

**COPYRIGHT ISSUES VIS-A-VIS TATTOOS OR OTHER FORMS OF BODY ART;  
LACUNAE IN INDIAN LAWS IN LIGHT OF JUDICIAL PRONOUNCEMENTS  
REGARDING THE SAME IN THE USA**

---

**Chavi Chhiber\***

**1. THE INTERSECTION OF COPYRIGHT LAW AND BODY ART**

Body art law is a complicated and developing subject of law that must be taken into account. As body art, such as tattoos, piercings, and other alterations, has grown in popularity, concerns about how copyright law should be applied to these works of art have surfaced. In order to illustrate the many legal concerns and ramifications, this article discusses the main problems and difficulties that arise when copyright law and body art are combined. Original works of authorship, such as literary, artistic, and musical works, are safeguarded by copyright law. The fundamental idea of copyright law is to provide authors exclusive rights so they can manage and profit from the use and dissemination of their works. The issue of whether body art is protected by copyright arises when it comes to this medium.

For instance, tattoos are seen as creative expressions and are eligible for copyright protection in many jurisdictions. However, rather than the actual tattoo on a person's body, the protection applies to the exact design that the tattoo artist creates. In other words, the tattoo recipient often has very limited rights to show the tattoo since the tattoo artist retains copyright to their original design.

In the case of body art, determining ownership presents various challenges. The client's and the artist's consent and agreements are essential. In order to clarify ownership and reproduction rights and resolve any potential copyright problems, artists may ask their clients to sign agreements. These agreements help in identifying ownership rights by establishing the intents and expectations of all parties.

Ownership is also influenced by the ingenuity and originality of the body art design. The protection of copyright is extended to original works of writing. The author of an original and distinctive design produced especially for a customer could keep copyright ownership. The

---

\*BA LLB, FIFTH YEAR, DELHI METROPOLITAN EDUCATION, NOIDA.

ownership of the copyright, however, can be less evident if the design is a pre-existing image or a typical pattern that the customer requested.

Work-for-hire contracts and employment ties add still another level of intricacy. The employer is normally the owner of the copyright if body art is produced while an employee. Similar to this, the copyright normally belongs to the person who commissioned the piece when an artist makes body art under a work-for-hire arrangement. In these situations, clear contractual conditions are required to prove ownership rights.

Identification of ownership is made more difficult by modifications and derivative works. The copyright ownership of the original artist may extend to the original design when people modify or add to existing body art, and the modifications may be regarded as derivative works. Depending on the conditions and the relevant country, this may result in shared ownership or separate copyrights.

Concerning body art, moral rights also come into play. Moral rights provide the author the authority to claim authorship of the work and to ward off changes that would damage their reputation as an artist. Moral rights can impact the capacity to change or alter body art and may place restrictions on ownership rights, however, they differ according to the country.

The convergence of copyright law with body art, then, raises a number of legal issues. The precise ownership rights of tattoos can typically be protected by copyright, but they also rely on a number of other criteria, including permission, originality, contracts, employment ties, changes, and moral rights. It is essential for both artists and customers to comprehend the intricacies surrounding copyright ownership as body art continues to develop and gain popularity in order to preserve their rights and prevent future legal conflicts.

### **1.1 Copyright Protection of Tattoos**

Tattoos are typically regarded as artistic creations that are protected by copyright. However, there is disagreement over how much tattoos may be protected by copyright laws. Some claim that because tattoos are made on people's bodies and are not "fixed in a tangible medium of expression," they are not protected by copyright laws. Others contend that tattoos qualify for copyright protection since they are made with a needle and ink, which are physical means of expression.

Tattoos have received copyright protection in a number of instances in the US. Video game developer 2K Games was sued in 2016 by a firm named *Solid Oak Sketches*<sup>1</sup> for utilising tattoos on NBA players in their NBA 2K video games. Solid Oak Sketches said that 2K Games had violated its copyright by using the tattoo designs, even though it was the owner of those rights. The tattoo designs were eventually deemed to be original works of creativity, and the court finally found in favour of Solid Oak Sketches, declaring that Solid Oak Sketches was the owner of the copyrights to those designs.<sup>2</sup>

*Whitmill v. Warner Bros. Entertainment Inc.*<sup>3</sup> is another well-known case regarding tattoos and copyright law. S. Victor Whitmill, a tattoo artist, filed a lawsuit against Warner Bros. in this instance for copyright infringement when the studio reproduced a tattoo design he had made for boxer Mike Tyson in *The Hangover Part II*. Ultimately, the court issued an injunction against Warner Bros. preventing the business from disseminating the movie including the disputed tattoo.

## 1.2 Defining Body Art

The phrase "body art" is used to refer to a variety of self-expression techniques that entail altering the human body. These alterations can come in a variety of shapes and sizes, such as tattoos, piercings, scarification, and branding. Despite the fact that each of these types of body art is distinct, they all have a few things in common, such as the use of the body as a canvas for creative expression and the production of an enduring, physical work of art.

Journal of Legal Research and Juridical Sciences

## 1.3 Copyrightability of Body Art

Body art eligibility for copyright protection is a complicated and contentious issue. A work must be original and permanently incorporated into a physical form of expression in order to qualify for copyright protection. Because it is made on the human body, which is not a physical medium of expression, some contend that body art is ineligible for copyright protection.<sup>4</sup> Others contend that because body art is produced using actual artistic tools like needles, ink, and metal, it can be protected by copyright laws.<sup>5</sup>

<sup>1</sup>“No. 16-CV-724-LTS-SDA ” *Solid Oak Sketches, LLC v. 2K Games, Inc.*, 449 F. Supp. 3d 333, (S.D.N.Y. 2020)

<sup>2</sup>[https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski\\_final.pdf](https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski_final.pdf)

<sup>3</sup> Case no.- 4:2011cv00752; US District Court for the Eastern District of Missouri

<sup>4</sup>[https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski\\_final.pdf](https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski_final.pdf)

<sup>5</sup><https://blog.iplayers.in/the-nexus-of-body-art-and-ip-laws/>

## **1.4 Ownership of Body Art**

Ownership of bodily modification, such as tattoos, piercings, and other alterations, is a complicated and sometimes divisive subject. There are several ethical and legal factors to take into account when determining who owns the copyright to a certain work of body art. This article examines the difficulties associated with establishing ownership of body art and the elements that are taken into account.<sup>6</sup>

The author of a work holds the copyright to that work, according to the basic rule of copyright law. If this idea were to be applied to body art, it would imply that the person who designed the tattoo or made the modification would be the owner of the design's copyright. However, it is not always easy to apply copyright law to body art, and there are a number of things to take into account when deciding ownership.

### ***1.4.1 Consent and Agreements:***

The permission and agreements between the artist and the client are a fundamental component of body art ownership. Clients frequently talk with the artist about the design, its uniqueness, and any potential copyright concerns before obtaining a tattoo or another type of body art. Artists may occasionally request clients to sign documents outlining ownership and reproduction rights. These contracts can assist both parties make their goals clear and give a foundation for identifying who owns what.

### ***1.4.2 Originality and Creativity:***

The protection of copyright is extended to original works of writing. The uniqueness and ingenuity of the design are key factors in deciding ownership when it comes to body art. It might be claimed that the tattoo artist owns the copyright to a design they make that is one-of-a-kind and original just for a customer. The ownership of the copyright, however, can be in question if the customer supplies an existing design or demands a widely used picture.

