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Challenges Of Enforcing Copyright In The Digital Age: A Case Study Of The Indian Music Industry

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INTRODUCTION

Music is your own experience, your own thoughts, your wisdom. If you don't live it, it won't come out of your horn." - Charlie Parker¹ Music has its own importance when it comes to lives of different people and hence its protection is necessary. It is a person's own creative thoughts and tunes put into something which can only be felt and heard. The Indian Copyright Act 1957 gives protection to any song. Along with the importance of music distribution and communication, piracy in the music industry has been seen since the last few years. With the emerge of digitalisation and urbanisation of platforms, it has become a concern. It can be defined as infringing and duplication of songs without the lawful permission of the owner of the song for one's own monetary gain. It is an infringement under the Indian Copyright Act, 1957.² India's copyright laws safeguard musical works and guarantee that people who contribute to their creation are duly acknowledged and compensated financially. Protecting artists' rights and encouraging creativity and innovation both depend on copyright protection. As per the Indian Copyright law, "Musical work" means a work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music³. The Act also states that composer shall be regarded as the author of a musical work.⁴ The term Sound Recording is defined in the Act and refers as "recording of sounds that can be reproduced, irrespective of the medium or method used."⁵ A Sound Recording Copyright encompasses the collection of sounds captured in a tangible medium, such as phonograph

Keywords

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discs, tapes, cassettes, or digital formats. Hence it can be concluded that a graphical representation of music that is recorded to produce audible sounds is considered a Sound Recording. It can be difficult for to understand the difference between Sound Recording Works and Musical Works when ownership and claims of copyright begin. In the case of *Indian Performing Rights Society v. Eastern Indian Motion Pictures Association*⁶ the issue which came before the Supreme Court was, "Whether in view of the provisions of the Copyright Act, 1957, an existing and future rights of music composer, lyricist is capable of assignment and whether the producer of a cinematograph film can defeat the same by engaging the same person." It was held that when a lyricist or composer is hired under a service agreement, movie production company becomes the first owner. The producer is considered an author of sound recording whereas the composer is considered an author of musical work.⁷

Hypothesis-

Even with the strong legal foundation the Indian Copyright Act, 1957 offers, widespread music piracy makes copyright enforcement in the digital era extremely difficult. These problems have been made worse by the growth of digital platforms and urbanization, which has caused the music industry in India to suffer significant financial losses and employment losses. India's current legal and enforcement frameworks are inadequate when compared to nations like China that have effectively enacted strict anti-piracy measures. Therefore, it is essential to solve these issues through comprehensive legal reforms, especially from a digital standpoint.

Research Objective-

Unlike other developed countries like United Kingdom, Europe and the United States, the media industry contributes to only 1% of the Indian GDP. A data survey suggests that approximately Rs. 1000

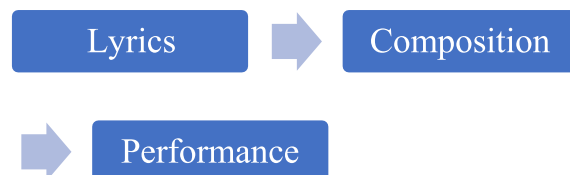
crores are not included in this GDP due to piracy in the musical industry of India. If this data is to be believed then the film industry is losing out to the jobs of 60,000 workers every year in the media sector and the sole reason for the same is piracy. After Covid in the year 2022, the services and over the top channels have seen a significant growth in the industry and India has a huge pack of 850 million mobile phones with an access to easy internet and mobile data. A lot of these users are knowingly stealing from the industry even after knowing the fact that it is a form of theft from someone else's property, however no fear is instilled in them. China trailed India in the 2014 IFPI World Music Rankings. The Sword Net project, launched by China, reduced music piracy by 80%. This is one of the reasons China is currently ranked higher than India and is predicted to rank in the top five global music markets by 2025. Law reforms must right away be examined from a digital perspective as well.

II. Ownership Of Music-

The ownership of music has been elaborated by the Madaras High Court in the case of *M/s Indian Record Manufacturing v/s Agni Music Sdn Bhd* and it stated that although the producer is the legitimate owner of the musical composition, unless the producer who hired the composer cedes ownership to the composer.

Persons Involved In The Ownership Of A Song-

The Indian Copyright law derives that, a song which is heard is not a singular commodity but rather is divided into various form of works which are combined to make a particular form of work. Each owner of such work can claim his ownership over the same.



