



International Journal of Research Publication and Reviews

Journal homepage: www.ijrpr.com ISSN 2582-7421

THE ROLE OF COPYRIGHT LAW IN PROTECTING CREATIVE WORKS OF ART *A Doctrinal Study of the Indian Copyright Framework with Comparative and Digital Perspectives*

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Subject: Intellectual Property Rights

Research Area: Copyright Law

ABSTRACT :

Copyright is the principal legal mechanism through which modern legal systems protect original creative expression. In the field of art, copyright performs a particularly important function because paintings, drawings, sculptures, photographs, architectural works and other forms of artistic craftsmanship embody both economic value and the personal identity of their creators. This paper examines the role of copyright law in protecting creative works of art, with primary emphasis on the Indian Copyright Act, 1957. It analyses the statutory meaning of an artistic work, the originality requirement, the bundle of economic rights, ownership and assignment, moral rights, infringement, exceptions and limitations, remedies, and the relationship between copyright and design protection. It also considers the impact of digitisation, social-media dissemination, online marketplaces, non-fungible tokens and artificial-intelligence-assisted creation. The paper argues that Indian copyright law provides a comparatively broad statutory foundation for artistic works, particularly because the definition of 'artistic work' in section 2(c) is not restricted by a requirement of aesthetic merit. At the same time, protection is not absolute. The law must maintain a balance between the artist's exclusive rights and the public interest in education, criticism, research, cultural participation, access to knowledge and subsequent creativity. Judicial decisions such as *R.G. Anand v Deluxe Films*, *Eastern Book Company v D.B. Modak*, *Amar Nath Sehgal v Union of India*, *Mannu Bhandari v Kala Vikas Pictures* and *Microfibres Inc v Girdhar & Co* illustrate the continuing effort of Indian courts to distinguish protected expression from unprotected ideas, determine the threshold of originality, preserve the author's moral relationship with a work and manage the boundary between copyright and industrial design. The paper concludes that copyright remains indispensable to artistic creativity, but its effectiveness in the digital environment depends upon accessible enforcement, stronger attribution mechanisms, carefully calibrated exceptions, platform responsibility and doctrinal clarity regarding AI-generated works.

Keywords: Copyright; Artistic Works; Creative Works; Intellectual Property Rights; Originality; Moral Rights; Infringement; Fair Dealing; Digital Art; India.

I. INTRODUCTION

Art has historically been one of the most visible forms of human creativity. Paintings, sculptures, drawings, photographs, architecture and works of craftsmanship communicate ideas, emotions, memories and cultural identities through visual form. The economic value of such works can be substantial, but their significance is not limited to market price. An artistic work may also carry the reputation, personality and cultural legacy of its creator. Copyright law therefore performs two connected functions: it creates enforceable economic incentives for creation and it recognises certain personal interests of authors in the integrity and attribution of their works.¹

In India, copyright protection is principally governed by the Copyright Act, 1957, which consolidates and amends the law relating to copyright. The statute adopts a broad definition of an artistic work. Section 2(c) expressly includes paintings, sculptures, drawings, engravings and photographs, whether or not they possess artistic quality, together with works of architecture and other artistic craftsmanship.²

This breadth is significant. The law does not ask a judge to decide whether a painting is beautiful, whether a photograph is commercially successful, or whether a sculpture satisfies an aesthetic theory before protection can arise. Instead, the legal inquiry is directed primarily towards whether the work falls within a statutory category, whether it is original, and whether the claimant possesses the relevant rights.³

¹Copyright Act 1957, ss 2(c), 13 and 14; *Amar Nath Sehgal v Union of India* (2005) 30 PTC 253 (Del).

²Copyright Act 1957, ss 2(c) and 13(1)(a).

³Copyright Act 1957, ss 2(c), 13 and 14; *Microfibres Inc v Girdhar & Co* (2009) 40 PTC 519 (Del).