### ***1.4.3 Work-for-Hire and Employment Relationships:***

Body art may occasionally be produced as a result of an employment arrangement or a work-for-hire contract. The copyright ownership of designs created by tattoo artists when employed

---

<sup>6</sup>[https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski\\_final.pdf](https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski_final.pdf)

or as part of a work-for-hire arrangement normally belongs to the employer or the person who commissioned the work. The ownership rights will be determined by the exact provisions of the employment contract or work-for-hire agreement.<sup>7</sup>

#### ***1.4.4 Derivative Works and Modifications:***

When existing body art is changed or altered, the ownership question becomes more complicated. Questions about who owns the changed work emerge when someone adds or edits a tattoo or adjusts a piercing. The original designer often retains copyright ownership over the design, but any alterations made by the individual may be regarded as derivative works and result in joint ownership or separate copyrights.

#### ***1.4.5 Moral Rights:***

In the context of body art, moral rights are an additional factor to take into account in addition to copyright ownership. The author's moral rights include the right to claim ownership of the work and the right to prevent its being altered in any way that would damage the author's reputation. Limitations on ownership rights and the capacity to change or alter body art may be imposed by moral rights.<sup>8</sup>

#### ***1.4.6 Transfer of Ownership:***

Explicit agreements, contracts, or formal assignments are only a few ways to transfer ownership of body art. A formal agreement that explicitly states the parameters of the transfer can be used to transfer the ownership of the copyright if the artist or customer agrees to do so. It's crucial to remember that moral rights frequently cannot be transferred and belong to the original creator.<sup>9</sup>

## **2. DEFINING BODY ART: TATTOOS AND BEYOND**

### **2.1 Introduction to Body Art: Exploring the Diverse Forms of Self-Expression**

Humans have used body art as a means of self-expression for thousands of years. It includes a variety of methods and media, such as body painting, henna, scarification, branding, and

---

<sup>7</sup>[https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski\\_final.pdf](https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski_final.pdf)

<sup>8</sup><https://escholarship.org/content/qt77j602d0/qt77j602d0.pdf?t=nnbmko>

<sup>9</sup>[https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski\\_final.pdf](https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski_final.pdf)

piercing, among others. Body art is frequently used to convey one's personal identity, cultural identification, or creative expression. Each type of body art has a distinct cultural and historical importance.

The use of body art for cultural and religious purposes may be traced back to early civilizations. For instance, ancient Polynesian tribes employed tattooing as a way to signify social position and cultural identity, while ancient Egyptian women wore tattoos as a statement of social prestige and attractiveness. Body art has also been employed historically as a means of ceremonial and symbolic expression, such as in tribal practises like scarification.

Currently, many people choose to modify their bodies in various ways to express themselves, including getting tattoos, piercings, and other types of body art. Particularly tattooing has grown in popularity, with many individuals seeing tattoos as a method to express themselves and show off their uniqueness. Ink is injected into the skin to produce tattoos, which come in a wide variety of classic, modern, realistic, abstract, and hybrid patterns.

People who pierce themselves often embellish their bodies with jewellery and other decorations. Piercing is another common type of body art. Similar to tattoos, body piercings have a long cultural history, with various forms of piercings denoting various things in various societies. Ear, nose, and lip piercings are some of the most well-liked piercing varieties.

Journal of Legal Research and Juridical Sciences

Although scarification and branding are less popular types of body art, some people still engage in them. Scarification includes cutting or branding the skin to leave behind permanent scars in a variety of patterns, from straightforward lines to complex designs. On the other hand, branding includes burning the flesh to leave a lasting imprint. Both types of bodily modification are debatable and involve moral questions.

Henna and body painting are temporary body adornments that have been used for ages across several civilizations. Body painting is the practise of drawing or painting patterns directly onto the flesh with a number of mediums, including paint, ink, or clay. On the other side, henna is a plant-based substance used to make temporary tattoos, sometimes with elaborate patterns and motifs.

Body painters may use their bodies as canvases to express their creativity and spread a message through body painting, which is a type of performance art. Dance, music, and other components are frequently included in performances, which can range in complexity from simple gestures to intricate installations.

Last but not least, there is always a new technique or fashion trend appearing in the field of body art. For instance, watercolor tattoos, which include images that appear to have been painted directly onto the skin, have grown in popularity in recent years. Another well-liked style is minimalist tattoos, which include understated, understated motifs with strong visual impact. The use of digital tools by artists to produce detailed and complicated designs is another way that technological advancements have affected body art.

In conclusion, body art is a rich, varied, and long-established form of self-expression. Body art continues to develop and captivate people all across the world, from old cultural traditions to current trends. Body art gives a special opportunity to express oneself and display originality, whether it's a straightforward tattoo or a complex body painting performance.

## 2.2 Tattoos: A Timeless Artistic Practice

The history of tattoos is extensive and intriguing, going back thousands of years. They have been a timeless and robust form of artistic expression that cuts across generations and cultural boundaries. In order to make permanent designs and patterns, tattoo artists inject ink into the skin. Tattoos contain cultural, symbolic, and personal importance and are a potent and profound form of self-expression, ranging from tribal insignia to elaborate contemporary artwork.

Tattooing has its roots in several prehistoric cultures throughout the world. Women in ancient Egypt had tattoos as a sign of their beauty and social standing. Their bodies were covered in elaborate patterns that served as personal ornamentation. Similar to how modern societies use tattoos to express social rank, cultural identity, and rites of passage, ancient Polynesian tribes welcomed tattooing. Traditional tattooing techniques frequently included culturally relevant symbols and themes.<sup>10</sup>

In many communities, tattoos have also carried important cultural and religious implications. For instance, irezumi, or traditional Japanese tattoos, were once employed in Japan to

---

<sup>10</sup><https://wellcomecollection.org/articles/W9m2QxcAAF8AFvE5>

represent folklore, historical events, and religious beliefs. These elaborate and colourful patterns were thought to be a method to communicate with one's ancestors as well as to show allegiance and dedication. Similar face tattoos that signify ancestry, social standing, and spiritual ties are part of the Maori tradition known as moko.<sup>11</sup>

Beyond their cultural relevance, tattoos have contributed to narrative and self-expression. Many people decide to have tattoos that reflect their hobbies, interests, or experiences in life. Tattoos provide a constant reminder of what is most important to the wearer, whether it be a favourite saying, a sign of tenacity, or a memorial to a loved one. They may capture events and feelings that are treasured for a lifetime and be intensely private and intimate.

Tattoo artistry and fashion have changed a lot throughout the years. Traditional tattooing methods, which are distinguished by strong lines, vivid colours, and iconic images, are still well-liked. These classic patterns pay respect to the origins of tattooing and retain an air of nostalgia and authenticity. Contrarily, modern tattooing incorporates a variety of artistic genres, such as realism, watercolor, geometric patterns, and minimalist designs. Today's tattoo artists have refined their abilities and methods, pushing the limits of creativity and producing exquisite works of art on the human canvas.<sup>12</sup>

With more people adopting body art as a means of self-expression, tattoos have become more and more popular in recent decades. Tattoos are no longer only associated with specific social groups or stereotypes; they are now universally accepted and mainstream. The growing acceptance and de-stigmatization of tattoos have been aided by their increased prominence in popular culture, the media, and sports. Influencers, sportsmen, and other public figures boldly display their tattoos, encouraging others to appreciate this type of body art.<sup>13</sup>

Tattoos are not without controversy, though. Despite their increasing acceptability, there are still some situations when tattoos are subject to prejudice, especially in work environments or specific cultural contexts. Some people worry that they may come to regret their decisions in the future due to the fact that tattoos are permanent. However, improvements in tattoo removal methods have made it feasible to modify or get rid of undesirable tattoos, giving individuals thinking about being tattooed a sense of security.

