

Intellectual Property Rights and Digital Piracy: Emerging Legal and Enforcement Challenges in India

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Abstract

India has become one of the world's biggest digital content markets with the emergence of high-speed internet, the advent of cheap smart phones and streaming options, but it has also become an epicenter of online copyright violations. The present paper makes a doctrinal study into the legal and institutional measures against digital piracy in India. It chronicles the statutory landscape according to the "Copyright Act, 1957", the "Information Technology Act, 2000" and the recently amended "Cinematograph Act, 1952"; features judicial innovations by the Delhi High Court such as "John Doe" orders and "dynamic injunctions"; and explores institutional change through the "National IPR Policy, 2016" and the establishment of a "dedicated Intellectual Property Division". While the jurisprudence around the blocking of websites in India has been seen to have matured by leaps and bounds, India still remains on the Priority Watch List of the United States Trade Representative and industry estimates suggest that fraud gains around two hundred and twenty-five billion rupees from the media and entertainment industry every year. Citing a need for greater enforcement but protection of due process and free expression, the paper concludes with recommendations.

Keywords: Intellectual Property Rights; Digital Piracy; Copyright Act, 1957; Dynamic Injunction; John Doe Order; Intermediary Liability; Cinematograph Act.

I Introduction

Thanks to cheap mobile data, near-ubiquitous Smartphone usage, and a growing demand for over-the-top ("OTT") streaming services, India has become one of the world's biggest and fastest-growing digital content markets. There has been a companion increase in digital piracy; reproducers, streamers, downloader's and retransmitters copying, streaming, downloading or sharing copyrighted movies, shows, music, software and live content without consent from the rights holders. India's piracy economy stands at over INR224 billion a year, according to industry research, and has become more piracy by streaming; than by optical media or peer-to-peer file sharing. The media and entertainment industry in the country, which stands at around INR 2.78 trillion in 2025, is one of the sectors with the highest growth despite the majority of surveyed consumers confessing to engaging in pirated media.

But these enforcement gaps are not simply an issue internal to the country. India was also listed in the "Priority Watch List" by USTR in the "Special 301 Reports for 2025 and 2026" in view of its sub-optimal law enforcement efforts for counterfeiting and pirated goods, which includes over online platforms. This paper is an attempt to have a doctrinal analysis of the India's legal and institutional answer to the menace of digital piracy. It also addresses the domestic legal changes within this context, such as those under copyright law, information technology law and the specific law for the entertainment industry, Cinema, the doctrinal developments, primarily as introduced by the Delhi High Court (John Doe' orders, 'dynamic injunctions'), and the institutional changes (National IPR Policy, 2016, the formation of a new Intellectual Property division). The paper concludes with recommendations for reform.

II Conceptual Framework: IPR and Digital Piracy

Copyright is the branch of intellectual property law most directly implicated in digital piracy. Section 14 of the Copyright Act, 1957 grants the copyright owner the exclusive right to reproduce a work, issue copies of it, perform it, communicate it to the public, and make adaptations of it; digital piracy is, in essence, the unauthorized exercise of these exclusive rights through electronic means.¹

“Digital piracy” is best understood as a spectrum of conduct rather than a single act: according of theatrical releases, unauthorized uploading of content to streaming or file-sharing websites, operation of illegal IPTV services, circumvention of digital rights management to strip copy-protection, peer-to-peer sharing through torrent protocols, and increasingly real-time restreaming of live sports or entertainment broadcasts through social media and messaging applications. Each mode raises distinct evidentiary and jurisdictional difficulties: the infringer, the hosting server, the intermediary and the consumer may all sit in different jurisdictions, and the primary infringer’s identity is frequently unknown when relief is first sought. India’s legal response has consequently had to develop tools capable of operating against unidentified, judgment-proof or foreign-based defendants and against intermediaries who did not themselves create the infringing content; a dynamic that has driven as much procedural innovation as substantive statutory reform, as the remainder of this paper shows.