The basic policy of copyright is not to grant ownership over ideas themselves. The Supreme Court in *R.G. Anand v Deluxe Films* made the distinction between an unprotected idea and the protected expression of that idea central to copyright analysis. The same principle is reflected at the international level in TRIPS, which provides that copyright protection extends to expressions and not to ideas, procedures, methods of operation or mathematical concepts as such.⁴ The importance of this distinction is especially visible in the visual arts. An artist cannot ordinarily prevent every other person from painting a landscape, depicting a human figure, using a circle or drawing a flower. What the law protects is the particular original expression embodied in the artist's work. Thus, copyright is simultaneously a right of exclusion and a legal boundary: it gives the artist control over specified uses while leaving the common stock of ideas, facts, themes and techniques available for further creativity.

The contemporary environment has made this balance more difficult. Digital images can be copied perfectly and distributed worldwide at almost no marginal cost. Social-media platforms can transform a local artwork into a global image within minutes. Online marketplaces can facilitate both legitimate licensing and unauthorised commercial exploitation. Generative artificial-intelligence systems further complicate questions of authorship, originality, training data and infringement. The role of copyright law must therefore be understood not merely as protection against physical copying but as a framework for governing creative expression across changing technologies.

II. RESEARCH PROBLEM

The central problem examined by this paper is whether the Indian copyright framework adequately protects creative works of art while preserving the public interest in access, criticism, education and subsequent creativity. The issue has several dimensions. First, the law must identify which artistic creations qualify for protection and how much originality is required. Second, it must define the scope of the artist's economic rights and determine who owns those rights when a work is commissioned, created in employment, assigned or licensed. Third, it must protect the author's personal relationship with the work even where economic rights have been transferred. Fourth, it must distinguish infringement from legitimate reuse under statutory exceptions. Finally, the law must remain workable when artistic works circulate digitally or are generated with technological assistance.

The research problem is therefore not simply whether copyright exists in art. It is how copyright should operate as a complete legal institution: from creation and ownership, through exploitation and licensing, to enforcement and the preservation of artistic integrity. The paper also asks whether the existing rules are sufficiently adaptable to digital art and artificial-intelligence-assisted creativity without undermining the basic principles of copyright.

III. RESEARCH OBJECTIVES

- To explain the legal meaning and scope of an 'artistic work' under Indian copyright law.
- To examine the originality requirement and the distinction between protected expression and unprotected ideas.
- To analyse moral rights under section 57 and their importance for artistic integrity and attribution.
- To examine infringement, available remedies and practical enforcement problems faced by artists.
- To evaluate the effect of digital dissemination, social media, online platforms and artificial intelligence on artistic copyright.
- To propose reforms capable of strengthening protection while preserving legitimate public access and creative freedom.

IV. RESEARCH QUESTIONS

- What constitutes an artistic work under the Copyright Act, 1957, and what level of originality is required?
- What amounts to infringement of copyright in an artistic work, and what defences are available?
- How does Indian law balance copyright protection with education, criticism, research and other public-interest uses?
- How does section 15 of the Copyright Act interact with the Designs Act in relation to artistic works used industrially?
- Are the existing rules adequate for digital art, online copying and AI-assisted artistic creation?

V. RESEARCH METHODOLOGY

This paper adopts a doctrinal and analytical methodology. The primary legal materials are the Copyright Act, 1957, the Copyright Rules, 2013, relevant provisions of the Designs Act, 2000, and India's international copyright commitments. Judicial decisions of the Supreme Court and High Courts are used to identify the principles developed by Indian courts concerning originality, infringement, moral rights, fair dealing and the interaction between copyright and design law.⁵ Secondary sources, including scholarly commentary and international materials, are used to place Indian law within the wider development of copyright. The international component focuses principally on the Berne Convention and the TRIPS Agreement. The paper is qualitative rather than empirical: it does not attempt to measure the frequency of infringement or quantify the economic contribution of the creative sector. Its purpose

⁴*R G Anand v Deluxe Films* (1978) 4 SCC 118; Agreement on Trade-Related Aspects of Intellectual Property Rights 1994, art 9(2).

⁵Copyright Rules 2013; Copyright Act 1957.

is to analyse legal doctrine and identify areas where statutory rules and judicial principles may be improved.

