



Copyright and Literary Works in the Film Industry: A Comparative Study of Legal Frameworks in India and the USA

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ABSTRACT :

The film industry undoubtedly draws hugely from literary productions—novels and scripts—proving that copyright protection for authors is crucial in promoting creation independence. Copyright laws governing literary works in cinematography: A comparative study of India and the United States This paper aims to compare the copyright laws on literary works in cinematography between India and the United States. Comparing India's Copyright Act, of 1957, with the US Copyright Act, of 1976, while both acts stress the ownership rights of authors, there is a big difference between the treatment given to 'fair use' and 'fair dealing', especially in the adaptation of motion pictures. This research seeks to explore significant precedent decisions, the case in point being R.G. Anand v. Deluxe Films in India and Campbell v. Acuff-Rose Music, Inc. in the United States, to explain various jurisprudential assessments of infringement and fair use.

Moreover, the issues of sponsorship of digital piracy, licensing controversies, and their ability to highlight the common enforcement deficiencies and the restrictive nature of statute laws provide grounds for propensity. While the sections can be limiting when it comes to creative adaptation, they're a lot stricter than India's fair dealing provisions; the USA has a much more flexible fair use clause. This paper calls for changes in laws and policies, cooperation at the regional level, and blockchain and AI technologies to enhance the protection of literary works in films. Proposals for increasing public awareness about filmmaking activities as well as recommendations for filmmakers include enhancing and developing fair copyright standards for authors in conjunction with protecting authors' rights while fostering creativity in the filmmaking industry. These comparative findings present several implementable strategies to improve copyright systems while ensuring adequate legal protection of literary creators within global motion picture economies.

Keywords: Copyright Law, Literary Works, Film Industry, India, United States, Fair Use, Digital Piracy

Introduction :

Copyright law is one of the foundations of protection of intangible property, and it is especially relevant in creative industries such as motion pictures. The primary purpose of copyright is to encourage and reward authors with rights to their work and to regulate ways in which such works may be copied, distributed, or adapted. In the film industry, literary works are very important because films, no matter their source, are written scripts, novels, or even plays. Adaptation is a transfer of a literary work on screen, and that involves several changes, thus the need for fair copyright protection to ensure the original owners of that literary work or movie are protected and paid rightfully. The film industry as a component of the interaction of diverse forms of arts depends on the protection of literary work for providing authors, screenwriters, and other script makers and contributors rights in the cinematographic process.

It is universally important to protect literary work within the film industry, as such works serve as the basis for most films. The transformation of a literary work into a movie may require so much creativity, and this creativity originates from a literary work. For instance, if there is an attempt at converting a book to a screenplay, then theme, plot, character, and dialogue drawing mainly from the original book will be used. Hence the need for copyright, which goes beyond merely protecting the creators of those pieces but, more importantly, the integrity of the piece of literature. When awarding authors and other literary creators certain exclusive rights, the purpose of the copyright regime is to encourage further creative activity necessary for the development of the film industry while, at the same time, recognizing the literary authors. As legal systems differ and are influenced by legal, cultural, and economic factors, the approaches of the two copyright jurisdictions compare in terms of the protection accorded to literary works in the film industry.¹

To this end, the overall aim of the current research is to compare legal provisions concerning the protection of literary works in the film industry in India and the United States. Even though both countries appreciate and value the protection of copyright, they use distinguishing methods in enforcing copyright law and analysing related issues. The subject areas of this research include an analysis of legal frameworks, case laws, and legal remedies available for protecting the copyrights of literary works in filmmaking. It aims at determining or comparing the trends in laws against copyright of both nations and gaining more knowledge about the prospects and implications of both worlds. Further, the research questions posed to examine the legal effects of these

¹ G. B. Reddy, *Law of Copyright in India* 152 (Gogia Law Agency, Hyderabad, 1st edn., 2021).

protections on the movie business, especially in adaptations and derivatives. The comparative analysis will also reveal the areas of legal regulation where it is possible to improve the protection of the rights of creators of literature while maintaining the development of the film business.²

This research employed a doctrinal research approach, which mainly relies on the interpretation of statutes and case laws and supports it with articles and legal commentaries. Therefore, the study, using the Indian and United States' statutory laws and cases, seeks to give a clear perception of the legal environment of the copyright protection of literary works in the film industry. The comparative approach enables an assessment of the merits and demerits of the legal systems and makes suggestions on progressive changes where necessary. In addition, this paper has used case laws and statutes to show how courts in both jurisdictions have viewed and administered the law about literary works in films.

