Page 491 - 506 **DOI:** *https://doij.org/10.10000/IJLSI.112679*

INTERNATIONAL JOURNAL OF LEGAL SCIENCE AND INNOVATION

[ISSN 2581-9453]

Volume 7 | Issue 3

2025

The Legal Landscape of Digital Rights Management in India

PRAJWAL DEVAMANE[1] AND DR. CHANJANA ELSA PHILIP[2]

ABSTRACT

This paper explores the evolution and current state of Digital Rights Management (DRM) within the Indian legal framework, particularly focusing on the implications of the Copyright (Amendment) Act, 2012. By examining the integration of Technological Protection Measures (TPMs) and Rights Management Information (RMI) into Indian copyright law, the study assesses the adequacy of existing legal provisions in addressing the complexities of digital content protection. It evaluates the effectiveness of Sections 65A and 65B in deterring unauthorized access and distribution of creative works while considering the interplay between the Copyright Act and the Information Technology Act. Drawing on both domestic developments and international treaty obligations, the paper highlights key enforcement challenges, jurisdictional ambiguities, and the broader impact on stakeholders in the digital ecosystem. Ultimately, the research underscores the need for a balanced approach that supports innovation and access without compromising the rights of content creators in an increasingly digitized economy.

I. INTRODUCTION

The concept of Digital Rights Management (DRM) is relatively new and is currently under active discussion and interpretation, with reference to the provisions of Indian copyright law. As noted by Mihaly Ficsor of the World Intellectual Property Organization (WIPO), while the term "digital rights management" is frequently used in discussions across legal, technological, and media circles, it is not a term formally recognized in either international treaties or domestic legislation[3]. Instead, legal frameworks tend to refer to components of DRM through more specific terms such as "technological protection measures" (TPMs) and "rights management information" (RMI). Although DRM is often used as a catch-all phrase, it typically encompasses both TPMs and RMI, even though it is sometimes loosely applied to refer to just one of these elements.

To keep pace with technological progress and strengthen the protection of intellectual property

[1] Author is a LL.M. Student at CMR School of Legal Studies, Bengaluru, India.
[2] Author is an Associate Professor at CMR School of Legal Studies, Bengaluru, India.
[3] Mihály Ficsor, "Digital Rights Management (DRM) And Its Co-Existence with Copyright Exceptions", https://www.wipo.int/meetings/ru/doc_details.jsp?doc_id=149382

 [ISSN 2581-9453]

rights, the Indian Parliament incorporated Sections 65A and 65B into the Copyright Act, 1957, through the Copyright (Amendment) Act of 2012. These provisions specifically deal with the safeguarding of technological protection measures and rights management information. This research paper examines the development and current state of DRM in India, focusing on both its legal framework and technological implications.

As information and communication technologies continue to expand rapidly—especially in domains such as software and other technical fields—there is an increasing urgency to protect intellectual property generated within the country. It is essential for Indian scientists and researchers to have mechanisms in place that allow them to secure their innovations and assert ownership over their intellectual contributions[4]. On the other hand, the internet now serves as the central hub for various activities such as voice and video communication, file sharing, real-time collaboration on documents, and instant messaging. Moreover, the evolution of wireless data technologies—including GPRS, 2G, 3G, 4G, and 5G—has enabled mobile devices to carry out a vast array of functions on a global scale.

II. LEGAL FRAMEWORK FOR DIGITAL RIGHTS MANAGEMENT UNDER THE INDIAN COPYRIGHT ACT

In earlier times, creative minds such as artists, musicians, and writers pursued their craft primarily for recognition and prestige rather than financial gain, so the issue of copyright protection did not arise. It was only after the invention of the printing press—making large-scale reproduction of books feasible—that the need for copyright began to be acknowledged. In India, the first formal copyright legislation came in the form of the Indian Copyright Act of 1914, which was largely modeled on the UK Copyright Act of 1911. The 1914 Act remained in effect until after India gained independence, when a new and comprehensive Copyright Act was introduced in 1957 and implemented in 1958. Beyond the incompatibility of the British law with India's new constitutional framework, there was a growing awareness among the public about the rights and responsibilities of authors, making it essential to establish an independent and self-contained legal framework for copyright protection.[5]

To align India's copyright laws with international standards, the Copyright Bill of 1957 was introduced in Parliament and, after approval by both Houses, received Presidential assent on 4th June 1957. Since then, the Copyright Act, 1957 has been amended multiple times—in 1983,

[4] Susy Frankel & Daniel Gervais, *The Evolution and Equilibrium of Copyright in the Digital Age* (Cambridge Univ. Press 2015).
[5] Statement of Objects and Reasons of the Copyright Act, 1957. Objective of the Copyright Act, 1957. https://thc.nic.in/Central%20Governmental%20Acts/Copyright%20Act,1957.pdf

 [ISSN 2581-9453]

1984, 1992, 1994, 1999, and 2012.

