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FROM INSPIRATION TO INFRINGEMENT: COPYRIGHT CHALLENGES IN THE INDIAN FILM INDUSTRY

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Abstract: The vibrant Indian film industry, often hailed as the world's most prolific cinematic hub, thrives on creativity, collaboration, and storytelling. However, this artistic domain is plagued by persistent issues of copyright infringement. This research paper delves into the intricate legal landscape governing copyright in cinematographic films under the Indian Copyright Act, 1957, exploring its effectiveness in addressing and preventing infringements. While the Act grants exclusive rights to producers, directors, and creative contributors, real-world application reveals systemic flaws in enforcement, documentation, and judicial clarity. Through an examination of landmark cases and controversies this research paper illustrates how Indian cinema has repeatedly skirted the thin line between inspiration and outright copying. The discussion focuses on conceptual theft, insufficient documentation, lack of clear ownership, and the common practice of out-of-court settlements, which often suppress justice in favor of commercial interests. It emphasizes the need for stronger legal infrastructure, clearer contractual practices, and awareness among stakeholders, especially writers and creators. This research aims to bridge the gap between law and practice by proposing enforceable mechanisms such as stricter NDA enforcement, better chain-of-title documentation, and recognition of concept notes as legal expressions. Ultimately, protecting originality is not just a legal imperative but a cultural necessity to uphold the integrity of Indian cinema in the global digital era.

Keywords: *Copyright, Cinematographic Films, Infringement, Intellectual Property, Film Industry, Idea Theft, Creative Rights, Adaptation, Legal Enforcement, Indian Cinema.*

I. INTRODUCTION

Everyone loves films of some kind or the other as some of them become relatable and entertaining and others become motivating and overwhelming. Some of them also have thrill, suspense, horror or adventure and all of them have one thing in common that films affects a person like no other art form. A good film could lead to its audience live the films and the characters in it. They can make their consumers laugh with it and cry with it with its impact. Hence movie making is a complex process.

Portraying an idea in such a form that leads to people look at it for hours involves various number of things like its script, star cast, story, locations, music, dialogues etc. Due to this creative process, intellectual property plays a big role at every stage in the journey of a film. Copyright is the most important area in terms of a Cinematographic Films since it protects the authors and owners from infringements. [1]

Everybody knows that a film is not just made by the producers or directors or actors. It takes an army of people to make it who have different types of rights as they are the creators of different work like script, dialogues, lyrics, art, chorographers, screenplay etc. All the rights associated with such people have to be submitted to the producer who is ultimately paying them for what they are doing. Hence they are transferred into a marketable plan from a creative idea and this is the process where the problems begin.

Claims to ownership of the movie, the credits, the finance, the distribution rights all are different from each other and hence are subject to different agreements. Transactions are done regarding huge amounts of money and multiple negotiations are done regarding the intellectual property rights of different creative people contributing into the film. There has been blind copying from the other creators in the Indian Cinema in the name of inspiration and the laws or their enforcement is such that they get away with it which is wrong. The courts are not able to establish the thin line between what is copied with very less or no creativity or a totally original work having similar stock characters or stock plot to some other work. Even when a case reaches judiciary most commonly it settles out of court because courts have no strict measures to stop this business.[2]

In England and India, copyright law is respectively governed by the Copyright, Designs and Patents Act 1988 (CDPA) and the Copyright Act 1957("Indian Act"). The Indian Act has "borrowed heavily" from and "adopted many principles and provisions" of the Copyright Act 1956, the predecessor of the CDPA. The CDPA and the Indian Act accord protection to original literary and dramatic works provided they are recorded in writing or otherwise. The copyright owners of such works are given a set of exclusive rights, including the right to:

(i) copy the work in "any material form" (reproduction right),

(ii) (ii) make a translation of the work (translation right), and

(iii) (iii) make an adaptation of the work (adaptation right).