III International Legal Framework and India’s Obligations

As a party to the “Berne Convention for the Protection of Literary and Artistic Works”, India accords automatic copyright protection without formalities and applies the principle of national treatment to works of other member states.² Membership of the “World Trade Organization” brought obligations under the “Agreement on Trade-Related Aspects of Intellectual Property Rights” (“TRIPS”), which prescribes “minimum standards of protection and requires member states to maintain enforcement procedures; including civil remedies, provisional measures and border measures; adequate to deter further infringement, including in the digital environment”.³

India formally acceded to the “WIPO Copyright Treaty” (“WCT”) and the “WIPO Performances and Phonograms Treaty” (“WPPT”) only in 2018, but had, in substance, already aligned its domestic law with these instruments through the “Copyright (Amendment) Act, 2012”, which introduced statutory recognition of technological protection measures and rights management information.⁴ Commentators have noted the unusual sequencing by which India implemented treaty-aligned obligations in domestic law well before formal accession, a choice some suggest reduced its negotiating leverage over the final treaty-compliant text.⁵ These international commitments are relevant in both ways in relation to piracy enforcement: on the one hand, they influence the overall design of domestic enforcement measures; and, on the other hand, they provide the framework for evaluating India’s enforcement performance by trading partners under bilateral and multilateral processes.

IV Domestic Statutory Framework

A. The Copyright Act, 1957

Digital piracy on films, music, literary works and computer programs is still the main concern of the “Copyright Act”. Definitions of infringement are provided in section 51 (including making infringing copies for sale); criminal liability is established in sections 63 and 63A (with increased penalties for repeat offenders); and power for police and higher to seize infringing copies without a warrant is provided in section 64. The 2012 amendment’s sections 65A and 65B criminalize circumvention of technological protection measures and tampering with rights management information, provisions that have nonetheless drawn criticism for their comparatively narrow drafting relative to instruments such as the “United States Digital Millennium Copyright Act”.⁶

¹ The Copyright Act, 1957 (Act 14 of 1957).

² Berne Convention for the Protection of Literary and Artistic Works, 1886.

³ Agreement on Trade-Related Aspects of Intellectual Property Rights, Apr. 15, 1994.

⁴ WIPO Copyright Treaty, Dec. 20, 1996.

⁵ Journal of Intellectual Property Rights, Vol. 17 (July 2012) 324.

⁶ B.T. Kaul, “Copyright Protection: Some Hassles and Hurdles,” *Journal of the Indian Law Institute* 236 (2004).

B. The Information Technology Act, 2000 and Intermediary Regulation

Because piracy is typically effectuated through internet intermediaries, the “Information Technology Act, 2000” supplies the second statutory pillar. Section 79 grants “intermediary’s conditional safe harbor from liability for third-party content, subject to due diligence and the absence of “actual knowledge” of unlawful material”; section 69A separately “empowers the Central Government to direct blocking of information in the interest of, inter alia, public order and State security”.⁷ In “Shreya Singhal v. Union of India”, the Supreme Court read down “actual knowledge” to “mean knowledge acquired through a court order or notification by the appropriate government, to prevent private complaints from triggering a general duty to censor and thereby chilling free expression”.⁸ The Delhi High Court’s decision in “MySpace Inc. v. Super Cassettes Industries Ltd.” calibrated “this standard for copyright-specific disputes, holding that intermediaries must act with due diligence once put on specific notice of infringing content”.⁹ “The Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021” layer further due-diligence, grievance-redressal and traceability obligations onto intermediaries and digital media publishers.¹⁰

C. The Cinematograph (Amendment) Act, 2023

Enacted after decades without substantive reform of the “Cinematograph Act, 1952”, the “Cinematograph (Amendment) Act, 2023” directly targets film piracy.¹¹ New sections 6AA and 6AB “criminalize, respectively, the unauthorized recording of a film using an audio-visual recording device in a licensed place of exhibition, and the unauthorized exhibition, distribution or online transmission of an infringing copy; section 7(1A) prescribes a minimum sentence of three months’ imprisonment, extendable to three years, together with a fine of not less than three lakhs rupees, extendable to five per cent of the film’s audited gross production cost”. Section 7(1B)(ii) empowers the Government “to notify intermediaries hosting pirated cinematographic content under section 79(3) of the Information Technology Act, creating an express statutory bridge between the two statutes”. “The Ministry of Information and Broadcasting” has operationalise this mechanism through designated nodal officers; in March 2026 it notified the messaging platform Telegram under section 79(3)(b), directing removal of over three thousand channels found to be disseminating unauthorized film and OTT content.¹²