---

<sup>11</sup><https://wellcomecollection.org/articles/W9m2QxcAAF8AFvE5>

<sup>12</sup><https://www.smithsonianmag.com/history/tattoos-144038580/>

<sup>13</sup><https://wellcomecollection.org/articles/W9m2QxcAAF8AFvE5>



### 2.3 Piercings: Adorning the Body with Jewelry and Ornaments

Since the dawn of ancient societies and civilizations, body piercings have been a common kind of body modification. Even today, piercings are a common way for people to express themselves, allowing them to personalise their looks with a variety of jewellery and accessories. From basic body piercings to complex ear piercings, body piercings have developed into a vibrant and diversified art form that gives people a special opportunity to express their personality and personal style.<sup>14</sup>

The most typical kind of piercing, dating back to ancient times, is probably an ear piercing. Ear piercings have symbolic meanings in many cultures, including beauty, femininity, and social rank. Ear piercings are a common choice in modern culture for both men and women, with many different types available. People may easily and stylishly personalise their appearance with ear piercings, which range from traditional studs to hoops, dangles, and cuffs.<sup>15</sup>

There are many other kinds of body piercings available in addition to ear piercings. Some of the most well-liked piercings give distinctive looks and expressions, including nose, belly button, and eyebrow piercings. Although they have more intimate and private implications, nipple and genital piercings are also common types of body modification. From simple barbells to complex and intricate patterns, a variety of jewellery may be added to these piercings to make them uniquely yours.

Journal of Legal Research and Juridical Sciences

Body modifications including tongue, lip, and even cheek piercings have grown in popularity as a way for people to display their individuality and personal flair. A variety of jewellery can be used to embellish these piercings, from straightforward hoops and studs to more elaborate pieces like captive bead rings or dermal anchors. Body piercing has become a popular way for people to exhibit their individuality and sense of style. Many people get piercings to make a statement or to show off their distinctive personalities.

Piercing technique and artistry have changed tremendously throughout time. In order to protect the safety and well-being of their customers, skilled piercers use sterile tools and procedures in today's highly regulated body piercing business. In order to obtain the desired

---

<sup>14</sup>[https://en.wikipedia.org/wiki/Body\\_piercing#:~:text=Ear%20piercing%20and%20nose%20piercing,far%20back%20as%201500%20BCE.](https://en.wikipedia.org/wiki/Body_piercing#:~:text=Ear%20piercing%20and%20nose%20piercing,far%20back%20as%201500%20BCE.)

<sup>15</sup><https://tribu.co.uk/pages/history-of-body-piercing>

result, piercers now use a variety of techniques, including needle piercing and dermal punching. Additionally, there is a wider variety of jewellery used for piercings now, including items made of organic materials like wood or bone as well as metals like gold, silver, and titanium.<sup>16</sup>

Even though they are a common means of self-expression, piercings are not without controversy. Some people and cultures perceive body piercings as a sign of disobedience or rebellion, which breeds prejudice and unfavourable preconceptions. Additionally, there is some danger associated with piercings, such as the possibility of infection, allergic reactions, or jewellery migration. People thinking about getting piercings should do their research on trustworthy piercers and take the necessary procedures to guarantee the safety and health of their piercings.

#### **2.4 Scarification: Ancient Traditions and Modern Interpretations**

Scarification is a traditional method of body alteration that has been used throughout history by many different civilizations. It entails cutting, branding, or burning the skin purposefully to leave behind scars that won't fade. In many communities, scarification has cultural and ceremonial importance; it frequently serves as a rite of passage, a marker of identity or status, or a way to remember significant life events. Scarification patterns in some African cultures can reveal socioeconomic class, religious connections, or even tribal allegiances.<sup>17</sup>

Scarification is being used as a form of self-expression and body art in modern society. While scarification is still a relatively uncommon practise, some people use it to make distinctive and elaborate skin patterns. Scarification artists use a variety of methods and equipment to produce precise and purposeful scarring patterns. These current scarification interpretations allow people to personalise their bodies in distinctive and significant ways by fusing ancient techniques with modern creative sensibilities.<sup>18</sup>

Scarification presents ethical questions and should be handled carefully, it is vital to emphasise. Scarification requires purposely harming the body, which entails dangers of infection, problems with the scarring process, and potential psychological effects. People who

---

<sup>16</sup><https://tribu.co.uk/pages/history-of-body-piercing>

<sup>17</sup><https://filmlifestyle.com/body-art/>

<sup>18</sup><https://www.scarfade.com/blog/the-history-of-scarification/#:~:text=Scarification%20was%20first%20seen%20in,a%20form%20of%20cultural%20expression.>

are interested in scarification must look for qualified, experienced practitioners who place a high priority on safety, cleanliness, and informed consent.

Overall, scarification demonstrates the lasting attractiveness of this particular type of body alteration by bridging the gap between traditional practises and contemporary interpretations. Scarification has developed into a form of creative self-expression for individuals who recognise its significance and are prepared to explore its aesthetic potential while respecting its cultural origins, even though it remains anchored in historical and cultural circumstances.<sup>19</sup>

### **2.5 Branding: Controversial Body Modifications**

Burning the skin to make markings or patterns that will last a lifetime is known as branding. It is regarded as one of the most divisive most severe types of body art. While some people see branding as a method to show their individuality or as a creative form of self-expression, others voice ethical concerns about the practice's possible long-term health hazards and intentional infliction of pain.<sup>20</sup>

### **2.6 Body Painting: Temporary Artistic Expressions**

Designs are painted directly onto the human body as a transitory form of artistic expression known as body painting. It has a lengthy history of being used for ceremonial, cultural, and aesthetic reasons across many civilizations. Body painting nowadays enables people to explore countless artistic possibilities by transforming their bodies into live canvases. Body painting is a distinctive and temporary opportunity to display creativity and make a statement via elaborate designs and brilliant colours.

### **2.7 Henna: Cultural Significance and Temporary Body Art**

For ages, temporary body art has been made with henna, a plant-based pigment. It has cultural importance in many countries and is frequently linked to festivities, rituals, and ceremonies. A deep, reddish-brown stain is produced by elaborate designs being painted on the skin with a paste derived from henna plants. It is a well-liked type of transient body art

---

<sup>19</sup><https://www.scarfade.com/blog/the-history-of-scarification/#:~:text=Scarification%20was%20first%20seen%20in,a%20form%20of%20cultural%20expression.>

<sup>20</sup><https://www.degruyter.com/document/doi/10.1515/janeh-2015-0004/html?lang=en>

that enables people to embellish their skin for a brief while with lovely and significant designs.<sup>21</sup>

## **2.8 Body Art as Performance: The Intersection of Art and the Human Body**

Body art in performance blurs the boundaries between art and the human body as a means of artistic expression. It includes expressing ideas, evoking feelings, or subverting social conventions by utilising the body as a canvas or media.<sup>22</sup> In order to captivate audiences and create immersive experiences, performers employ a variety of strategies including body painting, movement, gestures, and interactive features. Performances including body art push limits, examine societal and personal themes, and challenge observers' assumptions about the human form and how it relates to the arts.