A motion picture falls under the definition of a "cinematograph film", and the term "author" in relation to a cinematograph film means the producer of such motion picture. Section 14 of the Act defines "copyright" as an exclusive right with the owner to make an adaptation of the concerned literary, dramatic, musical or artistic work. Additionally, section 51 of the Act provides that if an individual does anything, the exclusive right to which has been conferred upon the owner of the copyright, without a licence from such owner, the copyrighted work is infringed.[3]

[1] https://www.ijraset.com/research-paper/impact-of-films-on-the-youth-of-india
[2] https://www.mondaq.com/india/trademark/974154/drafting-intellectual-property-rights-transfer-agreements-part-ii
[3]https://www.academia.edu/9762547/How_Hollywood_Can_Sue_Bollywood_for_Copyright_Infringement_and_Save_Indian_Cinema

Copyright protection for cinematographic films plays a vital role in safeguarding the creative and economic interests of filmmakers, producers, and other stakeholders in the Indian entertainment industry. Under the Indian Copyright Act, 1957, cinematographic works are recognized as distinct copyrightable subject matter, granting exclusive rights to the creators for reproduction, distribution, broadcasting, and public performance. The law provides a robust framework, including civil and criminal remedies, to protect these rights.

Despite these comprehensive legal provisions, copyright infringement remains rampant. Piracy, unauthorized streaming, and illegal downloads continue to plague the industry, causing massive financial losses and discouraging innovation. Factors like weak enforcement mechanisms, technological loopholes, delayed judicial processes, and lack of public awareness further aggravate the problem. India must now look beyond legislation and focus on dynamic enforcement strategies to uphold the true spirit of copyright protection in the cinematic world.

II. DIFFERENCE BETWEEN INSPIRATION AND INFRINGEMENT-

In the case of a cinematograph film, the connotations of the term "copy" has been covered under the term "adaptation", thus providing the owner of the copyright in a cinematograph film, (i.e., the producer of the motion picture), an exclusive right to make a copy of the film. As a result, it can be ascertained that the owner of copyright has the exclusive right to remake a motion picture based substantially upon the same story, albeit with modernization or updating elements. This right to make a remake or a copy can, of course, be assigned and/or licensed, failing which, the copying of such work without a licence from the producer will be a copyright infringement of the original work. The test to decipher whether a particular motion picture is an infringement e or not would depend on the degree of intentional similarities between the two works.[4]

The Indian film industry has had a long history of ripping off these rights from others and the audience is used to this trend. There have been several films which are sued or landed under controversy since they without fear copied the original work or some person either wholly or partially like:

Bheja Fry:[5]

To illustrate problems of determining whether a work is copied or not a real life illustration can be taken. The storyline of the Bollywood comedy 'Bheja Fry' was described by a well-known film critic as "a scene-by-scene, dialogue-by-dialogue remake" of the French movie 'The Dinner Game'. Both movies were based on theantics of a bumbling man invited to dinner by a person wishing to ridicule him. When quizzed about the similarities, the director-cum-screenwriter of 'Bheja Fry' replied that he had made "minor changes" to the storyline of the French movie. He added, probably with the intention of sounding condescending, that "a common man" would not notice these changes. Ironically, these remarks would only lend credence to a screenplay-to-screenplay copying claim against him. Moreover, the themes and incidents described in the screenplay of 'The Dinner Game' are, arguably, not common cinematic clichés. But an important indication of copying pertained to the visual similarities between the two films, such as the slapstick movements of the actors. In other words, 'Bheja Fry' was practically a re-shot version of 'The Dinner Game'.

Raabta[6]

Raabta (2017) was slapped with a copyright infringement suit by the producers of the Telugu film Magadheera. Both films involve lovers who unite in their second lives (after reincarnation). Other similarities include parallel visualisation of the two different births and the medieval setting of the previous birth.Both films also have a notable antagonist vying

[4] https://www.livemint.com/Consumer/d186iJClpc5OzQGizUj8EN/Movie-remakes-and-the-copyright-question.html
[5] https://timesofindia.indiatimes.com/calcutta-times/bheja-fry-too-has-been-copied/articleshow/2148190.cms
[6] https://www.bananaip.com/intellepedia/copyright-entertainment-law-news-raabta-copyright-infringement-case-update-new-registrar-copyrights-appointed-lower-gst-demanded-entertainment-industry-forever21-urban-outfitters-sue/

for the woman's affection. The suit was withdrawn under Order 23 Rule 1 of the Civil Procedure Code as the parties agreed to an out of court settlement.

