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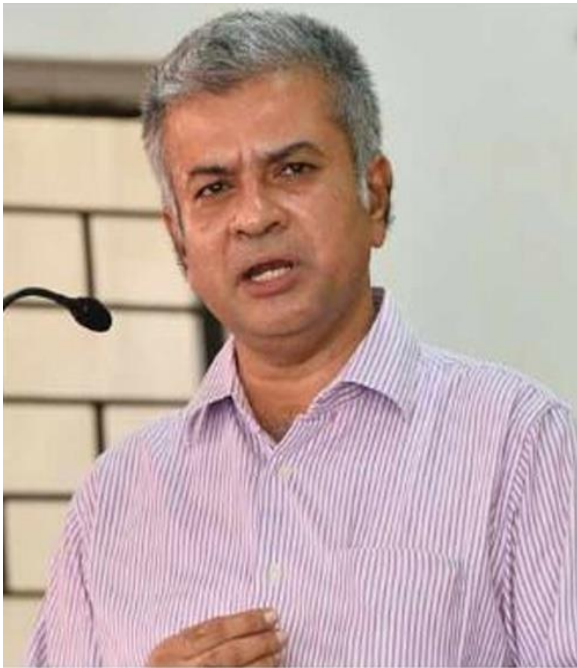
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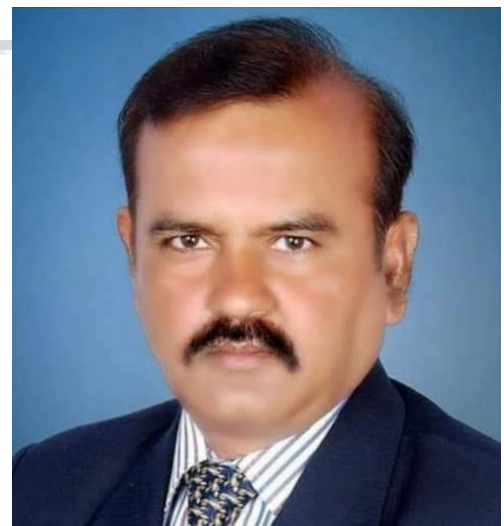
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E.MBA, LL.M, Ph.D, PGDSAPM

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More than 25 Publications in renowned National and International Journals and has authored a Text book on Cr.P.C and Juvenile Delinquency law.

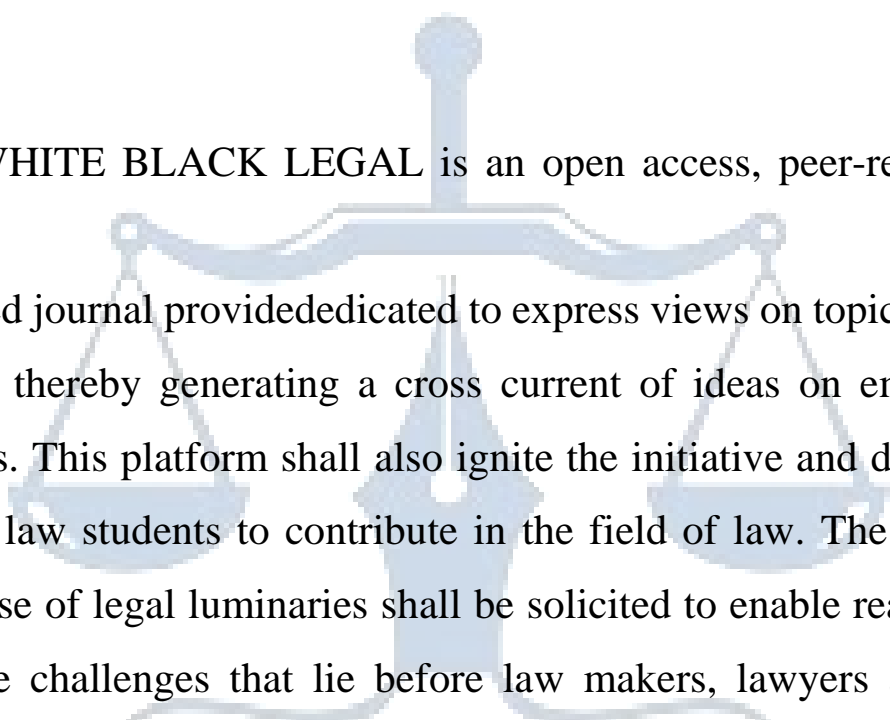


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BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); Ph.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