³ Copyright Act 1957, s 2 (p)

⁴ Copyright Act 1957, s 2 (d)(ii)

⁵ Copyright Act 1957, s 2(xx)

⁶ [1977] AIR 1443 (SC)

⁷ "Copyright in Musical Works India" (Bytescare, n.d.) <https://bytescare.com/blog/copyright-in-musical-works-india#:~:text=The%20producer%20is%20considered%20an,the%20realm%20of%20copyright%20protection..> accessed on 10 August 2024

Lyricist Lyrics are the words written for a song to be sung without any performance or composition. In a literary work, the person who writes the work is the author of that work. Hence, a person who writes the lyrics of a song is called as the lyricist. He is the author and the owner of those lyrics since they are the product of his own creative thoughts. Due to this reason, he has the ability to protect those lyrics under the Copyright Act.⁸

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Composer It does not have any lyrics or words but simply a tune and graphical notations of the same. Hence, music composer is a person who gives the sound or tune to the lyrics and both of them combined make a song. Hence he has the right to protect the tune of the song and he can Copyright the same being the author of the same.⁹ Composer is defined differently in the Indian Copyright Act in two different Sections. In the first context it defines “the author in relation to the musical work is a Composer”¹⁰ whereas in the second context it describes the composer in relationship with the musical works as “the person who composes the music regardless of whether he records it in any form of graphical notation”¹¹. Sometimes a composition or a work can be created by two or more persons. In such a case the ownership belongs to all of those persons and hence they are known as joint authors or composers by application and the work is known and ‘work of joint authorship’.¹²

Singer A Performer is defined, “as an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture, or any other person who makes a performance.”¹³ Hence, a singer is the person who performs the song or who is a vocalist of the lyrics and composition and he may assert his copyright over the work he contributed to under this Section.

Producer According to the Act the term Producer is defined as "in relation to a cinematograph film or sound recording, means a person who takes the initiative and responsibility for making the work;" ¹⁴ The producer of a film or album is the author of the song's recording since he records the song and includes it in the production. As a result, he is able to obtain copyright for the music he recorded.

Exclusive Rights Of The Owner- To protect the rights of the author, various provisions are laid down that provide various rights to the author and are known as exclusive rights. The owner of the musical work has the right to- ¹⁵ “(i)to reproduce the work in any material form including the storing of it in any medium by electronic means; (ii)to issue copies of the work to the public not being copies already in circulation; (iii)to perform the work in public, or communicate it to the public; (iv)to make any cinematograph film or sound recording in respect of the work; (v)to make any translation of the work; (vi)to make any adaptation of the work; (vii)to do, in relation to a translation or an adaptation of the work, any of the acts specified in relation to the work in sub-clauses (i) to (vi);” The owner of Sound Recording has the right to-¹⁶ “(i) to make any other sound recording embodying it including storing of it in any medium by electronic or other means; (ii)to sell or give on commercial rental or offer for sale or for such rental, any copy of the sound recording; (iii)to communicate the sound recording to the public.”

⁸ Section 2(d)(I)

⁹ Copyright Act 1957, s 2(d)(ii)

¹⁰ Copyright Act 1957, s 2dii

¹¹ Copyright Act 1957, s 2 ff

¹² Copyright Act 1957, s 2 (z)

¹³ Copyright Act 1957, s 2 (qq)

From the abovementioned provisions, it is clear that right to reproduction is regarded as one of the author's fundamental rights since it enables him to copy and keep his creations in whatever format. This is the only right that the author has; consequently, if someone else wants to use the work, they must obtain permission from the author. Right to distribution aids the writer in stopping the dissemination of unapproved works. It also covers the idea of the first sale doctrine, which states that someone has the authority to sell, display, or dispose of a copy of a work once they have paid the copyright owner for it, it can be called as their right to adaptation. In music, adaptation refers to any kind of arrangement or transcription. The sole authority to alter or permit others to alter or change their work belongs to the copyright holder. The broadcasting right grants the copyright holder the ability to distribute their previously published work. Another name for this right is the right to communicate the work. Lastly, the ability to rent a copy of a sound recording or any other work that is protected by copyright rules is known as the rental rights. The creation, marketing, and distribution of sound recordings are subject to the approval or disapproval of the song's or music's producer.¹⁷

Duration Of Legal Protection¹⁸

The term of copyright protection for musical works in India is determined as: •Individual's piece of work This provision provides that a musical work that was released while the composer was alive is protected by copyright for 60 years from the year of the composer's death. This clause makes sure that the work is not used without the required permission and works to protect the rights and interests of the artist's heirs. •Joint Authorship All authors who contributed to the creation of a joint musical composition are given legal protection for it. That being said, there is a time limit on this protection. The statute states that the protection expires when the last living author passes away.