D. The Trade Marks Act, 1999 and Related Statutes

Digital piracy frequently overlaps with trademark counterfeiting, particularly where pirated streams are monetized through advertising bearing unauthorized marks, or where rogue online listings combine infringing merchandise with copyrighted imagery. “The Trade Marks Act, 1999” supplies parallel civil and criminal remedies, and Indian courts have extended the John Doe and dynamic-injunction techniques developed in the copyright context to counterfeiting and, increasingly, to violations of personality and publicity rights, discussed below.¹³

V Judicial Trends and Landmark Case Law

A. John Doe (“Ashok Kumar”) Orders

Confronted with infringers who cannot be identified at the time relief is sought, Indian courts adapted the common law “John Doe” injunction, styled in India as an “Ashok Kumar” order after the archetypal placeholder name used in Hindi cinema. The Delhi High Court is credited with the first such order in “Taj Television Ltd. v. Rajan Mandal”, restraining unidentified cable operators from unauthorized transmission of a FIFA World Cup broadcast.¹⁴ The technique was extended to film piracy in “UTV Software Communications Ltd. v. Home Cable

⁷ The Information Technology Act, 2000 (Act 21 of 2000).

⁸ Shreya Singhal v. Union of India, (2015) 5 SCC 1.

⁹ MySpace Inc. v. Super Cassettes Industries Ltd., 236 (2017).

¹⁰ Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules, 2021.

¹¹ The Cinematograph (Amendment) Act, 2023 (Act 12 of 2023).

¹² Ministry of Information and Broadcasting, Government of India.

¹³ The Trade Marks Act, 1999 (Act 47 of 1999).

¹⁴ Taj Television Ltd. v. Rajan Mandal, (2003) FSR 22 (Del).

Network Ltd.”, protecting the films “7 Khoon Maaf” and “Thank You” against unlicensed cable retransmission, and has since become a routine pre-release remedy sought by Hindi film producers.¹⁵ The Madras High Court extended the remedy to internet-based infringement in “Red Chillies Entertainment Pvt. Ltd. v. BSNL”, directing internet service providers to block thousands of infringing URLs.¹⁶

More recently, Ashok Kumar orders have expanded well beyond copyright piracy into the protection of personality and publicity rights against deepfake, illustrated by the Bombay High Court’s 2025 order in “Sunil Shetty v. John Doe @ Ashok Kumar”, restraining unauthorized AI-generated videos, voice clones and endorsements using the actor’s likeness.¹⁷ This expansion signals both the doctrinal versatility of the remedy and a growing concern, voiced by commentators, that a mechanism designed for anonymous copyright infringers is increasingly deployed in contexts; including defamation-adjacent disputes; that raise sharper free-expression concerns and correspondingly warrant closer judicial scrutiny of proportionality.

B. Dynamic Injunctions and Website Blocking

The most significant doctrinal development in online-piracy enforcement is the “dynamic injunction,” first recognized in India by the Delhi High Court in “UTV Software Communications Ltd. v. 1337X.to & Ors.”¹⁸ The case arose from a batch of suits filed by several film production and distribution companies against “rogue websites” dedicated to hosting unauthorized copies of their films. Recognizing that pirate websites routinely evade blocking orders by spawning “mirror,” “redirect” or “alphanumeric” replacement domains, the Court drawing on comparable Singapore jurisprudence; permitted rights holders to approach the Joint Registrar of the Court with a supporting affidavit demonstrating that a newly discovered website was in substance a clone of an already-injected site, obviating the need for fresh proceedings against every new domain. The Court also emphasized that instructions to block should be deemed necessary and proportional, stressing on a point made by Bombay High Court in “Eros International Media Ltd. vs BSNL”, that blocking should be done if there were a truly infringing “rogue” website and a proportionality test that balances the right of copyright enforcement with the constitutional guarantees of freedom of expression and trade.¹⁹ The dynamic injunction has since become the standard remedy sought by film producers, sports broadcasters and OTT platforms confronting large-scale streaming piracy, even as questions remain about the adequacy of safeguards against over-blocking of legitimate websites swept up within broadly worded orders.

