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COPYRIGHT INFRINGEMENT IN THE DIGITAL AGE

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Abstract

Digital technologies have altered the reproduction, circulation and commercial exploitation of copyright-protected works, complicating the relationship between exclusive rights and legitimate public access. This article examines whether Indian copyright law adequately addresses digital infringement, particularly unauthorised dissemination, intermediary responsibility, website blocking and generative artificial intelligence, using doctrinal and selective comparative methods to analyse the Copyright Act, 1957, the Information Technology Act, 2000, judicial decisions and American and European approaches. It argues that the principal difficulty is not the absence of applicable rights but uncertainty about their allocation, enforcement and limits in technologically mediated environments. It distinguishes direct infringement from intermediary liability, remedial assistance from substantive responsibility, and training-related reproduction from infringing outputs. Judicial innovation has strengthened remedies against organised piracy, but expansive injunctions and automated enforcement require procedural safeguards. The article proposes targeted clarification of computational research, specific and contestable takedown procedures, proportionate blocking orders and accessible licensing. Sustainable digital copyright governance should protect creative labour without treating technological capability or public accessibility as presumptions of either infringement or unrestricted permission.

Keywords: *Copyright Infringement; Digital Piracy; Fair Dealing; Intermediary Liability; Dynamic Injunctions; Generative Artificial Intelligence.*

1. Introduction

Copyright in the digital environment presents a problem of institutional balance rather than a confrontation between ownership and technology. The infrastructure that enables authors to reach wider audiences also facilitates reproduction beyond their control, yet the existence of a technical copy cannot by itself determine legality. Copyright operates through exclusive rights, defined subject matter and statutory limitations, and the WIPO Copyright Treaty recognises both the significance of digital communication and the importance of education, research and access to information.[1]

An exclusively enforcement-oriented account remains incomplete. Copyright protects authors and supports cultural investment, but it does not confer unrestricted authority over information, ideas or every subsequent encounter with a work. Samuelson's account of fair-use jurisprudence identifies multiple public-interest purposes, including expression, learning and technological innovation.[2] Exceptions are therefore constitutive boundaries of protection, not concessions to otherwise wrongful conduct.

Digital disputes also reveal that copying serves different functions. A commercial service distributing complete films, a search facility and a research system analysing textual patterns do not affect protected works alike. Sag's analysis of copy-reliant technologies distinguishes expressive exploitation from nonexpressive uses of copied material.[3] Indian law cannot mechanically adopt that distinction as an unwritten exemption, but it supplies a useful question for interpretation: what legally relevant activity is being undertaken, and which entitlement does it affect?

The research problem lies where this functional diversity meets the demand for effective remedies. Strong rights may become ineffective when unlawful services repeatedly change identifiers, while efficient removal procedures may suppress legitimate expression when infringement is inferred from resemblance alone. The central argument is that legal adequacy requires both enforceable entitlements and reliable procedures for distinguishing infringement from lawful use.

The article examines Indian copyright doctrine through three connected distinctions: exclusive rights and exceptions; substantive liability and remedial cooperation; and artificial-intelligence training and output generation. It shows how these distinctions can guide proportionate enforcement without treating every technological development as requiring a new proprietary right. Selective comparison with the United States and European Union evaluates regulatory choices without presuming transferability.

2. Research Problem, Objectives and Methodology

The principal research question is whether India's copyright framework can effectively address digital infringement while preserving lawful expression, research and technological development. The objectives are to identify the rights implicated by digital practices, evaluate intermediary responsibility and judicial remedies, examine artificial-intelligence-related uncertainty, and formulate proportionate reforms.

The study adopts a doctrinal methodology based on legislation, judicial decisions, treaty provisions and academic literature. Primary authorities are distinguished from scholarly interpretation, and interlocutory observations are not treated as final determinations. American and European materials are selected because they illustrate different approaches to intermediary protection and computational uses.

The working proposition is that conventional infringement can generally be addressed through existing entitlements, whereas emerging disputes expose weaknesses in procedural design and the interpretation of exceptions. This is a proposition for legal evaluation, not an empirically tested hypothesis: the article does not estimate piracy losses, quantify platform compliance or claim representative evidence of user behaviour, and its conclusions are limited to the authorities examined, including the dated judicial developments discussed below.