VI. CONCEPTUAL FOUNDATIONS OF COPYRIGHT PROTECTION

A. Copyright as an Intellectual Property Right

Copyright protects original expression rather than physical ownership of the object in which that expression is embodied. Ownership of a painting on canvas and ownership of copyright in the painting are therefore conceptually distinct. A person may lawfully possess an original painting while the artist retains copyright, unless the relevant rights have been transferred. This distinction is essential in the art market, museums, galleries and commissioned art. Section 14 of the Copyright Act defines copyright as the exclusive right, subject to the Act, to do or authorise the doing of specified acts in relation to different categories of works. For an artistic work, these rights include reproduction, communication to the public, issue of copies, adaptation and other statutory uses.⁶

B. Incentive and Personality

Two broad theories help explain copyright protection. The incentive theory views copyright as a mechanism for encouraging investment in creative production by granting limited exclusivity. The personality theory emphasises the connection between a creator and the expression of her personality in the work. Indian copyright law contains elements of both. Sections 14 and 55 primarily structure economic control and remedies, while section 57 gives authors special rights that protect authorship and integrity independently of ordinary economic ownership. The Delhi High Court's decision in *Amar Nath Sehgal* is particularly important because it recognised the significance of the author's moral right of integrity in an artistic work and treated destruction and mutilation of the mural as capable of violating that special right.⁷

VII. STATUTORY FRAMEWORK FOR ARTISTIC WORKS IN INDIA

A. Meaning of Artistic Work

Section 2(c) defines 'artistic work' broadly to include a painting, sculpture, drawing, engraving or photograph, whether or not it possesses artistic quality; a work of architecture; and any other work of artistic craftsmanship. The breadth of the wording is deliberate and technologically neutral enough to encompass many forms of visual expression.⁸ The phrase 'whether or not any such work possesses artistic quality' is particularly important. Copyright law is not intended to function as an art academy or cultural jury. A technically simple photograph or abstract drawing can qualify as an artistic work if it satisfies the statutory requirements. The legal system protects the author's expression rather than awarding a certificate of artistic excellence.

In *Microfibres Inc v Girdhar & Co*, the Delhi High Court stressed the wide scope of the statutory definition and held that artistic works are not restricted by a requirement of visual appeal or conventional aesthetic value.⁹

B. Requirement of Originality

Section 13 requires copyright to subsist in original literary, dramatic, musical and artistic works. Originality does not mean that the work must be unprecedented in human history. The legal requirement is that the claimant's work originate from the author and satisfy the applicable threshold of independent creative effort. In *Eastern Book Company v D.B. Modak*, the Supreme Court rejected a purely mechanical 'sweat of the brow' approach and held that copyright requires independent creation accompanied by at least a minimal degree of creativity. Although the dispute concerned edited judgments, the principle is relevant to the originality analysis generally.¹⁰

For visual art, originality can arise through composition, selection, arrangement, perspective, treatment, colour, lighting, texture or other expressive choices. The fact that the artist uses familiar subjects does not destroy originality. A portrait of a person, a photograph of a monument or a painting of a public street may all be original expressions even though the underlying subject is not owned by the artist.

VIII. ORIGINALITY AND THE THRESHOLD OF COPYRIGHT PROTECTION

Originality is one of the most important filters in copyright law because it prevents the legal system from granting monopoly over material that has not been independently created. The test also protects later artists who work with common cultural forms. A person cannot obtain copyright merely by being the first to photograph a natural object or by claiming exclusive rights over a common artistic idea.

R.G. Anand establishes that there is no copyright in an idea, subject matter, theme, plot or historical fact as such. Protection concerns the form, manner,

⁶Copyright Act 1957, s 14(c).

⁷*Amar Nath Sehgal v Union of India* (2005) 30 PTC 253 (Del).

⁸Copyright Act 1957, s 2(c).

⁹*Microfibres Inc v Girdhar & Co* (2009) 40 PTC 519 (Del).

