

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 7 | Issue 3

2025

© 2025 International Journal of Legal Science and Innovation

Follow this and additional works at: <https://www.ijlsi.com/>

Under the aegis of VidhiAagaz – Inking Your Brain (<https://www.vidhiaagaz.com>)

This Article is brought to you for free and open access by the International Journal of Legal Science and Innovation at VidhiAagaz. It has been accepted for inclusion in International Journal of Legal Science and Innovation after due review.

In case of **any suggestion or complaint**, please contact support@vidhiaagaz.com.

To submit your Manuscript for Publication at International Journal of Legal Science and Innovation, kindly email your Manuscript at editor.ijlsi@gmail.com.

Copyright Protection in Indian Music Industry with special reference to Legality of Remix Culture

INDHUMATHI@MEIMOZHI K¹

ABSTRACT

In India, the entertainment industry is currently undergoing rapid transition, with the advancement of new technologies. Copyright under Intellectual Property rights (IPR), protects the rights of creators over his or her own creation. The popularity and relevance of music in our country has been increasing day by day. But in this globalized era, the problem of duplication or copying of lyrics by remixing songs is not only infringing the rights of the owner but also degrading the uniqueness of music of that particular song. This paper mainly focuses on the legality of remix culture under copyright law.

Keywords: Intellectual Property, copyrights, Music, legality of remix.

I. INTRODUCTION

“Every new idea is just a mashup or a remix of one or more previous ideas.”

- Austin Kleon

In recent years, India’s entertainment industry has witnessed remarkable growth and is now regarded as one of the fastest-expanding sectors. In this evolving landscape, Copyright and other forms of Intellectual Property Rights (IPR) play a vital role by offering legal protection to original creative works such as films, storylines, music, artworks, and literary creations. These works require safeguarding against the growing threat of piracy. Copyright infringement continues to pose significant risks to artistic expressions within the industry.

While it’s common to hear popular music at clubs and events, many people remain unaware that organizers must obtain a proper license to publicly play these tracks, as only the copyright holder holds the right to authorize public performances. Music is an essential element of cinema, yet it’s often the producer or music label — rather than the composer — who benefits financially, depending on to whom the rights have been transferred.

The 21st century has also seen a surge in remix versions of classic tracks, raising important legal questions about the protection of original composers’ rights and the recognition of those

¹ Author is a Professor at PRIST deemed to be University, India.

creating new versions. Clarifying the laws and rules that protect the rights of both the original writers and the authors of remixed works has become more and more crucial. This article aims to examine copyright protection within India's music industry and assess the legal standing of remix culture.

II. COPYRIGHT AND INDIAN ENTERTAINMENT INDUSTRY

Copyright serves to protect creative works from being copied, reproduced, or used without the creator's permission across various fields such as literature, music, dance, and art. Essentially, it comprises a collection of rights, including the rights to reproduce, translate, adapt, and publicly communicate a work. The primary aim of copyright law is to motivate writers, artists, and performers to strive for originality and excellence in their respective domains.

For instance, when a singer performs a song, they are entitled to receive royalties for their performance. If someone attempts to recreate or remix that song, it is essential that the original producer and creators receive proper acknowledgment, ensuring the public remains informed about the song's original contributors. Additionally, copyright law includes provisions for the fair use of certain materials, as outlined in Section 52 of the Copyright Act, 1957, which permits specific uses without constituting infringement.

According to Section 14 of the Copyright Act, "Copyright" refers to the exclusive rights granted to an individual, authorizing them to perform specific acts related to their work.

In the context of a *musical, dramatic, or literary works, excluding computer programs*:

- Reproducing the work in any physical form, including keeping it in electronic or digital formats, is prohibited.
- To convey or carry out the job in public; copies may be made available to the general public, so long as they haven't been given out before. To produce cinematographic films or sound recordings based on the original work.
- To translate the work into other languages or forms.
- To adapt, alter, or make modifications to the original work in any manner.

In the context of a **computer program**:

To do any of the aforementioned tasks, or to market, lease, or disseminate copies or parts of the program for profit.

In the context of a **artistic creation**:

- To modify or alter the work in any way.

- To physically duplicate the artwork in any format, including two- and three-dimensional ones. To publicly share, display, or communicate the work.
- To convert the artwork into a cinematographic production.
- To provide the public with copies of the work.

In the context of a **cinematography film**:

- To add additional scenes by reproducing the video using pictures or images.
- To convey, share, or show the movie to the general public.
- To distribute, sell, or offer a copy of the movie, or to find out if one has already been purchased.