3. Legal Framework Governing Copyright Protection in India

The Copyright Act, 1957 supplies the primary framework. Section 13 identifies protected classes of works, while section 14 specifies exclusive acts according to category. Literary works include

[1] WIPO Copyright Treaty (adopted 20 December 1996, entered into force 6 March 2002) 2186 UNTS 121, preamble and arts 2, 8 and 10.

[2] Pamela Samuelson, 'Unbundling Fair Uses' (2009) 77 Fordham Law Review 2537.

[3] Matthew Sag, 'Copyright and Copy-Reliant Technology' (2009) 103 Northwestern University Law Review 1607.

computer programs and qualifying compilations, including databases, and for literary, dramatic and musical works reproduction expressly encompasses electronic storage. Digital form therefore does not remove a work from protection; the inquiry concerns subsistence, ownership and the particular restricted act undertaken.[4]

Protection must nevertheless be confined to legally cognisable expression. In *R G Anand v Delux Films*, the Supreme Court distinguished ideas and themes from their protected expression and required substantial, material appropriation rather than resemblance arising from a common subject.[5] In *Eastern Book Company v D B Modak*, the Court required intellectual contribution beyond mechanical labour to establish originality in editorial additions.[6] These principles prevent digital enforcement from becoming control over facts, commonplace elements or investment unaccompanied by protectable authorship.

Section 51 identifies circumstances constituting infringement, including unauthorised performance of exclusive acts and specified dealings in infringing copies. Its clauses should not be collapsed into an assumption that all defendants share identical knowledge or commercial motives: directly reproducing protected expression raises questions distinct from permitting a place to be used for infringing communication.[7]

Section 52 places substantive limits on exclusivity. Its fair-dealing provision concerns specified purposes, including personal research, criticism, review and reporting current affairs, and does not establish an unrestricted equivalent of American fair use. Separate provisions address technical transmission copies, certain linking-related storage, educational activities, library preservation and accessible formats.[8] The statutory conditions remain decisive: an educational label does not automatically exempt unrestricted dissemination, and acknowledgement cannot substitute for permission.

Section 52(1)(c) is especially significant because it addresses transient or incidental storage connected with electronic links, access or integration. Its proviso provides a defined complaint-based interruption of access, linked to obtaining a competent court's order within twenty-one days. It should not be represented as a universal takedown rule governing every category of online service.[9]

Remedies also require differentiation. Section 55 provides civil relief, including injunctions, damages and accounts; section 57 separately protects authorship and integrity interests. Criminal liability under section 63 requires knowing infringement or abetment, so civil disputes should not automatically be treated as criminal wrongdoing.[10] Sections 65A and 65B address circumvention and rights-management information; section 65A links prohibited circumvention to an infringing intention and preserves specified legitimate activities.[11]

Intermediary protection arises under section 79 of the Information Technology Act, 2000, subject to conditions concerning the intermediary's role, due diligence and disqualifying conduct. Section 81 preserves intellectual-property rights, but its relationship with safe harbour requires harmonious interpretation,[12] and neither provision should be read in isolation from the conduct alleged.

Internationally, the WIPO Copyright Treaty addresses making works available digitally, technological measures and rights-management information while retaining limitations structured by the three-step test.[13] It does not dictate an indiscriminate prohibition on technological reuse; it requires arrangements that protect legitimate interests without disregarding the public purposes of copyright limitations.

Where an exception applies, the absence of a licence is not dispositive; conversely, a socially beneficial purpose does not remove statutory conditions. This distinction should structure both judicial reasoning and the design of private copyright compliance systems.