To ensure a continuous and systematic approach towards analysis, the paper is divided into sections. After this, the second part of the paper explores the conceptual approach of analysing copyright and literary works, as well as defining the rights in question. The following sections will provide an overview of the legal statutes governing arbitration in India and the United States, respectively, the important case laws, and certain peculiarities surrounding the subject. A comparative analysis must consequently follow to display the similarities and divergences between the two legal systems, in particular concerning adaptation rights and enforcement instruments. This paper also examines the judiciary's involvement in the development of copyright law and in protecting literary works, supported by cases to illustrate its findings. Lastly, some recommendations that can improve the copyright regime of literary works in the cinema industry to protect the interests of authors and society at large have been presented.

Conceptual Analysis of Copyright and Literary Works

Copyright law is one of the foundations of protecting intellectual property rights and works, including those that are literary. These laws are important in a way that authors, creators, and owners should have a say in how their creations are further used and distributed. From the pecuniary point of view, literary works occupy a proper place in cinema, and the details of the copyright laws define how those works can be legally transformed, controlled, and utilized. This paper aims to compare and contrast the Indian and US copyright laws; this paper establishes the similarities and the differences as well as the differences to the most extent about the legal and protected filed of the literary works and the copyright infringement exceptions on the two jurisdictions.³

Definition of Literary Works under Copyright Law

Issues about the meaning of works under copyright law provide an insight into the broader protection of literary works. Under Section 2(o) of the Copyright Act, of 1957, "literary work" in India includes novels, stories, poems, plays, textbooks computer programs, etc. We defined "literary works" very broadly as any written or printed matter in a tangible form, which does or does not have literary value. Further, protection is given to guests, scenarios, or dialogue of a motion picture, as developing a script, screenplay, or dialogue for film necessitates a significant amount of intellectual endeavour.

On the other hand, referring to "17 U.S.C. § 102," the USA has defined literary works as works recorded in words, numbers, or in other verbal or numerical symbols or indicia, irrespective of the nature of the material things in which they may be embodied, such as books and periodicals, manuscripts, phonorecords, film scripts, or computer programs. This broad definition also encompasses film scripts, screenplays, and any form of written content used in making the film. Although the definition in the USA is all-encompassing, it is more specific if the expression of the material in one form or another is considered. The USA copyright law focuses on the fixation where the work must be recorded in a medium of the chosen mode of communication for copyright to exist.

The differences in the statutory definitions go to the issue of legal approaches and how India's approach is more all-encompassing when defining the nature of the works that are protected, while the USA's framework is more prescriptive about fixation. These differences have consequences for the way that courts in each state implement the rights available for the various modes of literary creative work in the film production business.

The Role of Literary Works in the Film Industry

Script and screenplay are considered to be the movie's basic forms, as literary works became the source of many large cinematographic productions where filmmakers take the literary works and show them in vision and sound forms. A novel, play, or original script is quite often adapted to the cinematography, which indicates an interdependence between literature and film. The process of transforming literature for the screen raises many legal questions concerning the ownership of the copyright in the original work and the screen adaptation and the right of adaptation and use of the original work.

For example, in India, the adaptation of a work into a film is governed by Section 14 of the Copyright Act, 1957, which confers upon the owner of the copyright the absolute right to do the following: to make a cinematograph film or a sound recording in respect of the work. These rights include not only the ownership of the original piece but also of all adapted pieces based on the original work, second works, and translated works. These rights belong to a party, and such rights may be vested with another firm or company through a provisional agreement. Literature, when incorporated into the creation of a movie, triggers an obligation to obtain permission, which is a legal necessity.

Under the US law, the "Copyright Act" also protects adaptations under the heading of "17 U.S.C. § 106," which only allows the author of the copyrighted work to prepare any derivative, such as a literary adaptation from the copyrighted work. This provision extends over numerous transformations, such as transforming a book into a script or vice versa, a script into a movie. It is in the very nature of the film industry that moviemakers recreate literary work in other forms of narratives. Therefore, the legal system within the USA provides for copyrights to be made into films, provided that due licensing has been granted.

² Bannerman, *International Copyright and Access to Knowledge* 198 (Cambridge University Press, New Delhi, 1st edn., 2016).