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With this thought, we hereby present to you

# **RIGHTS OF FILM PRODUCERS UNDER INDIAN COPYRIGHT ACT 1957: A LEGISLATIVE AND JUDICIAL ANALYSIS.**

AUTHORED BY - CHARU SRIVASTAVA

UPES School of Law

## **Abstract**

The Indian Copyright Act, 1957, provides a comprehensive framework to safeguard the intellectual property rights of various stakeholders in the creative industry, including film producers. Producers play a pivotal role in the creation and dissemination of cinematographic works, and the Act recognizes their contributions by granting specific rights. This paper examines the legislative provisions and judicial interpretations that define the rights of film producers under the Indian Copyright Act, 1957. By analyzing statutory provisions such as Sections 2, 13, 14, and 17, along with significant case laws, this study explores the scope of producers' rights, including the ownership of copyright, rights of reproduction, distribution, broadcasting, and adaptation. Furthermore, the paper highlights the limitations and challenges faced by producers, particularly in the digital era marked by rampant piracy and evolving technologies. It concludes by suggesting reforms and strategies to strengthen the legal framework and enforcement mechanisms to better protect film producers' rights.

## **Introduction**

The film industry is a cornerstone of India's cultural and economic landscape, with producers serving as the backbone of the filmmaking process. The Indian Copyright Act, 1957, recognizes the contributions of film producers by granting them exclusive rights over cinematographic works. This paper delves into the statutory rights of producers, judicial precedents shaping their scope, and contemporary challenges faced in exercising these rights.

## **Legislative Framework**

### Definition of Key Terms

Under Section 2(f) of the Indian Copyright Act, "cinematograph film" is defined as any work of visual recording on any medium, including the sound recording accompanying it. Section

2(d)(v) recognizes the producer as the author of a cinematographic film, thereby granting them the primary ownership of copyright in the film.

### Exclusive Rights

The economic rights granted to film producers under the Indian Copyright Act, 1957, enable them to monetize their creations effectively. These rights include under Section 14:

1. **Right of Reproduction:** Producers have the exclusive right to reproduce the cinematographic film in any material form, including storage in digital formats. This right ensures control over the creation of physical or digital copies.
2. **Right of Distribution:** Section 14(c) grants producers the right to distribute copies of the film to the public, whether by sale, rental, or any other means. This right forms the basis for theatrical releases, DVD sales, and online distribution.
3. **Right of Public Performance and Communication:** Producers have the right to communicate their film to the public, including broadcasting it on television, streaming on OTT platforms, or screening in cinemas. This right also extends to making the film available online.
4. **Right of Licensing:** Producers can license their films to third parties for specific uses, such as broadcast on television channels or exhibition on streaming platforms, thereby earning royalties.
5. **Right of Adaptation and Translation:** The producer has the right to adapt the film into other formats, such as books, plays, or even remakes in other languages, generating additional revenue streams.

These economic rights empower producers to exploit their works commercially and generate revenue from diverse sources, ensuring the sustainability of the filmmaking process.

## Ownership and Assignment

Section 17 provides that the producer, as the author of a cinematographic film, is the first owner of the copyright, subject to agreements to the contrary. However, disputes between producers and other contributors, such as lyricists, music composers, and scriptwriters, have historically created ambiguities regarding ownership and assignment.

### Disputes and the 2012 Amendment

Prior to the 2012 amendment to the Copyright Act, producers often claimed blanket ownership



over all creative contributions to a film, leading to dissatisfaction among lyricists, music composers, and scriptwriters. These creators argued that their contributions, though integral to the film, were distinct intellectual properties deserving independent recognition and royalties. The turning point was the widespread demand for equitable treatment of these contributors.

Key issues included:

1. **Ownership of Rights:** Producers traditionally owned the copyrights to all components of a film by virtue of being the author of the cinematographic work.
2. **Royalty Disputes:** Contributors frequently received one-time payments, with no share in the royalties generated by the ongoing exploitation of their work.
3. **Lack of Attribution:** Contributors often lacked contractual clarity regarding the ownership and attribution of their creations.