The Act brought several key reforms, including the creation of the Copyright Office and Copyright Board, a broader definition of copyright, and specific provisions for cinematograph films. It also addressed the assignment and licensing of rights, extended copyright duration from 25 to 50 years, and introduced "fair dealing" exceptions, allowing limited use of works without permission[6].

The Act also clarified the functions of performing rights organizations, such as those responsible for managing music royalties, and outlined the specific categories of works eligible for copyright protection. It further provided a comprehensive definition of copyright infringement. These updates were intended to modernize the law and enhance enforcement mechanisms.

Digital Rights Management (DRM) plays a crucial role in Indian copyright law by offering technological protection against the misuse of creative works in the digital space. As incidents of online piracy continue to rise, DRM serves as a vital tool that supports the enforcement of rights granted under the Copyright Act, 1957. It enables content creators—such as writers, musicians, filmmakers, and software developers—to manage access to their work, control distribution, and secure fair compensation. This not only safeguards intellectual property but also promotes a healthier digital ecosystem for innovation and cultural production[7]. Although the Copyright Act of 1957 does not specifically mention Digital Rights Management (DRM) systems, some legal scholars argue that certain provisions can be interpreted to support the use of technological tools by copyright holders to protect their works. For example, Section 2(t) defines the term "plate" in a broad sense, covering instruments like moulds, blocks, negatives, duplicating devices, or any other apparatus used for printing or reproducing a work. It also includes tools used to produce sound recordings for audio playback. This exhaustive definition might be extended to encompass DRM technologies, even though they are not explicitly referenced. The inclusion of the phrase “other devices” could reasonably be interpreted to cover tools capable of facilitating the copying or reproduction of content. Therefore, it may be argued that technologies used to bypass DRM could fall within the scope of what the Act refers to as a "plate."[8].

[6] The Sampath Iyengar Copyright Case (chapter – 4) on Soli J Sorabjee and Arvind P Datar, “Nani Palkhiwala the Courtroom Genius”, pp. 19-28, 5th reprint LexisNexis, (June 2015).
[7] See Ministry of Human Resource Development, *Copyright Enforcement Advisory Council: Strategy for Combating Piracy*, GOVERNMENT OF INDIA (2020) (emphasizing the importance of DRM in addressing digital infringement).
[8] See, Sec.2 (t) of the Copyright Act, 1957.

 [ISSN 2581-9453]

In India we have a very effective legal protection system against the broadcasting misusers. This includes Copyright Act, 1957[9]; Cable Television Networks (Regulation) Act, 1995[10]; the Sports Broadcasting Signal (Mandatory Sharing with Prasar Bharti) Act 2007; Telecom Regulatory Authority of India Act, 1997 and Regulations framed under there and Protection and Regulation of Broadcasters Up-linking and Down-linking Guidelines; Content regulated by Ministry of Information Broadcasting (MIB). Programming and advertisement codes have also been laid down by MIB. All service providers are bound by the codes.

III. LIMITATIONS UNDER THE COPYRIGHT LAW

India's current copyright legislation meets the basic protection standards set by the TRIPS Agreement, but it struggles to keep pace with technological developments and to maintain an equitable balance between the rights of creators and public access to creative content. The Digital Rights Management (DRM) provisions introduced in the 2012 amendments have been criticized for disproportionately favouring rights holders, without adequately considering user rights.

Moreover, essential regulations concerning the use, management, and circumvention of technological protection measures are still largely governed by the Information Technology Act, 2000. For instance, Sections 65 and 66 of the IT Act impose penalties—including imprisonment of up to three years and/or fines up to two lakh rupees—for tampering with source code or unauthorized access to computer systems. Additionally, Section 79 offers immunity to Internet Service Providers (ISPs) from liability for copyright infringement occurring on their platforms, provided they had no prior knowledge of the violation.

As a result, both copyright holders and users often have to navigate a combination of the Copyright Act and the IT Act to resolve issues—unlike jurisdictions such as the United States and the United Kingdom, where copyright statutes like the DMCA and the Digital Economy Act directly address these concerns. This highlights the urgent need for India to modernize its copyright framework to effectively address current technological and legal realities.