III. Infringement Of Music

The Indian music business has experienced numerous instances of song copyright infringement. Newer artists and record companies have faced accusations of allegedly stealing songs, including the lyrics, music, and other elements, without the owner's consent. However, the musicians maintain that the song was inspired and not plagiarized. The Indian judiciary has provided a variety of rulings and thoughtful explanations on the aforementioned subject. In the case of *Blackwood And Sons Ltd. and Ors. vs. A.N. Parasuraman and Ors.* (1958), Madras High Court held that "translation of literary work is itself a literary work and is entitled to copyright protection; reproduction of publication of translation without consent or licence of the owner of copyright in the original would amount to infringement." Section 51 of the Copyright Act, defines an infringement. There are certain categories of copyright violation- Copyright infringement can occur in two forms: primary infringement and secondary infringement. One may categorise them as direct and indirect violation. 1.Primary infringement: Primary infringement refers to the direct act of creating unauthorised copies of a copyright holder's work, such as filming a new cinematographic film and subsequently posting it to websites. 2.S e c o n d a r y infringement: This form of infringement entails aiding the primary act of copyright violation. This legal theory holds an individual accountable for copyright infringement by engaging in activities such as selling, distributing, and importing unauthorised copies, as well as facilitating a venue for public communication of the work.¹⁹ In 2012 there was a dispute between Pritam Chakraborty and Iranian Music Band. Mika Singh sang the hit song "Pungibaja" from the film "Action Reply." IPR regulations caught music director Pritam in copyright violation shortly after the song's debut. He was accused of stealing the song from the 2003-founded Iranian band Barobak Corp. The producing company of the movie as well as Pritam received legal notice

¹⁴ Copyright Act 1957, s 2 (uu)

¹⁵ Copyright Act 1957, s 14(a)

¹⁶ Copyright Act 1957, s 14(e)

from the company. It was found that the music 19 iPleaders, "Analysing Copyright Infringement Cases and Laws in India" (iPleaders, n.d.) https://blog.ipleaders.in/analysing-copyright-infringement-cases-and-laws-in-india/#Notable_copyright_infringement_cases accessed on 20th November 2024 was a replica of the album's title track, which Kashayar, Kevian, and Hamid Farouzmand, three Iranian nationals, had recorded in 2010.²⁰ The original work must be copied in order for infringement to be shown under the Copyright Act to occur, and the original work must be the property of the original author or creator. Any violation of the original work shall be considered copyright infringement. In the case of *Eastern Book Co. v. Modak*²¹, the court proposed a two-step test approach to detect copyright infringement. It states that the first step is to determine whether the allegedly copied song is an exact replica of the original work and the second is to see if it is a song that is identical to the original song. In spite of such a clear test, our Indian legislature and courts are still working to identify all forms of unauthorised music duplication and the nature of infringement in this new era of digitalization and modernization of taste and song usage. Piracy is one such problem when it comes to digitalisation. Music piracy is one of the most prevalent instances of copyright infringement in the music industry. The number of authentic music platforms, such as Spotify and Jio Music, can significantly see a low due to the free availability of all the audio and video content of musical works on pirated websites. It can lower sales, endangering an artist's ability to make a living. It also diminishes the song's uniqueness and sincerity, which is disrespectful to everyone who put a lot of effort and heart into its making. A dispute occurred between a huge music production house name as T-Series and the online website Guruji.com. Any researcher used to get redirected to purportedly pirated websites via the defendant's musical search engine. In a complaint, the plaintiff claimed that Guruji.com was a search engine for illegal music.

IV. Evolution And Impact Of Music Piracy In India-

Vinyl records were the primary medium for storing and distributing music for many years, particularly during the 1980s, until the advent of cassettes and CDs in 1988 and 1991, respectively. Music was produced by hand back then, but with the development of the internet came new distribution outlets and a reduction in production time and cost. Traditional methods of delivering music were gradually becoming obsolete, yet content was now widely available to everyone with a smart device and an internet connection. But there was a price for all this convenience: widespread piracy. Unauthorized copies started getting either sold without payment or bootlegged for less than market value.²² Sean Parker, an investor of Spotify launched the app in order to fix the loop hole between expensive music and general public stating that "Spotify is the answer to piracy."²³ The unapproved sharing of copyrighted music via peer-to-peer networks or file-sharing networks is known as music piracy. This has resulted in a drop in sales and revenue, which has been a serious problem for the music industry.²⁴ In 90s' peer-to-peer file-sharing services such as Napster, Kazaa etc became the industry's worst nightmares. Millions of individuals from all around the world were able to obtain copies of songs, albums, and even rare music that had not been made available to the general public through illegal downloads thanks to these sites. After being taken to court, the majority of these services were eventually forced to close. A few days prior to its official release, famous Indian singer Jubin Nautiyal's new single, 'Haaye Dil', was leaked online, which devastated him. He claimed that it was being played from the nearby building when he was preparing to perform at the concert. Claiming to be depressed, he even made a complaint.²⁵ This is a classic example of how piracy shows artists their career lows. Because of new, technologically advanced distribution channels, consumption patterns have changed dramatically during the past ten years. Up

