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THE STRUCTURAL DIMENSIONS OF COPYRIGHT LAW: CREATION, OWNERSHIP, AND INFRINGEMENT

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INTRODUCTION:

All creations begin with an idea, as a product of the human mind, as creations recognized and governed through intellectual property rights. The framework of Intellectual property rights protects various domains, like patents, trademarks, copyrights, geographical indications, and other cognate rights. Copyright emerges as a vital and pre-eminent branch, functioning as a fundamental and foundational pillar in the legal architecture of Intellectual property rights. The history of copyright is a complex, subtle, and rich subject.¹ In 1476, the city of Venice first granted sole privileges to the creator of work by giving monopolies to certain people to print particular books.² The word “copyright” derives from the expression “copier of words”. It was first used in this sense in 1586. The word ‘copy’ was used alone in 1485, and it meant a manuscript or other matter prepared for printing.³ The first recognized modern copyright, the Statute of Anne, was passed in 1709 and took effect in 1710. This Act introduced for the first time the concept of the author of a work being the owner of its copyright, and laid out fixed terms of protection.⁴ The footprint of copyright law in India can be traced back by East India Company's enactment of “The Indian Copyright Act, 1847”. A new Copyright act which is largely aligned with the UK Copyright Act, 1911, was enacted by the legislature as the Indian Copyright Act, 1914. The 1914 Act continued till 1957, when the first post-independent copyright legislation was brought into force as the Copyright Act, 1957.

Meaning, Nature and Purpose:

¹LIONEL BENTLY & BRAD SHERMAN, INTELLECTUAL PROPERTY LAW 33 (3rd ed. Oxford University Press 2008).

²V.J. TARAPOREVALA, LAW OF INTELLECTUAL PROPERTY 172 (3rd ed. Eastern Book Company 2019).

³SHIVA SAHAI SINGH (ED.), THE LAW OF INTELLECTUAL PROPERTY RIGHTS 202 (1st ed. Deep & Deep Publications 2005).

⁴ELIZABETH VERKEY & JITHIN SAJI ISSAC, INTELLECTUAL PROPERTY 17 (2nd ed. Eastern Book Company 2021).

According to Black's Law Dictionary – Copyright means, right to transcript, imitation, reproduction, to sell, to publish, to print copies of original work.⁵ The term 'copyright' is coined from its own ingredients, viz., 'The right to copy'.⁶ Exclusive right of the owner of work to make copies or authorize others to do certain acts in relation to a) literary, dramatic or musical works, b) artistic works, c) cinematograph film, d) sound recording, e) computer programme.⁷ 'Copyright' is the term used to describe the area of intellectual property law that regulates the creation and use that is made of a range of cultural goods such as books, songs, films, and computer programs.⁸ Copyright represents a bundle of several privileged rights vested in the creator of the work. These comprise the rights that include reproduction in various forms such as books, newspapers, magazines, and serial publications, as well as rights of translation, adaptation, abridgement, dramatic and cinematographic presentation, public performances, recording, and broadcasting. These associated rights are collectively known as neighboring rights. It recognizes and protects the labor, skill, and investment involved in creative work. The nature of copyright confers the owner the right to prevent others from exploiting a work without assent or consent. The copyright law seeks to maintain a balance between the rights and interests of the author and those of the public, while safeguarding the public domain and protecting it through statutory provisions. Most people unfamiliar with Intellectual property law assume copyright as a property interest in the creator of the work. The nature of copyright challenges this assumption by asserting that copyright is fundamentally a regulatory concept, a statutory grant of limited monopoly, not the author's natural property law right by reason of creation.⁹ In **nature**, copyright is an incorporeal form of property, as ownership arises from the creator's intellectual effort and labor in producing the work. It confers an exclusive monopolistic right to reproduce the work and, in certain cases, to perform it in public. Copyright is regarded as a negative entitlement, protecting illegitimate use of any work through remedies such as injunctions and compensation. A copyright confers an exclusive right on the owner, for a finite period, to prevent others from exploiting its subject-matter – an invention, design, or a literary or other artistic work.¹⁰ After completion of such a period, it becomes

⁵Supra note 3, at 2530.

⁶ Supra note 2, at 2530.

⁷ P. NARAYANAN, LAW OF COPYRIGHT AND INDUSTRIAL DESIGNS 215(4th ed. Eastern Law House 2017).

⁸ P. Goldstein, *Copyright*, 38 JOURNALS OF THE COPYRIGHT SOCIETY OF THE USA, 109(1990-1).