## **2.9 Body Modification Subcultures: Exploring Alternative Body Art Practices**

There are several subcultures that support alternative and outlandish methods of body alteration within the body art community. These subcultures question mainstream expectations surrounding the human body and push the limits of conventional notions of beauty. Body alteration practises that are common in these subcultures include scarification, subdermal implants, tongue splitting, and excessive body piercing.<sup>23</sup>

Alternative body modification subcultures give people a place to express their own identities, defy social expectations, and connect with like-minded people. These subcultures frequently have unique aesthetics, rituals, and ideals of their own. They provide settings for introspection and personal growth where people are allowed to experiment with their bodies and push the boundaries of what is deemed socially or culturally acceptable.<sup>24</sup>

Even if some people might view these practises as radical or contentious, they serve as a means of self-expression and personal freedom. Body modification becomes a method for persons who take part in these subcultures to retake control over their bodies and create their own identities on their own terms. These subcultures' shared experiences, networks of support, and sense of belonging play a part in the general celebration of variety and uniqueness.

---

<sup>21</sup><https://tribune.com.pk/story/741476/a-brief-history-of-henna>

<sup>22</sup>[https://en.wikipedia.org/wiki/Body\\_art](https://en.wikipedia.org/wiki/Body_art)

<sup>23</sup><https://alg.manifoldapp.org/read/introduction-to-art-design-context-and-meaning/section/0af11327-5ea5-4cd5-a44d-7901ce9738a0>

<sup>24</sup><https://filmlifestyle.com/body-art/>

## 2.10 Evolution of Body Art: Trends and Innovations in the Field

Since it has been practised for thousands of years, body art has changed considerably. Body art has evolved from traditional cultural practises to current fashions, pushing the limits of creative expression. We shall examine some of the most recent developments and trends in the world of body art in this post.<sup>25</sup>

**Minimalistic Tattoos:** Minimalist tattoos have grown in popularity over the last several years among tattoo aficionados. Simple and delicate patterns, frequently made out of thin lines, geometric forms, and minimalist components, are typical of these tattoos. Tattoos with a minimalistic style are frequently smaller in size and applied to discrete body parts like the wrist or ankle. They provide a more subtle approach to body art and are a change from the conventional big, bright tattoos.

**Blackwork Tattoos:** Black ink is used to produce delicate, extremely detailed drawings for blackwork tattoos, which are a relatively recent fad. These tattoos frequently have delicate shading, intricate linework, geometric patterns, mandalas, and other elaborate motifs. Blackwork tattoos are a distinctive method to express creativity via body art and may be extremely dramatic and stunning.

**Watercolor Tattoos:** Bright, strong, and vivid colours are used in water colour tattoos, a relatively recent trend, to provide an ethereal and dreamlike look on the skin. These tattoos have delicate borders that flow into the skin flawlessly, giving them the appearance of water colour paintings. Tattoos in the style of water colour are a distinctive method to express oneself via body art, and they are especially well-liked by people who choose a more feminine and whimsical aesthetic.

**Piercing Stacks:** Multiple piercings are stacked on top of one another to provide a distinctive and dynamic appearance. Through the use of body jewellery, this style, which is especially well-liked by people who want a more edgy and alternative look, enables people to express their originality and uniqueness.

**Digital Tattooing:** Using a digital pen and computer software, digital tattooing is a relatively new technique for inking elaborate and precise drawings onto the skin. With the use of this

---

<sup>25</sup>[https://www.researchgate.net/publication/306083156\\_The\\_Aesthetics\\_of\\_Tattoo\\_Body\\_Modification\\_BodyArt\\_Ideology\\_and\\_the\\_Pain\\_for\\_Others](https://www.researchgate.net/publication/306083156_The_Aesthetics_of_Tattoo_Body_Modification_BodyArt_Ideology_and_the_Pain_for_Others)

technology, tattoo artists may produce very detailed and elaborate patterns. Large, complicated tattoos benefit most from this technique. Although it is still in its infancy, digital tattooing is quickly gaining favour with both tattoo fans and artists.

**Biomechanical Tattoos:** Creating tattoo patterns that resemble mechanical and robotic aspects is a popular trend called "biomechanical tattoos." These tattoos frequently have elaborate patterns that combine artificial components with natural textures and forms. Biomechanical tattoos are a distinctive method to express creativity via body art, and those who like a more future and sci-fi style tend to favour them.

**UV Tattoos:** An ink that glows under black light is used to produce distinctive and eye-catching designs for UV tattoos, a relatively recent fad. These tattoos are undetectable in daylight, but when exposed to black light, they come to life and have a mesmerising impact. UV tattoos are a distinctive method to express oneself via body art, and they are especially well-liked by people who like an aesthetic that is more rave and party-inspired.

In conclusion, the field of body art is constantly developing and provides countless opportunities for artistic expression. Body art continues to defy what is deemed conventional or acceptable, from UV tattoos to minimalistic ink. The aforementioned breakthroughs and trends are only a handful of the numerous ways that body art is developing and changing. It is intriguing to consider what the future of the realm of body art holds as technology and artistic approaches progress.

Journal of Legal Research and Juridical Sciences

### **3. The Issue of Ownership: Who Owns the Copyright of a Tattoo?**

#### **3.1 Tattoo Artistry and Copyright Law: Understanding the Legal Framework**

Copyright is a type of intellectual property legislation that gives authors of creative works exclusive rights. The ability to copy, distribute, show, and develop works derived from the original work is one of these rights. The tattoo design itself may be protected under copyright laws in the context of tattoo artistry since it is a unique work of art.<sup>26</sup>

A tattoo design must fulfill the requirement of originality in order to be protected by copyright. Originality denotes a sufficient amount of creativity and refers to the autonomous

---

<sup>26</sup><https://www.legalserviceindia.com/legal/article-4605-copyright-and-tattoos-who-owns-your-tattoo-.html>

development of a work. To put it another way, the tattoo must be at least somewhat creative and not just a copy of current patterns or popular motifs.

According to conventional copyright law, the person who created the work is the author and owner of the copyright. This would imply that in the instance of tattoos, the tattoo artist is the creator and owner of the copyright. The initial design is created by them, and they then apply it to the client's skin. Some contend, however, that tattoos need to be regarded as "works made for hire." This idea derives from the U.S. Copyright Act, which specifies that if a work is produced by an employee while performing their duties as an employee, the employer is regarded as the legal creator and owner of the work's copyright. This argument contends that in the case of tattoos, the customer should be regarded as the legitimate owner of the tattoo copyright because they are basically the one who hires the tattoo artist.

The topic of implicit licences also comes up in relation to the tattoo design. Unwritten or inferred authorization from the copyright owner to use or exhibit the copyrighted work is known as an implicit licence. It is asserted that when people ask for tattoos and have them, the tattoo artist implicitly grants them permission to exhibit the tattoo as an element of their physical identity. This implicit licence, however, could not apply to uses of the tattoo design for advertising or commercial purposes.

It is crucial to keep in mind that there is now no established legal precedent or law that addresses tattoo copyright ownership. Tattoos have often been regarded by courts as personal property rather than intellectual property. This indicates that the individual who has the tattoo is often free to show it off and incorporate it into their own style. However, this does not automatically give them the right to replicate or make money from the tattoo design in promotional or commercial contexts.

Tattoo copyright has recently come to light as a result of legal disputes involving well-known people who used their tattoos in promotional campaigns. Legal action has been filed by tattoo artists who allege that their designs have been used without permission and are being compensated for this. Discussions concerning the need for more precise rules and legal safeguards pertaining to tattoo copyright ownership have been prompted by these cases.