C. Intermediary Liability Jurisprudence

A related strand of case law concerns the liability of intermediaries whose platforms are used, wittingly or otherwise, to disseminate pirated content. The trajectory begins with “Avnish Bajaj v. State (NCT of Delhi)”, the “Bazee.com” case, in which the criminal prosecution of an e-commerce platform’s chief executive for a third-party listing exposed the absence of a coherent statutory safe-harbor regime and catalyzed the eventual enactment of section 79.²⁰ Shreya Singhal then supplied the constitutional floor for intermediary immunity, while MySpace calibrated that standard for copyright-specific disputes, as discussed above. In later rulings, the Delhi High Court had in “Amazon Seller Services Pvt. Ltd. v. Amway India Enterprises Pvt. Ltd.” overturned a lower single judge ruling to hold that there was no formal distinction between “active” and “passive” intermediaries under the definition of the former, provided the statutory due-diligence requirements were fulfilled, and that this ruling would accordingly have implications for e-commerce platforms that host counterfeit or pirated listings. Together, this body of law has created a manageable, but not without controversy, balance; intermediaries are entitled to safe harbors as long as they respond expeditiously upon

¹⁵ UTV Software Communications Ltd. v. Home Cable Network Ltd. & Ors., Delhi High Court.

¹⁶ Red Chillies Entertainment Pvt. Ltd. v. BSNL & Ors., Madras High Court.

¹⁷ Sunil Shetty v. John Doe @ Ashok Kumar, Bombay High Court (2025).

¹⁸ UTV Software Communications Ltd. v. 1337X.to & Ors., 2019 SCC OnLine Del 8002.

¹⁹ Eros International Media Ltd. v. BSNL & Ors., Suit No. 751 of 2016 (Bom HC).

²⁰ Avnish Bajaj v. State (NCT of Delhi), 116 (2005) DLT 427 (Del).

concrete and specific notice to take action, but not where they have had “clear awareness” of conduct that infringes and have intentionally done nothing to stop it.²¹

VI Institutional and Policy Developments

In addition to judicial innovation, the country has introduced indirect but substantial institutional changes with tangible impact on piracy enforcement. “The National IPR Policy, 2016”, signed by the Union Cabinet with the slogan “Creative India; Innovative India”, put forth seven goals in regard to IPR awareness, streamlining the enactments and administration and most importantly put emphasis in this context; strong enforcement and adjudication, including strengthening of the IPR cells in the state police forces. The Policy also created the “Cell for IPR Promotion and Management” (“CIPAM”) within the “Department for Promotion of Industry and Internal Trade” to manage the outreach and implementation.²²

A second significant reform followed the abolition of the Intellectual Property Appellate Board under the “Tribunals Reforms Act, 2021”, which transferred pending IP appeals to the jurisdictional High Courts.²³ In response, the Delhi High Court; historically the venue for a majority of India’s IP litigation; established a dedicated Intellectual Property Division by office order dated 7 July 2021, later formalized through the “Delhi High Court Intellectual Property Rights Division Rules, 2022”.²⁴ The Division consolidates original and appellate IP jurisdiction, including copyright and cinematograph matters, before judges with specialized subject-matter experience, and has been credited with accelerating the disposal of website-blocking and dynamic-injunction applications given its familiarity with the underlying technology and remedial architecture.

VII Enforcement Challenges

Even with this changing legal landscape, piracy in the digital realm in India faces a number of structural hurdles in enforcement.

One of them is first jurisdiction and cross-border reach remain, and persistent, challenges. In India, the use of foreign domain registrars for these pirates and their servers out of India, with persons out of India running the sites, also make it difficult to find out who they are in the first place and who to serve with a decree in case of primary infringer; this leaves almost all the burden of enforcement on domestic intermediaries.²⁵

Second, the “hydra-headed” nature of piracy sites; their ability to become “mirror,” “proxy” or “redirect” sites within a matter of hours of being blocked; still poses a challenge to the so-called dynamo mechanism (dynamic-injunctions). This mechanism, though efficient in its procedure, demands continuing efforts of rights-holders to invest in monitoring and filing supplementary affidavit to address the new “heads” of the “hydra”. The rise of unindexed, encrypted-messaging-based piracy; exemplified by the large-scale distribution of unauthorized content through channels on platforms such as Telegram; has further complicated enforcement, since such content is not readily discoverable through conventional web-crawling and blocking techniques, notwithstanding the 2026 notification exercise under the amended Cinematograph Act.