⁹ L. Ray Patterson & Stanley W. Lindberg, THE NATURE OF COPYRIGHT: A LAW OF USERS' RIGHTS, 90 MICH. L. REV. 1615(1992).

¹⁰RODNEY D RYDER, INTELLECTUAL PROPERTY AND THE INTERNET 64 (1st ed. Lexis Nexis Butterworths 2002).

public property and can be used without restriction. Copyright is an inherent right vested with an individual over the fruits of his endeavor. It was held that.¹¹ “ copyright is the exclusive right to do and to authorize others to do and restrain others from doing certain acts in relation to a literary work which includes work on legal subjects and there will not be any infringement of this right if something is done by the defendant in the exercise of a right vested in hi under a contract of assignment with the person who possess that right”. The main **purpose** of a copyright is to offer the creator or the maker of a creative and original work an exclusive right over its subsequent use and distribution.¹² Another purpose was to secure profits for the author based on the author's natural rights.¹³ The US Supreme Court in the Twentieth Century Music Corp. v. Aiken¹⁴ has elaborated the dual purpose of copyright: Creative work is to be encouraged and rewarded, but private motivation must ultimately serve the cause of promoting broad public availability of literature, music, and other arts. The immediate effect of our copyright law is to secure a fair return for an author’s creative labor. But the ultimate aim is, by this incentive to stimulate artistic creativity for the general public good.¹⁵

Creation and Subject Matter of Copyright:

The word ‘original’ is prefixed to literary, dramatic, musical, and artistic works and not to cinematograph films and sound recordings, as they are derivative works. The copyright acts are not concerned with the originality of ideas but with the expression of thought.¹⁶ For claiming copyright in literary, dramatic, musical, and artistic works, **originality** is required.¹⁷ There is no need for originality to claim copyright protection in respect of the entire entrepreneurial works, such as recording sound, recording of typographical arrangements.¹⁸ The significant aspect that is necessary for copyright protection to be enshrined is that the work be ‘original’. British copyright says that a work must be original, which means that the author must have exercised that requisite labour, skill, or judgement in producing the work.¹⁹

¹¹ Bharat Law House, Messrs Vs. M/s. Wadhwa and co. Pvt. Ltd., AIR 1998, Delhi 68.

¹² Miller v. Taylor, (1769) 4 Burr 2303 (2335).

¹³ LYMAN RA PATTERSON, COPYRIGHT IN HISTORICAL PRERSPECTIVE 186-187 (1st ed. Vanderbilt University Press1968).

¹⁴ Twentieth Century Music Corp. v. Aiken, 422 U.S. 151 (1975).

¹⁵ Ng-Loy wee Loon, 1994 6 SAclJ 131.

¹⁶ ALKA CHAWLA, COPYRIGHT AND RELATED RIGHTS NATIONAL & INTERNATIONAL PERSPECTIVE 36 (1st ed Laxmi Publications2008).

¹⁷ Copyright Act, 1957, §.13(1)(a), No. 14, Acts of Parliament,1957(India).

¹⁸ Supra note.7, at 2532.

¹⁹ Ldbroke v. William Hill [1964] 1 All ER 465, 469 (Lord Reid).

In determining whether a work is original, the courts approach originality in relation to the following types of work: i) new works, ii) derivative works, iii) tables and compilations, and iv) computer-generated works.²⁰ Copyright law provides an exhaustive categorical protection for creations. For a work to qualify for copyright protection, it should fall within the ambit of eight statutorily recognized categories, namely: literary works, dramatic works, musical works, artistic works, cinematograph films, sound recordings, broadcast, and published editions (typographical arrangements). The expression “**literary work**”, said Peterson J., covers: “work which is expressed in print or writing, irrespective of the question whether the quality or style is high. The word literary seems to be used in a sense somewhat similar to the use of the word ‘literature’ in political or electioneering literature, and refers to written or printed matter.”²¹ The statutory emphasis of literary works under section 3(1) of the 1988 Act reflects a substantial and deliberate broad approach. It encompasses all non-dramatic and non-musical works expressed in written, spoken, or sung form, therefore, explicitly extending protection to compilations, computer programs, preparatory design materials, and databases. **Dramatic** works are sophisticated in drawing the definition. They must have movement, story, or action; they cannot be purely static.²² It is statutorily included as a work of dance or mime.²³ Dramatic work includes the scenario or script for films, plays (written for the theatre, cinema, television, or radio).²⁴ For a creation to qualify as a ‘dramatic work’, it must be a ‘work of action that is capable of being performed.’²⁵ The term “**musical work**” is defined in the Act only as a work consisting of music, exclusive of any words or action intended to be sung, spoken, or performed with it.²⁶ The following categories of works are protected under Artistic works:²⁷

- i) Irrespective of artistic quality, a graphic work (including painting, drawing, diagram, map, chart or plan, engraving, etching, lithograph, woodcut, or similar work), a photograph (excluding a film), a sculpture, or a collage;
- ii) A work of architecture, being a building or fixed structure or a model, therefore, or

²⁰ Supra note 1, at 2530.