Copyright and Infringement: Section 14 of the Indian Copyright Act, 1957 defines copyright as the exclusive authority to perform or authorize certain actions concerning a work. According to Section 51, infringement takes place when someone exercises these exclusive rights without obtaining permission from the copyright owner (Section 51(a)(i)). This also includes permitting or authorizing others to use these rights without the rights holder’s approval.

[9] See, Section 2(dd) of the Copyright Act, 1957; definition of “Broadcast”.
[10] See, Section 2(b) of the CTN Act, 1995; definition of “Cable Services”.

In the Act, copyright is treated as a negative right, which means it gives the creator the power to prevent others from using the protected rights without authorization. Section 51 details the specific circumstances that amount to infringement. However, it exempts the importation of a single copy of a work for personal, non-commercial use by the individual importing it, which is not regarded as infringement[11].

Section 51(a) of the Copyright Act, 1957 outlines the primary actions that constitute copyright infringement, while Section 51(b) addresses secondary or indirect forms of infringement. This section distinguishes between the infringement of the copyright owner's rights and those of a licensee. Although the owner's rights may encompass the rights granted to a licensee, any infringement must be assessed based on the rights held by the copyright owner, rather than the more limited rights granted to the licensee[12].

Generally, any unauthorized use of a copyrighted work is considered copyright infringement. However, Section 52 of the Copyright Act, 1957, allows for certain exceptions under the concept of fair use, which can sometimes inadvertently benefit infringers. In the case of *Blackwood and Sons Ltd. & Others v. A.N. Parasuraman & Others*[13], the court acknowledged the difficulty in establishing clear-cut rules for fair use. The key test for fair use is whether the usage is likely to harm the market or reduce the value of the original copyrighted work[14]. For example, making a single copy for private use is generally regarded as falling within the scope of fair use.

The decryption technology known as Content Scramble System (DeCSS) has been used to create unauthorized copies of protected content and can be considered a "plate" under Section 2(t) of the Copyright Act. Several provisions in the Act explicitly prohibit devices or plates designed to produce infringing copies, which means these rules could be applied to ban circumvention technologies that bypass copyright controls. However, these provisions are less effective when it comes to technological protection measures (TPMs) aimed at controlling access or managing rights beyond just copying restrictions.

The Linking, Framing, Hyperlinking and Catching Issues: Linking, framing, and hyperlinking have raised significant concerns regarding the infringement of rights such as reproduction, adaptation, distribution, public performance, and public display of copyrighted works. An infringer can be held liable under three types of infringement[15]: direct, vicarious, or

[11] See sec.51 of the Copyright Act, 1957.
[12] John Wily & Sons Inc.& Others v. Prabhat Chander Kumar Jain & others 2010 (44) PTC 675 (Del) at p. 698.
[13] AIR 1959 Mad 410.
[14] Sony Corporation v. Universal City Studios, Inc., 464 US 417 (1984).
[15] Matt Jackson, "Linking Copyright to Homepages" Federal Communications Law Journal, 49 Fed. Com. L.J.

contributory. However, hyperlinks themselves do not contain the copyrighted or derivative works, so simply providing a link does not violate the copyright owner's exclusive rights[16]. For infringement to occur, there must be an actual transfer of the copyrighted file between computers.

Using Hyper Text Markup Language (HTML) to direct users to websites hosting copyrighted content does not amount to direct infringement of display rights, as providing HTML instructions is not the same as showing a copy of the work[17]. Therefore, merely sharing hyperlinks to unauthorized infringing material is not enough to prove direct infringement[18]. That said, while hyperlinking alone does not constitute direct copyright infringement due to the absence of copying, there may be grounds for claims of contributory infringement or vicarious liability in certain cases[19].

IV. INTERNATIONAL FRAMEWORKS AND STANDARDIZATION FOR EFFECTIVE DRM

International treaties such as the Berne Convention, Universal Copyright Convention, Paris Convention, WIPO Copyright Treaty (WCT), and WIPO Performances and Phonograms Treaty (WPPT), along with the TRIPS Agreement, establish the framework for protecting copyright and related rights. Specifically, Articles 11 and 12 of the WCT and Articles 18 and 19 of the WPPT require member states to provide legal protection and effective remedies against technological protection measures (TPMs) used by rights holders.

Different approaches exist for implementing these obligations, including banning TPM technologies outright with certain bona fide exceptions or restricting their use solely to non-infringing purposes. Initially, India's Copyright Act, 1957 did not address digital rights management systems. However, recognizing the need for modernization, the Indian Parliament, through its 227th report on the Copyright (Amendment) Bill, 2010[20], recommended updates to align with international standards. This report, submitted by the Parliamentary Standing Committee on Human Resource Development under Chairperson Oscar Fernandes, reflected extensive research and input from members of both Houses.