Finally, both tattoo artists and those who have tattoos must be aware of the legal framework governing tattoo artistry and copyright. Tattoo designs may be given copyright protection as unique artistic works, but authorship and ownership remain tricky concepts. The issue is

made more complicated by the use of "works made for hire" notions, implied licences, and the lack of explicit legislation covering tattoo copyright. Legal frameworks must provide clear norms that strike a balance between the rights and interests of tattoo artists and their clients as the popularity of tattoos rises.

### **3.2 Works Made for Hire: Applying the Concept to Tattoo Copyright**

The idea of "works made for hire" serves as a crucial legal foundation for copyright ownership. This subtopic examines the consequences for tattoo copyright of applying the "works made for hire" idea to tattoo art.

The U.S. Copyright Act's "works made for hire" concept governs who owns copyrighted works produced by workers while they are working for a company. The Act states that the employer is regarded as the legal creator and copyright owner of a work made by an employee while they are on the job. This implies that the rights to reproduce, distribute, exhibit, and develop derivative works based on copyrighted content belong to the employer and not to the individual author.<sup>27</sup>

Applying this idea to the field of tattoo artistry, some contend that the client should be regarded as the legal owner of the tattoo copyright since when a tattoo artist produces a design on a client's body, they are effectively functioning as an independent contractor. The customer is viewed as the one who employs the tattoo artist to design the tattoo in accordance with their specifications.

However, it is not generally recognised to apply the "works made for hire" idea to tattoo copyright ownership. Since tattoo artists frequently run their own businesses and have some autonomy in their work, some people believe that they should be classified as independent contractors rather than workers. They contend that tattooing is more akin to commissioned artwork than a job arrangement because of the creative decisions, talent, and creativity required.

The degree of control exercised by the client, the conditions of the engagement, and the nature of the connection between the parties all play a role in determining whether a tattoo artist is an employee or an independent contractor. Legal criteria and regulations for designating people as employees or independent contractors may differ between jurisdictions.

---

<sup>27</sup><https://digitalcommons.law.uga.edu/cgi/viewcontent.cgi?article=1004&context=jipl>



The importance of the client's contribution to the design process is another thing to take into account. The case for the customer being regarded as the owner of the tattoo copyright may be strengthened if the client offers detailed instructions or a pre-existing design that the tattoo artist is compelled to imitate. However, it may tend towards the tattoo artist becoming the owner of the copyright if they contributed a significant amount of original ideas, used artistic judgement, and added their own special style and talent to the design.

It is significant to note that the interpretation of the "works made for hire" doctrine as it relates to tattoo copyright will change according to the country. There is now no definite legal agreement on the subject, and courts have taken varying approaches to it. The argument about whether the notion of "works made for hire" should be applied to copyright ownership of tattoos emphasises the requirement for more precise legal standards and regulations in the tattoo industry. Both tattoo artists and customers would have assurance thanks to this about ownership and management of tattoo designs.

Finally, it should be noted that the interpretation of tattoo copyright in terms of "works made for hire" is debatable. Others claim that tattoo artists should be regarded as independent contractors with creative authority, while some contend that customers should be regarded as the legal owners of tattoo copyrights because of the employer-employee connection. The type of artistic cooperation, the degree of client involvement, and the legal system in a specific area are some of the variables that eventually determine ownership. The issues surrounding tattoo copyright ownership might be resolved with the help of legislation or legal precedent.

### **3.3 Client Perspective: Ownership and Control over Tattoo Designs**

People frequently have a personal connection to the tattoo's design and see it as a representation of who they are when they choose to get one. The client's perspective on ownership and control over tattoo designs is examined in this subtopic. It explores the value of one's own personal freedom, emotional connection, and desire for control over one's body art.

The process of getting a tattoo is incredibly intimate and significant from the client's perspective. It entails the deliberate choice to inscribe a design with meaning and symbolism on one's body indefinitely. Because of this, clients frequently have a deep emotional bond with their tattoos and see them as an essential component of their self-expression and personal history.

Customers have a strong desire to keep ownership and control over the designs they select for their tattoos because of how private they are. They see tattoos as extensions of their own identities and self-image rather than just as the product of tattoo artists. Clients think they should be able to control how their tattoos are applied, exhibited, and replicated.<sup>28</sup> Ownership in this sense transcends formal legalities. It stands for the feeling of personal involvement and connection to the tattoo design. Customers have a great sense of ownership and pride in their tattoos, viewing them as an important component of their uniqueness and self-expression. They desire the freedom to openly show off their tattoos, post them on social media, and incorporate them into all facets of their lives.<sup>29</sup>

Another essential component for clients is control. They desire control over the use and adaptation of their tattoo designs. Clients might not mind having their tattoos photographed or shown in public, but they could object to having them used for promotional or commercial purposes without their permission. They feel that since it directly affects their personal brand and image, they should have a voice in how their tattoos are portrayed and used in various settings.<sup>30</sup>

Additionally, clients love the flexibility of adding to or changing their tattoos over time. They can decide to add new components or alter the current design as their preferences and way of living evolve. They have the ability to make these changes and evolve their body art to fit their shifting identities since they are in charge of their tattoos.

However, the existing legal system governing tattoo ownership and management does not always take the client's viewpoint into account. Copyright laws frequently claim the tattoo artist as the design's inventor, which can limit a client's control over their own body art. This mismatch may cause disputes and misunderstandings over the application, presentation, and replication of tattoos between tattoo artists and customers.

Promoting open dialogue and openness between tattoo artists and customers can help allay these worries. To specify the extent of ownership and authority over the tattoo design, certain agreements or contracts might be made. While simultaneously honouring the creative

---

<sup>28</sup><https://articles.manupatra.com/article-details/Tattoos-and-Intellectual-Property-Rights-An-Indian-Perspective>

<sup>29</sup>[https://ndlawreview.org/wp-content/uploads/2013/05/NDL412\\_crop.pdf](https://ndlawreview.org/wp-content/uploads/2013/05/NDL412_crop.pdf)

<sup>30</sup><https://articles.manupatra.com/article-details/Tattoos-and-Intellectual-Property-Rights-An-Indian-Perspective>

integrity and rights of the tattoo artist, such agreements might specify the client's rights to exhibit, replicate, and change the tattoo design.

Additionally, it would be preferable for the legal system to reflect the viewpoint of the client if there were legal amendments or precedents that acknowledged the distinctiveness of tattoos and the emotional value they had for their owners. This may entail giving tattoo owners more freedom and control over their ink, especially when it comes to non-commercial applications, yet upholding the creators' rights of tattoo artists.

### **3.4 Artist Perspective: Artistic Vision and the Need for Copyright Protection**

According to tattoo artists, their line of work is an artistic form requiring originality, talent, and knowledge. In the context of tattoo artistry, this subtopic examines the artist's stance on ownership and the necessity for copyright protection. Tattoo artists spend years perfecting their trade and creating their distinctive aesthetic approaches. They put a lot of time, effort, and money into learning essential skills, exploring different artistic mediums, and consistently pushing the limits of their creativity. For them, getting tattoos is more than simply a profession; it's a form of artistic expression and a source of passion.

