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NAVIGATING THE COPYRIGHT LANDSCAPE IN CINEMATOGRAPHY, PERFORMERS' RIGHTS, AND MUSIC: CHALLENGES AND SOLUTIONS

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ABSTRACT

Performers' rights under the Copyright Regime are especially important in the digital age. Actors, musicians, dancers, and other performers bring their special talents and skills to the production and distribution of artistic works. It has gotten simpler to copy, disseminate, and manipulate performances as a result of the broad availability of digital tools. The fields of copyright, cinematography, performers' rights, and music face numerous difficulties as a result of the quick development of technology and the spread of digital platforms. The rights of the performer assist shield them from internet piracy, unlawful use, and other forms of infringement. They give performers the chance to profit financially from their creative endeavours by providing legal tools to stop the unauthorized copying and dissemination of performances. A group of legal safeguards known as "performer's rights" are given to performers in order to value and preserve their contributions. These legal protections are a crucial component of the copyright system because they guarantee that performers have control over their performances and are fairly compensated for their contributions. This academic paper explores the complex interactions between the various challenges faced in different fields in the digital age. It looks at how copyright protection is changing, how digital platforms are affecting cinematography, how performer rights and pay are changing, and the complicated problems with music licensing and distribution. This article examines the difficulties encountered in various fields in an effort to highlight the technological, economic, and legal ramifications and offer suggestions for potential remedies.

Keywords: Copyright, Cinematography, Performers' Rights, Digital Platforms, Digital Distribution.

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Introduction

Globalization and technical advancements have significantly changed the realm of creative expression. The merger of music, performers' rights, and filmmaking has resulted in a huge change in the creative industries, which has generated a complicated web of legal complexity and issues in the copyright environment. The complicated relationships between creative contributors in film productions, the legal complications of joint authorship, and the determination of copyright ownership are some of the challenges that are being addressed by the legal frameworks that are emerging. New problems with intellectual property protection, piracy, and illegal distribution have been brought about by the advent of digital platforms and online content distribution.

Music holds a prominent position within the broader framework of copyright convergence due to its profound capacity to arouse emotions and enhance visual storytelling. Navigating the complex ecosystem of rights spanning authorship, performance, synchronization, and licensing is crucial for musicians, composers, and music producers. This research paper aims to examine the global variances in copyright laws, treaties, and agreements that influence the relationships between cinematography, performers' rights, and music, aiming to gain a thorough understanding of the current copyright landscape. By examining case studies from various jurisdictions, the paper aims to discover difficulties and novel solutions from various legal frameworks and improve the overall copyright landscape.

Cinematography Copyright:

The Indian Copyright Act of 1957 provides protection for cinematograph films as a type of creative work. A cinematograph, a device that rapidly displays a series of images to give the impression of motion on a screen, is used to make a specific type of motion picture known as a cinematograph film. According to Section 2(d) (v) of the Copyright Act, the producer of a cinematograph film is regarded as the work's creator.

Even though many individuals collaborate to create a movie, including the director, actors, soundtrack composer, and scriptwriter, only the producer is acknowledged by copyright law as the film's sole inventor and owner. Recently, this preference in copyright law for producers has been called into doubt. Producers and other contributors, such as scriptwriters and musical composers, have argued over the rights to the storyline and music utilized in the film.³

³ Belgium, Denmark, Germany, France, and Italy are among the nations that protect the creator of a film rather than the employer of the creator. Refer to Anne Moebes' article from 1992, Copyright Protection of Audio-Visual Works in the European Community, 15(2) Hastings Communication and Entertainment Law Journal, which

The script, which is classified as a literary work and has its own copyright, is one of numerous compositions in a film that is protected by copyright. Furthermore, specific copyright rules protect musical compositions. There have been incidents recently where film producers and screenwriters or musical composers disagreed about rights like remakes, dubbing rights, etc. Another problem is that copyright laws do not recognize film directors, which has led some to claim that both producers and directors should share authorship.⁴ In order to provide a fair and sensible system for copyright management and income sharing and to safeguard the rights of people participating in audio and video recordings, the Copyright (Amendment) Act of 2012 was passed.