Third, ambiguity persists around the precise contours of intermediary due diligence, particularly for smaller or foreign-domiciled platforms with limited compliance capacity, and rights holders continue to report inconsistent turnaround times for takedown requests despite the graduated notice-and-takedown architecture built around the Information Technology Act and the 2021 Intermediary Rules.

Fourth, resource and capacity constraints affect both the judiciary and specialized enforcement agencies. Despite the establishment of the Intellectual Property Division of the Delhi High Court, most intellectual property rights

²¹ Choudhary, A. (2026). From Innovation to Commercialization: The Role of Intellectual Property Law in Business Development. *Minnesota Journal of Business Law and Entrepreneurship*, (1), 222-228.

²² Department for Promotion of Industry and Internal Trade, National IPR Policy, 2016.

²³ The Tribunals Reforms Act, 2021 (Act 33 of 2021).

²⁴ Delhi High Court Intellectual Property Rights Division Rules, 2022.

²⁵ Halder, B., Dubey, B., & Rai, D. V. (2014). Biomedical Ethics and Legal Perspectives. *Ethics in Biology, Engineering and Medicine: An International Journal*, 5(1).

litigation still continues to be concentrated in the few urban commercial courts; and criminal enforcement; including search, seizure and prosecutions pursuant to certain provisions of the Copyright Act, 1957; is hampered by the varying levels of training and prioritization in state police departments, which is mentioned as an implementation gap even in the National IPR Policy.

Fifth, the economic motivations for stealing remain strong; according to survey data gathered for the EY–IAMA Rob Report, almost half of Indian media consumers watch pirated content and despite significant increases in legitimate subscription revenues, streaming platforms are becoming the main point of access, indicating that without affordability and access-side measures, legal deterrence alone is unlikely to have material effect on consumer behaviour.

Lastly, there are reputational and trade implications associated with these enforcement deficits. For now, India has been in the “Priority Watch List” of the “United States Trade Representative's Special 301” process for successive years, both for failing to effectively counter online piracy and counterfeiting, which indicates ongoing pressure from its key trading partners on its intellectual property enforcement record, and India's copyright and cybercrime enforcement via debates with other key trading partners.²⁶

VIII Economic Dimensions of Digital Piracy

Its size of the piracy economy gives this legal analysis a significant empirical context. India's piracy economy stood at approximately INR 224 billion, in 2023, with as much as INR 137 billion originating from pirated film content and INR 87 billion from unauthorized access to content on OTT platforms, plus potential losses in goods and services tax revenues of up to INR 43 billion, estimated the “EY–IAMA Rob Report”. The same survey revealed that 78 per cent of unauthorized uses were made via streaming compared to the 13 per cent of uses that were made using torrents and 5 per cent through physical piracy. The “FICCI – EY Media” and “Entertainment Report 2025” shows that the total industry size is expected to reach INR 2.78 trillion, highlighting that piracy losses are important but are not an aberration to the rapidly expanding content economy in the digital age. These are just some of the numbers that make enforcement a matter of more than legal principle: it's a seriously quantifiable economic issue for producers, platforms and for the bottom line of the exchequer.

XI Conclusion

The doctrinal innovations of this dynamic judiciary (especially the Delhi High Court) have often run ahead of legislative reform, and have, indeed, led to remedies that are now a subject of study and emulation broadly across the common law world: the Ashok Kumar order, for instance. Statutory reforms are beginning to catch up as of late by way of the “Cinematograph (Amendment) Act, 2023”, which provides for that much needed criminal deterrent and express linking to intermediary law redress. However, enforcement is hampered by territorial restrictions, the flexibility of pirate payloads, and enforcement capacity limitations and is still subject to international criticism and estimated financial damages. In future, India will continue to face the challenge of maintaining procedures-based agility of all judicial options, and its legislation and institutions will need to be strengthened to support enforcement that is lasting and consistent with freedom of expression.

²⁶ “Copyright Piracy and Cybercrime: Enforcement Challenges in India,” WIPO Magazine, Issue 4/2022 (Dec. 2022).