Tattoo artists see their work as original works of art deserving of praise and preservation. A legal framework known as copyright enables artists to defend their artistic vision and establish their ownership rights over their works. It enables them to exercise control over the usage, presentation, and replication of their creations, safeguarding the integrity of their original work. Ownership is a crucial topic for tattoo artists since it affects both their livelihood and reputation in the industry. Clients that value their abilities and artistic vision frequently request their own artistic designs and styles. Tattoo artists rely on their designs to draw customers, cultivate a clientele, and set themselves apart in a cutthroat business. Their creative efforts are regarded and respected since they may claim ownership over their designs.<sup>31</sup>

Additionally, copyright protection gives tattoo artists the ability to prevent unauthorised use or duplication of their designs. It aids in discouraging others, such as other tattoo artists, from imitating or duplicating their original designs without authorization. This protection is crucial

---

<sup>31</sup><https://www.mondaq.com/india/copyright/1227748/copyright-protection-of-impermanent-art>

in situations when tattoo artists have put a lot of time and effort into producing unique designs that are suited to a particular client's preferences or vision.<sup>32</sup>

Additionally, tattoo artists may benefit financially from copyright protection. They may monetize their artistry and broaden their creative reach beyond tattooing alone by licencing their designs for industrial uses, like as goods or advertising materials. The negotiation of reasonable pay for the use of their creations is made possible by copyright protection, giving them a reliable source of revenue to maintain their artistic endeavours.

However, it might be difficult for tattoo artists to claim their ownership of the copyright. Questions surrounding the replication and presentation of tattoo designs are raised by the fact that they are temporary since they are put directly to the client's skin. Tattoo artists may get across circumstances where customers wish to copy their tattoos on others or post them online. In these situations, copyright ownership gives designers the power to legally restrict the use of their creations, ensuring that they are properly recognised and that their work is not distorted or undervalued.

Tattoo artists can take measures to secure their designs in order to more successfully enforce their copyright rights. This includes recording their designs, keeping track of their creative process, and making their copyright policy known to clients. Tattoo artists may promote a culture of respect for their intellectual property by informing customers about the significance of upholding copyright and requesting authorization before any copying or commercial usage of their designs.<sup>33</sup>

To sum up, copyright protection is crucial from the viewpoint of the artist if tattoo artists are to be recognised for their artistic vision and creative achievements. They are able to defend their aesthetic integrity, claim ownership of their works, and maintain their credibility in the workplace. Tattoo artists may manage the usage and replication of their designs, commercialise their creativity, and guarantee just pay for their labour thanks to copyright protection. Tattoo artists may maintain their status as reputable industry experts by proactively asserting their copyright ownership and encouraging respect for their intellectual property.

### **3.5 Legal Challenges and Emerging Solutions: Licensing and Copyright Agreements**

<sup>32</sup><https://www.mondaq.com/india/copyright/1227748/copyright-protection-of-impermanent-art>

<sup>33</sup><https://nujsiplaw.wordpress.com/2021/08/29/impermanent-art-copyright-and-fixation-requirements/>

The ownership of copyrights has become a contentious legal issue in the field of body art, notably tattooing. Tattoo artists produce distinctive designs that are inked onto their clients' bodies, raising issues of who owns and controls these works of art. Emerging solutions, such as licencing and copyright agreements, have been created in recent years to solve these problems. This subtopic examines tattoo copyright's legal issues as well as the newly developed methods of licencing and copyright agreements.<sup>34</sup>

The lack of clarity around tattoo design ownership is one of the major legal issues facing the tattoo business. The author of an original work often receives ownership rights under copyright law. However, when a tattoo artist places their creation on a client's body, it permanently alters that person's appearance. This raises the question of who should have ownership of the design placed on the client's body—the artist or the client?

Licensing has emerged as a potential answer to these problems. Through licensing, tattoo artists may give their customers the go-ahead to use and exhibit their designs in certain ways while still maintaining complete ownership and control of the copyright. Tattoo artists can specify the parameters and means by which customers may duplicate, display, or alter their designs through licensing agreements.<sup>35</sup>

Licences can be customised to fit the requirements and goals of the tattoo artist as well as the customer. They may specify things like the design's exclusivity, the length of the licence, and the approved applications for the design. For instance, a licensing agreement can permit the client to show the tattoo design on their body for aesthetic reasons only and forbid its usage for promotional or commercial objectives without the artist's permission.<sup>36</sup>

These licensing agreements not only make it clear who owns and controls the tattoo design, but they also give each party a legal framework within which to bargain and safeguard their individual interests. Clients can better understand the rights and restrictions related to their tattoos by engaging in a licensing agreement, and tattoo artists can keep control over the usage and replication of their designs.<sup>37</sup>

---

<sup>34</sup>[https://www.researchgate.net/publication/336878818\\_Certain\\_Issues\\_of\\_Invlidity\\_of\\_Copyright\\_Licence\\_Agreements](https://www.researchgate.net/publication/336878818_Certain_Issues_of_Invlidity_of_Copyright_Licence_Agreements)

<sup>35</sup><https://www.mdpi.com/0718-1876/9/3/16>

<sup>36</sup><https://www.legalserviceindia.com/legal/article-4605-copyright-and-tattoos-who-owns-your-tattoo-.html>

<sup>37</sup><https://articles.manupatra.com/article-details/Tattoos-and-Intellectual-Property-Rights-An-Indian-Perspective>

Copyright agreements, in addition to licencing, have come to light as a viable remedy for the legal issues facing the tattoo business. The ownership, usage, and reproduction rights of the tattoo design are distinctly stated in copyright agreements, which create a legal contract between the tattoo artist and the customer. These agreements may specify particular parameters for collaborative authorship or shared ownership as well as clauses for the transfer of copyright ownership from the artist to the customer.

When a customer wants to utilise the tattoo design for products or marketing materials that are intended for sale, copyright agreements can be especially helpful. These agreements make sure that each party is aware of their rights and responsibilities and can help to settle disagreements in the future. While licencing and copyright agreements provide possible answers to the legal issues associated with tattoo copyright, their efficacy mostly hinges on their enforcement and both parties' willingness to abide by the rules. Both tattoo artists and customers must get legal counsel and make sure that the contracts are carefully prepared, addressing all pertinent facets of copyright ownership and use.<sup>38</sup>

The legal framework governing tattoo copyright and licencing may also be strengthened through judicial changes and precedent-setting cases. The rights and obligations of tattoo artists and customers can be made clearer by courts and politicians, resulting in more definite rules and regulations for the profession. To sum up, licencing and copyright agreements have come to light as viable remedies for the legal issues associated with tattoo copyright. These procedures give tattoo artists a way to keep hold of their creations while yet allowing tattooed people to use and exhibit their ink within predetermined limits. Both tattoo artists and customers may manage the difficulties of tattoo copyright and secure the protection of their individual rights and interests by creating explicit agreements and getting legal counsel.

---

<sup>38</sup><https://www.algindia.com/practice-workshop-as-part-of-algs-practice-workshop-series-pws-on-who-owns-your-tattoo/>

#### 4. U.S. Judicial Pronouncements and Precedents on Tattoo Copyright

Tattoo artists and customers alike are seeking legal recognition and protection for their individual rights, and there has been an increase of interest in the topic of tattoo copyright in recent years. Although the legal system governing tattoo copyright is still developing, there have been a number of notable U.S. judicial rulings and precedents that have clarified the matter. In this post, we'll look at a few of these important decisions and how they may affect tattoo copyright laws in the future.<sup>3940</sup>

##### 4.1 *Solid Oak Sketches v. Take-Two Interactive Software*<sup>41</sup>

One of the most well-known tattoo copyright issues occurred in 2018 when Solid Oak Sketches sued Take-Two Interactive Software, the company behind the NBA 2K video game franchise. Take-Two was accused of violating Solid Oak Sketches' copyright by using tattoos on many NBA players that were exact replicas of the company's original artwork. The case brought up a number of crucial issues about the reach of tattoo copyright, such as whether tattoos may be regarded as original works of art and if their usage in other media constitutes copyright infringement. In the end, the court decided in Take-Two's favour, noting that the usage of the tattoos was de minimis and had no appreciable effect on the game's overall worth.