[4] Copyright Act 1957, ss 2(o), 13 and 14(a)(i).
[5] *R G Anand v Delux Films* (1978) 4 SCC 118.
[6] *Eastern Book Company v D B Modak* (2008) 1 SCC 1.
[7] Copyright Act 1957, s 51(a)–(b).
[8] Copyright Act 1957, s 52(1)(a)–(c), (i), (n) and (zb).
[9] Copyright Act 1957, s 52(1)(c), proviso.
[10] Copyright Act 1957, ss 55, 57 and 63.
[11] Copyright Act 1957, ss 65A–65B; Copyright (Amendment) Act 2012, s 37.
[12] Information Technology Act 2000, ss 79 and 81; *MySpace Inc v Super Cassettes Industries Ltd*, FAO(OS) 540/2011 (Delhi High Court, 23 December 2016) [68].
[13] WIPO Copyright Treaty (n 1) arts 8 and 10–12.

4. Changing Dimensions of Digital Infringement

Digital infringement is not a homogeneous category. Unauthorised uploading, distribution and commercial redistribution of works may implicate reproduction and communication rights, and proceedings against piracy-oriented websites show the difficulty of enforcing those rights where access points can be repeatedly replaced.[14] However, infrastructure capable of infringement may also support lawful distribution, so evaluation should focus on demonstrated activities, authorisation and available exceptions rather than the technological medium alone.

Social-media reuse illustrates a different problem. Commentary, reviews, instructional material and entertainment may incorporate protected extracts, but similarity does not make their legal treatment identical. The relevant questions are whether protected expression has been taken, whether a substantial part is involved, and whether the conditions for an exception are met.[15] Infringement analysis must therefore remain contextual even where the technology producing or detecting resemblance operates at scale.

Another distinction concerns enforcement against unidentified defendants. A claimant may know where an infringing work is accessible without knowing who operates the service, so intermediary assistance may be necessary even where intermediaries are not proved to be infringers. *UTV Software Communication* expressly recognised that certain infrastructure defendants were joined to facilitate effective relief rather than because they had committed the underlying infringement.[16]

Automated enforcement introduces a further institutional risk. Technical systems can identify matching material, but matching is not legal adjudication. Elkin-Koren's analysis of fair use by design highlights the importance of building lawful-use considerations into technological enforcement, including human review where automated assessment is inconclusive.[17] For India, enforcement systems should accommodate the exceptions Indian law actually recognises.

These distinctions suggest that enforcement quality should not be measured solely by the number of removals or blocked addresses. A procedure that acts rapidly but cannot correct mistakes may protect some rightsholders while imposing substantial costs on lawful speakers, whereas one requiring repeated litigation over demonstrably identical evasive services may render relief ineffective. The appropriate objective is accurate and contestable intervention: preservation of evidence, identification of the asserted entitlement, differentiation between direct actors and facilitators, and timely reconsideration when the factual basis of a restriction changes.

5. Judicial Approaches to Infringement and Intermediary Liability

Indian decisions reveal two related judicial concerns: preventing indiscriminate intermediary responsibility and keeping remedies effective against deliberate evasion. In *Shreya Singhal v Union of India*, the Supreme Court read down the actual-knowledge requirement under section 79(3)(b), emphasising judicial orders or appropriate governmental notification within the constitutional framework it identified.[18] The decision addressed the danger of requiring intermediaries to determine the legality of vast quantities of contested expression; its significance lies in procedural restraint.

In *MySpace Inc v Super Cassettes Industries Ltd*, the Delhi High Court rejected the proposition that the copyright reservation in section 81 automatically displaced section 79 protection; the provisions were to operate harmoniously. The Court distinguished actual knowledge of particular infringement from general awareness that a platform might host infringing material,[19] so that user uploads alone do not establish platform liability.

The operative directions required identification of specific works and their locations on the platform, so the judgment should not be reduced to the proposition that a private copyright notice can never matter: specificity was central to the relief ordered.[20] Its broader contribution is an allocation of responsibility. Rightsholders must identify actionable material with

[14] Copyright Act 1957, ss 14 and 51; *UTV Software Communication Ltd v 1337X.to*, CS(COMM) 724/2017 and connected suits (Delhi High Court, 10 April 2019) [94]–[101].
[15] Copyright Act 1957, ss 14 and 52; *R G Anand* (n 5).
[16] *UTV Software Communication* (n 14) [4]–[5].
[17] Niva Elkin-Koren, 'Fair Use by Design' (2017) 64 UCLA Law Review 1082, 1097–99.
[18] *Shreya Singhal v Union of India* (2015) 5 SCC 1 [117]–[119].
[19] *MySpace* (n 12) [68](a)–(b).
[20] ibid [68](c) and operative directions (i)–(iii). The directions were made within the procedural framework applicable when the judgment was delivered.

sufficient precision, while intermediaries cannot rely on the volume of user activity to disregard specifically established obligations.