³ D. Bochańczyk-Kupka, "A Comparative Analysis of Intellectual Property Rights Protection in the XXI Century", 9 *Journal of International Studies* 56 (2016).

Besides, not a few literary pieces appear in motion pictures in the form of screenplays, which are new and exclusively made for the media. These original literary creations, once in tangible media form, gain copyright protection, and so the writer can control their use. For example, in the USA, in the case of *Warner Bros. Pictures, Inc. v. Columbia Broadcasting System, Inc.*⁴, the court put a lot of focus on screenplay copyrights, underscoring the role of original literary contributions to the movie industry.⁵

Copyright Infringement and Protection of Literary Works in Films

Animation or reproduction of a protected work or adaptation of literary works in filmmaking without the consent of the owner is regarded as an infringement of copyright. For infringement of copyright in India, it is mentioned under “Sections 51 and 52 of the Copyright Act, 1957.” Section 51: This section defines an infringement of copyright as any unauthorized doing of any of the acts referred to in Section 20 about the copyright owner’s works. Nevertheless, the infringement cases usually comprise questions of law related to Section 52 use or the defendant’s stripping of the rights with the copyright owner.

Another classic example of an evident Indian copyright infringement case includes the case of “*R.G. Anand v. M/s. Deluxe Films*”⁶, in this case, the Supreme Court of India tried to determine whether it was legal to commit a cinematograph film based on the play. In reaching this decision, the court stated that the test to be used in establishing whether the film had copied a substantial part of the copyrighted literary work is the substantial similarity test. The ruling put it beyond doubt that to sue for infringement, one cannot rely on the mere likeness between the two works or thematic intertextuality; there has to be copying of the expression of the work.

In the USA, actions to address the violation of copy right infringement are anchored on the qualitative similarities between the original work and the work that is alleged to have infringed the original work based on common law legal doctrine known as substantial similarity. This remains one of the most fundamental principles of the American copyright law and was greatly implemented in *Anderson v. Stallone*⁷. In this case, the court had to pay attention to whether an unauthorized screenplay to sequels of a successful movie franchise could be regarded as copyright infringement. The case established that the screenplay did copy substantial parts of the original work and copied their characters, and their plots’ structures.

In both jurisdictions, the courts determine if an alleged infringed work copied protected aspects such as plot or dialogue rather than unprotected ideas. Indian and US laws share the specification according to which copyright is granted only to the form of the idea, not the idea itself. Consequently, producers and directors interested in transferring a literary piece into a movie ought to countercheck their license agreements to avert civil litigation due to infringement.⁸

Fair Use and Exceptions: A Comparative Perspective

Two of the most important principles in the film industry are the principles of fair use and statutory exceptions touching on the protection of literary works. The Indian Copyright Law’s specific provisions explaining key exemptions are described under Section 52 of the Copyright Act, 1957. The usefulness within this section means that several items may be copied from a copyrighted work without the copyright owner’s consent where the use of those items falls into one of the allowable categories, such as fair dealing for criticism, review, or in the course of research or for private study. The exception in India for the defense of fair dealing is somewhat stringent since it is confined to a listed form and there are no further ways to be interpreted by the judiciary system.

For instance, functional under Section 52, the recent *Superior Cassettes Industries Ltd. v. Hamar Television Network Pvt. Ltd.*⁹ was tried before the Supreme Court of India. The court stated that the utilization of protected work has to be exposed to the necessity and relevance of the use regarding the areas of criticism, review, or reporting. This case epitomizes the rather hostile Indian stance towards fair use, where the courts tend to demand some correlation between the use of the work and the justification offered under the statute.

On the other hand, the USA has a more liberal position about fair use under “17 U.S.C. § 107.” The statute outlines four factors that courts must consider when determining whether a use qualifies as fair use: Its factors include the purpose and character of use, the nature of the copyrighted work, the amount and degree of substantiality of use, and the impact of use upon the market of the original work. Making this determination on a case-by-case basis enables American courts to meet the needs of copyright protectors as well as ensure that the public gets access to creative material.

One of the most famous examples of fair use in the USA, “*Campbell v. Acuff-Rose Music, Inc.*”¹⁰, the Supreme Court case involved the evaluation of a parody of a song as creating fair use. The court analysed the four-factor test and stated that the parody was a transformative use of the work and provided commentary for the explicit work, and therefore it was deemed to be fair use. This decision is paradigmatic of the US approach to fair use, which allows for a wide range of uses of copyrighted works, including for transformation such as parody or satire.