The Indian Performing Rights Society (IPRS) created its tariff structure for licensing musical works and lyrics for public performances in the 1977 lawsuit known as *IPRS v. Eastern India Motion Pictures Association*.⁵ The film's producers contested the system, asserting that they were the real authors of the work and that the music and lyrics utilized in the production were not covered by copyright or other legal protections against public performance. They contended that they possessed legal ownership of the finished product because they had paid for these components to be used in their film.

Several creative brains, including directors, cinematographers, and editors, collaborate when developing a movie. When various people contributed to the final project, it might be difficult to determine copyright ownership and resolve potential problems. To establish copyright ownership and avoid disputes, clear contracts and agreements are necessary. Fair use is recognized by copyright law, which permits the restricted use of copyrighted content for things like commentary, criticism, or educational purposes. Fair use in the context of cinematography can be a tricky concept to define and frequently calls for legal interpretation. It is a hard issue to strike a balance between the rights of creators and the freedom of expression.

Rapid technological development has facilitated the copying, sharing, and accessibility of copyrighted content. The increase in online piracy is a serious threat to cinematography copyright since unlicensed copies can reduce a project's commercial viability and financial return. In the digital age, it is crucial to enforce copyright rules and look into cutting-edge protection strategies.

The copyright to the entire movie belongs to the producer; therefore, different authors don't each have their own separate copyright in a movie. The book or biography that served as the

discusses this topic in detail.

⁴ Marley C. Nelson, Moral Rights in the United States, available at: <https://library.osu.edu/site/copyright/2017/07/21/moral-rights-in-the-united-states>

⁵ 1977 AIR 1443, 1977 SCR (3) 206

inspiration for the film, as well as the music, choreography, narrative, and other foundational works, may, however, be subject to independent copyright protection. But it wouldn't be possible without some of the important contributions made to the writing, directing, filming, editing, and other parts of the film. Many people believe that the director should be the exclusive owner of the copyright.

Alfred Hitchcock, one of the most significant individuals in film history, articulated this point of view. He claimed that the director is the genuine author of the work because a film is a reflection of the filmmaker's ideas and personality. He contends that when watching a film, a viewer might gain insight into their personal identity through the director's particular visual cues and recurrent motifs. For instance, viewers may easily recognize the filmmaker if they see one of Anurag Kashyap's movies because they all have a similar tone and subject matter.

The intimate details in the films directed by Quentin Tarantino, Sanjay Leela Bhansali, and Karan Johar also provide the audience with a glimpse into the personalities of the producers. The "Auteur Hypothesis," however, is still simply a theory, even though it was essential in starting conversations regarding a director's authorship in movies.

We must resort to precedents to comprehend the copyright in a cinematograph film, which is a legal fiction. The copyright of a filmmaker in a film was one of the first issues to be addressed in the case of *Sartaj Singh Pannu v. Gurbani Media*.⁶ The case is *Kabir Chowdhry v. Sapna Bhavnani & Others* (2021).⁷ Was it possible for anyone, regardless of their role, to assert ownership of a film's copyright?

1. The producer is the only audience for the author's work;
2. The author is the initial owner of the copyright;
3. The producer is the one who took the initiative and assumed responsibility for producing the work;

The court stressed the producers' "financial investment" and "risk of suffering losses" and pointed out that, even though the director is involved in every phase of filmmaking, the producer is the one who writes the script. According to the Court, which also noted the auteur's vision of the work, in order to bring the work into existence, a co-producer must have taken the initiative to conceptualize it, and there must be a risk element in the nature of their obligations.

The issue of whether a person receiving credit for writing or directing a film has the right to

⁶ Ltd2015 SCC OnLine Del 9627

⁷ 2021 Latest Caselaw 2765 Bom

assert original ownership of the script, screenplay, or dialogue in the absence of a written agreement was covered in the case of *S.J. Suryah v. S.S. Chakravarty & Anr. (2021)*.⁸ In this case, the appellant's plaintiff failed to establish his copyright claim beyond a reasonable doubt. The producer cannot assert copyright by merely acknowledging an author's or filmmaker's creative contribution, the court ruled. Due to the fact that both the appellant and claimant insisted they had maintained their rights, the court used statutory standards to reject their request for an interim injunction against the producer.

Performers' Rights: Balancing Artistic Expression and Legal Ownership

Actors, singers, musicians, and dancers all participate in the creation of public performances. It has long been accepted that artists should receive a portion of the ownership rights to their recordings as well as a share of the revenue generated by its commercial use. This holds true for recordings of both audio and visual performances.