¹⁰*Eastern Book Company v D B Modak* (2008) 1 SCC 1.

arrangement and expression adopted by the author.¹¹ In artistic disputes, the comparison must therefore be conducted at the level of expression. If two artists independently create works depicting the same historical monument, similarities in the monument itself are inevitable and do not establish copying. The question becomes whether the defendant has appropriated the plaintiff's protected expressive choices in a substantial and material manner.

The Supreme Court in *R.G. Anand* also emphasised the need to examine whether the later work gives the viewer the unmistakable impression that it is a copy of the earlier work, while taking account of similarities that naturally result from a common subject.¹² The originality requirement is especially significant for photography. A photograph may appear to record reality rather than create it, but choices regarding framing, angle, lighting, timing, focus, exposure and composition can reflect independent authorship. The law should not reduce photography to mechanical duplication merely because its subject existed before the photograph.

IX. ECONOMIC RIGHTS OF ARTISTS

Section 14(c) gives the owner of copyright in an artistic work a statutory bundle of exclusive rights. These include reproduction of the work in any material form, including depiction in three dimensions of a two-dimensional work or in two dimensions of a three-dimensional work; communication to the public; issue of copies; inclusion of the work in a cinematographic film; and adaptation.¹³ The reproduction right is the foundation of protection against copying. It covers not merely exact duplication of the original canvas or sculpture but reproduction in another material form. This is crucial for contemporary art because a digital scan of a painting, a high-resolution photograph of a sculpture or a three-dimensional reproduction of a two-dimensional drawing may all implicate the reproduction right.

The right of communication to the public has become increasingly important in the digital age. Uploading an artwork to a website, social-media account, online gallery or digital marketplace can make the work accessible to members of the public in ways that did not exist when the statutory framework was first designed. Licensing arrangements should therefore specify online display, promotional use, merchandising and derivative digital uses separately where appropriate. Adaptation also matters. An artist's two-dimensional illustration may be adapted into animation, merchandise, a three-dimensional object or another visual form. The exclusive right allows the copyright owner to negotiate the economic value of these secondary uses rather than leaving them entirely uncontrolled.

X. OWNERSHIP, AUTHORSHIP, ASSIGNMENT AND LICENSING

A. First Ownership

Section 17 generally identifies the author as the first owner of copyright, subject to statutory exceptions. These exceptions are important in commissioned and employment relationships because the economic reality of creative production often involves galleries, employers, advertising agencies, publishers, film producers or clients.¹⁴ Artists should not assume that physical possession of the artwork determines copyright ownership. A gallery that sells a painting, for example, does not automatically acquire every copyright right in that painting. Conversely, an artist working under a contract may find that rights have been allocated to an employer or commissioner. The contractual terms should therefore identify ownership of copyright, permitted uses, territory, duration, sublicensing, digital exploitation and attribution.

B. Assignment and Licensing

Sections 18 and 19 regulate assignment of copyright. The statute requires assignments to be in writing and to identify the work, rights assigned, duration, territorial extent and consideration, with statutory safeguards concerning unassigned or unspecified rights.¹⁵ For artists, licensing can be preferable to outright assignment because it allows the creator to retain ownership while authorising specified uses. A licence may be exclusive or non-exclusive and can be limited by territory, medium, duration or purpose. In the digital art market, licences should expressly address social-media promotion, online display, AI training, merchandising, resale and platform sublicensing where relevant.

XI. MORAL RIGHTS AND THE PERSONALITY OF THE ARTIST

Economic rights do not fully capture the relationship between an artist and a work. A painting can become part of an artist's reputation and cultural identity even after the economic copyright has been transferred. Indian law responds to this concern through section 57, which recognises special rights of authors.

¹¹*R G Anand v Deluxe Films* (1978) 4 SCC 118.

¹²*R G Anand v Deluxe Films* (1978) 4 SCC 118.

¹³Copyright Act 1957, s 14(c).

¹⁴Copyright Act 1957, s 17.

¹⁵Copyright Act 1957, ss 18–19.