The amendments aimed to bring Indian copyright law in line with global treaties like the WCT

731, April, 1997, Available at: https://www.repository.law.indiana.edu/cgi/viewcontent.cgi?article=1140&context=fclj

[16] Pearson Educ., Inc. v. Ishayev, 963 F. Supp. 2d 239, 251 (S.D.N.Y. 2013).

[17] Perfect 10, Inc. v. Amazon.com, Inc., 508 F.3d 1146, 1161 (9th Cir. 2007).

[18] Arista Records, Inc. v. Mp3Board, Inc., 2002 WL 1997918, at 4 (S.D.N.Y. Aug. 29, 2002).

[19] Ibid.

[20] Parliament of India, 227th Report on the Copyright (Amendment) Bill, 2010 (Parliamentary Standing Committee on Human Resource Development, Rajya Sabha, November 2010). Available at: https://iprmentlaw.com/wp-content/uploads/2018/03/Standing-Committee-Report.pdf

and WPPT by introducing new definitions such as "commercial rental," "rights management information," and "visual recording," and updating terms like "author," "cinematograph films," "performer," and "work of joint authorship" to better address the challenges of the digital era.

Acknowledging the impact of digital technology, the bill addressed the storage of copyrighted content electronically and held ISPs responsible for copyright infringements occurring on their platforms. It also granted authors of literary and musical works in films independent rights to receive royalties directly, particularly for songs in films or recordings. Additionally, the amendment promoted accessibility by allowing physically challenged individuals to access copyrighted works in specialized formats.

The bill introduced statutory licensing for all version recordings of sound works to protect copyright holders' interests when their works were adapted. Broadcasting organizations gained easier access to literary, musical, and sound recordings, while safeguarding original rights holders. Management of copyright societies shifted to authors instead of work owners, ensuring fairer representation. These societies were empowered to set tariff schemes, subject to oversight by the Copyright Board, which also managed royalty payments during disputes to ensure continued compensation amid appeals.

Finally, enforcement was strengthened by empowering the Customs Department to control the import and disposal of infringing copies, alongside provisions establishing presumption of authorship in civil cases. These amendments aimed to modernize India's copyright framework, making it fairer, more inclusive, and better suited to the digital era[21].

The Government of India released the draft for public feedback, but received limited responses. Most input came from private organizations with varied views. The Indian Broadcasting Federation called for strict penalties against those tampering with content encryption. The Business Software Alliance advocated for both civil and criminal liabilities for such actions. In contrast, Google India suggested that unlawful circumvention should be treated as a civil matter, punishable by damages rather than criminal charges. Meanwhile, the Motion Picture Association expressed concern that the draft might permit unrestricted circumvention for individual viewing of movies on digital devices, noting that "access controls" were not adequately addressed and that simply streaming content may not constitute infringement by the viewer[22].

Following extensive consultations with various stakeholders—including representatives from

[21] Ibid.
[22] Ibid.

the film, music, and publishing industries, organizations for the disabled, news broadcasters, radio operators, authors, composers, artists, ISPs, and the Copyright Board—the Parliamentary Standing Committee's Report 227 proposed key amendments to the Indian Copyright Act, 1957. These included introducing Section 2(xa) to define protection for Management Information (MI) like digital identifiers, and Sections 65A and 65B to safeguard Rights Management Information (RMI). These provisions aim to provide legal support for technological protection measures (TPMs) and RMIs used by content owners to protect digital works. This analysis reviews these sections and later discusses how anti-circumvention measures could affect Indian industries.

V. RATIONALE BEHIND THE COPYRIGHT (AMENDMENT) ACT, 2012

A decade ago, Internet access in India was limited to a few cities and mainly controlled by government agencies like VSNL and the DOT, offering slow and unreliable connectivity. Since then, affordable broadband and growing demand—especially for ".in" domains—have boosted Internet use significantly. Today, Indians commonly use the web for email (98%), job searches (51%), banking (32%), bill payments (18%), stock trading (15%), and matrimonial services (15%).

Digital technology has also transformed e-commerce, which now includes B2B, B2C, C2B, and C2C models. Innovations like interactive apps, multimedia databases, electronic payments, and online licensing have streamlined digital transactions. E-commerce impacts businesses through improved payment systems, security, faster market access, pay-as-you-go models, and mobile commerce. Additionally, dispute resolution methods such as arbitration and mediation play a growing role, underscoring e-commerce's key role in today's economy[23].