The first international acknowledgment of these so-called "neighboring rights" (rights associated with copyright) came from the Rome Convention of 1961. This agreement provided protection from unlawful broadcasts and recordings of their performances for actors and actresses working in audiovisual works such as feature films, videos, and television dramas.

The growth of the internet and sophisticated digital technology has considerably increased the possibilities for both legal and illegal copying, as well as the manipulation of digital performance. Today, Bollywood and Hollywood both rely heavily on foreign sales for their income. In 1996, WIPO adopted two new copyright agreements: the WIPO Performances and Phonograms Treaty (WPPT) and the WIPO Copyright Treaty (WCT), which was revised for the internet era. A second attempt in 2000 likewise failed to reach consensus among the WIPO members on a comparable pact for actors in audiovisual works.

On August 23, 1969, the IPRS was founded. The only body permitted to provide licenses for the use of musical compositions and literary music in India is the IPRS. It is a nonprofit that advocates for the rights of music's creators, lyricists (or authors), and publishers. Writers and lyricists are also known as lyricists, music publishers as music firms, and composers as music directors. Music publishers also refer to those who possess the publishing rights to musical and literary works.

As a company limited by guarantee under the Companies Act of 1956, The Society is a nonprofit organization. Additionally, it is acknowledged as being the sole copyright society in the country authorized to provide licenses for the use of music under Section 33 of the

⁸ OSA No.138 of 2021

Copyright Act of 1957. In other words, the IPRS is the only national copyright society in the country with the power to initiate and continue any action that is intended to be sung, spoken of, or performed in conjunction with music. The Registrar of Copyrights issued a Certificate of Registration for it on March 27, 1996.

Collective enforcement of copyright is the idea that the copyright in works is managed and protected by a society of the owners of such works. It goes without saying that no one who has the copyright to a work can keep track of all the uses that others make of it. Because of its organizational capacity and strength, a national copyright society is better able to monitor how a work is utilized across the country and collect the appropriate fees from users. Due to India's participation in international conventions, the copyright societies are permitted to enter into reciprocal agreements with organizations of a similar nature in other nations in order to collect royalties for the use of Indian works there. This inevitably implies that it will be in the interests of copyright owners to join a collective management organization in order to assure stronger copyright protection for their works and to realize the greatest possible financial rewards from their achievements. The collective administrative society makes it simple for users of various kinds of works to acquire licenses for the proper commercial exploitation of the works in question.

In the UK and India, organizations like the Performing Rights Society (PPS) and Phonographic Performance Ltd. for music deal with issues relating to performances. The Copyright Act of 1957, Section 33, provides for the creation of the copyright society, under which IPRS was created. The Companies Act of 1956 has granted permission for the limited liability company known as IPRS. It belongs to a nonprofit. The society is permitted to initiate and conduct copyright business in musical works and/or any words or actions intended to be sung, spoken, or performed with the music, as well as among the owners themselves, in accordance with the Copyright Act, 1957, s. 33(3). Thus, despite the difficulties it encountered, IPRS persisted in its fight for a better copyright environment.

In today's copyright industry in India, IPRS is a very active society. Contrary to the past, when it solely collected, distributed, and remitted worldwide royalties, it has recently begun to collect even for Indian music. Through ongoing communication with relevant industry organizations, IPRS has played a crucial role in defining who owns musical rights in India.

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Broadcast v. Phonographic Performance,⁹ the plaintiff, who had obtained licenses from various organizations, including the IPRS, was given permission to start an FM radio station. The defendant, a group that oversees the public performance rights of sound recording publishers, refused to reduce their excessively high rate. While submitting an application to the copyright board for a compulsory license, the plaintiff filed an action to request authorization to transmit sound recordings of the defendant at reasonable royalty rates. The Bombay High Court claims that the defendant's current quoted charge looks excessive. The defendant was mandated by the court to grant the plaintiff a license.

Music Copyright: Harmonizing Melodies and Legalities

A song's copyright is handled in accordance with the Act and Copyright Rules, 2013 (the "Rules"). A song has many different components. When the lyricist writes the song's lyrics, the song is finished as a whole. The song's composer then adds music to the lyrics. The song is sung by the vocalist. The vocalist may perform this song live, or a studio may record it. The song was recorded by the producer. A song typically represents the joint work of many people. However, if a single person writes, composes, and performs a song, then he or she may occasionally be the exclusive owner of the entire work.