A different remedial problem arose in *UTV Software Communication Ltd v 1337X.to*. The Delhi High Court recognised that targeting individual links might be ineffective against services organised around infringement.[21] It permitted extension of relief to mirror, redirect and alphanumeric variants through an impleadment procedure supported by evidence and scrutiny by the Joint Registrar.[22] Dynamic injunctions thus addressed renewed access to an already identified infringing service without a fresh suit for every evasive variant.

The justification for this mechanism must remain connected to its evidentiary premise. An additional domain should not be restrained merely because a claimant asserts some association with unlawful activity; the question is whether it supplies another means of accessing the service already adjudged appropriate for restraint. Otherwise procedural efficiency could expand substantive relief without examining new circumstances.

In *Universal City Studios LLC v Dotmovies.Baby*, the Delhi High Court granted an ex parte interim "Dynamic+" injunction extending protection to future works, with ownership-related qualifications and a mechanism for seeking clarification.[23] The Court expressly treated such prospective relief as fact-dependent, since newly released works could otherwise be uploaded before separate relief could be obtained; the order is not a general entitlement to pre-empt every future use of a claimant's repertoire.

Prospective protection presents a sharper procedural difficulty because the precise work or alleged infringement may not yet be available for examination. This article therefore proposes that such orders expressly preserve challenges concerning ownership, identity, licensing and exceptions, provide accessible correction procedures and document any extension of restrictions.

Periodic reconsideration would be a further safeguard where an order continues to affect changing services, so that continued restriction depends on an identifiable connection with the original justification rather than administrative inertia.

Read together, these decisions suggest that the appropriate object of innovation is remedial precision rather than unrestricted expansion. Liability should remain connected to the defendant's conduct and the applicable statutory elements, while assistance with enforcement may be required on a different legal basis. The legitimacy of digital enforcement depends not merely on stopping repetition but on demonstrating why a particular person, service or future activity falls within the order.

6. Generative Artificial Intelligence and Emerging Copyright Challenges

Generative artificial intelligence requires separation of at least three questions: whether acquiring or processing training material involves restricted reproduction; whether a particular output reproduces protected expression; and whether the output itself qualifies for copyright. A favourable answer to one does not resolve the others. Lemley and Casey's account of fair learning distinguishes learning from protected works from reproducing them for competing expressive consumption.[24] That argument is relevant to policy, but its adoption in India must be tested against Indian statutory language.

The Delhi High Court's judgment of 24 July 2026 in *ANI Media Pvt Ltd v Open AI OpCo LLC* is particularly significant. At the interim stage, the Court considered the storage of ANI's literary works for model training to fall within section 52(1)(a). It also found that the outputs examined were not substantially similar to ANI's works and that memorisation or regurgitation had not been established on the material before it.[25]

The Court refused interim relief, expressly stating that its observations would not determine the suit's final outcome.[26] An appellate order dated 15 September 2026 issued notice in ANI's appeal.[27] The July judgment should therefore neither be omitted from contemporary analysis nor described as finally establishing that every form of commercial model

[21] *UTV Software Communication* (n 14) [59] and [69].
[22] ibid [99]–[103].
[23] *Universal City Studios LLC v Dotmovies.Baby*, CS(COMM) 514/2023 (Delhi High Court, 9 August 2023; corrected and released 17 August 2023) [17]–[20].
[24] Mark A Lemley and Bryan Casey, 'Fair Learning' (2021) 99 Texas Law Review 743.
[25] *ANI Media Pvt Ltd v Open AI OpCo LLC*, CS(COMM) 1028/2024, IA 45300/2024 (Delhi High Court, 24 July 2026) [271].
[26] ibid [272]–[274].
[27] *ANI Media Private Ltd v Open AI OpCo LLC*, FAO(OS)(COMM) 237/2026 (Delhi High Court, order dated 15 September 2026) [1]–[4].

training is lawful; its procedural character and evidentiary context are essential to understanding its authority.