India ranks among the top global consumers and producers of media content, with its entertainment sectors—publishing, film, music, and radio—benefiting greatly from digitization. Between 2004 and 2008, while India's GDP grew at 14.48% annually, the entertainment industry outpaced this with 16.6% growth, highlighting its rapid expansion. By 2011, the industry exceeded ₹28 billion and was projected to grow over 15% annually, reaching ₹1,457 billion by 2016. Digital media gained momentum in 2014, with digital advertising growing 44.5% from the previous year. The Media & Entertainment (M&E) sector grew 11.7% in 2011 to ₹1,026 billion and is expected to reach around ₹1,964 billion by 2019, growing at nearly 14%.

[23] United Nations Commission on International Trade Law (UNCITRAL), *Legal Aspects of E-Commerce*, UN Doc. A/CN.9/484 (2002); see also Ministry of Law & Justice, *Draft National E-Commerce Policy* (2019).

Online transactions today are quick and convenient, but the rise of digital tech has made protecting intellectual property rights (IPR) for multimedia content increasingly challenging. The low cost of copying benefits both legitimate owners and infringers. E-commerce is expanding globally, streamlining activities like browsing, ordering, payment, and delivery—all online. Digital networks enable fast, low-cost distribution of content worldwide, helping rights holders but also making it easier to produce and share unauthorized copies. This creates a complex balance between accessibility and IPR protection in the digital era[24].

Ongoing advances in ICT will impact society as deeply as the industrial revolution did. The music industry is particularly vulnerable to piracy, with easy copying and sharing of CDs and MP3s. Today, technology connects local creators to a global market instantly. The widespread digital exchange of information now shapes daily life and challenges IP laws, as common actions like downloading and sharing online content can infringe IP rights. Therefore, creators and rights holders require strong technological protections to safeguard their work.

Infringement not only deprives creators and owners of significant income but also results in substantial revenue losses for the government through unpaid taxes and reduced economic activity. Counterfeiting leads to major financial setbacks, with the nation losing tax revenue on goods and services. A FICCI survey estimated that the Indian government loses about INR 1,000 crore annually due to such tax evasion[25].

Measuring the full extent of global digital piracy is challenging. According to the IIPA 2015 report, India's local music industry suffers losses of about INR 800 crore (approximately USD 125 million) annually due to piracy.[26] The same report highlights that among the top 200 piracy sites in India, 21% are direct download sites, 21% torrent sites, 17% social networks, with others including streaming, cyber lockers, radio, blogs, and WAP sites. Popular piracy sites in India include kickass.so, torrentz.eu, extratorrent.cc, and tamilrockers.com[27].

Pirates fall into four main groups: criminal organizations, businesses, universities, and consumers. Criminals mainly produce high-quality pirated discs for export, businesses often exceed software license limits, and universities or nearby stores reproduce textbooks without permission. Consumers spread pirated digital files via P2P networks and online platforms. These groups collectively drive widespread piracy, which is difficult to eliminate entirely. If

[24] Sean Selin, *Governing Cyberspace: The Need for an International Solution*, 32 GONZ. L. REV. 365 (1996-1997). https://heinonline.org/HOL/P?h=hein.journals/gonlr32&i=373
[25] Available at: https://www.biospectrumindia.com/news/95/5520/merck-india-provides-solution-to-overcome-counterfeiting.html
[26] India: International Intellectual Property Alliance (IIPA) 2015 Special 301 Report on Copyright Protection and Enforcement. https://iipa.org/files/uploads/2018/01/2015_Special_301.pdf
[27] Supra 32, IIPA report – 2015.

copyright value is undermined, it harms not just entertainment but also IP-driven businesses and education sectors globally, impacting economies including Europe's. Raising awareness about respecting copyright and promoting responsible behaviour is essential[28].

Protecting copyright through a single law is challenging. As Ashwani K. Bansal noted, the internet operates on technological dominance with few clear rules.[29] The online world raises multiple IPR issues, including domain disputes, cybersquatting, linking, framing, metadata misuse, trademark sales, copyright violations, and P2P sharing. These varied methods of sharing copyrighted content leads to widespread infringement, whether intentional or not, harming creators' exclusive rights. Digital piracy presents major economic threats to the entertainment and tech industries, undermining the value of copyrighted works. A 2007 report by Ernst & Young for the US India Business Council revealed that piracy causes losses of around INR 16,000 crores annually in India's entertainment sector[30].

And recently, the Economic Times stated that Indian entertainment industry lost Rs 22,400 crore annually due to piracy**;** IAMAI[31].