Section 57 gives an author the right to claim authorship and, in relation to specified works, a right against distortion, mutilation or other modification that would prejudice the author's honour or reputation. The provision operates independently of the ordinary economic rights in important respects.¹⁶In *Mannu Bhandari v Kala Vikas Pictures*, the Delhi High Court treated section 57 as a statutory recognition of the author's special rights and held that contractual assignment of copyright does not simply extinguish those rights.¹⁷

Amar Nath Sehgal is particularly significant for visual artists. The Delhi High Court held that the author could maintain an action under section 57 even though copyright in the mural had vested in the defendants, and found that destruction and damage to the mural violated the author's moral right of integrity.¹⁸The case demonstrates why moral rights are especially important for art. Destruction, mutilation or contextual misuse can harm the author's reputation even when the economic owner has acquired extensive exploitation rights. The artwork may therefore remain legally connected to the creator's identity after commercial ownership has changed hands.

XII. COPYRIGHT INFRINGEMENT IN ARTISTIC WORKS

Section 51 provides the principal statutory test for infringement. In broad terms, infringement occurs where a person, without a licence or the authority of the copyright owner, does an act that the Act reserves exclusively to the copyright owner, or deals commercially with infringing copies in circumstances specified by the statute.¹⁹ In artistic cases, infringement may take several forms: direct copying of a painting; scanning and selling digital copies; reproducing a sculpture in merchandise; using a photograph in commercial advertising; uploading artwork without permission; creating an unauthorised derivative work; or incorporating a substantial protected artistic expression into another work.

R.G. Anand provides the leading Indian framework for distinguishing infringement from legitimate similarity. The court must consider the protected expression and whether the later work amounts to a substantial and material copy rather than merely sharing an idea or common subject.²⁰ The concept of substantiality is qualitative as well as quantitative. A defendant may infringe by taking a small portion if that portion represents a distinctive and important element of the protected work. Conversely, copying a large amount of unprotected material may not constitute infringement. Courts therefore have to identify what is legally protected before deciding how much has been taken.

A. Remedies

Section 55 provides civil remedies including injunctions, damages and accounts of profits, subject to statutory conditions. Section 58 also addresses rights in infringing copies. Criminal provisions may apply in appropriate cases, while border and enforcement mechanisms can provide additional protection against commercial piracy.²¹ For artists, injunctions are often particularly important because unauthorised circulation can rapidly destroy the commercial exclusivity of a new work. Damages alone may not restore the market position of a creator once thousands of digital copies have circulated. Interim relief can therefore play a crucial role in preventing continuing dissemination while the dispute is adjudicated.

XIII. EXCEPTIONS, FAIR DEALING AND PUBLIC INTEREST

Copyright protection is deliberately limited. Section 52 identifies acts that do not constitute infringement in specified circumstances. These limitations reflect the principle that copyright must coexist with education, research, criticism, review, reporting and other public interests. Section 52 contains several exceptions relevant to the broader balance of copyright, including specified fair-dealing uses and reproduction for certain educational and judicial purposes.²²

The public-interest dimension is particularly important in relation to art. Museums, universities, researchers, critics, journalists and students may need to reproduce or refer to artistic works for legitimate purposes. A copyright regime that prohibited every incidental or educational use would inhibit cultural criticism and scholarship. The Delhi High Court's decision in *The Chancellor, Masters and Scholars of the University of Oxford v Rameshwari Photocopy Services* illustrates the broader judicial willingness to interpret statutory educational exceptions in light of the purpose of instruction and access to education.²³ At the same time, exceptions cannot become a general licence for commercial exploitation. The appropriate inquiry depends upon the statutory exception, purpose, amount taken, nature of the work and surrounding circumstances. The balance is essential because copyright exists not merely to reward past creativity but also to leave sufficient space for future creativity.

¹⁶Copyright Act 1957, s 57.

¹⁷*Mannu Bhandari v Kala Vikas Pictures Pvt Ltd* AIR 1987 Del 13.

¹⁸*Amar Nath Sehgal v Union of India* (2005) 30 PTC 253 (Del).

¹⁹Copyright Act 1957, s 51.

²⁰*R G Anand v Deluxe Films* (1978) 4 SCC 118.

²¹Copyright Act 1957, ss 55, 58 and 63.