Banda Yeh Bindaas Hai[7]

A popular film among lawyers and law students is the 1992 Oscar-winning comedy My Cousin Vinny. The film features Joe Pesci as a quick-witted but hapless attorney defending two innocent New York teens from a capital murder charge in the Deep South. In 2009, 20th Century Fox filed a suit for copyright infringement in the Bombay High Court against the Mumbai film production company, BR Films, which was set to release Banda Yeh Bindaas Hai. Fox alleged that the producers and director of Banda Yeh Bindaas Hai blatantly created a "substantial reproduction" of My Cousin Vinny. Both parties agreed on a settlement amount out of court under Section 89 of the Civil Procedure Code (mutual settlement between parties without intervention of the court). The movie, however, is yet to be released.

Ladies vs Ricky Bahl: [8]

Post its release critics suggested the Yash Raj film was copied from a Hollywood movie. However, it was the producers of a Tamil film titled Naan Avan Illai who dragged the makers of Ladies Vs Ricky Bahl to court for violating the copyright belonging to the former.However even they settled out of court.

Om Shanti Om:

Writer Ajay Monga charged makers of *Om Shanti Om,* Shah Rukh Khan, Farah Khan and a few others for lifting the plot from a script that he originally wrote. The former apparently moved the High Court against the makers.

Jodi Breakers

The Bipasha Basu and R Madhavan starrer *Jodi Breakers* was supposedly copied from a French film titled *Heartbreakers.* Following this, Universal Pictures France had demanded a compensation of Rs 50 crore from the producers of the Bollywood film.

The 3 Idiots and Chetan Bhagat Controversy:[9]

Chetan Bhagat, famous Indian writer and author has had his own share of controversies when it comes to infringements cases with Bollywood. It was after the release of blockbuster movie '3 Idiots' after which he claimed that he was not given proper attribution for his novel '5 Point Someone' in the movie. He stated in his blog: "*Pre-release, the makers made press statements like the movie is only 'very loosely', '2%-5% inspired by the book'. After release, those who have read the book and seen the movie (and frankly, I think those are the only people who have the right to comment) find the film to be an adaptation of Five Point Someone. The setting, characters, plotline, dramatic twists and turns, one-liners, theme, message – almost all aspects that make up the story are from FPS. Yes, there are some changes, any adaptation requires that – but it is no way an original story.*"

Indian films and shows have time and again been into the controversial parts of infringement and piracy time and again be it from regional films or international. If the whole movie or the whole show is not copied as it is then a substantial part of it is copied very often and most of the times without fear. Evidently in India the issue of copyright infringement is addressed to the courts but is rarely actually decided by the court due to reasons like fear from the 'biggis' of the industry, career growth of beginners, lack of awareness or just money settlement thereof. Half of the time due to this being a creative afea and thousands of variations which can be done upon a particular book it is more important to decide "what actually amounts to infringement". The illustration for such an incident could be for example a romantic hero say Shahrukh Khan saves Deepika Padukone , the heroine from fire or an action hero like Ajay Devgan avenges the death

[7] https://indianexpress.com/article/cities/mumbai/banda-yeh-bindaas-hai-stuck-in-copyright-row-release-on-hold-for-multiplex-stir/

[8] https://spicyip.com/2011/12/yash-raj-films-dragged-to-court-for.html

[9] https://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news/chetan-bhagat-breaks-silence-on-3-idiots-credit-controversy-with-rajkumar-hirani-there-was-a-producer-involved-/articleshow/119866909.cms

of the heroine on a rainy night then after removing the stars and the circumstances then the hero saving his heroine or the main lead taking a revenge is the most common sub plot in any romantic or action movie. This is the reason Copyright cannot let any one person having a monopoly over such a common plot and that is the same reason why it is misused to the core in any film industry.