Copyright holders see digital technology as a serious threat to their rights due to several factors: the ease and speed of global distribution with just a click; the ability for anyone to share content with a wide and diverse audience; the near-perfect quality of digital copies; the minimal cost involved in distribution; and the easy access to copyrighted material through websites and peer-to-peer networks. Additionally, identifying and tracking down infringers is challenging, gathering evidence is often nearly impossible in the digital realm, and jurisdictional confusion gives offenders opportunities to evade legal action.

In the Indian case *Yahoo, Inc. v. Akash Arora*[32]*,* the court emphasized the unique nature of internet businesses, noting that strict vigilance is essential because services offered via domain names are easily accessible worldwide, requiring a firm approach to regulation and enforcement.

VI. UNDERSTANDING TPM AND RMI PROVISIONS IN THE 2012 COPYRIGHT AMENDMENT

The Copyright (Amendment) Act, 2012 was enacted to align the Copyright Act, 1957 with the

[28] Diana Lodderhose, "Movie piracy: Threat to the future of films intensifies", Available at: http://www.theguardian.com/film/2014/jul/17/digital-piracy-film-online-counterfeit-dvds
[29] Ashwani Kumar Bansal. "Materials on Copyright Law in India", 1st Edn, Universal Publication, (2005)
[30] ISIBC Tie-up with Ernst & Young to tackle Piracy. The Economic Times, 18th May 2007.
[31] Available at: https://economictimes.indiatimes.com/industry/media/entertainment/indian-entertainment-industry-lost-rs-22400-cr-to-piracy-in-2023-ey-iamai-report/articleshow/114503950.cms?from=mdr
[32] 1999 (19) PTC 201.

requirements of the WCT (WIPO Copyright Treaty) and WPPT (WIPO Performances and Phonograms Treaty)[33]. However, the amendment went beyond these international internet treaties, introducing significant changes to the existing law. It came into effect on June 21, 2012.

The 227th Report of the Indian Parliament highlighted the importance of protecting the interests of rights holders against anti-circumvention activities. Rights holders strongly support the use of DRM (Digital Rights Management) technologies as they help restore market scarcity and preserve incentives for creativity. At the same time, users of copyrighted works are concerned about how DRM interacts with traditional copyright exceptions[34]. The Parliamentary Committee also examined DRM's potential to limit abuses in the digital environment and reduce the risk of rights holders receiving duplicate payments from parallel systems.

Although India has not formally ratified the WIPO Copyright Treaty (WCT) or the WIPO Performances and Phonograms Treaty (WPPT), the Copyright (Amendment) Act of 2012 was introduced to align domestic law with the standards set by these international instruments. A significant addition through this amendment is Section 65A of the Copyright Act, which criminalizes the circumvention of effective technological protection measures (TPMs) applied to safeguard copyrighted works. Under this provision, any person who intentionally bypasses such measures with the aim of infringing copyright is liable to face imprisonment for up to two years along with a fine. However, the section also outlines specific exceptions to ensure a degree of balance. These include actions not explicitly prohibited by the Act—so long as the facilitators maintain records—along with exemptions for encryption research on lawfully acquired copies, lawful investigations, authorized security testing of computer systems, the avoidance of surveillance or user-tracking technologies, and acts undertaken in the interest of national security.

An offense under Section 65A occurs when a person intentionally circumvents a technological protection measure to infringe copyright. Notably, the Act does not define "effective technological measure," unlike US and EU laws, which provide clearer definitions[35].

[33] The Copyright (Amendment) Act, No. 27 of 2012, Statement of Objects and Reasons, INDIA CODE (2012); see also World Intellectual Property Organization, *WIPO Copyright Treaty (WCT)*, Dec. 20, 1996, 2186 U.N.T.S. 121.

[34] Id. at 29; see also Shamnad Basheer, *India's Tryst with Technological Protection Measures: A Case for Caution*, 4 INDIAN J.L. & TECH. 1, 17–22 (2008).

[35] See 17 U.S.C. § 1201(a)(3)(B) (defining "effective technological measure" under the DMCA); Directive 2001/29/EC of the European Parliament and of the Council, art. 6(3), 2001 O.J. (L 167) 10 (EU copyright directive definition of TPMs).

Due to this lack of definition, Indian law leaves the term vague. Courts in the US and Europe have addressed this issue. For example, in 2010, the US court in *Real Networks, Inc. v. DVD Copy Control Association, Inc.* interpreted "effective" broadly, ruling that the Content Scrambling System (CSS), a widely used protection method, qualifies as an effective technological measure under anti-circumvention laws[36].

Section 2(xa) of the Copyright Act defines Rights Management Information (RMI) as details that identify a work or performance, including the title, author or performer's name, the rights owner's name and address, usage terms, and any codes representing this information. However, it excludes any tools or methods designed to identify users.