²²Copyright Act 1957, s 52.

²³*The Chancellor, Masters and Scholars of the University of Oxford v Rameshwari Photocopy Services* 2016 SCC OnLine Del 6229.

XIV. COPYRIGHT AND INDUSTRIAL DESIGN: THE SECTION 15 PROBLEM

One of the most important issues for artists and designers is the boundary between copyright and industrial design protection. A drawing or artistic pattern may begin as an artistic work but later be applied to articles manufactured industrially. The Designs Act, 2000 and section 15 of the Copyright Act create a specialised framework for this overlap. Section 15(2) provides, subject to its terms, that copyright in a design capable of being registered under the Designs Act ceases when the design has been reproduced on an article more than fifty times by an industrial process by the copyright owner or, with authority, by another person.²⁴

Microfibres Inc v Girdhar & Co considered the relationship between artistic works, designs and industrial application. The Delhi High Court emphasised the distinction between an original artistic work and a design applied industrially, while analysing the consequences of section 15.²⁵ The policy rationale is to prevent perpetual copyright from being used to obtain industrial monopoly over subject matter that belongs within the design-protection system. Artists working in textiles, furniture, packaging, surface patterns and product decoration should therefore consider the intended commercial application at the time of creation and obtain specialised legal advice on registration and exploitation.

XV. DIGITAL ART, SOCIAL MEDIA AND ONLINE DISSEMINATION

Digital technology has transformed both the production and distribution of art. A digital illustration can be copied without degradation, a photograph can be reproduced in seconds, and an artwork displayed on a social-media platform can reach millions of viewers without the creator's permission. The traditional distinction between the original object and its copies has therefore become less useful as a practical enforcement tool. Copyright nevertheless remains technologically neutral. The fact that a work is stored as a JPEG, PNG, video file, digital illustration or other electronic format does not remove it from copyright protection. The legal issue is whether the work qualifies as an original artistic work and whether an unauthorised act falls within the owner's exclusive rights.

The Copyright Rules, 2013 provide the procedural framework supporting the administration of copyright under the Act, while the statutory rights in section 14 apply to artistic works regardless of whether exploitation occurs through traditional or digital media.²⁶ Social-media copying creates special enforcement difficulties. Attribution can be removed, watermarks can be cropped, metadata can disappear and anonymous accounts can repost an image. Artists should therefore retain creation files, dated drafts, source files, contracts and licensing records. Such evidence can assist in establishing authorship and chronology if litigation becomes necessary.

Platform terms also deserve attention. Artists frequently agree to broad terms when uploading content without appreciating how licences are structured. A platform's permission to host or display an image is not necessarily equivalent to permission for unrelated third parties to commercially exploit the artwork. Nevertheless, the contractual relationship between the creator and platform should be examined before asserting infringement.

XVI. ARTIFICIAL INTELLIGENCE AND THE FUTURE OF ARTISTIC COPYRIGHT

Generative artificial intelligence presents some of the most difficult contemporary questions for copyright law. AI systems can generate images in response to textual prompts, imitate stylistic features, transform existing images and produce outputs that may resemble existing artistic works. The legal questions include who is the author of an AI-assisted work, whether the human contribution is sufficiently creative, whether training on copyrighted works requires authorisation, and when an AI-generated output infringes an existing work.

Indian statutory law does not provide a comprehensive AI-specific copyright code. Section 2(d) identifies authors for different categories of works, and section 13 requires originality. The challenge is therefore to apply existing concepts to technologies that may distribute creative decision-making between human users, software developers, datasets and automated systems. The Copyright Act recognises computer-generated works in its definition of 'author' for certain categories, but the treatment of modern generative systems is not expressly resolved by a comprehensive statutory framework. This creates uncertainty about the level of human contribution required for protection.²⁷

A useful approach is to distinguish AI as a tool from AI as an autonomous generator. Where an artist uses software to execute choices that remain substantially human—such as selecting composition, modifying elements, painting over generated material, choosing colours and making detailed creative edits—the resulting work may be analysed through ordinary originality principles. Where the human contribution is merely a generic prompt

²⁴Copyright Act 1957, s 15(2).