Sometimes the judiciary of India is able to do something about it but most of the times they are unable to step into the criteria and amount of what is infringement. They face various isues like which part shall be considered the non-copied one or the copied one, does the quality matter or the quantity etc. The examples of such incidents have been controversies like the movie 'Baghi'. Hence at times it gets necessary for the Judges to watch both the movies in question, like in the case of the movie 'Knockout'.

Also it is a new strategy of the filmmakers that majority of the allegations and suits are filed a week or few days before the release of the movie in order to extract heavy settlement amount. Even courts observe that plenty of money is at stake hence they cannot do much about the same and permits the release. The courts also keep quiet in this issue since it is difficult to decide that "who has copied from whom**"** like in the case of 'Gajhini' which was a remake of its Tamil version which was copied from Hollywood's 'Momento'. Now, the producer of Tamil Gajhini should not claim any right over the originality of their work since it is the copy of another. A famous controversial incident for situations like these have been the case of similarity between 'Kill Bill' and 'Abhay' where the action scenes were shown in animated form in 'Kill Bill' taken from the latter. In this case, the rest of the work was original or it was not entirely dependent upon the inspired or copied work. If one removes the similar work the rest of the part can carry on the plot. If it does not collapse it should not amount to an infringement.[10]

In this era of resistance less access, it is impossible that comparisons won't be happening. It is inevitable and bound to happen. The only solution to these situations is to lay down tests upon which work shall be considered as inspired and which work shall be considered at infringed since there can be two different works which do have a genuine similar concept or plot. The case of landmark R.G. Ananad also states the test as **'**a person with common memory after watching or reading a work is able to distinguish between the original and copied work '.

The ongoing issue of unauthorized remakes and blatant copying in the Indian film industry raises serious concerns about the respect for intellectual property rights and the efficacy of copyright enforcement in India. While the Copyright Act, 1957 provides sufficient protection to the original creators by including "adaptation" within the exclusive rights of a cinematograph film's producer, the ground reality reflects a troubling pattern of infringement, often under the guise of inspiration.

III. ISSUES ASSOCIATED WITH ORIGINAL WORK:

1. Theft:

Conceptualisation of a script is the first step to start working on a movie and it involves the creativity of the writers along with the concept notes, dialogues, narration, story, plot, thought process and skills of portrayal. Not only the writers but many others are also a part of making of a good script like the producer, the director and sometimes even the actors as and when they want their involvement and improvisation. Hence the script is made up with the efforts and time of a lot of people upon which the producers bank upon their money. Therefore the producers have to ensure that all the rights which are of some other individuals vests with him after giving them their due consideration, credits and money so that he has the chain of title. At this stage disputes like the following can arise:

[10] https://www.telegraphindia.com/india/copyright-lock-on-ghajini/cid/516355

- Theft of idea, story and script (Infringement of copyrights)
- Disputes arising out of insufficient documentation
- Grant of rights to multiple individuals
- Adaptation and remake rights

Some of these issues may arise out of contractual breaches, while the others may arise due to breaches of intellectual properties.

Copyright protection for theft of scripts:

- Specific waiver of rights of author under section 19(4) of the Act otherwise the assignment is deemed to automatically expire if rights are not used within one year of assignment;
- Term and territory of assignment should be specifically mentioned;
- It is advisable to specifically mention each right assigned to avoid conflict in interpretation of the agreement at a later date.

2. Insufficient Documentation:

As mentioned above the movie fraternity earlier lacked documentation and paper work to maintain the proofs of rights and titles but now every aspect is diverted into a proper contractual terms and the issues which arose due to insufficient evidence has been eliminated. However in practical life at times lack of knowledge, lack of awareness, incomplete documentation or technical issues still lead to contractual problems. Certain clauses shall be duly noted in such an agreement like-

- In the assignment and licencing agreements the term and territory shall be clearly defined.
- When no term or territory of an assignment has been mentioned in the contract then the assignment is assumed to be assigned only for five years and in India.
- Authors shall also waive all their rights to the producers in such agreement in return of their share of consideration and royalties under Section 19(4).
- The assignment expires if the rights are not expired within one year from the date of assignment. Especially in the movie business if a movie has to be made and assignment has been given for the same by the author then it has to start within a year of assignment or else it can be given to someone else.
- Authors should be careful about not waiving their royalty or moral rights.

