employed by

³ MUSO, Global Piracy Report (2023), <https://www.muso.com/insights/>.

piracy operators and substandard SEO practices by official OTT providers. The consequences extend beyond direct revenue loss, platform reputations are damaged, and compromised viewing standards hinder informed content investment decisions.

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II. The Legal Framework and Emerging Challenges

The Indian copyright law, stranded in the Copyright Act of 1957⁴, extends protection to original works such as literature, music, art, and cinema even as these are changed into digital formats. Sections 51 and 63 states what constitutes infringement and the related penalties. Particularly though, this legislative framework does not directly address OTT (over-the-top) platforms, creating noticeable explanatory gaps. Scholars like Biswajit Sarkar have highlighted this oversight as a major challenge for enforcement in academic and legal commentary⁵. The enforcement mechanisms originally designed for concrete media are not well equipped for the wordy, borderless nature of digital piracy. Some Judicial efforts have been sought to adapt to the introducing dynamic legal orders that empower courts to block infringing domains as they come forward. For example, in *UTV Software Communication Ltd. v. 1337x.to*⁶, the Delhi High Court authorized the blocking of mirror websites distributing pirated content. Similarly, in *Star India Pvt. Ltd. v. Haneeth Ujwal*⁷, the court issued a pre-emptive order restraining unauthorized broadcasts of IPL matches. These judicial orders and injunctions demonstrate an evolving and practical approach to enforcement, but still significant obstacles exist, owing to jurisdictional limitations, technological avoidances, and the transnational character of piracy networks.

And additionally, India's lack of specialized intellectual property courts and limited digital scientific expertise contributes to prolonged litigation. While India is a signatory to the international agreements such as the WIPO Copyright Treaty⁸ which obligates member states to

⁴ The Copyright Act, No. 14 of 1957, INDIA CODE (1957).

⁵ Biswajit Sarkar, Copyright Infringement on OTT Platforms, BISWAJIT SARKAR BLOG (2023), <https://www.biswajitsarkar.com/blog/copyright-infringement-on-ott-platforms.html>.

⁶ *UTV Software Communication Ltd. v. 1337x.to*, 2019 SCC OnLine Del 8002.

⁷ *Star India Pvt. Ltd. v. Haneeth Ujwal*, 2019 SCC OnLine Del 9278.

⁸ WIPO Copyright Treaty, Dec. 20, 1996, S. Treaty Doc. No. 105-17.

safeguard digital content implementation has been largely reactive rather than anticipatory. This regulatory gap largely undermines deterrence, digital pirates frequently operate anonymously from foreign jurisdictions, and existing cross-border enforcement mechanisms are insufficient to ensure effective prosecution.

III. Comparative Legal Perspectives and International Norms

The United States' Digital Millennium Copyright Act (DMCA) ⁹ introduced a safe harbour framework for online intermediaries, provided they adhere to notice-and-takedown protocols when notified of infringing content. Even though this system is often praised for its procedural clarity, it has notable drawbacks such as smaller platforms frequently find compliance burdensome, and the takedown process can be manipulated through false claims or misleading advertising. The "red flag" doctrine, developed by the U.S. courts, removes this protection if a platform deliberately oversees repeat infringement, highlighting a critical limitation.

In contrast, the European Union's Directive (EU) 2019/790 ¹⁰ takes an evidently stricter approach. Here, platforms that unlawfully publish infringing content are held directly liable unless they can prove they made significant efforts to prevent violations. The Major streaming and user-generated content services such as YouTube and Netflix must either secure the appropriate licenses or block illegal uploads altogether. The Implementation varies by member state, but early evidence suggests that these measures are fostering more active cooperation between platforms and the rights holders. The EU has further invested in cross-border enforcement units to enable data sharing and legal collaboration. South Korea, on the other hand, enforces more stricter anti-piracy regulations through rigorous criminal penalties and state-led monitoring. This proactive attitude has seemingly led to a substantial decline in digital piracy.

⁹ Digital Millennium Copyright Act, 17 U.S.C. § 512 (1998).

¹⁰ Directive (EU) 2019/790 of the European Parliament and of the Council of 17 April 2019.

India, despite being a signatory to international copyright conventions, are yet to establish a definitive intermediary liability regime for OTT platforms. Most digital services claim safe harbour under Section 79 of the Information Technology Act, 2000. However, this frequent clashes with the provisions of the Copyright Act, have resulted in significant legal ambiguity and weakening enforcement efforts.