²⁵*Microfibres Inc v Girdhar & Co* (2009) 40 PTC 519 (Del).

²⁶Copyright Rules 2013; Copyright Act 1957, s 14(c).

²⁷Copyright Act 1957, s 2(d)(vi).

followed by acceptance of an unpredictable output, the basis for claiming human authorship becomes more difficult.

Training-data disputes raise a separate issue. The fact that an AI system can technically analyse millions of images does not automatically answer whether copyright law permits the activity. The analysis must consider the exclusive rights implicated, applicable exceptions, contractual terms, technological safeguards and the policy objectives of copyright. India would benefit from a clear legislative and regulatory framework that protects artists without preventing legitimate computational research and technological innovation.

XVII. INTERNATIONAL FRAMEWORK: BERNE CONVENTION AND TRIPS

The Berne Convention establishes the international foundation for copyright protection of literary and artistic works. Article 2 includes a broad range of literary and artistic creations, while the Convention's national-treatment principle and minimum standards facilitate protection across member states.²⁸ TRIPS incorporates the substantive copyright standards of the Berne Convention and expressly states in article 9(2) that copyright protection extends to expression and not ideas, procedures, methods of operation or mathematical concepts as such.²⁹

The international framework matters to artists because contemporary exploitation is rarely confined to one country. A photograph may be created in India, uploaded to a United States platform, reproduced by a European retailer and viewed globally. International conventions reduce fragmentation by requiring member states to provide baseline protection and national treatment. TRIPS also requires effective enforcement mechanisms, including civil and administrative procedures and remedies capable of deterring infringement, subject to the agreement's procedural standards.³⁰

India's copyright regime should therefore be understood as part of a wider international system. Domestic reforms should remain compatible with international obligations while responding to the particular needs of Indian artists, including folk artists, craft communities, photographers, illustrators and emerging digital creators.

XVIII. JUDICIAL APPROACH IN INDIA: KEY CASES

R.G. Anand v Deluxe Films (1978) 4 SCC 118

The Supreme Court established the expression-versus-idea distinction and emphasised substantial and material copying as the basis for infringement. The case remains a foundational authority for determining whether similarity between works crosses the line into unlawful appropriation.

Eastern Book Company v D.B. Modak (2008) 1 SCC 1

The Supreme Court adopted a minimum creativity approach to originality. Independent creation alone is not enough where the work contains no meaningful creative contribution; however, the threshold remains low.

Amar Nath Sehgal v Union of India (2005) 30 PTC 253 (Del)

The Delhi High Court gave strong recognition to moral rights in a visual artwork and held that destruction and mutilation of a mural could violate the author's right of integrity under section 57.

Mannu Bhandari v Kala Vikas Pictures Pvt Ltd AIR 1987 Del 13

The Delhi High Court treated section 57 as an important statutory protection of the author's special rights and recognised that assignment of copyright does not simply extinguish those rights.

Microfibres Inc v Girdhar & Co (2009) 40 PTC 519 (Del)

The Delhi High Court examined artistic works, industrial application and the relationship between the Copyright Act and the Designs Act, providing important guidance for commercially applied artistic patterns.

The Chancellor, Masters and Scholars of the University of Oxford v Rameshwari Photocopy Services 2016 SCC OnLine Del 6229

The Delhi High Court's treatment of educational reproduction illustrates the importance of statutory limitations and the public-interest dimension of copyright.

²⁸Berne Convention for the Protection of Literary and Artistic Works 1886 (Paris Act 1971, amended 1979), arts 2 and 5.

²⁹Agreement on Trade-Related Aspects of Intellectual Property Rights 1994, art 9.

³⁰Agreement on Trade-Related Aspects of Intellectual Property Rights 1994, arts 41–61.