¹⁷ iPleaders, "Protection of Music Under IPR Law" (iPleaders, n.d.) <https://blog.ipleaders.in/protection-of-music-under-ipr-law/> accessed on 10 August 2024

¹⁸ Copyright Act 1957, s 22

until 2005, the Indian industry's revenue was mostly derived from physical sales of products like cassettes and optical discs. But for the first time ever, this pattern changed in 2006. In terms of how much time people spend on their phones, India is currently among the top nations. According to the CISCO Annual Report (2018-23), 66 percent of people on the planet are expected to have access to low-cost internet. Before the internet and storage choices, pirates only used CDs or DVDs, but now that they have access to the internet, they can download movies or music and store it on an online storage platform. This suggests that physical piracy has moved online. The two primary modes in which music piracy occurs in the digital era are through unauthorized streaming and illicit downloads. The act of downloading music or albums illegally is when someone transfers a material from the internet onto their device without paying for it or without the owner of the copyright's consent. On the other side, unapproved streaming is listening to music in real time without the necessary authorization or fees. These actions frequently take place on unlicensed platforms and websites, commonly referred to as "pirate" websites.²⁶ In the case of *Tips Industries Ltd. v. Wynk Music Ltd.*²⁷ The Defendants own and run WYNK, an Over-the-Top service that may be accessed via the internet, smartphones, and smart devices, whereas the Plaintiff was the owner of 25,000 sound recordings. After paying a monthly fee, subscribers of the Defendants were able to access Plaintiff's Repertoire through this service. The copyright society Phonographic Performance Limited ("PPL") had previously granted the defendants a written license to use the plaintiff's repertoire; however, this arrangement ran out of time in 2016. In order to agree on terms for a new or renewed license, the plaintiff and the defendant engaged in negotiations in 2016. The Defendants claimed that the increased fee was too high and that they could not accept it. As a result, the Defendants rejected it, and the Plaintiff asked them to take

down the Plaintiff's repertoire on the WYNK platform. The Plaintiff claims that the Defendants disregarded these demands. Following that, the Plaintiff ordered a cease and desist.

•Impact On Gdp And The Music Industry-

First and foremost is the economic impact: illegitimate downloads and streams cost a global economy billions of dollars annually in lost revenue. Not only do well-known performers suffer from this loss of cash, but so do smaller businesses in the music industry, such as independent musicians, background performers, songwriters, and producers. With a value of INR 1,068 crore or 0.006%²⁸ of the GDP of the nation, the recorded music sector in India is thought to directly employ 1,460 people annually. Indian Music is sets to generate revenues of INR 8,660 crore and full-time equivalent (FTE) employment of 38,600 people as it flows to its formal partner industries like television, radio, live events, films, and audio over-the-top (OTT). In addition to the aforementioned direct employment, it has been observed that there are members of the Phonographic Performance Limited (PPL) and Indian Performing Rights Society (IPRS) societies as well. These members are both persons and businesses that are listed with the relevant societies. According to the data of 2018, there were 4,164 registered members of the IPRS, comprising owner publishers, composers, and writers and 325 people have registered with PPL.²⁹ ³⁰ Indian Music Industry holds the largest record of musical songs, released a report stating that the country's music piracy rate, which stands at 68%, is still higher than the global average of 30% in the year 2020. Due to COVID-19, this report described changes observed in the Indian digital music landscape. According to the survey, a "typical music pirate" in India is any person between the ages of 25 and 34 and has a smartphone. He uses short-form video apps, free audio streaming services, and YouTube to listen to music. Aside from BitTorrent and cyberlockers, a music pirate uses mobile apps like

19 iPleaders, "Analysing Copyright Infringement Cases and Laws in India" (iPleaders, n.d.) https://blog.iplayers.in/analysing-copyright-infringement-cases-and-laws-in-india/#Notable_copyright_infringement_cases accessed on 20th November 2024

20 India Times, "The Copied 'Pungi': Agent Vinod's First Case" (India Times, n.d.) <https://www.indiatimes.com/bollywood/the-copied-pungi-agent-vinods-first-case-16754.html> accessed on 21st Nov 2024

21 (2007) 1 S.C.C.