3. Grant of Rights to Multiple People:

Major ownership disputes can arise only if the chain of title does not have clarity, and hence who has rights over the script and story gets blurry. This can happen when there is either a lack of contractual agreements altogether or when multiple parties are involved through assignments, co-authorship, or joint ownership arrangements. In such scenarios, ambiguity over who holds what rights whether moral, economic, or derivative can lead to prolonged legal battles, delays in production, or even injunctions halting a film's release. For instance, disputes over script authorship, original story ownership, or adaptation rights can snowball into complex litigation if documentation is incomplete or vaguely worded. A well-maintained and transparent chain of title not only protects stakeholders from infringement claims but also facilitates smoother collaborations, co-productions, and international licensing deals. In short, precision in documentation is not merely a legal safeguard it is a strategic necessity in an industry where creative content forms the foundation of all commercial value. By ensuring clarity in ownership from the outset, stakeholders can avoid costly disputes and focus on innovation, storytelling, and successful content exploitation across platforms.

4. Scene Copying:

There are times when the whole movie, the plot, the concept, the characters and even the story line is different but certain scenes are copied from some other movie or show. For example- in a scene in 'Dilwale', Shahrukh takes Kajol on a 2 minute date which seems like a new concept. But if someone has carefully the show "How I met your Mother" then they would know that it is the exact same scene where the character Ted takes his girlfriend on a 2 Minute date. The show or the movie has no similarity at all in terms of plot, story or concept but just a scene is exactly same. [11]



Similarly the climax of the movie "Maine Pyar Kyun Kiya" has a scene when Sushmita Sen gets a call from a friend so that she gets out of the plane and meets Salman Khan and her co passengers creates a chaos and everybody gets down the plane eventually, is an exact copy of the all time hit show "Friends" last episode.



Such scenes have been openly copied in many movies and no action has been taken upon them despite being a clear case of infringement.

IV. LEGAL AND ANALYTICAL ANAYLYSIS OF THESE ISSUES-

When a script writer or dialogue writer tries to turn the script into a cinematographic film then he has to go to various producers and directors with his expression of ideas for funding and during this process many producers may just listen to the script and do not like it and decline to put money in the same and the script goes forward. Hence any new idea at times is shared with multiple parties who may use it unlawfully since the Copyright law protects only an expression of idea and not the idea in itself. This expands the scope of theft of ideas. Several cases have been reported in which

[11] https://www.degruyterbrill.com/document/doi/10.1515/9780822392330-008/pdf?licenseType=restricted

producers have made something on their own with somebody else's ideas. That is why it is necessary for the creative people to be aware of the rights and protect them. In the famous **Swayamwar case**[12] the original creator could get back his rights was because he had a concept note prepared for his idea which was considered by the court as an expression of the idea in a tangible form with proper detailing of the show. This case showed that even a small thing like concept note can save a lot of things along with non-disclosure agreements (NDAs). The courts have upheld protection of idea through such non-disclosure agreements or when the idea has been communicated in confidence.

Another famous case for the similar rights have been **Zee Telefilms Ltd. v Sundial Communications Pvt. Ltd**[13] in which Sundial apparently conceptualised the idea of a show called 'Krish Kanhaiya' and went to Zee and shared a concept note where the basic plot and the character sketches were outlined in confidence. At that time Zee was not prompt to make a show out of this idea and hence Sundial was searching for other channels. Some time later it was seen by Sundial another show called 'Kanhaiya' was being telecasted on Zee channel which was really similar to the idea which Sundial gave them. Sundial filed a suit against Zee for injunction of this show. At the interim stage, a single Judge bench of Bombay High Court granted an injunction upon the broadcasting of the show then in an appeal against this injunction by Zee, the Bombay High Court opined that an average person would definitely conclude that Zee's film was based on Sundial's script and hence it was a clear case of theft because Sundial discussed everything with Zee in confidence of non-disclosure.