In the context of a **Sound Recording**:

- To capture any additional audio that is relevant to the work at hand.
- To offer the sound recording for sale or rental.
- To distribute or broadcast the audio recording to the general audience.²

III. A STUDY OF COPYRIGHT REGULATION IN THE MUSIC SECTOR

Typically, a song's copyright is separated into three sections: (i) the lyrics, which are regarded as the lyricist's literary creation, (ii) the music, which is owned by the composer, and (iii) the complete song, which is owned by the producer. To illustrate this, let's take the example of a Kollywood song. A single song like "Mallipoo" encompasses multiple rights: the musical work, the lyrics as a literary work, and the sound recording, which refers to who recorded the music in the studio. The Copyright Act of 1957 protects these distinct rights, which are owned by many different people.

For instance, in the song of "Mallipoo" from the movie *Vendhuthanindhathu Kaadu*, A.R. Rahman composed the music, Thamarai wrote the lyrics, and A.R. Rahman produced the song. The primary goal of registering a musical work is to safeguard the owner's uniqueness.

Thus, in the music industry, copyright is only given to the lawful owner of the musical work.

Specifically, we are discussing "musical work," as defined by Section 2(p) of the Copyrights Act of 1957- **"Musical work" refers to a work that consists of music, including any written notation of the music. However, it does not include any lyrics or actions meant to be sung,**

² Copyrights. India <https://copyright.gov.in> co PDF the copyright act, 1957 (Act 14 of 1957)

spoken, or performed along with the music”³.

The Delhi High Court observed in the well-known case of Gramophone Company of India vs. Super Cassette Industries Ltd that "Musical work is not simply a blend of melody and harmony, or just one of them. Every musical composition has a structure, which is the arrangement of individual elements to form a complete piece, and musical notation serves as a visual guide for performing the music. ”

By giving them an unalienable right to royalties, the 2012 amendment aims to safeguard the rights of authors or owners of creative works such as music, literature, and art that are featured in motion pictures.⁴

A. Who owns the musical work's copyright?

The producer, not the singer, is the original proprietor of a musical composition. The author is the "composer" of a musical work, according to Section 2(d)(ii).

Furthermore, the Copyright Act of 1957's Section 2(z) makes it clear that a musical composition does not necessarily need to be attributed to a single composer. In fact, multiple composers can collaborate and contribute to a musical work in a similar manner, rather than separately.

B. Duration of copyright in musical works:

A composer's musical creations are protected for 60 years, beginning at the start of the calendar year after the author's passing, under Section 22 of the Copyright Act of 1957.

C. Various Types of Music Work Rights

Reproduction, synchronization, mechanical, derivative, adaptation, and performer rights are among the rights that belong to the owner of a copyright, who is the only person with authority over it. Section 39A specifically covers the performers' moral right to be recognized as the creators of their performance and their duty to perform with integrity⁵.

IV. THE CONCEPT OF REMIX

Numerous songs today are remixes of popular soundtracks from the 70s, 80s, and 90s, which have quickly gained popularity among audiences. Remixing is traditionally characterized as

³ <https://copyright.gov.in/documents/copyrightrules1957.pdf>

⁴ Anshi Bhatia, Creating value for music: copyright in music industry https://blog.ipleaders.in/creating-value-for-music-copyright-in-music-industry/#Why_is_copyright_important_in_the_music_industry

⁵ Shreya Tripathi, Copyright law governing Remix culture and Amateur Creation <https://blog.ipleaders.in/copyright-law-governing-remix-culture-and-amateur-creation/>

altering an older, published song's beats and pace while making only slight adjustments to its melody and lyrics⁶. Take the Kollywood song *Per Vetchaalum* from the film as an example to better comprehend this song Michael Madana Kama Rajan, which was remixed in 2021 into *Per Vachaalumvaikkama* for the movie *Dikkiloona*. The question arises: should the remixed version be considered an original creation or just a modification of the original? The original work's owner would need to grant the remix creator a license, even if the new version only slightly differs from the original. The Copyright Act does not provide a specific process or provision for obtaining a license for remixed works, similar to how it does not address cover versions.

To copyright a remix song, it must fulfil two basic requirements:

- It must maintain originality.
- It must be expressed in a tangible form, as ideas themselves are not eligible for copyright protection.