22 Aiplex, "Impact of Piracy on the Music Industry" (Aiplex, n.d.) <https://aiplexantipiracy.com/blog/impact-of-piracy-on-the-music-industry/> accessed on 10 August 2024.

23 CNBC, "Title Not Available" (CNBC, n.d.) <https://www.cnbc.com/id/47630944> accessed on 10 August 2024.

SnapTube and illicit stream-ripping websites like Y2Mate and SaveFrom, according to the research. According to the IMI survey, those between the ages of 16 and 24 used music streaming the most, but are the least likely to pay for the services.³¹ The IMI stated, “This age group was typically dissuaded from paying by the presence of YouTube (47% said they didn’t pay because all the music they wanted was available on YouTube) and the cost (45 % said a streaming service was too expensive).” Sixty-seven percent of Indian users who responded to a study acknowledged having accessed musical content through illicit ways did so because of the widespread practice of music piracy. Stream ripping websites, infringing websites based in India, and illegal P2P apps have collectively caused losses of up to US\$ 250 million, or INR 1500 Cr, every year.³² It is important to remember that Indian customers are not accustomed to purchasing music. Subscription-based OTT music streaming businesses are up against competition despite the explosive expansion of ad-supported OTT platforms. Subscriptions to audio rose by 18% to INR 1 billion in 2019. Nevertheless, paying subscribers remained below 1% because of the abundance of free options available on all major streaming platforms and the accessibility of music on YouTube.³³ Beyond its adverse economic impacts, music piracy also diminishes the worth of music and the labor-intensive process of making it. It fosters an atmosphere in which artists are not fairly compensated for their labor, which inhibits creativity and innovation. The variety and caliber of music created may suffer as a result. Furthermore, the ease of access to music that has been pirated might lead to consumers normalizing the act of piracy. This normalization may make the problem worse, leading to a vicious cycle in which the decreased value of music is both a cause and an effect of music piracy.

V. Factors Contributing To Music Piracy In India-34

To download pirated songs or movies, individuals are bound to cooperate with music piracy; it is not a one-way process. One-sided piracy would completely disappear if consumers refuse to download the songs that have been illegally downloaded from the internet. People's support for goods that have been pirated may be supplied by the websites with or without their awareness. Nowadays, a lot of people are still ignorant that they are encouraging music piracy by downloading songs from unofficial websites. There are some reasons listed below for the people to support piracy, they are-

- i. The price that the manufacturers or firm sets for their goods is one of the primary motivators for people to engage in piracy. People's hunger for free goods makes it possible for large torrent sites to take advantage of opportunities to pirate similar goods and provide them to users at no cost.
- ii. People's inability to appreciate a movie or music album at a desired time is another major cause of online piracy; nevertheless, when people download music from the internet, they may view and enjoy it whenever it's convenient for them. People are especially happy about this because it won't interfere with their hectic schedules or working hours.
- iii. It also implies that, even if they were prepared to pay the full amount, many individuals might not be able to afford it. Because they are unable to afford it or because it is too expensive for the average person to purchase, this forces them to support piracy.
- iv. People in that location download pirated goods as a means of combating prejudice because particular songs are not available there. This is one of the causes for piracy. Only in the case of CDs and cassettes does this rationale stand out.
- v. A large number of people engage in piracy as a result of other people's involvement. They use the argument that they are not the only one who downloads music from the internet as a defence.
- vi. Many individuals engage in

24 Yellowbrick, "Exploring Copyright Infringement in the Music Industry" (Yellowbrick, n.d.) <https://www.yellowbrick.co/blog/music/exploring-copyright-infringement-in-the-music-industry> accessed on 10 August 2024.

25 Indian Express, "Singer Jubin Nautiyal Files Police Complaint After New Single Leaks Online" (Indian Express, n.d.) <https://indianexpress.com/article/entertainment/bollywood/singer-jubin-nautiyal-humma-humma-files-police-complaint-after-new-single-leaks-online-4531339/#:~:text=Jubin%20Nautiyal%2C%20who%20gave%20his,before%20it%20was%20officially%20relea> accessed on 15th September 2024.

26 Subhash Ahlawat, "Music Piracy" (Subhash Ahlawat, n.d.) <https://subhashahlawat.com/blog/music-piracy> accessed on 15th September 2024.

27 Tips Industries Ltd. v. Wynk Music Ltd. & Anr Notice of Motion (L) No. 197 of 2018

28 IFPI, Global Music Report, 2019

piracy without realizing that they are doing so. This demonstrates how many people are still ignorant of the rules and copyright statutes that safeguard copyright holders' rights. vii. Another reason why people engage in these kinds of activities is that downloading illegal content is more simpler, faster, and free because a logical customer would only consider how much money they can make.