RMI can be deliberately altered or removed, which is a serious offense under Section 65B of the Copyright Act, 1957. This section states that anyone who knowingly removes or changes RMI without permission, or distributes, imports, broadcasts, or shares works with tampered RMI, can face imprisonment of up to two years and a possible fine. Besides criminal penalties, copyright holders may also pursue civil action against those responsible for manipulating RMI.

When compared to the US Digital Millennium Copyright Act (DMCA), Section 65B lacks specific exceptions for actions carried out by law enforcement, intelligence agencies, or authorized government officials. It would be more consistent if the exemptions listed under Section 65A(2) were similarly applied to Section 65B to address authorized uses[37].

Copyright holders in India have two main mechanisms to address DRM-related copyright infringements. The first involves administrative bodies such as the Registrar of Copyright, the Copyright Board, and Customs authorities operating under the Customs Act. The Copyright Act, 1957, specifically in Chapter XIII, outlines criminal penalties for offenses under sections 63, 63A, 63B, 64, 65, 65A, 65B, 66, 67, 68, 68A, and 69. Enforcement of copyright laws is primarily the responsibility of State Governments through their police forces.

Legally, while Section 62(2) of the Copyright Act provides a long-arm jurisdiction, the Act's application is limited to activities occurring within Indian territory. To establish jurisdiction, the infringing act must have taken place within India. In the case of *Banyan Tree v. A. Murali Krishna Reddy*, the court clarified that merely having a passive website is insufficient to establish jurisdiction. Instead, it must be demonstrated that a commercial transaction occurred through the website within the forum's jurisdiction to invoke legal authority[38].

[36] 641 F. Supp. 2d 91354.
[37] Alka Chawla, Law of Copyright: Comparative Perspectives", page.213, Lexis Nexis, New Delhi, (2012).

[38] 2010 (42) PTC 361.

VII. REMEDIES UNDER COPYRIGHT ACT FOR DRM

Interlocutory Remedies in India: In India, patent, trademark, and copyright cases often remain unresolved for years, with much of the litigation focused on obtaining temporary injunctions[39]. These injunction battles tend to drag on, delaying the final resolution of the suit[40]. According to Proviso (a) to Order XVII Rule 1(2) of the CPC, once a suit hearing has started, it should continue daily until all witnesses present are examined, unless the court records exceptional reasons for any adjournment beyond the next day. Courts must also consider clauses (b) to (e) of the same proviso. In intellectual property cases—covering trademarks, copyrights, and patents—courts are expected to strictly follow this rule, aiming to conduct hearings daily and deliver a final judgment typically within four months from when the suit is filed[41].

John Doe Orders in India: A "John Doe order" is a court directive issued against unnamed defendants who are alleged to have illegally profited from infringing content. Such orders are supported primarily by two principles: (i) Section 151 of the CPC, which empowers courts to create fair procedures for urgent matters, and (ii) international judicial practices, where courts in the US, UK, Canada, and Australia commonly issue John Doe orders to tackle infringement by unidentified parties**.**

In *Billy Joel v. Various John Does*[42], the court invoked the principle of *Ubi Jus Ibi Remedium*—meaning "where there is a right, there must be a remedy"—when issuing John Doe orders. The court noted that denying an injunction would leave the plaintiffs without any legal means to stop clear infringements of their property rights. Although this remedy was somewhat new, the court emphasized that equity allows it to devise appropriate solutions to protect parties' rights.[43]"

The case of *Tej Television Ltd. v. Rajan Mandal* marked a significant moment as it introduced orders against unidentified defendants in Indian law. Here, the court authorized a Commissioner to work with technical experts and police to investigate cable piracy, collecting evidence through videos and photographs. Based on the Commissioner's report, the court reserved the right to issue notices to alleged offenders and, following hearings, proceed with

[39] Bajaj Auto Ltd., v. TVS Motor Company Ltd., 2009 AIR 2591.
[40] M/s. Shree Vardhman Rice & Gen Mills v. M/s Amar Singh Chawalwala (Special Leave Petition(C) No.21594 of 2009 decided on 07th September, 2009.
[41] Multi-Screen Media Pvt Ltd v. Sunit Singh and Ors. (CS(OS) 1860/2014) (June 23, 2014), High Court of Delhi (India).
[42] 499 F.Supp.791 (1980).
[43] Tony Blain Pty. Limited v. Splain and other Persons Unknown, [1994] F.S.R. 497.

civil and criminal actions[44]. The Commissioner could also warn potential violators, though the order did not specify contempt proceedings for those who ignored such warnings. This approach essentially adapted the court's powers under Order XXVI, Rule 9 of the CPC.

