

## FROM SCRIPT TO SCREEN: ROLE OF INTELLECTUAL PROPERTY RIGHTS

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### INTRODUCTION

So, you have been working on your script and screenplay for months. You have finally arrived to a fairly published version of your script after an endless succession of drafting, redrafting, and adding thoughts and comments from friends, family, and well-wishers. The real fight begins now, submitting your script to production companies, meeting individuals, and then a marathon of unending narrations. What if, though, your script is pirated in the process? Or perhaps someone gets inspired by your narrative and creates a slightly different version of it? Worse, someone steals your work and turns it into a film, which receives a theatrical release and becomes a smash while you are still caught up in the web of narrations and delays. Nightmare? Yes, it will be! One thing to keep in mind is that being a scriptwriter, necessitates of mental inventiveness in order to bring characters to life is essential, and that comes with a lot of responsibility in terms of copyright protection. There are several laws in India that safeguard screenplay writers' rights.

### DEFENIATION OF SCRIPTWRITER

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A screenplay writer, often known as a scriptwriter, is a person who creates the script for televised scripts, films, or television series. They enhance their screenwriting skills by composing plays, stories, and storylines for the entertainment industry, which are mass-produced and authorised by media outlets or production companies. A writer creates the primary storyline of the tale on which the movie is based, whereas a screenwriter produces the dialogue for the characters and works on the script.

According to Copyright Act of 1957 the word “author” is explained as:

Under Section 2(d) the author is<sup>1</sup>:

- the playwright of a literary or dramatic work;

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<sup>1</sup> The Copyright Act, 1957

- the composer of a musical work;
- the artist of an artistic work other than a photograph;
- the person taking the photograph;
- the producer of a cinematograph film or sound recording; and
- the author of any literary, dramatic, musical, or artistic work.

### **LEGAL PROTECTION PROVIDED BY THE COPYRIGHTS ACT OF 1957**

India did not embrace copyrights for many years, but it did sign the International Copyright Order in 1991. Copyright is a form of shield that guarantees the rights of writers. It is crucial to appreciate the importance of copyright since it was formerly a barrier because authors' work was no longer unique and there were numerous copyright concerns, necessitating the adoption of copyright. The copyright protection safeguards the rights of the true and original creator and gives financial advantages to them by preventing their data from being stolen, shown, or used to create new work. The First Owner of Copyright, as defined in Section 17 of the Copyright Act 1957,<sup>2</sup> is "one author employed by a proprietor who in the absence of a contract, the initial owner of the copyright in the work is the person who intends to publish it in any newspaper, journal, magazine, or similar periodical." If a work is duplicated, the copyist must first obtain the permission of the original owner and pay a price.

### **REMEDIES AVAILABLE WHEN THE SCRIPT IS PLAGERISED**

If a script or screenplay is proved to be plagiarized, the owner can pursue both civil and criminal remedies, depending on the circumstances.

The brief explanation of the remedies are as follows:

#### **Civil Remedies Provided to the Writer:**

These are extensively detailed in Section 52-55 of the Copyright Act<sup>3</sup> such as injunctions, profit damages, and other legal remedies and the owner is authorized to all these mentioned legal remedies.

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<sup>2</sup> The Copyright Act, 1957

<sup>3</sup> The Copyright Act, 1957

• **Injunction:** Injunction is the most well-known remedy for stopping an infringement from continuing his or her offence. The plaintiff may get an injunction from the court prohibiting the respondent from selling or using the defendant's property that contains the infringing copies. In most circumstances, if the respondent establishes that he had a good purpose to occupy such copies, the petitioner may not even be reimbursed. If no reasonable justification exists, the defendant must reimburse the petitioner for the amount paid in part or in full for the actual losses. In the landmark case of *Gramophone Co. of India Ltd. v. Mars Recording Pvt<sup>4</sup>. Ltd*, the respondent started creating audio cassettes of the Gramophone Company's musical audio after complying with Section 52(1)(j). In response to a menace that the audio cassettes would be taken from the legal owner by the police, the respondent petitioned the High Court for an injunction against the plaintiff, which was granted.