This paper therefore draws a comparison between India and the USA where the distinction can be drawn clearly in the protection of fair use and copyright exceptions. The fair dealing exceptions in Indian law are far more limited and precise in their scope than the fair use approach determined in the USA. Thus, it is seen that Indian filmmakers and scriptwriters are still more bound in their representation of copyrighted literary works when no permission has

⁴ [1954] 216 F.2d 945 (USA).

⁵ Dr. Seema Surendran, "Application of Copyright Law to the Indian Film Industry: An Analysis", 3 *Indian Journal of Integrated Research in Law* 1 (2023).

⁶ [1978] 4 SCC 118.

⁷ [1989] 11 USPQ2d 1161.

⁸ Rajnish Kumar Singh, "Indian Approach on Copyright Protection for Cinematograph Films", 12 *Dehradun Law Review* 190 (2020).

⁹ [2012] 5 SCC 713.

¹⁰ [1994] 510 U.S. 569.

been granted to do so, though American filmmakers and scriptwriters may have potential opportunity from the higher degree of fair use in creative adaptations.

Copyright Legal Framework in India :

A brief overview of the incorporation of several copyright legal principles shows interest in the continued evolution of this legal domain for protecting literary works in the Indian Territory. It is pertinent to mention here that Indian copyright law can be traced back to the British colonial period, and the evolution process has come of age from highly restrictive colonial laws to modern freewheeling responses adapted to fit the contemporary creative industries' currents. The present legal regulation and case law stress the importance of the preservation of literary materials in the context of the film business, as the latter is based on immense oil particles of ideas and investments. But problems remain, especially about the implementation of rights and the distinction regarding literary adaptations in motion pictures. It is necessary to analyze the evolution, the Indian laws and judgments, and current debates about movie copyright protection.¹¹

Historical Development of Copyright Law in India

The Indian copyright regime can be traced back to the period of colonization; the British Copyright Act of 1911 was implemented in India through the Indian Copyright Act of 1914. The 1914 Act intended to afford minimal protection to literary, artistic, and musical goods in conformation with the English law by leaving no scope for implementing the differences in the social structure of Indian society. As new types of literature began to appear, especially with the coming of movie and TV commercials and technological changes, it became apparent that the provisions of the 1914 Act were no longer sufficient to deal with the changing needs of the creative arts businesses. Consequently, explicit copyright protection legislation in India was revamped with the substitution of the Copyright Act, of 1957, which intended to upgrade and strengthen the copyright reforms of Indian law.

The 1957 Act was an omnibus legislation that broadened the area of copyright about cinematograph films, sound recordings, and computer programs given the increasing role of technology in literary and artistic work. Hence, the Act was created to strike a fine line between owners of content, users of the content, and those who distribute the content in society; fair dealing exceptions and license provisions were inserted in the Act, especially for the film industry as it began to develop in India. Over the years, amendments to the Copyright Act, of 1957, have been made to avert new threats like piracy and technological measures, making the structure much more flexible to new developments in writing and films.

The Copyright Act, 1957: Key Provisions Relevant to Literary Works

The Copyright Act, of 1957, is the legal framework under which literary works as well as other creative productions, including those relating to the film industry, get protection in India. The Act defines the concept of a literary work comprehensive under "Section 2(o)" as including a written work, a table, a compilation, and a computer program. This broad definition makes sure that scripts, screenplays, and dialogues by way of film are captured by the doctrine of copyright. The Act awards the author of a literary work several exclusive rights as provided under "Section 14," including the right to reproduce the work, the right to adapt the work, the right to translate the work, and the right to communicate the work to the public. About films, these rights facilitate the scriptwriter or the author to regulate the appearance of their work in motion pictures and therefore protect their input in the screen works. The right of the exclusive adaptation of a literary work into a film is further buttressed in "Section 14(a)(vi)" of the Act, which categorically provides that the owner of the copyright has the right to convert a literary work into a cinematograph film. This provision is very crucial in the advancement of the film industry because it forms the legal foundation for a dramatization of scripts or original novels into films, which therefore requires licensing or rights assignment. This Act also provides for copyright infringement under "Sections 51 and 52," where Section 51 defines acts of infringement and Section 52, exemptions of infringement for fairness, such as for criticism, review, or research, among others. These legal enactments mutually comprise the legal regulation of literary works in motion pictures in India.¹²