XIX. CHALLENGES IN EFFECTIVE PROTECTION

- Low-cost digital copying makes infringement easier and can destroy the exclusivity of newly released artworks.
- Artists often lack resources for litigation and may be unable to identify anonymous online infringers.
- Contracts with galleries, employers, clients and digital platforms may be poorly drafted or misunderstood.
- Removal of attribution and manipulation of metadata can make proof of authorship more difficult.
- The overlap between artistic copyright and industrial design protection creates uncertainty for designers and craft-based businesses.
- Cross-border infringement creates jurisdictional and enforcement complications.
- AI-assisted creation raises unresolved questions about human authorship, training data and substantial similarity.
- Traditional copyright remedies may not fully address rapid online dissemination and automated re-uploading.
- Folk, tribal and community-based creative expressions may not fit comfortably within an individual-author model of copyright ownership.

XX. RECOMMENDATIONS

A. Stronger Digital Enforcement

India should encourage accessible mechanisms through which artists can submit evidence of authorship and request rapid action against clearly infringing online copies. Platform-level notice systems should preserve due-process safeguards but provide meaningful relief against repeated commercial piracy.

B. Better Contractual Literacy for Artists

Government agencies, universities, artists' associations and collecting societies should provide standard model clauses covering assignment, licensing, attribution, digital use, merchandising, territorial scope, duration and AI-related uses. Many disputes arise not because the law is absent but because creators do not understand what they have agreed to.

C. Clearer Guidance on AI

Legislative or regulatory guidance should distinguish human-authored works assisted by AI from outputs generated with minimal human creative control. The framework should also address transparency in training datasets, licensing options, opt-out mechanisms where appropriate, and protection against direct reproduction of protected artistic expression.

D. Protection of Moral Rights

The strong reasoning in *Amar Nath Sehgal* demonstrates the cultural value of integrity rights. Courts should continue to interpret section 57 in a manner that protects artists against serious distortion and destruction while avoiding a standard so broad that it prevents legitimate restoration, conservation or contextual presentation.

E. Support for Emerging and Folk Artists

Copyright policy should be accessible to creators outside major commercial centres. Registration assistance, legal clinics, model contracts and awareness programmes can help rural artists, craft communities, photographers and young digital creators convert legal rights into practical protection.

F. Clarification of Copyright Design Boundaries

Guidance should explain when an artistic work transitions into industrial design protection and how creators can preserve rights through appropriate registration and contractual planning. This is particularly important for textile patterns, furniture designs, packaging and other commercially reproduced artistic material.

XXI. CONCLUSION

Copyright law remains one of the most important legal institutions for protecting creative works of art. Its significance lies not merely in preventing copying but in constructing a balanced system in which artists can create, control, license and receive economic value from their work while society retains access to ideas, cultural materials and legitimate educational and critical uses. The Indian Copyright Act provides a broad statutory foundation by recognising a wide range of artistic works, granting exclusive economic rights, protecting authors through moral rights and providing civil and criminal remedies. The judicial decisions considered in this paper show that Indian courts have developed principles capable of adapting to new factual situations while maintaining the basic distinction between protected expression and unprotected ideas.³¹

Nevertheless, legal protection is only as effective as its ability to respond to actual conditions of artistic production. Digital copying, platform-based dissemination, industrial reproduction and AI-generated images challenge assumptions built around physical works and identifiable copying. The future of copyright should therefore not be based on ever-expanding exclusivity. It should instead focus on precise rights, accessible enforcement, transparent

³¹ Copyright Act 1957, ss 2(c), 13, 14, 51, 55 and 57; *R G Anand v Deluxe Films* (1978) 4 SCC 118; *Amar Nath Sehgal v Union of India* (2005) 30 PTC 253 (Del).

licensing, strong attribution, carefully designed exceptions and clear rules for emerging technologies.

The central conclusion of this research is that copyright should be understood as an ecosystem rather than a single prohibition against copying. For the artist, it protects the economic value of creative expression; through moral rights, it protects the personal and reputational relationship with the work; through limitations and exceptions, it preserves public access and future creativity; and through international instruments, it allows protection to operate beyond national borders. A sustainable copyright regime must maintain all four dimensions simultaneously. In doing so, Indian law can continue to encourage artistic creativity while ensuring that copyright remains compatible with cultural participation, technological innovation and the public interest.