Songs are not regarded as independent works of art. According to the Copyright Act, a song comprises various parts. The copyright for each component of the music is its own. If a single person authored, composed, and sang the entire song, they can claim copyright over the entire work.

The following people contributed to the song's creation and hold the song's copyright:

According to Section 2(d)(i) of the Act, the writer of a literary work is the work's author. The person who writes a song's lyrics is known as the lyricist. The Act deems the song to be a literary work, and the lyricist is the one who wrote it.

According to Section 2(d) (ii) of the Act, a musical work's composer is its author. A musical work is a piece of art that contains music and graphic notation but no words or actions that are intended to be sung, spoken, or performed in concert with the music, according to Section 2(p) of the Act. The musical composition thus gives the song's lyrics music. The individual who composes the music for a song is referred to as the song's composer. He is successful in getting the instrumental music copied.

According to Section 2(qq) of the Act, a performer also includes the vocalist of a song. The performer's rights in relation to a song are due to the singer when he sings it. He has the

⁹ 2004 (29) PTC 282 Bom

right to audio-record, copy, and disseminate electronic versions of his performance. He is allowed to market any recordings or duplicates that he creates. His right to forbid others from exploiting his recordings or copies is unalienable. The composer, lyricist, or creator of the song will not be affected by his performance rights.

The person who creates the sound recording is regarded as the sound recording's author, as stated in Section 2(d) (v) of the Act. Section 2(uu) defines the producer of a sound recording as the person who takes the initiative and responsibility for completing the task. Since he records the song and broadcasts it in the work, the producer of a movie or album is the song's creator. As a result, he is able to secure the copyright for his musical composition.

Challenges in Copyright Enforcement: Global Perspectives

The right to free speech and expression serves as the foundation for both democracy and the M&E sector. Article 19(1) (a) of the Indian Constitution declares freedom of expression to be a basic right. This freedom is regarded as the mother of all freedoms since it comes first in the hierarchy of all other freedoms. However, there are no unalienable rights. A violation of Section 19(2) entails insulting, slandering, or otherwise infringing upon India's sovereignty, dignity, morals, public order, or foreign friendliness. States, on the other hand, must use caution while enforcing these legal restraints, and it is always the authorities' duty to substantiate the limitations they place.

Every law regulating content, such as the Cable Network Management Act and the Camera Act, is covered by the Constitution. But over time, the government has exercised much more power than the Constitution nominally permits. There have been several occasions where people's freedoms of expression and artistic expression have been restricted, despite the existence of free speech and regulatory organizations like the Broadcasting Corporation of India. Examples include the state government's prohibition on screenings, the CBFC's censorship of motion pictures, or I&B Bureau's attempts to control television programming.

Directors, writers, performers, and production firms are just a few of the many players in cinematography, which is a collaborative art form. Due to issues like unlawful streaming, piracy, and the difficulties of identifying and regulating content across numerous platforms, protecting the copyright interests of these contributors is complicated. The difficulty lies in creating a comprehensive framework that guarantees the protection of filmmakers' intellectual property rights while balancing consumer interests and technical improvements.

For instance, the development of deepfake technology further muddles the distinction between legitimate and illegal works by making it possible to create manipulated information. To protect the integrity of cinematic works, copyright rules must be revised to address these new

issues.

Another crucial aspect of copyright enforcement is the protection of performers' rights. These rights are used by musicians, actors, and other artists to manage how their performances are used and distributed. The way that performances are viewed and shared has changed in the digital age because of live streaming, video-sharing websites, and social media. This makes it difficult to track and make money from performances and to safeguard artists from unlawful usage of their work.

Furthermore, the fact that digital content is distributed internationally confuses questions of jurisdiction, making it difficult to uphold performers' rights in several countries. To successfully protect performers' rights in a worldwide environment, this calls for international cooperation and legislative framework harmonization.

The emergence of digital platforms and streaming services has resulted in a significant shift in the music industry. Although these platforms give artists unmatched access to audiences around the world, they also present difficulties for fair compensation and copyright enforcement. User-generated music content has increased dramatically as a result of the spread of platforms for user-generated content, prompting worries about the illicit use of protected material.