Judicial Interpretation and Landmark Cases

The Indian judiciary has significantly switched an important role of implementing the provisions of the Copyright Act, of 1957, more pointedly concerning literature protection in the film industry. In this connection, a classical case is "R.G. Anand v. M/s. Deluxe Films"¹³, the Supreme Court of India dealt with the question of tort on copyright involving the conversion of a play into a film. The court was able to determine that copyright covers the form of an idea and not the idea, saying that mere idea similarity is not acceptable. However, for there to be substantial inaccuracy, there has to be an imitation of how ideas in the original work are organized, the order in which these ideas occur, and the structure adopted in the original work. It used the "substantial similarity" test as a bar to establish whether a film adaptation individual violates the copyright of the literary piece.

Another case in point is *Eastern Book Company v. D. B Modak*¹⁴, which is a case involving copyright protection in legal text compilations. Though not something linked with the film industry, the judgment offered an understanding of what originality standard is required for eligibility for copyright protection in India. The Supreme Court was categorical with the idea that if a work has to be accorded the protection of copyright, it has to possess at

¹¹ Anand Nair, "Royalties and Rights Sharing in Film Industry in India Post Copyright Amendment Act 2012 – Impact on Contractual Freedom: A Comparative Study with the US and the UK Copyright Regimes, available at: <https://ssrn.com/abstract=2671785> (last visited on October 20, 2024)

¹² Madhushree Chakraborty, "Copyright and the Film Industry: Investigating the Legal Challenges in the Production and Distribution of Films", *12 International Journal of Creative Research Thoughts* 380 (2024).

¹³ [1978] 4 SCC 118.

¹⁴ [2008] 1 SCC 1.

least a scintilla of originality. Although this principle applies to many areas of law, perhaps none has particular relevance to the film industry than the explanation of the nature and degree of the originality that is required for literary works, including scripts and screenplays relating to films meant to be protected under the copyright laws. Sophisticated processes are also get illustrated from the above judicial interpretations regarding copyright protection, with more consideration of writers and literary work accessibility in India.

Challenges in Protecting Literary Works in the Indian Film Industry

Even though literary works have been protected by the Copyright Act, of 1957 in India, there are several threats or issues that the Indian film industry requires battling in an endeavour to secure the rights of a scriptwriter or author. Another important matter is the problem of unlimited numbers of unauthorized adaptations and remakes, which, as a rule, cause controversies over the ownership of the rights to a particular work or its parts. Despite evolving standards defined by the judiciary for comparing the extent of similarity in suits of copyright infringement, there has not been strict and uniform implementation, and a scriptwriter might find it hard to prove the element of hurt by pointing to copyright infringement since quantification of creative work is very difficult. This is compounded by the fact that contractual relations within the industry are generally informal, and the licensing agreements that exist have no clear provisions on the precise ways in which literary works are to be utilized.

The other difficulty that the company has to overcome is the problem of digital piracy, which seems to have become one of the key factors regarding the distribution of films and literary content. In this context, the availability of movies and scripts online due to bootlegging through social media platforms and other popular streaming sites means a major loss for right holders. The Copyright Act, of 1957, has been amended to incorporate provisions for TPS and DRM; however, enforcing those protections continues to pose a major challenge because of the constantly evolving technology. Due to the absence of an enforcement mechanism to eliminate digital piracy, using copyright protection for literary works in the Indian film industry becomes ineffective.¹⁵ Also, the fair dealing exceptions under 'Section 52' are given very strict connotations, and thus filmmakers and scriptwriters do not have much recourse to these statutory exemptions to use copyrighted material. In contrast with the much more permissive fair use of the USA, this strict understanding of fair dealing opens legal vagaries for those who wish to use parts of literary works in films without obtaining explicit permission from the affected authors. This limitation does not only hamper passions and creativity but also adds considerable extra pressure on filmmakers because they must successfully negotiate the myriad of CCC copyright licenses and rights, especially when developing a work that potentially encompasses multiple ownerships or derivatives rights work.