²¹ University of London Press v. University Tutorial Press [1916] 2 Ch. 601 at 608, [University of London Press v University Tutorial \[1916\] 2 Ch 601 | Centre for Intellectual Property and Information Law](#) (last visited on March 01, 2026).

²² Creation Records v News Group [1997] E.M.L.R. 444.

²³ CDPA §. 3(1) [Copyright, Designs and Patents Act 1988](#) (last visited on March 01, 2026).

²⁴ Green v. BC New Zealand [1989] RPC 469, 493.

²⁵ Norowzian v. Arks (No.2) [2000] EMLR 67, 73 (CA).

²⁶ CDPA 1988, §. 1 (1)(a), 2 (1), <https://www.legislation.gov.uk/ukpga/1988/48/section/1> (last visited on March 01, 2026).

²⁷ CDPA §. 4(1), [Copyright, Designs and Patents Act 1988](#) (last visited on March 01, 2026).

iii) A work of artistic craftsmanship.

Cinematograph films are also protected within the ambit of copyright laws. The broad definition encompasses celluloid films and video recordings or disks, as long as they produce 'moving images.'²⁸ At the international level, films were gradually recognized as the subject matter of author rights protection.²⁹ Copyright in a film is thus given jointly to the producer (as financial and administrative organizer) and to the principal director (acknowledged as author); this aspect of copyright demonstrates balanced recognition to the author's rights and cognate rights associated with it. **Sound recordings** were protected by the 1911 Copyright statute as musical works, gradually determined distinctively from it as they were fundamentally different from each other. Sound recordings are defined to mean 'a) a recording of sounds, from which the sounds may be reproduced', or (b) a recording of the whole or any part of a literary, dramatic or musical work, from which sounds reproducing the work or any part of literary, dramatic or musical work, from which sounds reproducing the work or part may be produced, regard less of the medium on which the recording is made or the method by which the sounds are reproduced or produced.³⁰ The copyright law prescribes the scope of its domain and **rights to the author** and creators by determining activity, consent, and infringement of the owner-creator-author protected as copyright. The theme of rights draws the strings upon which the owner or creator of work controls their creation or work in regard to others. The first and best-known right given to copyright owners is the right to copy the work (Section 17)³¹ also called the crown right. This right is a primitive right available to the owners of copyright. Secondly, the distribution right, the owner of copyright in all categories of work, is given the right to issue copies of the work to the public (section 18).³² Thirdly, the owner of copyright has the right to regulate the rental and lending of the work. Lending means 'making a copy of the work available for use, on terms that it will or may be returned, otherwise than for direct or indirect economic or commercial advantage, through an establishment which is accessible to the public.'³³ Rental and lending both involve making the original or a copy of a work available for use on terms that it will or may be returned.³⁴ The Fourth right, the right to perform(show/play)

²⁸ PASCAL KAMINA, FILM COPYRIGHT IN THE EUROPEAN UNION, 88-91(2nd ed. Cambridge University Press 2002).

²⁹ Article 4 of the Berlin Revision of Berne I 1908, [Berne Convention](#), (last visited on March 01, 2026).

³⁰ CDPA §. 5B (1), [Copyright, Designs and Patents Act 1988](#), (last visited on March 01, 2026).

³¹ J. Litman, Digital Copyright (2001), 180 ff, "[Digital Copyright](#)" by Jessica D. Litman (last visited on March 01, 2026).

³² WIPO COPYRIGHT TREAT. at 6, [WIPO Copyright Treaty \(WCT\)](#), (last visited on March 01, 2026).

³³ CDPA §. 18A(2)(b). [Copyright, Designs and Patents Act 1988](#), (last visited on March 01, 2026).