The difficult interpretative question is whether a computational process carried out within an organisation necessarily constitutes the kind of private research contemplated by the statute. Technical inaccessibility to outsiders does not conclusively establish the legal purpose of an activity. A defensible analysis should examine the claimed statutory purpose, the necessity and extent of copying, safeguards against expressive substitution, and demonstrated effects on legitimate exploitation, supplementing rather than replacing the provision being interpreted.

Market harm should not be presumed solely because permission could have been sold; that reasoning makes every unlicensed use unlawful by definition. Yet evidence that outputs substitute for protected expression should not be dismissed merely because the process is novel. The inquiry should distinguish asserted licensing opportunities from substantiated interference with legitimate exploitation.

Output liability should likewise be assessed independently. A claimant should identify the protected expression allegedly reproduced and the legally relevant similarity, rather than rely solely on the model's possible exposure to a work; equally, a research purpose at the training stage should not immunise a later output that reproduces protected expression without justification.[28] The appropriate unit of analysis may therefore be a particular stage, dataset or output rather than the system as an indivisible whole.

Authorship presents a separate difficulty. Section 2(d)(vi) attributes authorship of certain computer-generated works to the person causing their creation, but identifying that person does not dispense with the requirements governing protected subject matter and originality.[29] Mishra and Singh's examination of artificial-intelligence-generated works highlights the interaction between copyrightability, authorship, ownership and contractual arrangements.[30] Contractual allocation of rights between provider and user cannot establish rights that copyright law does not recognise.

The preferable legislative response would distinguish computational analysis, retention of source material, expressive reproduction and the allocation of authorship. Transparency should be directed toward legally significant evidence, not indiscriminate publication of confidential technical information. Protected disclosure, provenance records and appropriately scoped licensing could facilitate adjudication without presuming universal permission or universal prohibition.

7. Comparative Perspectives: United States and European Union

American law offers two distinct mechanisms that should not be confused. Section 107 of Title 17 provides a contextual fair-use inquiry addressing purpose, the nature of the work, the amount used and market effects.[31] Section 512 separately limits qualifying service-provider liability, subject to conditions that include notice-and-takedown requirements, and its counter-notification mechanism provides a route toward restoration of disputed material.[32]

The American experience also cautions against treating removal as a substitute for adjudication. Urban and Quilter's research examines whether notice procedures produce efficient enforcement or chilling effects.[33] The lesson is institutional: accessible complaints should be accompanied by opportunities to contest allegations so that mistaken restrictions can be corrected in practice.

The European Union follows a more differentiated statutory approach. Articles 3 and 4 of Directive (EU) 2019/790 establish distinct text-and-data-mining arrangements: one for qualifying research organisations and cultural-heritage institutions, and another subject to conditions including lawful access

[28] Copyright Act 1957, ss 14, 51 and 52; *R G Anand* (n 5).
[29] Copyright Act 1957, ss 2(d)(vi) and 13; *Eastern Book Company* (n 6).
[30] Nikhil Mishra and Digvijay Singh, 'AI-Generated Work and its Implications on Copyright Law in India' (2025) 30(1) Journal of Intellectual Property Rights 35, doi:10.56042/jipr.v30i1.5862.
[31] 17 USC § 107.
[32] 17 USC § 512(c), (g) and (i); US Copyright Office, 'Section 512 of Title 17: Resources on Online Service Provider Safe Harbors and Notice-and-Takedown System' (accessed 12 November 2026).
[33] Jennifer M Urban and Laura Quilter, 'Efficient Process or "Chilling Effects"? Takedown Notices under Section 512 of the Digital Millennium Copyright Act' (2006) 22 Santa Clara Computer and High Technology Law Journal 621.

and appropriate reservation of rights.[34] This shows how computational uses can be addressed expressly without assuming that every beneficiary and purpose warrants identical treatment.