Copyright Legal Framework in the USA :

The United States of America has a well-developed copyright law that fully depicts the historical development of the country's approach to the protection of other people's property as well as the promotion of access to creative works by the public. The industry of moving pictures evolved over the years; hence, the legal rules governing the use of literary works in film production were devised to check how scripts and screenplays could be used. Today's American copyright law has its roots in the Copyright Act of 1790, according to which literary works are covered in detail and their use in films is regulated. But, as most writers will agree, there are still some loopholes in the legal provisions that are insufficient to protect literary works specifically targeting the American film industry, especially against cyber threats such as piracy and derivative work.¹⁶

Historical Development of Copyright Law in the USA

Unlike other countries, the American formation process of copyright law started with the Copyright Act of 1790, based on the British Statute of Anne of 1710. The 1790 Act had restrained coverage to maps, charts, and books, and the protection given under it was valid only for a term of fourteen years from the date of executing the work, and the period could further be extended for another term of fourteen years. When the USA began to develop and the economic base started changing, the protection of the copyright also changed and embraced musical compositions and, at last, dramatic works, which created a base for the protection of literary contributions to the film industry. As we have seen by the start of the twentieth century, cinema had become an art and commercial medium in its own right, and due to the advances in the law and with the existing copyright laws inadequate for the protection of works, they required a completely new set of laws.

From the Copyright Act of 1909, a big change was made by extending the copyright protection to "all the writings of an author," including the dramatic works and films. However, the structure of the Act was not fully adequate to meet these challenges resulting from the development of new technologies and the film industry. Consequently, the USA embarked on a new legislative compliance exercise that led to the passage of the Copyright Act of 1976. This new Act brought about several changes, including the removal of the previous procedures of copyright registration and the giving of notice for there to be protection for the work and focusing protection on the author's work as the initial element for the copyright subsistence. The development of copyright law in the USA is, therefore, an ongoing process of meeting new technologies and new cultural circumstances, and the protection of literary works in films has remained a burning hot issue.

The Copyright Act of 1976: Key Provisions Relevant to Literary Works

In the USA, the principal act of copyright is the Copyright Act of 1976, by which the legal protection of literary works, such as those applied in motion picture production, is determined. According to 17 U.S.C. § 102, literary works are defined as works composed of writing, numbers, symbols, or figures; it does not matter in what kind of matter the work exists, whether a book, manuscript, film, or otherwise. Such a wide definition helps to cover screenplays,

¹⁵ Mayank Negi, "A Comparative Study of Copyright Laws in India, US, UK", 8 *International Journal of Science and Research* 270 (2019).

¹⁶ P. Narayanan, *Intellectual Property Law* 245 (Eastern Law House, Kolkata, 3rd edn., 2023).

scripts, dialogues, and any other written matter that forms or is incorporated into films for protection under the Copyright Act. The Act provides the copyright owner with a bundle of exclusive rights under “17 U.S.C. § 106,” which all relate to the right to reproduce the work, prepare derivatives, distribute copies, and publicly perform or display the work.¹⁷

The provision related to derivative work is suitable for the film industry insofar as the movie is an adaptation of a literary work. “Section 106 of Title 17, United States Code.” The extent of the exclusive right is the right to prepare derivative works based on the copyrighted work. This provision is paramount in safeguarding the interests of authors whose works include novels, plays, or scripts—adaptions for film use. For such adaptations to be done, it requires permission or a license; otherwise, it may lead to a copyright violation. Finally, “17 U.S.C. § 107” enshrines the concept of fair use with regards to copyrighted material; it can be used without the owner’s consent depending on the purpose of the use, the nature of the copyrighted work, the amount used, and the effect on the market. The Act therefore outlines a systematic way that these literary products can be used legally and protect the rights of the initial writers.

Judicial Interpretation and Landmark Cases

The analysis of the meaning of copyright legislation by the US courts has been more crucial in the development of the USA copyright law, especially concerning literary works in the film sector. Among them, the most important is “*Campbell v. Acuff-Rose Music, Inc.*”¹⁸, in which the Supreme Court dealt with the subject of fair use of parody. It is thus apparent that while the subject matter of the case was a musical work, the legal principles adopted and expounded by the Court as to what constitutes fair use and the four-part test therefore are equally germane to literary works as find application in films. The Court continued that a parody is a qualitative work commenting on the original fit within the legal protectionism of the “17 U.S.C. § 107” legislation. This decision thus established the relative open-mindedness of the fair use doctrine and offered a structure for the courts to review whether adaptations of literary works for use in films would be deemed transformative enough to make them non-infringing.