³⁴ CDPA §. 18A (2), 18A (6), 182C (2), [Copyright, Designs and Patents Act 1988](#), (last visited on March 01, 2026).

the work in public (section 19), also known as the ‘performing right’, which was introduced initially in statute of 1833 to protect owners of copyright in dramatic works.³⁵ The fifth monopolistic right to communicate a work to the public arises with respect to literary, dramatic, musical, and artistic works, sound recordings, films, and broadcasts.³⁶ Most importantly, the sixth right, i.e., the right to make an adaptation of the work, is given to the owner of copyright in literary, dramatic, or musical work but the owner of copyright is not given an adaptation right for artistic works, sound recordings, and films. Finally, the right of authorization, the copyright owner’s rights to sanction, countenance, or approve³⁷ or alternatively, to grant or purport to grant to a third person the right to do an act.³⁸

Control and Ownership of Copyright:

The origin of any work claiming protection under copyright must be traceable to an individual or a person.³⁹ The term author has been defined as “the person who effectively is as near as he can be, the cause of the picture which is produced, that is, the person who has superintended the arrangement, who has actually formed the picture by putting persons in position and arranging the place where the people are to be.”⁴⁰

An author in relation to various categories of works is defined in the Act as follows:⁴¹

- (i) Literary or dramatic work, the author of the work,
- (ii) Musical work, the composer,
- (iii) An artistic work other than a photograph, the artist,
- (iv) Photograph, the person who takes the photograph,
- (v) Cinematograph film, the producer,
- (vi) Sound recording, the producer,
- (vii) Literary, dramatic, musical, or artistic work which is computer-generated, the person who causes the work to be created.

Ownership of a Copyright in a work is significantly independent of the ownership of the physical material in which the work is fixed. A person who owns a book or its manuscript is

³⁵ Russell v. Smith (1848) 12 QB 217,236.

³⁶ Supra note 1 at 2530.

³⁷ Falcon v Famous Players [1926] 2 KB 474, 491.

³⁸ Nelson v. Rye and Cocteau Records [1996] FSR 313, 337.

³⁹ Burrow-Giles Lithographic Co. v. Sarony, 111 US 53 (1884), 58.

⁴⁰ Nottage v. Jackson, [1883] 11 Q.B.D.627.

⁴¹ Copyright Act 1957 §2(d), No.14, Acts of Parliament,1957(India).

not necessarily the owner of the copyright therein. As a rule, the author of the work is the first owner of the copyright in the work.⁴² Copyright law generally **differentiates authorship and ownership**; however, in the backdrop of cinematograph films, this aspect is diluted. The producer, considered as the author, is also provided with property rights over the film by overriding the substantive and significant creative contributors who provide intellectual labor and artistic contribution. The antithetical approach of the copyright law jurisprudence is conceived to benefit creators' efforts rather than economic supremacy. A work may be created by one person or by the collaboration of more than one person. The Act makes certain special provisions for works of joint authorship. A work of **joint authorship** means a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.⁴³ A joint author is person (i). who collaborates with another author in the production of work; (ii) who (as an author) provides a significant creative input; and (iii) whose contribution is not distinct from that of the other author. He must contribute to the production of the work and create something protected by copyright that finds its way into the finished work.⁴⁴ There exists a huge difference between **co-ownership and joint ownership** of a copyright in the legal scenario. Co. ownership can be of two types: owners in common or joint owners.⁴⁵ Hence, joint ownership is a subset of co-ownership.⁴⁶ Joint owners are those who own the copyright jointly and severally.⁴⁷ An **assignment of copyright** may be for the whole of the rights or for part only. Partial assignment may take various forms; (1) it may be limited to one or more, but not all, of the acts which the owner of the copyright has exclusive right to do, (2) it may be limited to one or more, but not all, of the countries where the owner has the exclusive right, and (3) it may be limited to part of the period for which the copyright subsists.⁴⁸ An assignment can be applied only to a medium or mode of exploitation of the work which was in existence or in commercial use at the time when the assignment was made. The assignment can also be applied to any other medium not in existence at the time of the assignment, if the assignment specifically referred to such

⁴² Copyright Act, 1957 §17, No.14, Acts of Parliament 1957(India).

⁴³ Heptulla v. Orient Longmans (1989) IPLR 36; (1989) PTC 157.

⁴⁴ Cala Homes (South) Ltd. V. Alfred McAlpine, 1995 FSR 818.

⁴⁵ Lauri v. Renad, [1892] 3 Ch 402.

⁴⁶ LADDIE, PRESCOTT, AND VITORIA ET. AL., THE MODERN LAW OF COPYRIGHT AND DESIGNS 43 (4th ed. Butterworths law 2011).

⁴⁷ Harshad Govardhan Sondagar v. International Assets Reconstruction Co. Ltd. (2014) 6 SCC 11.