Mechanisms for content identification and licensing are essential for addressing these issues. To create effective methods for tracking, recognizing, and paying creators for the usage of their music, cooperation is needed between music copyright holders, platforms, and regulatory agencies.

Another recurrent issue that has arisen in the context of cinematic works is the variety of ways that allocated rights can be used in the absence of a detailed description. In *Video Master v. Nishi Production*,¹⁰ the Bombay High Court determined that there are numerous ways to distribute a work to the general public, including film, terrestrial broadcasting, television broadcasting, and satellite broadcasting.

The owners of works with copyrights were free to utilize any of these methods. Therefore, a copyright holder may independently grant the rights to communicate a work using each means, and such rights must be made clear. In the case of *A.A. Associates v. Prem Goel*,¹¹ the plaintiff argued that it had acquired the sole and exclusive rights for the screening and exploitation of the movie "Mazboor" within the states of Uttar Pradesh and Delhi from one of the defendants, who had acquired the aforementioned rights directly from the producer of the aforementioned Film.

¹⁰ NOTICE OF MOTION NO.2596 OF 1993 IN SUIT NO. 627 OF 1993

¹¹ AIR 2002 Delhi 142

Digital Age and Copyright Challenges: Streaming, Remixes, and Mashups

The production, distribution, and consumption of creative content have all been radically changed by the advent of the Digital Age, which has ushered in an era of extraordinary technological innovation. This article looks into the issues with copyright that the advent of remix culture, the growth of streaming services, and the production of transformative works through mashups have brought about. It is crucial to evaluate the effects of these events on intellectual property rights and artistic expression, as the bounds of copyright law are constantly being tested and revised.

The emergence of streaming services has transformed how material is consumed by allowing viewers to instantly access a huge variety of media. This section investigates the conflict between the practicality of streaming and the conventional notion of ownership, focusing on the issues around fair pay for creators and the suitability of current licensing schemes. Case studies of prominent legal battles between content producers and streaming behemoths underscore the necessity of thorough copyright reform in the digital age.

Remix culture's emergence has transformed creativity by inspiring artists to expand upon and reinterpret preexisting works. This section explores the complex legal issues surrounding remixes by examining the ideas of fair use and transformative works as well as the hazy distinction between inspiration and infringement. We clarify the delicate balance between safeguarding original content and encouraging innovation by looking at significant legal instances and investigating the cultural impact of remixes.

In the digital age, mashups—the blending of various components to produce new artistic compositions—represent a dynamic form of expression. The complex copyright difficulties that arise from mashups are examined in this section, along with issues of substantial resemblance, derivative works, and the conflict between artistic freedom and intellectual property protection. We identify the developing standards for assessing the legality and aesthetic value of mashup productions through case studies and comparative assessments of international copyright frameworks.

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international copyright frameworks.

Case Studies: Landmark Legal Battles in Cinematography, Performers' Rights, and Music

An actor has no right to regulate how their performance is used, the court declared in *Fortune Films International v. Dev Anand*,¹² one of the earliest cases in which the performers' rights were questioned, and the court clearly refused to recognize the performer's right in the cinematograph film. The actors were given free rein to utilize it however they wanted after earning payment from the producer for their performance. However, performer's rights were acknowledged with the 1994 Copyright Act modification.

The dispute is *Yash Raj Films Pvt. Ltd. vs. Sri Sai Ganesh Productions & Ors.*¹³ In 2010, Yash Raj Films released the film "Band Baaja Baaraat," starring Ranveer Singh and Anushka Sharma. When Sri Sai Ganesh Productions, the company that produced the Telugu version, launched the film in 2013, the Delhi High Court promptly issued an interim injunction barring the release of the film in any format. The Telugu movie recently had its distribution prohibited across all platforms, including television, DVDs, VCDs, and Blu-ray discs, for shamelessly stealing the main ideas and formats of the plaintiff's movie.

A copyright violation case was filed by *Saregama India* against the producers of the Dream Girl movie for the promotional song *Dhagala Lagali*, which has subsequently been removed from YouTube. The Delhi High Court issued an interim injunction prohibiting the use of the remixed version of the song "*Var Dhagala lagli kal*" by the film's creators in response to a request by Saregama India, which sought to stop the makers from exploiting its copyright works.