•ANTI PIRACY LAWS AND MEANS IN INDIA- In order to combat film piracy, India recently passed the Cinematograph (Amendment) Bill, 2023, which introduces strict anti-piracy measures and penalties. However, the music industry has not received the same level of attention or reform, despite the fact that it faces significant potential revenue losses of between Rs. 867 crore and Rs. 1,200 crore³⁵. The growing incidence of digital music piracy is one of the main causes of these losses. Legal frameworks to prevent piracy in copyright and intellectual property infringement are provided by the Information Technology Act of 2000. Under Section 66 of the said Act, violators can face up to 3 years of imprisonment and a fine of up to Rs. 2 lakh. These laws have provisions for enforcement and sanctions, but they don't do much to stop piracy. Enforcement of online piracy is challenging because to monitoring and prosecution issues, particularly when illicit copies are hosted on foreign servers.³⁶ Empowers the government to block access to websites hosting infringing content, including pirated music.³⁷ It lays up safe protection rules and covers the liability of intermediaries (such websites and internet service providers), providing they use due diligence and don't intentionally host pirated content.³⁸ The legal framework for the protection of musical works and sound recordings in India is provided by the Copyright Act, 1957. The Copyright Act of 1957 replaced the Act of 1914 and went into effect. Section 52A of the act specifies the information that must be included in sound recordings and video films. This Act grants the

copyright holder exclusive rights and makes it illegal to use or reproduce these works without authorization. But effectively enforcing these laws creates a hurdle. The legal system is frequently unable to keep up with the rapid changes in technology, and copyright infringement cases can involve intricate legal proceedings. This calls for ongoing legislative changes as well as robust enforcement strategies to protect artists' rights and deter piracy.³⁹ According to the Act, a person who violates copyright, faces a minimum sentence of six months in prison, a maximum sentence of three years in prison, and a fine of not less than fifty thousand rupees, a maximum fine of two lakh rupees. However, in certain cases, the court may, upon mentioning the reason in the judgment, impose a sentence of less than six months in prison or a fine of less than fifty thousand rupees.⁴⁰ To safeguard the interests of creators and distributors, the Indian government introduced amendments to its piracy laws through the Copyright (Amendment) Act, 2012. Two significant sections were added to address digital piracy: •“Section 65(A): This section protects Technological Protection Measures (TPM) used by copyright owners. It penalises anyone who bypasses technological measures put in place to protect rights conferred by the Act with the intent of infringement. Offenders can face up to two years of imprisonment and a fine.” •“Section 65(B): This section addresses Information Rights Management (IRM), protecting sensitive information from unauthorised access. It penalises anyone who knowingly removes or alters rights management information without authority or distributes copyrighted works knowing that such information has been removed or altered without permission. Violators can be imprisoned for up to two years and fined.” Justice C. Hari Shankar took the original way to address sluice- ripping, one of the most pervasive types of pirating in India, in the Delhi High Court. According to the Indian Federation of shutterbugs(IFPI), which organized the action alongside the Indian Music Industry(IMI) on behalf

²⁹ IPRS annual report FY 17 & PPL annual report FY 18

³⁰ Deloitte, IMI Report on Music Industry (Deloitte, n.d.) chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www2.deloitte.com/content/dam/Deloitte/in/Documents/technology-media-telecommunications/IMI%20report_singlePage.pdf accessed on 15th September 2024

³¹ Medianama, "IMI Report Reveals Music Piracy in India at 68%, Double the Global Average" (Medianama, 30 March 2022) https://www.medianama.com/2022/03/223-imi-report-reveals-music-piracy-india-68-double-global-average-30-2/ accessed on 10 August 2024.

³² Vision 2022: India's Roadmap to the Top 10 Markets in the World by 2022

³³ per the IFPI Digital Music Study 2019 India report, 51% of survey respondents preferred YouTube to OTT premium platforms, while 25% thought streaming platforms were too expensive or unaffordable

of Sony Music India, Universal Music India, and Warner Music India, the 20 blocked spots concertedly garnered nearly half a billion visits from consumers abiding in India in 2022.⁴¹ Specialized cybercrime teams and the police's Economic Offenses Wing (EOW) frequently look into and prosecute incidents of music infringement and groups like as the Indian Performing Rights Society (IPRS) and the Indian Music Industry (IMI) monitor internet sites, carry out raids, and prosecute infringers in order to aggressively combat piracy in Indian Music. Internationally, India is a signatory to several treaties that aim to protect intellectual property rights, including those that address music piracy- •The Berne Convention provides a framework for copyright protection that applies to musical works, ensuring that creators' rights are respected across borders.⁴² •TRIPS requires member countries to adopt and enforce laws against copyright infringement, including piracy of music, with specific provisions for enforcement and remedies.⁴³ •WIPO addresses issues related to digital rights management and anti-piracy measures in the online environment, offering a more robust framework for combating music piracy.⁴⁴ •W P P T strengthens the rights of performers and producers against unauthorized use and distribution of their recordings, helping combat music piracy globally.⁴⁵