##### 4.2 *Whitmill v. Warner Bros. Entertainment*<sup>42</sup>

The 2011 lawsuit filed by tattoo artist S. Victor Whitmill against Warner Bros. Entertainment, the producer of the film *The Hangover Part II*, was another well-known case regarding tattoo copyright. Whitmill said that the movie's use of a likeness of the face tattoo he created for boxer Mike Tyson violated his copyright. The court finally issued a preliminary injunction in this matter, prohibiting the film's release until the copyright infringement problem could be resolved. Nevertheless, the dispute was finally resolved outside of court, and its specifics were kept confidential. Regarding the ownership and management of tattoo designs, particularly when they are publicly shown in popular media, the Whitmill case posed significant issues. It also emphasised the possible dangers that film

---

<sup>39</sup><https://iprmentlaw.com/2020/05/19/copyright-and-tattoos-analyzing-the-recent-american-jurisprudence/>

<sup>40</sup><https://ial.uk.com/us-court-case-copyright-law-tattoos/>

<sup>41</sup><https://casetext.com/case/solid-oak-sketches-llc-v-2k-games-inc-2017>

<sup>42</sup><https://casetext.com/brief/whitmill-v-warner-bros-entertainment-inc-memorandum-in-support-of-motion-re-motion-for-preliminary-injunction>

studios, television networks, and other media organisations may encounter when using protected content in their projects.

#### ***4.3 Escobedo v. Thompson***<sup>43</sup>

The 2017 lawsuit filed by tattoo artist Fernando Escobedo against tattoo removal expert Dr. Lance Setterfield and his business, Setterfield Enterprises, is another well-known instance of tattoo copyright. Escobedo said that Setterfield had violated his copyright by utilising pictures of his tattoos without his consent in company advertising materials.<sup>44</sup> The court finally decided in Escobedo's favour in this matter, finding that the use of the images violated his copyright and gave him damages. The incident served as a reminder of how crucial it is to request authorization from the owner of the copyright before exploiting any protected content for profit.

#### ***4.4 Implications for the Future of Tattoo Copyright Law***

These and other instances have clarified the necessity for more precise rules and standards in this field while illuminating the difficult legal challenges regarding tattoo copyright. In the upcoming years, it is possible that we will witness more instances and legal problems relating to tattoo copyright as the popularity of tattoos and other types of body art increases. The adoption of licencing agreements between tattoo artists and customers, which would expressly outline each party's rights and obligations with regard to the tattoo design, has been suggested as one potential resolution. These contracts might increase the protection and clarity for both artists and clients while lowering the danger of copyright conflicts.<sup>4546</sup>

In general, the subject of tattoo copyright is one that calls for considerable thought and research because it is a complicated and fast-developing area of the law. We may anticipate further clarification and clarity in this area as more cases and precedents are developed, as well as a more thorough legal framework that effectively safeguards the interests of all parties concerned.

---

<sup>43</sup><https://www.legalserviceindia.com/legal/article-4605-copyright-and-tattoos-who-owns-your-tattoo-.html>

<sup>44</sup><https://casetext.com/>

<sup>45</sup><https://www.lexology.com/library/detail.aspx?g=99098510-3523-4615-a047-219a33a24819>

<sup>46</sup>[https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski\\_final.pdf](https://tiplj.org/wp-content/uploads/Volumes/v29/Marciszewski_final.pdf)



## 5. Gaps in Indian Law on Tattoo Copyright and Other Forms of Body Art

In India, body art comes in many different forms, including tattoos, henna, and other kinds of creative expression. However, India's legal system is still in its infancy when it comes to tattoo copyright and other types of body art. In order to adequately safeguard the rights of both artists and customers, this article examines the legal voids in Indian law relating to tattoo copyright and other types of body art.<sup>474849</sup>

**Lack of Specific Legislation:** The absence of explicit laws covering tattoo copyright and other kinds of body art is one of the most significant legal gaps in Indian law. The Copyright Act, 1957, the primary piece of legislation governing copyright in India, has no mention of tattoos or other types of body art. The Act emphasises traditional creative mediums including music, literature, and visual arts. This absence causes uncertainty surrounding the ownership and usage of tattoo designs and leaves tattoo artists and customers without clear legal protection for their rights.<sup>50</sup>

**Definition of Works of Art:** A "work of art" is anything that is a painting, sculpture, drawing, engraving, or photograph, according to the Copyright Act of India. The Act, however, omits any definition or reference of tattoos or other types of body art. It is challenging to evaluate whether tattoo designs are covered by copyright protection due to this ambiguity. Without a precise definition, disagreements over tattoo designs' artistic value and copyrightability may occur.

Journal of Legal Research and Juridical Sciences

**Absence of Registration Mechanism:** Since copyright protection is given immediately upon the production of original work, copyright registration is not required in India. However, there is no particular method of registering tattoos or other types of body art. Due to the lack of a registration system, it is difficult to establish ownership and enforce copyright in the event of infringement. Without a proper registration procedure, tattoo artists could find it difficult to assert their rights and pursue legal action in the event that their copyright is violated.<sup>51</sup>

<sup>47</sup><https://spicyip.com/2014/06/rights-of-tattoo-artists.html>

<sup>48</sup><https://articles.manupatra.com/article-details/Tattoos-and-Intellectual-Property-Rights-An-Indian-Perspective>

<sup>49</sup><https://blog.ipleaders.in/are-tattoos-copyrightable-an-indian-perspective/>

<sup>50</sup><https://www.mondaq.com/india/copyright/1161668/is-it-possible-to-copyright-tattoos-in-india>

<sup>51</sup><https://www.legalserviceindia.com/legal/article-4605-copyright-and-tattoos-who-owns-your-tattoo-.html>

**Limited Judicial Precedents:** There aren't many legal precedents in India that particularly handle tattoo copyright and other types of body art. Tattoo artists and customers are left without clear legal guidelines to rely on when it comes to copyright protection, ownership, and enforcement due to the lack of legal advice in this field. The lack of legal rulings on tattoo copyright hinders the creation of a strong legal system and creates a possibility for ambiguities and different interpretations.<sup>5253</sup>

**Cultural Considerations:** Body art with cultural and religious significance, like mehndi (henna), has a long history in Indian civilization. The legal system does not, however, address the particular cultural features of body art and how these may affect copyright. Due to their communal and customary nature, cultural practises like henna painting may not be protected by copyright laws, which raises concerns regarding the application of copyright law to body art.

**Addressing the Gaps:** Several steps might be taken to close the legal loopholes regarding tattoo copyright and other types of body art under Indian law. First, the required legal framework would be created by enacting new legislation or by revising current copyright rules to specifically cover tattoo designs and other types of body art. This law should outline the parameters of copyright protection, lay out rules for right ownership and transfer, and deal with problems with enforcement and redress.