Another landmark case is *Harper & Row, Publishers, Inc. v. Nation Enterprises*¹⁹, which relates to copyright infringement when a portion of a literary work was published without the consent of the copyright owner. The Supreme Court affirmed that brief quotations from an unpublished manuscript that were not fair use gave importance to the market effect factor. This case is significant in the film industry since it will call for appropriate permission in cases of adopting literature with equal focus on the flaw of fair use defense whenever the use endangers the copyright owner’s market for either the work or its derivative products. The decision speaks volumes to the fact that filmmakers have to be very careful when obtaining copyright licenses, particularly when adapting popular novels into films.

Challenges in Protecting Literary Works in the American Film Industry

Nevertheless, straightforward to the Act of 1976, the position of literary works in the American film industry remains essential and risky. A major problem is the high incidence of piracy, which threatens the market for and dissemination of copyright materials in program scripts, films, books, etc., through conditional downloads on the internet. The growth of streaming platforms and technologies for sharing digital content has accelerated, and to protect their rights, the owners of copyrights face great challenges. However, with the introduction of the Digital Millennium Copyright Act of 1998 provisions and service providers’ policies such as notice, takedown, and anti-circumvention measures, have not successfully checked on the incidences of piracy. Due to the factors brought by digital technology, the copyright legislature has to be updated from time to time to satisfactorily protect literary works in the filmmaking business.

However, the flexibility that was offered by the doctrine of fair use has also brought new legal vagueness into the picture. Motion picture creators who adapt literary works for a movie or even utilize portions of a literary work incidentally are frequently engaging in actions for which they might be sued due to infringement of fair use. Thus, since courts allow fair use on a case-by-case basis, it is impossible to set criteria for proving that a certain adaptation is an infringement of the right, and therefore there is apprehension in judicial discretion. This lack of certainty inhibits filmmakers from charting clear courses through and around copyright legislation, thus risking the discouragement or hindering of works that would otherwise enrich the cinema or dramatically enhance a source work’s cinematic descendant.

Another difficulty is in the contracts regulating the title of ownership and licensing of copyrights in the motion picture area. Books, which are the premise for many films, contain a variety of parties interested in their utilization, including authors, scriptwriters, publishing houses, and film studios. Legal issues can include rights of script ownership, royalties, and the extent of the adaptation license; quarrels over these issues end up in lawsuits that can stall or slow down the making of a film. While copyright law offers structures for dealing with rights, it needs specialized legal advice and properly drafted contracts that cover every aspect of the involvement in literary adaptations, especially in the film industry. There is an added dimension of cross-cultural copyright laws, particularly when film adaptations of literary works may be marketed all over the world.²⁰

Recommendations for Strengthening Copyright Protection for Literary Works in Films :

The following efforts must be made to make a significant improvement in the enhancement of protection for literary works in the film industry. These include the adoption of new legislation to plug the existing legal lacunas, internationalization, and convergence of the copyright legislation, exploitation

¹⁷ United States Copyright Office and Library of Congress, *Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code: Circular 92* (CreateSpace Independent Publishing Platform, Washington, D.C., 2012).

¹⁸ [1994] 510 U.S. 569.

¹⁹ [1985] 471 U.S. 539.

²⁰ United States Copyright Office and Library of Congress, *Copyright Law of the United States and Related Laws Contained in Title 17 of the United States Code: Circular 92* (CreateSpace Independent Publishing Platform, Washington, D.C., 2012).

of technology in the fight against infringement of copyright, and popularizing the copyright practices in the cinema business. In turn, each of these areas contains specific possibilities for its enhancement that might significantly contribute to the interests of creators, to the defense of their works, as well as to the dynamic film market's further development.

Legislative Reforms to Address Current Gaps

In India, it can be seen that the provisions under the Copyright Act, of 1957, could be given legislative directions for further development of fair dealing clauses as well as the measures to counter infringement of the same. This is an area of the statutory copyright exceptions covered under the "fair dealing" provisions of the Act that are circumscribed in their application, which tends to limit the creative freedom filmmakers often require by the adaptation of literary works to film. Extending these exceptions to those of a wider definition, comparable to the provisions for fair use in the USA, would encourage greater innovation but would not infringe on authors' rights. However, increasing legal protection against piracy by proposing higher fines for digital copyright infringement and elaborating on the legal framework for Internet intermediaries would also deter the pirate distribution of literary works adapted for films. Further, this Sullivan meeting should enact a more advanced design for managing moral rights claims because the character of authors should be defended even if the works are adapted for cinema.