VI. CONCLUSION-

The digital era has revolutionised the music industry's landscape, presenting both remarkable potential and considerable obstacles. This research demonstrates that the emergence of digital platforms has transformed the creation, distribution, and consumption of music. Nonetheless, technology has intensified challenges of copyright enforcement, resulting in pervasive music piracy and subsequent commercial and creative detriments for the business. The Indian Copyright Act of 1957, although offering a

comprehensive legal framework for safeguarding intellectual property rights, is increasingly challenged by the intricacies of the digital age. This article has highlighted the deficiencies in India's existing legislative and enforcement frameworks, especially in contrast to other nations that have adopted more rigorous anti-piracy strategies. The case studies of Dubai, Canada, and the USA provide significant insights on the utilisation of legal reforms and technical improvements to enhance copyright enforcement. This research reveals that standard copyright enforcement tactics are insufficient for addressing the complexities of digital piracy. The proliferation of streaming platforms, peer-to-peer file sharing, and various digital distribution channels has facilitated the widespread and anonymous dissemination of pirated content. The enforcement agencies in India, hindered by inadequate resources and technological limitations, find it challenging to match the advanced techniques utilised by pirates. Furthermore, urbanisation and the swift integration of digital technology in India have exacerbated the problem. The consumers' ignorance regarding the legal ramifications of piracy, along with the temptation of complimentary content access, sustains the cycle of infringement. This study emphasises the critical necessity for extensive digital literacy initiatives that can inform the public about the significance of upholding intellectual property rights and the enduring advantages of endorsing lawful material. The economic ramifications of music piracy in India are significant. Research indicates that the financial losses experienced by the industry encompass not only the cash lost from illicit downloads and streams but also affect the wider ecosystem of creators, producers, and distributors dependent on the music industry for their livelihoods. The decline in revenue results in diminished opportunities for artists to profit from their work, hindering creativity and innovation

34 Legal Service India, "Online Music Piracy in India" (Legal Service India, n.d.) <https://www.legalserviceindia.com/legal/article-14484-online-music-piracy-in-india.html> accessed on 11 August 2024

35 Indian Express, "YouTube and the Indian Music Industry's Revenue Problem" (Indian Express, n.d.) <https://indianexpress.com/article/opinion/columns/youtube-indian-music-industry-revenue-problem-creator-economy-8456207/> accessed on 11th August 2024.

36Bytescare, "Piracy Laws in India" (Bytescare, n.d.) <https://bytescare.com/blog/piracy-laws-in-india#:~:text=The%20Copyright%20Act%20of%201957%2C%20as%20amended%20in%202012%2C%20and,in%20detering%20piracy%20is%20limited.> accessed on 11th August 2024.

37 Section 69A

38 Section 79

39 Subhash Ahlawat, "Music Piracy" (Subhash Ahlawat, n.d.) <https://subhashahlawat.com/blog/music-piracy> accessed on 15th September 2024.

within the business. This report also analysed the impact of digital platforms in both exacerbating and alleviating the issue of music piracy. Platforms such as YouTube and Spotify have emerged as primary targets for pirated content, complicating the efforts of copyright holders to monitor and eliminate illegal material. Conversely, these platforms have implemented procedures, such as content ID systems and automated takedowns, that provide a degree of protection to copyright holders. Nonetheless, these procedures are not infallible and necessitate ongoing enhancement and more stringent rules to achieve genuine efficacy. In comparison to global rivals, India's copyright enforcement strategy seems disjointed and reactive, lacking a proactive and comprehensive framework. Countries like China, who have encountered analogous issues with digital piracy, have implemented more rigorous legislation and invested in technology-based enforcement tactics that have produced favourable outcomes. This study indicates that India may gain from a comparable strategy, customised to its distinct socio-economic environment. In conclusion, although the Indian music industry has progressed in embracing the digital era, substantial problems persist in the effective enforcement of copyright rules. The challenges of piracy and digital copyright infringement are intricate and diverse, necessitating a blend of legal reforms, technological innovations, and public awareness campaigns. Without a thorough and concerted effort to tackle these difficulties, the Indian music business would persist in experiencing financial losses and hindered growth. Policymakers, industry stakeholders, and technology providers must unite to establish a more robust copyright enforcement system that can adapt to the swiftly changing digital environment. By assimilating the experiences of other nations and adopting a more proactive stance on copyright enforcement, India can enhance the protection of its creators' rights and cultivate a more sustainable and flourishing music industry in the digital era.