⁴⁸ Supra note 7, at 2531.

medium or mode of exploitation of the work.⁴⁹ A **license** is an authorization of an act which without such authorization, would be an infringement.⁵⁰ Licensing usually involves some of the rights and not the whole. Licenses would be exclusive or non-exclusive. The license may be confined to one or more interests or to the entire copyright.⁵¹ A license does not transfer copyright ownership; it merely grants permission to do something, or else it would infringe the copyright. The license agreement, unless expressly or impliedly restricted, allows the licensee to make requisite changes. A license is different from an assignment. In the case of a license, the licensee gets the right to exercise particular rights subject to the condition of the license, but does not become the owner of that right, whereas an assignee becomes the owner of the interest assigned.⁵² **The duration of copyright protection**, which varies based on the type of work. For literary, dramatic, musical, and artistic works, copyright typically lasts for the lifetime of the creator plus 60 years.⁵³ The author of a work has certain **moral rights** these are: i) the right to decide whether to publish or not publish the work (droit de divulgation—the right of publication) the right; ii) the right to claim authorship of published or exhibited work (droit a la paternite – the right of paternity); iii) the right to prevent alteration and other actions that may damage the author’s honor or reputation (droit au respect de loeuvre—the right of integrity. These rights originated in France, and hence the French titles.⁵⁴ The **economic right** pays for the author's labor and skill, as well as the investment that the entrepreneurs have risked in producing and marketing the copyrighted work.⁵⁵ The rights granted to a copyright owner are economic in nature, as their exercise enables the owner to gain financial reward from the copyrighted project. The owner may exploit the project personally or may permit another person to exercise one or more of these rights through a license. Such permission is ordinarily granted in return for economic consideration, which may be paid by royalty or as one-time lump sum. The UDHR declares: “Everyone has the right to the protection of moral and material interests resulting from any scientific, literary or artistic production of which he is the author”.⁵⁶ It has facets of economic and moral rights inclined to the international human rights

⁴⁹ Copyright Act 1957 §. 18(1) see also: supra note 4 at 2530.

⁵⁰ *Muskett v. Hill* [1804]5 Bing NC 694.

⁵¹ Supra note 7, at 2531.

⁵² *Ibid.* at 2537.

⁵³ Copyright Act, 1957, §. 22, No 14, Acts of Parliament 1957(India).

⁵⁴ W.R. CORNISH, *INTELLECTUAL PROPERTY*, Para 11.63(4th ed. Universal Law Publishers 2001).

⁵⁵ Akolda M. Tier, 38 *JILI* (1996) 331.

⁵⁶ UDHR, 1948, Art. 27(2).

jurisprudence. The economic rights are transferable in nature, but not the moral rights, as they are inherent with human dignity.

Limitations and infringement of copyright:

The copyrighted work is regulated with a systematic legal backing to prevent exploitation. The copyrighted work is channeled with certain limitations that are necessary for the promotion of standard protection by ceasing the exploitation. **The concept of fair dealing** was brought about to function as one of the defenses to this exclusive right granted through a copyright to the author of a creative work.⁵⁷The rationale or justification for allowing the exception of fair dealing is that, on certain specific occasions, an infringing use of the copyrighted work may bring about greater public good than its absolute denial.⁵⁸ The doctrine of fair use under copyright protection is an exclusive safeguard clause and forms an integral part of copyright legislation. It is a provision that recognizes a particular infringement to be fair. Fair use is the right to use a copyrighted work under certain conditions, without the permission of the copyright holder.⁵⁹The concept of fair dealing has also been recognized in the Berne Convention⁶⁰ as well as the TRIPS Agreement.⁶¹

Exceptions:

According to the Tunis Model Law⁶²Whenever there is a reproduction of work by any public libraries or by any documentation centers in scientific or artistic fields, which is made lawfully available to the public, then the copies which are reproduced should be limited, and further, for copyrighted works, should not lead to any dispute or exploitation of workers.⁶³ Indian copyright law stipulated certain exceptions and limitations to libraries for copyrighted works under the statute of fair dealing. This is dealt with under section 52 of the Indian Copyright Act, and this

⁵⁷ Stephen M. McJohn, *Fair dealing and Privatization in Copyright*, 35 SAN DIEGO B. REV. 1 (1998) (March 01, 2026, 8:00 P.M.), ["Fair Use and Privatization in Copyright" by Stephen M. McJohn](#).

⁵⁸ B.J. Damstedt, *Limiting Locke: A Natural Law Justification for the Fair use Doctrine*, 12 YALE LAW JOURNAL 1179(2003) (March 01, 2026, 8:00 P.M.) [Limiting Locke: A Natural Law Justification for the Fair Use Doctrine | Yale Law Journal](#).