In addition to NDAs in such circumstances as discussed above, the writer would have to prove that he actually originated the idea and the date of origination. Some things that they should be aware of are as following:

- Concepts, scripts, screenplays are protected as literary works under the Copyright Act, 1957 (Copyright Act) and get protection if they are original.
- In most countries, copyright subsists in the work without any formal registration. The moment the work is created, it gets protection. India is a member of the Berne Convention and the Universal Copyright Convention.
- The Government of India has passed the International Copyright Order, 1999 according to which any work first made or published in any country - which is a member of any of the aforementioned conventions - is granted the same treatment as if it was first published in India.

Proper registration and documentation of literary work has been elaborated under the copyright act which later on becomes the prima facie evidence of the rights and ownership owned by the producers. The registration process can take some time and efforts which is not very convenient for all the creative people and hence Copy Right societies have been established who take care of such work for them if they are members. This at times lead to prove that on which date the original work was created and registered. However they have no legal sanction as such. Only when a third party proves somehow that the idea originated first out of them then such a registration could be challenged and cancelled as well by the court or the Registrar of copyright office.

Therefore, it is imperative that proper contracts be entered into at the earliest stages of production between writers, directors, producers, and any third-party contributors with well-defined clauses outlining the scope of each party's rights. This includes clear terms for assignment, licensing, duration, territory, and permitted modifications. Additionally, registering these contracts and scripts with relevant authorities, such as the Screenwriters Association or Copyright Office, can further solidify the legal position of the rights holder.

Some of the movies which have been into controversy for this are:

[12] Mr. Anil Gupta and Anr. vs Mr. Kunal Dasgupta And Ors. on 3 June, 2002

[13] 2003 (5) BomCR 404, 2003 (3) MhLj 695, 2003 (27) PTC 457 Bom

1. Xyz Films Llc And 2 Ors vs Utv Motion Pictures/Utv Software[14]:

Recently released and one of the numerous members of the 100 Crore club is UTV production's 'BAGHI- THE Follower'.Though the film is a typical Bollywood, a happy go lucky boy meets a girl who is being traced and followed by the antagonist. With such a predictable and over-watched story still, it's a surprise that it is an official remake of South Indian film 'VARSHAM'.

In the climax of Baghi the protagonist in order to rescue his lady love infiltrate into a multistory building and on each floor, he has to fight with trained henchmen of the villain. At each floor the numbers of henchmen increases.The catch is that though the movie is an official Hindi remake of Varsham, the last 20 minutes fight is found to be similar to The Raid: Redemption. The story of Raid is simple, the most wanted kingpin of crime is on the 15th floor of a building and a group of policemen has to go through each floor and face the henchmen of villain which also include two furious ninja killers of the villain. Now, after watching the trailer of Baghi, the producers of Raid: Redemption decided to file a suit for copyright infringement as the crux of Baghi and its trailer is the fight through the multistory building for reaching the villain.

The plaintiff 'XYZ and others' stated that the whole the Raid: Redemption has been summed up to the last 20-minute fight in Baghi. Justice Patel laid down two tests –

Average Viewer Test– That whether an average viewer after watching or reading both the works is able to distinguish between them.

The Substance Test– It is decided over the calculation that if the infringing portion is the crux of the work i.e. if after removing the said portion the work still holds it genuinely then, there is no copyright infringement. If post eradicating the portion the work collapses or is paralyzed, then there is the copyright infringement.

Justice Patel held that there is no infringement but the matter of the fact remains same as the whole film revolves around the climax's fight, the antagonist prepares himself for that fight only. Moreover, the culmination of two original works whether or not mount as an original work that is to be interpreted by the judiciary.