Article 17 addresses specified online content-sharing service providers through authorisation and responsibility rules, while preserving protections for legitimate uses, prohibiting general monitoring obligations and requiring complaint and redress arrangements.[35] Its relevance lies in stating both the obligations imposed on platforms and the safeguards available to affected users.

These comparisons support selective institutional borrowing rather than wholesale transplantation. Indian reform should account for statutory structure, adjudicatory resources and access costs, since a complex compliance regime may strengthen dominant providers while making participation harder for smaller services and individual creators. The preferable inquiry is which procedures improve accurate enforcement under Indian conditions, not which jurisdiction supplies the most restrictive or permissive label.

8. Critical Findings and Recommendations

The analysis supports targeted reform rather than the replacement of copyright's basic architecture. First, copyright notices should identify the relevant work, claimed entitlement, location and alleged restricted act, and procedures should distinguish straightforward piracy from genuinely contestable questions and allow meaningful challenge to removal. The specificity emphasised in *MySpace* offers a doctrinal foundation for this approach.[36]

Second, dynamic injunctions should retain evidentiary requirements for each extension, proportionate technical scope and accessible correction procedures. Future-work protection should require explicit justification and should not foreclose challenges based on authorisation, ownership or statutory exceptions. The mechanisms in *UTV* and *Universal City Studios* provide starting points, but their application should remain demonstrably connected to the facts justifying relief.[37]

Third, legislative consideration of text and data mining should distinguish qualifying research from other uses and address source acquisition, security, retention and expressive substitution. Any rights-reservation mechanism should be intelligible to users and technically workable. The European distinction between research-specific and broader mining provisions is one comparative model, not an automatic answer for India.[38]

Fourth, automated systems should explain restrictions and permit human reconsideration of context-sensitive disputes, so that legal exceptions remain operational within enforcement design rather than appearing only in contractual declarations. Elkin-Koren's approach supports evaluating technological systems by their treatment of lawful uses, not detection capability alone.[39]

Finally, enforcement reform should be accompanied by accessible licensing, rights information and institutional copyright guidance. Licensing should facilitate uses requiring permission without charging for activities already authorised by statute. The broader implication of Samuelson's analysis is that different lawful-use purposes deserve differentiated treatment.[40] Reform should be assessed against two outcomes together: effective redress for infringement and reliable preservation of lawful participation in cultural and intellectual life.

9. Conclusion

Copyright infringement in the digital age cannot be addressed adequately through either technological exceptionalism or uncompromising proprietary control. The analysis supports the working proposition that Indian law retains substantial capacity to address conventional digital copying and dissemination; its harder problems concern the interpretation of exceptions, the allocation of platform responsibility and the design of remedies that remain effective without becoming indiscriminate.

The principal research question therefore admits a qualified answer. Existing rights provide a foundation, but their adequacy depends on procedures capable of distinguishing infringing exploitation from legitimate technological and expressive activity. Adaptable

[34] Directive (EU) 2019/790 on copyright and related rights in the Digital Single Market [2019] OJ L130/92, arts 3–4.
[35] ibid art 17(1), (4) and (7)–(9).
[36] *MySpace* (n 12) [68].
[37] *UTV Software Communication* (n 14) [99]–[103]; *Universal City Studios* (n 23) [19]–[20].
[38] Directive (EU) 2019/790 (n 34) arts 3–4.
[39] Elkin-Koren (n 17) 1097–99.
[40] Samuelson (n 2).

remedies against evasive piracy must remain tied to evidence, review and correction of error. Artificial-intelligence disputes particularly require separation of training, outputs and authorship, with interim decisions understood according to their procedural limits.

The appropriate reform agenda is neither wholesale transplantation of foreign models nor the assumption that every unresolved question demands a broader exclusive right. It is a programme of targeted clarification, proportionate enforcement and accountable institutional design. Copyright's legitimacy depends on protecting creative endeavour while preserving the conditions under which learning, criticism and creation remain possible.

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