⁵⁹ Vidhatri Bharti, *FAIR DEALING IN COPYRIGHT LAW: AN ANALYSIS VIS-À-VIS MEMES*, 4.1 RFMLR (2017) 204 (March 01, 2026, 8:00 P.M.) [Fair Dealing in Indian Copyright Law | PDF | Fair Dealing | Copyright](#).

⁶⁰ The Berne Convention for the Protection of Literary and Artistic Works, 1886. [Berne Convention for the Protection of Literary and Artistic Works](#) (last visited on March 01, 2026).

⁶¹ TRIPS Agreement, Art. 13, [TRIPS Agreement](#), (last visited on March 01, 2026).

⁶² Tunis Model Law 1976, [tunis OCR model law en-web.pdf](#), (last visited on March 01, 2026).

⁶³ Amrutapai, *Limitations and exceptions for libraries and archives under the copyright law*, iPleaders, 2021 (March 01, 2026, 8:00 P.M.) <https://blog.iplayers.in/limitations-exceptions-libraries-archives-copyright-law/>.

exception under fair use is created judicially. This legislation provides permission for the usage of copyrighted work by libraries for fields such as research and education, instruction, teaching, training, etc.⁶⁴ A defendant may resist an action for copyright infringement – probably, though, only in very rare instances – on the grounds that the use in question is necessary ‘in the public interest.’⁶⁵ But the public interest should not override the rights of the copyright owner. The copyright in a literary, dramatic, musical, or artistic work is not infringed if it is copied in the course of, or preparation for, instruction. This is subject to four provisos: that the copying is done by the person either giving or receiving the instruction (i.e., the teacher or student), that the instruction is for non-commercial purposes, that the copying is not done by means of a reprographic process, and that the copying is accompanied by sufficient acknowledgement.⁶⁶ Software Directive governs how far it is permissible to copy and otherwise use computer programs without infringing. These defences ensure that a lawful user is able to make a backup copy, to decompile a program for certain purposes, to study the program, and to adapt or copy the program where necessary, or the lawful use of the program does not amount to copyright infringement, as it falls under the computer programs domain.⁶⁷

Remedies and Enforcement Mechanism:

The owner of intellectual property rights (copyright holder) is entitled to various forms of relief, and their enforcement is influenced by several procedural factors. The nature of these rights differs across specific domains. There are three types of remedies available against the infringement, namely, civil, criminal, and administrative. **Civil remedies**⁶⁸ include injunction, damages and accounts, delivery of infringing copies, and damages for conversion. Sometimes these remedies are not available in case of innocent infringements. A suit or other civil proceeding to infringe copyright should be instituted in the district court having jurisdiction, as mentioned under section 62(1). However, it has been held that the expression district court will include the high court having original jurisdiction.⁶⁹ An injunction is an order of the court directing a party to litigation to do or refrain from doing an act.⁷⁰ ‘Damages’ means

⁶⁴ Keerthi Gandreti, *Exceptions and limitations under copyright law*, 2.1 JCLJ (2021) 836.

⁶⁵ Supra note 1, at 2530.

⁶⁶ Supra note 1, at 2530.

⁶⁷ Supra note 1, at 2530.

⁶⁸ P.Akshmikantan v. Ramakrishan Pictures AIR 1981 AP 224.

⁶⁹ Penguin Books Ltd v. India Book distributors, AIR 1985 DEL 29 at P. 38 DB.

⁷⁰ Seaward v. Paterson [1897] 1 Ch. 545, CA.

compensation in terms of money for the loss suffered by the injured party. The burden lies on the injured party to prove his loss.⁷¹ The normal aim of an award of damages is to compensate the claimant for the harm caused him by the legal injury.⁷² Delivery of infringing articles or documents may be ordered by courts of equity and their successors to ensure the effective enforcement of injunctions, including for their destruction, destruction under oath by the defendant, or equivalent measures such as erasure of copyright. The court's discretion is wider than I generally, for, in order to compensate the right-owner, it may forfeit the things to him rather than order destruction or other disposal.⁷³ Where the defendant establishes that, at the time of infringement, he neither was aware nor had reasonable grounds to believe that copyright subsisted in the work, the plaintiff is disentitled to remedies other than an injunction restraining the infringement and a decree for the whole or such portion of the profits derived from the sale of infringing copies as the court considers just and reasonable. Merely asserting punitive loss for claiming damages, in the absence of evidence to prove it, is not sufficient.⁷⁴ The copyright act adopts a dual enforcement mechanism. In addition to providing civil remedies for copyright infringement, it empowers the copyright owner to institute criminal proceedings against the infringer. These remedies operate independently of each other and may be availed concurrently. **Criminal remedies** provide imprisonment of the accused or imposition of a fine or both, seizure of infringing copies from the owner of the copyright.⁷⁵ Knowledge or mens rea is an essential ingredient of the offence.⁷⁶ Under Criminal actions, the Act provides for the offences and penalties to counter infringement/piracy. Infringement of copyright is a cognizable offence under the act and is punishable with imprisonment for a term which can extend up to 3 years and a fine up to INR 200,000. The aforesaid provisions also include orders for delivery up, seizure, and destruction. Under such proceedings, investigations can also provide the actual source of the infringing goods and preventive detention.⁷⁷ The question that