While the US DMCA model is often praised for its structure, it is also subject to various criticism, particularly regarding its impact on smaller entities and its vulnerability to abuse. The ongoing evolution of the EU framework emphasizing both liability and cross-border enforcement may offer informative insights for countries like India, where platform accountability remains indefinable.

IV. Technological Tools and Enforcement Innovation

OTT platforms such as Netflix and Hotstar have come up with a wide range of digital security measures like the Digital Rights Management (DRM), AI-powered monitoring, and forensic watermarking all intended to deter/stop piracy. These technologies are found to be fool proof mostly. But however, pirates continue to find and exploit loopholes using VPNs, reverse-engineered apps, and stream-ripping tools. It's essentially a perpetual cycle of technological growth between platforms and infringers. Enforcement lags behind as well. Some agencies like CERT-In ¹¹ are yet to fully integrate real-time tracking with judicial processes, leading to significant delays in takedowns. Anyhow, pirated contents still remain widely accessible. What is to be notes is that legal remedies alone are not sufficient because digital literacy is lacking among the users hence legal remedies alone won't be sufficient to deter digital piracy, many other measures have to be adopted for this purpose. One of the main problems is that most people including many of us unintentionally access, use and watch unauthorized and unsanctioned content, mainly because of the lack of awareness regarding the legal and ethical effects and

¹¹ CERT-In Annual Report (2022), Ministry of Electronics and Information Technology, Government of India. Available at: <https://www.cert-in.org.in/>

implications attached to it. In order to address this issue, various public outreach programs and digital literacy campaigns are very much important, along with deeper association between ISPs, OTT platforms, and law enforcement. A collective approach is the key to building a culture that rejects piracy.¹²

Many of the major OTT platforms like Netflix and Hotstar are now investing in and introducing an effective measure called the Automatic Content Recognition (ACR) systems. These technologies scan files shared and streaming sites to find matches based on unique audio fingerprints, video frames, or subtitle tracks. When any copies are found then the ACR enables the rights holders to receive real-time alerts and issue prompt takedown of the infringed copy and requests for its takedown under frameworks like India's Intermediary Guidelines or the DMCA in the US. There is also a growing interest in the blockchain as a potential solution for copyright management. By recording transactions and distribution on distributed ledgers, blockchain could create tamper-proof records and support real-time rights enforcement. While these efforts are still largely experimental, early pilot projects suggest promise. Another significant challenge is the procedural inefficiency in India. India's enforcement is often obstructed by delays lags and a lack of dedicated cyber-IP task personnels. Whereas on the other hand, the UK and the Netherlands have made significant progress through specialized anti-piracy units capable of rapidly implementing blocking injunctions sometimes within hours of detection.

One of my final recommendations is about educational initiatives. It must go beyond shallow awareness campaigns. An effective measure could be integrating the digital ethics and anti-piracy values into the school curriculums and making students aware of its effects and implications in case of violation, alongside promoting affordable legal content, can definitely foster long-term behavioural change. In order to effectively address piracy, a comprehensive strategy leveraging technology is required.

¹² UNESCO, Promoting Respect for Intellectual Property in the Digital Age (2021).

CONCLUSION

In conclusion, protecting copyrights in the digital era especially on the OTT platforms has become a pretty complicated problem. With India's current setup, which still depends heavily on the Copyright Act of 1957, is outdated when looking at the current digital era threats. The Indian Courts have tried to keep up, coming up with dynamic injunctions to fill gaps, but let's be honest, that's not a permanent solution but just a temporary fix. If you look at how other countries are handling things, there's a clear difference, they blend legislative updates with tech solutions and international teamwork. India really needs to get on board with that. Setting up a dedicated digital IP enforcement agency, investing in AI-powered monitoring (that can actually keep pace with pirates), and laying down clear rules for OTT platforms these aren't just nice-to-haves but they are essential.

Of course, none of this will work if everyone's living within their own little bubble. A Stronger collaboration between cybercrime units, content owners, and internet intermediaries is the key to making sure that illegal content actually gets taken down with immediate effect. And, the public needs to be brought into the conversation too, a bit of education around digital ethics and copyright will definitely make a real difference on the consumer side. If India wishes to move beyond this constant fighting fires in the court, it really needs to take effective measures as mentioned above to shift towards proactive, transparent governance with accountability at its core only then can creators, producers, and digital platforms thrive without the constant shadow of unchecked piracy. If not then, it's just going to be a never-ending game of catch-up.

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