2. 20th Century Fox Film Corporation Vs Sohail Maklai Entertainment [15]

In the case, the Hollywood studio accused the Indian producer of unlawfully copying and remaking its 2002 thriller *Phone Booth* under Section 2(m)(ii)of the Indian Copyright Act, 1957. This section explains what "infringing copy" means.

With respect to a movie, it means a "copy of the film made on any medium by any means". *Phone Booth* premised on a sniper who holds an unfaithful publicist hostage in a phone booth and demands that he confess his infidelity to his wife. The sniper toys with his hostage and threatens to kill him if he does not obey the commands.

Maklai's 2010 film *Knock Out*, the subject of the court case, is also centred on a sniper who holds an unfaithful man hostage in a phone booth. However, *Knock Out* incorporates a political conspiracy plot into the script along with song-and-dance sequences.

The court said "it is enough that substantial parts were lifted; no playwright can excuse wrong for showing how much of his work he did not pirate." The court held that copyright infringement could be found even when a small part is substantially similar to the copyrighted work. The court ruled that there had been a copyright infringement. The matter

[14] SUIT (L) NO. 344 OF 2016 on 21 April, 2016

[15] Twentieth Century For Film Corporation vs Sohail Maklai Entertainment Pvt. Ltd. & on 14 October, 2010 Bombay High Court

was settled amicably between both parties and Maklai gave amount of Rs 1.25 crore given by Sohail Maklai to Fox Studios.

V. CONCLUSION AND SUGGESTIONS-

The Indian film industry is a powerhouse of creativity, emotion, and storytelling. Yet, beneath its glittering surface lies a serious issue that continues to undermine its integrity copyright infringement. Despite having a well-drafted legal framework under the Indian Copyright Act, 1957, and several judicial precedents, the reality is that original content creators, especially writers and small production teams, often find themselves exploited, unacknowledged, or even silenced. The problem is not the absence of law, but the absence of enforcement, clarity, and most importantly, respect for original work.

From scripts being "borrowed" under the name of inspiration to entire scenes being replicated with little to no credit, the line between homage and theft is often deliberately blurred. The concept of originality is diluted when commercial interests take precedence over ethical practices. Court cases like *Bheja Fry*, *Raabta*, and *Knock Out* highlight a pattern i.e. out-of-court settlements, fear of industry backlash, and delays in judicial redressal all contributing to a culture where infringement is normalized.

One of the critical issues is the lack of proper documentation. Many creators still do not maintain contracts or assignments that clearly define rights, ownership, and royalties. Without a “chain of title” showing who holds what rights, disputes become inevitable. Concept notes, screenplays, dialogues—these are the soul of a film, yet are rarely protected in practice. While the law does recognize literary works and even concept notes under certain circumstances (as seen in the *Swayamwar* and *Zee Telefilms* cases), creators often fail to register their works or enter into enforceable NDAs due to ignorance or industry pressure.

The judiciary, despite some landmark rulings, also struggles to strike the right balance. Copyright is about protecting expression, not ideas, but when the two are so closely linked in films, it becomes difficult to establish infringement without a subjective analysis. While tests like the "Average Viewer Test" or the "Substance Test" (as applied in *Baaghi*) are useful, courts often hesitate to halt big releases due to the enormous commercial stakes involved. Unfortunately, this leniency sends the wrong message that economic power can override intellectual honesty.

What’s even more disturbing is the growing trend of filing copyright suits just before a movie's release, not with the intention to stop the release, but to extort hefty settlements. This manipulates the judicial system and weakens the moral legitimacy of genuine infringement claims. It also creates an environment where originality is viewed not as an asset, but as a risk discouraging emerging writers and filmmakers from sharing their ideas freely. To bridge the gap between law and practice, concrete changes are needed, both legally and culturally.

Suggestions

1. Mandatory Registration of Scripts and Concept Notes-

Registration of scripts, concept notes, and screenplays should be encouraged and perhaps made mandatory for producers seeking tax benefits or state subsidies. This will create a traceable record and prevent ownership disputes.