⁷¹ B. V. R. Sarma, Adjudication of claim for damages under sections 73, 74 and 75 of Indian contract act. 1, manapartra article, (March 01, 2026, 8:00 P.M.) [Adjudication of claim for damages under Sections 73, 74 and 75 of Indian Contract Act, 1872](#)

⁷² United Horse Shoe v. Stewart (1888) 5 R.P.C. 260 at 267.

⁷³ Industrial Furnaces v. Reaves [1970] R. PC 605 at 627-628.

⁷⁴ Super Cassettes Industries Ltd. v. Onkar Singh, 2013 SCC online del 2223.

⁷⁵ Dhiv Mittal et al, *Intellectual Property Laws: Copyright and Remedies and Actions for Infringement of Copyright*, 2 Int'l J. L. Mgmt. & Human. 460 (March 01, 2026, 8:00 P.M.) [Intellectual Property Laws: Copyright and Remedies and Actions for Infringement of Copyright | International Journal of Law Management & Humanities](#)

⁷⁶ Supra note.7 at 2531.

⁷⁷ Adheesh Nargolkar and Arun Adri Iyer, *Changing Trends in Remedies Against Piracy* (2014) PL (CL) IOSR Journals (last visited on March 01, 2026), [8, 51-55.pdf](#).

came up for consideration before the courts was whether registration of copyright was mandatory for filing a criminal complaint under the Act. In *Venkuta Rao v. Padmanaba Raju*,⁷⁸ a book of folklore stories in Telugu was published in 1906 and 1908. In 1925 defendant sold and published the same without permission. The Madras High Court held that registration is not a condition precedent for filing a criminal complaint. Although the magistrate had acquitted the accused on the ground of non-registration, the High Court reversed the decision, observing that the Copyright Act, 1914, contained no provision for registration and that the earlier mandatory requirement under the Act of 1847 had been repealed. Consequently, criminal proceedings were held to be maintainable even in the absence of registration. **Administrative remedies** operate through executive and regulatory authorities and aim at preventive and regulatory control rather than post-infringement punishment. Administrative remedies primarily function through customs authorities empowered to detain and prevent the release of pirated and counterfeit goods.⁷⁹ subject to indemnification by the right holder, trading standards authorities with the power to make test purchases and to seize goods and documents, and enforce consumer protection laws⁸⁰ and advertising regulators to supervise the fair trading of content within advertising standards, thereby supporting copyright enforcement through regulatory oversight.

Conclusion:

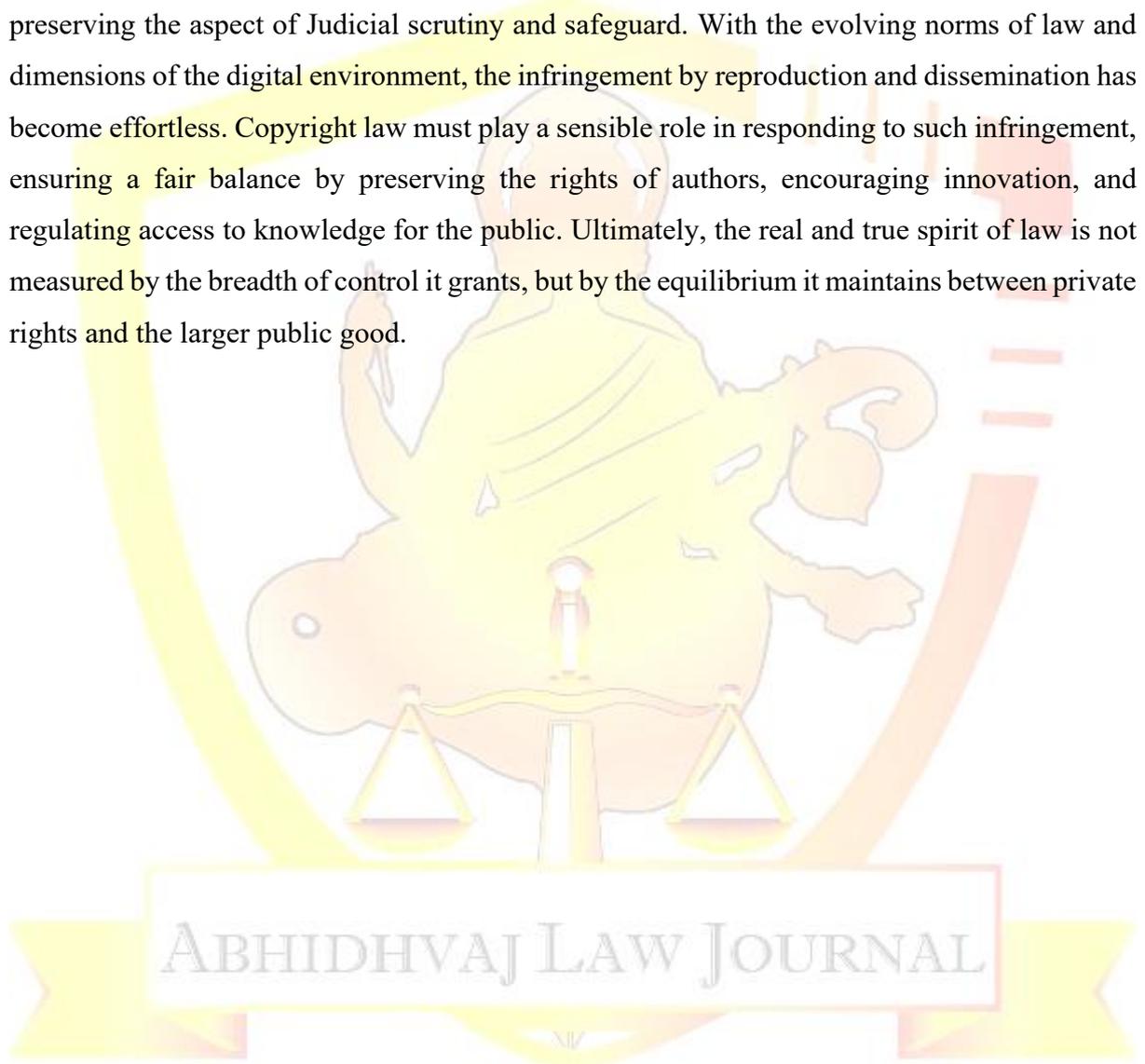
In the contemporary digital age, copyright law, in its structural framework, systematically balances legal system aims to harmonize creative freedom with the societal interest. The copyright protection is not merely a statutory monopoly granted to authors, but a regulatory mechanism outlined to encourage intellectual labor while ensuring that the fruits of creativity ultimately reach the public domain. The intersection between creation, ownership, limitation, and enforcement demonstrates that copyright is a bundle of rights rather than a notion of isolated rights. The requirement of originality serves as a fundamentally foundational aspect of protection, ensuring legal recognition to the works of authors. Further, the distinction between authorship and ownership, particularly in cases of joint works, assignments, and licensing, illustrates that law tends to resolve and reconcile the commercial benefits with individual creativity. The recognition of moral rights along with economic rights amplifies the

⁷⁸ *Venkuta Rao v. Padmanaba Raju*, AIR 1927 Ker 234.

⁷⁹ *Supra* note 54, at 2537.

⁸⁰ *Ibid* at 2541.

ambit of copyright, which not only protects financial interests but also the author's personal and reputation in association with his work. Equally important are the statutory exceptions and doctrines like fair dealing, which prevent thick restriction of copyright law by permitting limited use for education, research, and public interest purposes. The law always attempts to ensure that protection and accessibility coexist. The availability of remedies from forums of civil, criminal, and administrative reinforce the seriousness of infringement, maintaining and preserving the aspect of Judicial scrutiny and safeguard. With the evolving norms of law and dimensions of the digital environment, the infringement by reproduction and dissemination has become effortless. Copyright law must play a sensible role in responding to such infringement, ensuring a fair balance by preserving the rights of authors, encouraging innovation, and regulating access to knowledge for the public. Ultimately, the real and true spirit of law is not measured by the breadth of control it grants, but by the equilibrium it maintains between private rights and the larger public good.



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