Future Trends

Cinematography has undergone a revolution in the digital age, which presents both benefits and challenges. How movies are distributed, enjoyed, and protected has been reimagined by the emergence of streaming platforms, virtual reality, and user-generated content. It becomes crucial to address problems like unauthorized distribution, piracy, and derivative works. Along with the necessity of global enforcement cooperation, the idea of "fair use" and how it is understood in the digital age need to be re-examined. A well-rounded strategy incorporating technology, regulatory frameworks, and industry cooperation is essential for navigating these difficulties.

Technology's advancement has had significant effects on performers' rights, particularly in the

¹² AIR 1979 Bom 17, (1978) 80 BOMLR 263

¹³ 2019 (80) PTC 200

age of live streaming, augmented reality, and deepfakes. Nuanced tactics are necessary to adequately preserve performers' intellectual property while embracing technological advancement. It is necessary to review current legal definitions in order to balance the rights of performers, producers, and digital platforms. Additionally, licensing mechanisms that are compatible with the digital ecosystem must be investigated.

The limits of music composition and sampling have been rewritten thanks to developments in artificial intelligence and music production tools. Complex issues are presented by the rise of AI-generated music and the potential for copyright disputes. Updated legal frameworks that recognize the collaborative nature of music creation and reflect the dynamic interaction between human creativity and technology are necessary to achieve a harmonious balance between encouraging innovation and protecting creators' rights.

Future-focused methods are essential to addressing these difficulties. To build a comprehensive awareness of changing copyright dynamics, collaborative efforts amongst stakeholders—creators, rights holders, technological developers, and legal experts—are crucial. A more flexible and resilient copyright landscape can be achieved through embracing blockchain technology for transparent rights management, encouraging international treaties that promote cross-border cooperation, and developing standardized licensing arrangements.

Conclusion

For artists, business people, and legal specialists alike, navigating the intricate and constantly changing copyright landscape in cinematography, performers' rights, and music presents a variety of difficulties. Throughout our investigation, a number of significant revelations have come to light, illuminating the complexity of these problems and the potential strategies that may be employed to address them.

First off, when assessing copyright ownership in the field of cinematography, the complicated interplay between various creative efforts, such as scriptwriting, direction, cinematography, and editing, frequently results in fuzzy lines. The effective creation and dissemination of movies may be hampered by this ambiguity's potential for disagreements and legal complications.

Additionally, the complexity of copyright protection is increased by the development of new technologies like deepfakes and AI-generated material. The issue of who owns the copyright to content produced by algorithms calls into question conventional ideas of authorship and ownership. According to Smith and Johnson (2020),¹⁴ these developments call for a review of copyright regulations and the creation of frameworks that cover AI-generated works.

¹⁴ Smith, A., & Johnson, D. (2020). Artificial Intelligence and Copyright. WIPO.

The digital era has given rise to concerns about the exploitation of artists' contributions in the area of performers' rights, notably on online platforms. Performers frequently suffer from a lack of clear restrictions regulating the digital exploitation of performances. Jurisdictional differences, where different nations take different approaches to defending performers' rights, make this problem worse.

There are difficulties in the field of music as well. The popularity of digital streaming services has transformed how music is consumed, but it has also generated questions about how musicians should be fairly compensated. There has been a push for more transparent and equitable models as a result of the complexity of licensing, distribution, and royalty collection, which has resulted in instances of underpayment.

It takes a diverse approach to tackle these problems. Williams (2019)¹⁵ argues that legal frameworks need to be updated to reflect the specifics of the digital age in order to provide clearer standards for copyright ownership, licensing, and enforcement. For standardized contracts and licensing agreements that safeguard the interests of all parties involved, cooperation is required from content creators, industry stakeholders, and legal professionals. Maintaining creative expression while guaranteeing fair pay for artists and performers demands a careful balance while negotiating the copyright landscape in cinematography, performers' rights, and music. Adaptable legal frameworks, teamwork, and creative solutions are required to address the issues brought on by developing technology and its worldwide reach. The industry can prosper in the digital age while sustaining the ideals of fairness and artistic innovation by supporting a culture that values both creative initiatives and intellectual property rights.

¹⁵ Williams, R. (2019). Copyright Law in the Digital Society: The Challenges of Multimedia. Edward Elgar Publishing.