When a new song is created, the owner gains exclusive rights to their work, allowing them to reproduce, copy, or distribute their creation to a wider audience. Recently, remixing has become a popular trend in the music industry. In such cases, the creators often remix music or soundtracks that have already gained popularity, ensuring that the remix maintains the original song's essence.

From a legal perspective, it's important to assess whether these remixes are considered copyrightable works, whether they infringe on the original work, whether the creator has the legal right to use such remixes, and how the law addresses these practices.

Section 51 of the Copyright Act outlines the conditions for copyright infringement. If someone wishes to create a remix of an original song, they must notify the owner in advance and pay the required fees to use the song. Additionally, the owner or author of the song has the right to review the accounts related to the remix version, and the remix must be properly launched.

V. LEGALITY OF REMIX SONGS

Remixing a song requires prior permission from the original owner; otherwise, it would be considered an unauthorized remix. The establishment of a legal checklist is necessary to guarantee adherence to the law. Since unlawful downloading is forbidden, buy a genuine copy of the music instead.

⁶Ashok Ram Kumar & Pratyusha Ganesh, The advent & legal position of the remix culture in India https://blog.ipleaders.in/advent-legal-position-remix-culture-india/#Remix_under_Copyright_law

1. Obtain prior authorization from the copyright owner.
2. Keep detailed records of all permissions related to the copyright⁷.

For the remix to be legally acceptable, the remixer needs obtain consent from the original song's artist and label because the original composition and sound recording are utilized.

Obtaining the original creator's consent is regarded as essential. In the case of Ganpati Aarti Ashvinayak Geete⁸, the defendant intended to produce audio cassettes of the Ganpati Aarti and requested the original sound recording from the plaintiff, offering to pay licensing fees. However, the plaintiff rejected the offer, indicating that no permission had been granted. Despite this, the defendant went ahead and used the sound recording to produce the cassettes, which constituted a full infringement of copyright.

- However, a DJ who remixes music during a live performance does not require permission unless they profit from it. For example, unless permission has been obtained, it would be deemed copyright infringement if the DJ records the remix and posts it online for download or purchase.
- Similarly, Section 52 of the Copyright Act outlines the exceptions where permission is not needed:
- If both the song's publishing rights and master recordings are in the public domain.
- Fair use, which covers the use of music in news reporting, satire, parody, political or social commentary, and education.
- If a Creative Commons license is in effect for the song.

In all other cases, it is recommended to seek authorization from the artist or their management if the work does not fall under the above categories⁹.

An application for an injunction was filed in *Super Cassette Industries v. Bathla Cassette Industries Pvt. Ltd*¹⁰, claiming that the defendant had circulated and reproduced the plaintiff's remix of the original soundtrack to the song "Chalo Dildar Chalo" from the movie *Pakeezah*. Because the remix was made without the copyright owner's consent, the court decided against the plaintiff. The complainant was not entitled to pursue legal recourse because he did not

⁷Shreya Tripathi, Copyright law governing Remix culture and Amateur Creation <https://blog.ipleaders.in/copyright-law-governing-remix-culture-and-amateur-creation/>

⁸ <https://www.casemine.com/judgement/in/56e1151e607dba38966160d2>

⁹Ashok Ram Kumar & Pratyusha Ganesh, The advent & legal position of the remix culture in India https://blog.ipleaders.in/advent-legal-position-remix-culture-india/#Remix_under_Copyright_law

¹⁰ 2004(1)RAJ69

possess the copyright to the musical recording he claimed.

VI. AMENDMENTS TO BE MADE

It is suggested to extend the period for creating a remix version using the original sound recording from two years to five years.

- The royalty payment to the owner should be fixed at a fair and standardized rate.
- Statutory licenses should be introduced to ensure that the owner of a musical work is not at a loss while still allowing the public access through media such as radio or television.
- The owner's right to receive royalties should be protected, with any commercial use of the work being deducted from the royalties owed to them.

VII. CONCLUSION

“The world has entered the age of remix, and so should copyright law.”

In today's digital age, remixing has become a distinct genre of music that deserves the same level of protection as other creative works. While disputes between copyright holders and remix creators have increased, the number of independent artists releasing remixes continues to grow. There is an urgent need to update the Copyright Act, as the legal status of remixes remains ambiguous. The regulations should be more relevant and protect both the rights of remix creators and the original song owners. Stricter rules should be enforced to safeguard the rights of original creators and their works; without such protections, individuals may lack the motivation to innovate and create new content for the public. Additionally, they must be aware of the consequences of their actions.