• **Damages on profit accounts:** Section 55 provides for indemnities and profit account relief in addition to injunctions. The remedy of injunction can be combined with either compensations or accounts, but the remedies of accounts and compensations cannot be combined. The same was agreed upon by the High Court.

• **Profit-related damages:** In addition to injunctions, Section 55 permits for damages and account relief. Injunctions can be used in conjunction with either damages or accounts, but accounts and damages cannot be combined.

#### **Remedy in Criminal Court:**

The Copyright Act, Chapter XIII, outlines numerous criminal penalties for infringement of the owner's copies. Violation of copyright or other rights given in this Act is defined under Section 63 of the Act, which states that any individual who wilfully abets the offence of copyright in terms of infringement of:

- The copyright in a work;
- Any other right granted by this act.

Shall be punished with a term of imprisonment of not less than six months but not more than three years, depending on the circumstances, and a fine of not less than 50,000 rupees but not more than 2,00,000 rupees for criminal culpability.

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<sup>4</sup> R Babu, *Gramophone Co. Of India Ltd vs Mars Recording Pvt.Ltd. & Anr*, Indian kanoon, 2001

## **THROWING LIGHT ON THE COPYRIGHT (AMENDMENT) ACT 2012**

The 2012 amendment reinforces author's rights and specifies that in the case of a imminent work assignment, the assignment will only take effect when the work is completed. Furthermore, the author of a cinematograph movie or sound recording may not delegate the right to obtain royalties in any manner other than as part of the movie or audio recording. The amendment also covers "other factors" or modalities of payment other than royalty due to the assignor, and the assignment shall be precise about these considerations in such situations. There should be no broad assumptions, and any rights given should be stated explicitly and expressly. The writers shall hold copyright ownership regardless of any transfer of copyright should be entitled to royalties from the use of such work in the production of a cinematograph or sound recording.

The amendment also declares a copyright assignment void if it conflicts with the terms and conditions of a previous copyright assignment to a copyright society in which the work's creator is a member. Other enhancements have been made to the performers' rights, obligatory licencing, rights to commercial renting, protection against Internet piracy, and specific protections for the disabled, among other things. The Copyright (Amendment) Act 20 might be consulted for more details.

## **ASSOCIATION OF FILM WRITERS AND DIRECTORS (FWA)**

This is a recognised trade union for all writers and screenplay writers that was founded by screenwriters. Its name was changed to Screenwriter Association in 2016. (SWA). Authors interested in working as scriptwriters can join the FWA to safeguard their work from piracy. SWA recommends having at least a couple of draughts before connecting into any production because it is located in Mumbai.

- This organisation establishes a number of standards that young minds might follow, including: Always keep a replica scripts.
- Before signing a contract, negotiate the pricing with the production firm.
- Do not work until you have a contract.
- Insist on signing a non-disclosure agreement on videotaping a meeting
- Avoid plagiarising.
- Don't give away your early manuscripts to producing companies.

- If producers/actors do not require physical copies of the screenplay, send them soft copies through email.

## CONCLUSION

Scriptwriters' rights should be preserved, since they are the artistic minds of the theatre industry, and they must be kept safe from infringers. If several authors infringe on a screenplay or script, the original work will not be produced, and the entertainment industry will suffer. If they believe their existing organisation is unable to safeguard them, scriptwriters might create organisations. It will provide them with a sense of security, as well as a sense of unity among the authors and the ability to collaborate. So that plagiarism is not a possibility, they should communicate their ideas and opinions with one another. This would secure their rights to publishing, as well as a sense of recognition from working together.

It may be deduced from the instances presented that the courts have always been pro-author. In most cases, the courts have expanded the scope of the rights given by the Act, going well beyond the concept of copyright protection and the legislature's desire to provide protection to authors of works the task It appears to be just in certain circumstances, but this is not always the case. While most court decisions favour writers, they appear to overlook the societal repercussions of such decisions. In certain circumstances, the court that is designed to establish a balance between author rights and public interest might be perceived as the source of the present equilibrium being disrupted. The explanation for the judiciary's shifting positions is, without a doubt, voids in the law. It is past time for the legislature to act and make modifications to existing legislation, particularly in light of rapidly changing technology. The 2006 modifications appear to be a positive step forward, but they are not adequate to deal with the change.