VII. SUGGESTIONS-

An effective anti-piracy mechanism is essential to prevent piracy from becoming a significant hindrance to this endeavour. India has made significant progress in addressing the issue of piracy, leading to a reduction in the piracy rate to 67% in 2019, down from 76% in 2018. However, the reduction in these figures is negligible to effect a lasting impact; hence, numerous hurdles confront the sector in addressing this issue. Although the majority of stakeholders view piracy from the customers' perspective, an alternative viewpoint must be acknowledged about content creators, who are significantly disadvantaged in their understanding of the various remedies to combat piracy. From the customers' perspective, the primary issue is a deficiency in understanding regarding the existence of authorised and free music sources, which leads them to resort to pirated alternatives for their music content. Addressing piracy involves a fourfold approach: altering mindsets, implementing good and negative public relations for authentic and pirated sources correspondingly, and integrating technology with legal measures. Section 79 of the IT Act, 2000 awards safe harbour protection only to technical, automatic and passive intermediaries and does not cover platforms like YouTube that are involved in the facilitation and active consumption of music (commercially-focused platforms), as well as piracy-oriented sites and services (including stream ripping sites, cyberlockers and mobile applications that distribute pirated content). •Establishment of a framework for prompt site banning, emphasising administrative actions to combat internet piracy. Site blocking has demonstrated efficacy in reducing piracy rates in numerous countries, including Indonesia, the UK, Italy, Spain, and Brazil. •Establishment of an efficient and resilient notice and action procedure requiring digital platforms to remove infringing content upon notification from rights holders or authorised representatives, and to prevent the re-emergence of such content on their platforms in the future. •Imposing a requirement on digital platforms

40 LegalServiceIndia, "Online Music Piracy in India" (LegalServiceIndia, n.d.) <https://www.legalserviceindia.com/legal/article-14484-online-music-piracy-in-india.html#:~:text=Copyright%20right%20law%20on%20music%20piracy&text=Mainly%20WIPO%20treaties%20such%20as,circumventi on%20of%20technological%20protection%20measures.accessed on 15th September 2024>

41 Billboard, "Stream-Ripping Websites Blocked in India: IFPI's Anti-Piracy Efforts" (Billboard, n.d.) <https://www.billboard.com/pro/stream-ripping-websites-blocked-india-ifpi-piracy/> accessed on 15th August 2024

42 Berne Convention for the Protection of Literary and Artistic Works (1886)

43 TRIPS Agreement (Trade-Related Aspects of Intellectual Property Rights) (1994)

44 WIPO Copyright Treaty (WCT) (1996)

45 WIPO Performances and Phonograms Treaty (WPPT) (1996)

to establish an effective "repeat infringer" policy and a "Know Your Business Customer" policy. The laws regarding intermediary liability in India require modernisation. For the music industry to negotiate licenses and license works, a liability on ISPs is necessary; otherwise, there is no motivation for the music industry to engage in negotiations. This will ultimately facilitate the flow of funds to artists and reinvigorate the virtuous cycle, enabling the music business to cultivate local talent, produce more music, and enhance content quality. The Delhi High Court's ruling in *Super Cassettes Industries Ltd. v. Myspace Inc. & Anr.* adhered to the principles established in *Shreya Singhal v. Union of India*, stipulating that an intermediary can be deemed liable for infringing content on its platform solely when it possesses specific or actual knowledge, or has reasonable grounds to suspect that such information may be infringing. However, the judgement mandated Myspace Inc. to maintain accounts for a "damages" evaluation. This prompted MySpace Inc. to transcend the realm of a purely automated, passive, and technical middleman. A distinct differentiation must be

established between active and passive intermediates in India. India might significantly enhance its worldwide music business standing by adopting efficient copyright management like to that of China. The Chinese government conducts the yearly SWORD Net Action from July to August, enabling copyright holders to denounce piracy and illicit actions, resulting in a decrease in piracy. A WNS essay on addressing music piracy suggests that changing the economic model may be useful. Late adopters, typically more sensitive to pricing, may recognise less incentives to upgrade. Early adopters, however, enthusiastically accept pricier services. Innovations that incorporate compelling features can stimulate new conversions and broaden the client base