Enhancing International Cooperation and Harmonization

Since the film industry itself transnational cooperation is paramount on the international level, strengthening cooperation is necessary for the effective protection of copyrights. These fundamental differences in exceptions and protections for copyright in India and America impede cross-border protection, including the concept of fair use, the inclusion of moral rights, and the scope of derivative works. More alignment could be attained if they use standards compatible with international treaties such as the Berne Convention and TRIPS as well as solving film-related problems. International cooperation could involve the reciprocal recognition of copyright licenses; this should also make it easy to address cross-border copyright infringements. Joint task forces or working groups corresponding to the protection of copyright in the digital age will furthermore organize responses to transnational copyright infringement or contribute to providing better protection for literary works adapted for films in various regions.

The Role of Technology in Copyright Protection

Technology has a dual role in copyright protection: though it can cause infringement, it provides strong tools for the protection of the laws on copyright. New technologies of blockchain, artificial intelligence, and machine learning may be utilized to design better means of monitoring the usage of copyrighted literary productions and the circulation of copies. For instance, the notion of blockchain technology when applied for the copyright can contribute to proving the ownership and licensing of the objects, such as films and videos, which can make the tendencies of adaptation more legitimate. Technological products such as artificial intelligence content identification tools enable the identification of piracy of films or scripts in the online arena to enable quick enforcement actions.

Promoting Awareness and Best Practices in the Film Industry

One of the major components of the process of further enhancement of copyright protection is the activity aimed at enhancing the level of awareness of the problems related to copyrights and at popularizing the advancement of the best practices in the sphere of the film industry. Those involved in film production and direction—screenplays or scriptwriters in particular—should be informed about the legal means for acquiring a license in literary work and the consequences of violating this act. Employment training, Canadian workplace workshops, and industry-related conventions could be the methods of putting out information regarding copyright laws and compliances. Similarly, the societies for copyright protection and writers can assume a more active stance by providing a code of best practice regarding the adaptation of literary works for films as well as helping the members deal with the question of licenses. Promoting industrial ethical codes and best practices like codes for the use of literary material that respect the author's rights will go a long way in creating the necessary culture that discourages the breach of copyright laws, reducing the number of disputes that arise and facilitating the protection of authors' works.

Conclusion :

This paper focuses on comparing the copyright protection of literary works for the film industry in both India and the USA to prove that despite having a lot of similarities, there are some key differences in how these two nations have approached the confusion in copyright law. Although both countries are members of international organizations protecting authors' rights and are bound by the Berne Convention and TRIPS, subtle differences are apparent, especially in policies concerning fair use, fair dealing, and moral rights. The flexibility offered in operations of fair use in the USA is a bit broader than that provided by fair dealing in India due to the many creative adaptations that may be made by filmmakers and others, whereby fair dealing under Section 52 of the Copyright Act of 1957 of India proved to be rigid. This distinction has been made to put forward legal changes in India so that the section of fair dealing should be expanded so that creative freedom can be allowed effectively while at the same time also ensuring that authors' rights have sufficiently strong protection.

The study also stresses the importance of regulation and enhancement of cross-border enforcement and cooperation since digital piracy and global film distribution are two issues that pose great threats to the protection of literary works. New technologies have created new categories of threats to copyright, but these same technologies also present new means of protection; for instance, blockchain and artificial intelligence-enabled content identification

systems. Introducing such technologies along with legislation in both jurisdictions might improve the protection needed on copyright issues and decrease the rates of trespassing adaptations.

Last but not least one must ensure that producer and director organizations, as well as anyone involved in the film industry, get to understand the importance of the law as well as train them on the best ways of following the law to enhance minimizing the many cases of violation of copyright. It will create a new culture of respect for authors while ensuring that filmmakers, scriptwriters, and producers learn about copyright laws governing copyright and the need to license content accordingly. The lack of standardization of copyright societies and collecting societies in India, in particular, could be rectified to make it more transparent for creators to get fair compensation akin to the structure seen in the USA. Altogether, these actions will be able to meet both literary creators' and film industry stakeholders' needs by providing a rich, innovative, and, at the same time, legal framework for creative businesses.