In *Luxottica S.R.L v. Mr. Munny & Ors*[45], the Delhi High Court detailed the process for interim relief against anonymous defendants. Commissioners were authorized to inspect premises suspected of harboring counterfeit goods infringing the plaintiff's trademark. When infringing items were seized, commissioners had to promptly serve defendants with relevant legal notices and summons, document all counterfeit goods and related materials, and review financial records such as ledgers and sales books. The seized goods could be returned on a *supradari* basis, contingent on the defendants' undertaking to produce the items when ordered by the court.

The main purpose of this order is to stop the destruction of evidence. To support this, the court permits seized materials to be returned to unidentified defendants during the case and allows them the chance to contest the interim injunction. This sets a clear guideline for courts dealing with similar matters in the future[46].

Website Blocking Orders extend the concept of John Doe orders by targeting websites that host or allow unauthorized sharing of copyrighted content like music or films. However, Ananth Padmanabhan argues that the IT Act, 2000, and its 2011 Intermediary Guidelines do not empower the government to override the Copyright Act, 1957 (as amended) when blocking such websites. He stresses that the Copyright Act is a complete legal framework and should remain the primary law governing these issues.

Regarding DRM and its legal implications under Indian copyright law, the Madras High Court affirmed that no one has the right to steal or claim the intellectual effort of another[47]. This principle has been upheld in multiple cases. Yet, there is an urgent need for detailed research to evaluate how anti-circumvention laws impact both users and content creators. Such a study is crucial to determine whether India is prepared to accept potential risks—such as limiting public access to information and creative works—in exchange for possibly modest incentives for innovation and competition.

---

[44] [2003] F.S.R. 22.
[45] The Centre for Internet Society; Can Judges Order ISPs to Block Websites for Copyright Infringement? Available at: https://cis-india.org/a2k/blogs/john-doe-orders-isp-blocking-websites-copyright-1
[46] Superdari is a Hindi word. Superdari means that owner has to safeguard it for production in the court till the case is finalised and crime is established against the criminal. The owner cannot sell it or pass it on to others, the property received in superdari.
[47] Govindan v. Gopala krishna (AIR 1955 Madras 391).

VIII. CONCLUSION

The study of Digital Rights Management (DRM) within Indian copyright law reveals notable advancements alongside ongoing challenges in the digital age. Although the term "DRM" itself does not explicitly appear in international treaties or Indian statutes, related concepts such as Technological Protection Measures (TPM) and Rights Management Information (RMI) form the legal backbone for protecting digital content.

The introduction of Sections 65A and 65B through the Copyright (Amendment) Act, 2012 marks a significant step, offering critical legal backing for TPMs and RMI. These amendments align India's copyright framework with global standards set by the World Copyright Treaty (WCT) and the WIPO Performances and Phonograms Treaty (WPPT), strengthening protections for creators amid the growing ease of digital reproduction and distribution.

This analysis underscores the double-edged nature of digital technology: while it enables creators to reach wider audiences online, it also facilitates rampant piracy and copyright violations. The economic losses due to unauthorized copying are substantial, highlighting the urgent need for effective DRM mechanisms to protect intellectual property and sustain creative industries.

The evolving landscape of digital technology presents complex issues. The rapid expansion of e-commerce and digital platforms allows content to be shared quickly but also raises the risk of infringement. Rights holders must navigate intricate international DRM regulations, striving to balance public access to creative works with the protection of creators' rights.

Critics point out that Sections 65A and 65B may not fully address the concerns of both copyright owners and users regarding access and circumvention of technological protections. Additionally, the coexistence of the amended Copyright Act and the Information Technology (IT) Act creates a somewhat disjointed legal approach in India, especially when compared to more cohesive DRM laws in countries like the US and UK.

Enforcement remains a key challenge. Despite legislative provisions against piracy, enforcement is often weak due to limited awareness and resource constraints faced by regulatory agencies. The vast and fast-paced nature of digital platforms further complicates efforts to effectively monitor and protect intellectual property online.

In conclusion, the development of DRM in India represents a pivotal moment in safeguarding intellectual property as the creative sector confronts digital piracy and technological changes. The 2012 amendments laid important groundwork, but gaps remain in enforcement and in adapting to new technological realities. Comprehensive reforms are needed to build a balanced

 [ISSN 2581-9453]

and effective DRM system that protects creators while respecting public access. Achieving this balance will require coordinated action from legislators, technology experts, and the creative community to foster a robust digital ecosystem that supports all stakeholders in the digital economy.

*****

 [ISSN 2581-9453]