To address these issues, the Copyright (Amendment) Act, 2012, introduced significant changes:

1. **Royalty Rights:** Sections 18 and 19 were amended to ensure that authors of literary, musical, and artistic works embedded in cinematographic films retained the right to royalties from the exploitation of their works.
2. **Non-Waivable Rights:** Authors' rights to royalties became non-waivable, ensuring protection even if contracts attempted to assign all rights to the producer.
3. **Enhanced Clarity:** The amendments emphasized that the rights of lyricists and music composers over their works could not be completely overridden by producers.

These amendments created a balanced framework that recognized the contributions of all stakeholders while retaining the producer's primary rights over the film as a whole. However, implementing these changes in practice has been an ongoing challenge, with stakeholders needing to negotiate clear contracts to avoid future disputes.

## **Judicial Interpretations**

Landmark Judgments

1. **R.G. Anand v. Deluxe Films (1978)** The Supreme Court held that copyright protects the expression of an idea and not the idea itself, establishing a precedent for assessing originality in cinematographic works.

2. Eastern Book Company v. D.B. Modak (2008) Although not specific to films, this case emphasized the "sweat of the brow" doctrine, reinforcing that substantial effort in creating a work warrants copyright protection.
3. Super Cassettes Industries Ltd. v. Bathla Cassettes Industries Pvt. Ltd. (2012) The court upheld the producer's rights over the film's soundtrack, recognizing the integral role of producers in financing and assembling creative inputs.
4. International Confederation of Societies of Authors and Composers (CISAC) v. Aditya Pandey (2017) This case clarified the rights of producers vis-à-vis broadcasters and underlined the importance of obtaining proper licenses.

## Challenges in Protecting Producers' Rights

### Piracy and Unauthorized Distribution

The proliferation of digital platforms has amplified piracy, undermining producers' exclusive rights. Websites hosting pirated content and peer-to-peer sharing networks pose significant challenges.

### Ambiguity in Rights Assignment

Disputes often arise over the assignment of rights, especially when multiple stakeholders, such as directors, music composers, and lyricists, are involved in a film project.

### Inadequate Enforcement

The enforcement of copyright laws remains weak in India, with limited resources allocated for tackling piracy and other violations.

## Emerging Issues in the Digital Era

### OTT Platforms

The rise of over-the-top (OTT) platforms has created new revenue streams but also complex legal challenges. Producers must navigate licensing agreements and ensure that their rights are not diluted.

### Artificial Intelligence (AI) and Copyright

AI is revolutionizing the film industry, from scriptwriting to post-production. However, its integration raises several copyright-related questions:

1. Ownership of AI-Generated Content: The Copyright Act does not currently recognize AI as an author. This creates ambiguity about the ownership of works created or

significantly aided by AI. For instance, if a producer uses AI tools for generating scripts or visual effects, the legal framework must clarify whether the producer or the AI's programmer owns the rights.

2. **Derivative Works and Adaptation Rights:** AI can produce derivative works based on pre-existing content. This raises concerns about infringement, as such outputs may closely mimic or adapt copyrighted material without proper licensing or attribution.
3. **Moral Rights and Attribution:** Traditional authors have moral rights, including the right to attribution. In AI-generated content, it is unclear whether similar rights apply, especially when multiple creators collaborate using AI tools.
4. **Challenges in Enforcement:** Identifying and addressing copyright violations in AI-generated content can be difficult due to the complexity of algorithms and the lack of transparency in AI processes.
5. **Ethical and Policy Considerations:** The use of AI in film production might lead to ethical dilemmas, such as replacing human creativity with machine-generated outputs. This raises questions about the balance between innovation and protecting traditional artistic contributions.

### **Recommendations**

1. **Strengthening Anti-Piracy Measures:** Enhance technological and legal mechanisms to combat online piracy, including partnerships with digital platforms.
2. **Clearer Contracts:** Develop standardized contracts to reduce ambiguities in rights assignment.
3. **Capacity Building:** Train law enforcement and judicial officers in handling complex copyright disputes.
4. **Policy Reforms:** Amend the Copyright Act to address emerging issues such as AI and digital distribution.

### **Conclusion**

The rights of film producers under the Indian Copyright Act, 1957, are well-defined but face significant challenges in the evolving digital landscape. Judicial interpretations have played a crucial role in clarifying ambiguities and reinforcing producers' rights. However, the increasing complexity of film production and distribution necessitates continuous reforms to ensure robust protection. By addressing enforcement gaps and adapting to technological advancements, the

legal framework can better safeguard the interests of film producers and foster the growth of India's creative economy.

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