2. Stronger Enforcement of NDAs and Licensing Agreements-

NDA (Non- disclosure Agreements) must be strictly enforced in the industry. Writers, directors, and creative contributors must not pitch their ideas without a signed NDA or clear contractual boundaries. Legal aid cells or IP clinics could support creators in drafting such agreements.

3. Chain of Title Documentation-

Producers must be legally required to maintain detailed chain-of-title documentation before releasing any film, ensuring that all contributors have assigned their rights in writing, with clear terms of royalty, credit, and territory.

4. Incentives for Fair Attribution-

Policies and industry awards should actively promote fair attribution of original ideas. Recognizing and celebrating originality can help create a culture where acknowledgment becomes a source of pride, not litigation.

5. Support for Independent Writers and Creators-

A formal grievance redressal mechanism within industry associations like SWA (Screenwriters Association) can help smaller creators fight copyright battles without fear of being boycotted or overshadowed by powerful production houses. In conclusion, the Indian film industry cannot afford to keep treating creativity as a commodity to be reused without consequence. Respecting copyright is not just about legal compliance it is about respecting the blood, sweat, and imagination that go into every frame. Only when originality is protected, both in letter and in spirit, can Indian cinema truly thrive on the global stage.

BIBLIOGRAPHY

- **Statutes:**

1. The Copyright Act, 1957 (India).
2. Copyright, Designs and Patents Act, 1988 (United Kingdom).
3. Civil Procedure Code, 1908, India.
4. International Copyright Order, 1999.
5. Berne Convention for the Protection of Literary and Artistic Works.
6. Universal Copyright Convention.

- **Books and Articles:**

1. Cornish, W. R., Llewelyn, D., & Aplin, T. *Intellectual Property: Patents, Copyright, Trade Marks and Allied Rights*, Sweet & Maxwell.
2. Narayanan, P. *Law of Copyright and Industrial Designs*, Eastern Law House, New Delhi.
3. Gopalakrishnan, N. S., & Agitha, T. G. *Principles of Intellectual Property*, Eastern Book Company.

- **Reports and Guidelines:**

1. Screenwriters Association (SWA) India – Guidelines on Script Registration and Copyright.
2. Government of India – Copyright Office Circulars and Registration Rules.
3. World Intellectual Property Organization (WIPO) – Guidelines on Audiovisual Works and Rights of Authors.

- **Websites and Online Sources:**

1. https://copyright.gov.in
2. https://www.wipo.int
3. https://swaindia.org
4. www.bananaip.com
5. www.spicyip.com
6. www.mondaq.com
7. www.timesofindia.com
8. www.economicstime.com
9. www.hindu.in
10. https://www.degruyterbrill.com

- **Films and Shows Referenced:**

1. *Bheja Fry* (India)
2. *Magadheera* (Telugu)
3. *Raabta* (Hindi)
4. *My Cousin Vinny* (USA)
5. *Banda Yeh Bindaas Hai* (India)
6. *Naan Avan Illai* (Tamil)
7. *Ladies vs Ricky Bahl* (Hindi)
8. *Om Shanti Om* (Hindi)
9. *Jodi Breakers* (Hindi)
10. *Heartbreakers* (France)
11. *3 Idiots* (Hindi)
12. *Five Point Someone* by Chetan Bhagat
13. *How I Met Your Mother* (TV Series)
14. *Friends* (TV Series)
15. *Baghi* (Hindi)

16. *Varsham* (Telugu)
17. *The Raid: Redemption* (Indonesia)
18. *Phone Booth* (USA)
19. *Knock Out* (Hindi)
20. *Momento* (USA)
21. *Gajhini* (Tamil)
22. *Kill Bill* (USA)
23. *Abhay* (India)

Treaties and Conventions

- Berne Convention for the Protection of Literary and Artistic Works. (1886). World Intellectual Property Organization.
- Trade-Related Aspects of Intellectual Property Rights (TRIPS). (1994)
- World Intellectual Property Organization Copyright Treaty (WCT). (1996).
- World Intellectual Property Organization Performances and Phonograms Treaty (WPPT). (1996).