Additionally, establishing a record of ownership and streamlining the copyright enforcement procedure would be made easier by developing a registration system expressly for tattoo designs and other types of body art. A better educated and responsible body art sector may result from the implementation of educational and awareness campaigns to enlighten tattoo artists, customers, and the general public on their legal rights and obligations. The ownership of copyright for tattoos and other body art is not now officially addressed by Indian law. Paintings, sculptures, sketches, engravings, photos, and other comparable works are all considered "artistic works" under the Indian Copyright Act of 1957, the legislation governing copyright in the nation. However, it makes no mention of body art in general, including tattoos.<sup>54</sup>

---

<sup>52</sup><https://www.legalserviceindia.com/legal/article-4605-copyright-and-tattoos-who-owns-your-tattoo-.html>

<sup>53</sup><https://articles.manupatra.com/article-details/Tattoos-and-Intellectual-Property-Rights-An-Indian-Perspective>

<sup>54</sup><https://articles.manupatra.com/article-details/Tattoos-and-Intellectual-Property-Rights-An-Indian-Perspective>

Due to this legal void, there have been several disagreements about tattoo design ownership between tattoo artists and customers. In the lack of clear legal restrictions, some tattoo artists claim to possess the copyright to the tattoo designs they create, while others contend that once the tattoos are placed on the body, the customer owns the drawings.

Additionally, because of the ambiguity, tattoo artists have found it challenging to prevent unauthorised usage and duplication of their creations. While India's copyright laws do offer protection from infringement, there is no established procedure for enforcing these rights with regard to tattoos or other types of body art.

In contrast, the legal system in the United States is more advanced when it comes to handling copyright problems with tattoos and other types of body art. A number of well-known cases from recent years have aided in setting this field's legal precedents. These instances highlight the requirement for unambiguous legal rules regarding copyright ownership and infringement of tattoos and other body art. Without such rules, agreements between customers and artists must be negotiated on their own terms, and legal action may be taken to resolve disagreements.<sup>55</sup>

According to some experts, using copyright licencing agreements between tattoo artists and clients might be a potential answer. Such agreements would specify who owns the tattoo design, what uses are permissible, and how these rights might be enforced in the event of a violation.

Journal of Legal Research and Juridical Sciences

In conclusion, there are many difficulties for both artists and customers as a result of the unclear legal regulations around tattoo and body art copyright in India. It is crucial that the nation's legal system is updated to give proper protection and clarity on concerns of ownership and infringement as the popularity of various art forms continues to rise. The knowledge gained by studying the experiences of other nations, including the United States, might help identify viable solutions to these problems.

## **6. Protecting the Rights of Tattoo Artists: The Importance of Copyright Protection**

The practise of getting tattoos has become quite popular in recent years. Unique designs are created by tattoo artists and put into the human body using their time, talent, and imagination. However, tattoo artists' rights are frequently disregarded or misinterpreted, which can result

---

<sup>55</sup><https://articles.manupatra.com/article-details/Tattoos-and-Intellectual-Property-Rights-An-Indian-Perspective>

in possible violations and conflicts. In order to preserve tattoo artists' rights and acknowledge their creative efforts, copyright protection is essential.

Exclusive rights are granted to the authors of creative works, including artistic designs, under copyright protection. Before being applied to the skin, tattoo artists produce unique designs that are fixed on physical media, such as paper or digital data. These designs are thus covered by copyright protection. Tattoo artists get a number of significant advantages and privileges by protecting their tattoo designs with copyrights.<sup>56</sup> The primary benefit of copyright protection is that it grants tattoo artists the only right to replicate their creations. This implies that without the tattoo artist's consent, others cannot duplicate or recreate the design. When it comes to tattooing, reproduction rights are especially crucial since customers could ask for the same or similar tattoos based on existing designs. Copyright protection allows artists to restrict the use of their creations, preserving the originality and uniqueness of each tattoo.

Additionally, tattoo artists have the freedom to adapt their original ideas into new works because of copyright protection. This enables artists to improve on their earlier work, change patterns, or produce variants. For tattoo artists to exercise their creativity and modify their designs to meet the tastes of various clients, derivative rights are crucial. Additionally, it gives artists the chance to develop their own artistic voice and style.<sup>57</sup>

Controlling the commercial usage of tattoo designs is a key component of copyright protection. This involves obtaining permission to utilise designs for products, publications, or other business endeavours. In exchange for payment, tattoo artists can engage into licencing agreements with other parties that allow them to utilise their designs. This helps create a legitimate and controlled market for tattoo ideas in addition to giving artists more money.

The prevention of unauthorised use and infringement is another benefit of copyright protection. When a tattoo artist's design is protected by copyright, they have the right to sue anybody or any organisation that uses it without their consent. This covers situations in which a tattoo design is copied without the artist's permission, utilised in commerce without the proper licencing, or featured uncredited in marketing materials. Artists are empowered to defend their rights and seek redress in cases of infringement thanks to copyright protection.<sup>58</sup>

---

<sup>56</sup><https://articles.manupatra.com/article-details/Tattoos-and-Intellectual-Property-Rights-An-Indian-Perspective>

<sup>57</sup><https://blog.ipleaders.in/are-tattoos-copyrightable-an-indian-perspective/>

<sup>58</sup><https://www.legalserviceindia.com/legal/article-4605-copyright-and-tattoos-who-owns-your-tattoo-.html>

It's crucial to remember that applying for copyright protection in the context of tattooing might bring particular difficulties. Because tattoos are by nature public displays, it can be challenging to restrict who sees or photos them. Additionally, because tattoos are put to live tissue, it might be difficult to demonstrate ownership and the permanent expression needed for copyright protection. Tattoo artists can take proactive measures to safeguard their rights in order to handle these difficulties. They may keep track of their designs, document their creative process, and add watermarks or copyright statements to their works. They could also think about establishing licencing agreements to specify the conditions of usage for their ideas in detail and guarantee fair recompense.

In order for tattoo artists to defend their rights and their creative output, copyright protection is essential. It gives them authority over the duplication, dissemination, and use of their designs for economic gain. Tattoo artists may protect their original contributions, market their work, and pursue fair recompense by securing copyright protection.

### **7. The Challenges of Enforcing Copyright Laws in the Context of Body Art**

In order to preserve the rights of authors and artists, copyright laws are essential. However, applying copyright rules to body art has special difficulties that need careful thought. There are several challenges to efficiently enforcing copyright rules in this area, including the ephemeral nature of body art and the difficulties of establishing ownership and violation. The fleeting and transitory character of the medium is one of the main obstacles to enforcing copyright rules for body art. Body art is a transient form of expression that is vulnerable to fading over time, unlike traditional forms of art, which may be shown and saved. Tattoos may age naturally, become blurry, or undergo intentional alteration. Establishing the fixed phrase necessary for copyright protection is made difficult by this. When it comes to body art, it might be difficult to demonstrate that a given design was unique and existed in that form at a particular period.

The difficulty of establishing ownership is another barrier to the enforcement of copyright laws for body art. Contrary to other types of art, such as paintings or sculptures, body art is frequently produced in conjunction with the customer. The customer supplies the artist with the canvas, which is their body, on which to work. Since it is not always obvious who owns the copyright to the design, this collaboration may make the question of ownership more complicated. In certain instances, the client may claim ownership because the tattoo is

permanently attached to their body, while the artist may counter that they maintain ownership because they are the ones who came up with the design.

Furthermore, it might be difficult to establish a clear line of ownership due to the nature of body art. The question of originality and ownership may become even more complicated in situations when a tattoo design draws inspiration from already-existing art or references. It may be challenging to prove a design's originality and show that it wasn't based on another design or source, particularly in the absence of records or evidence.

Enforcing copyright rules in the context of body art also necessitates addressing the questions of permission and tattoo exhibition in public. People frequently understand that their body art will be visible to others when they get tattoos. Controlling who sees and takes photos of tattoos is difficult since they are shown in public places, on social media, or on other platforms. This raises the issue of whether the public exhibition of a tattoo should be viewed as an implicit authorization for others to copy or utilise the design. It might be difficult to define the parameters of fair usage and distinguish between personal expression and commercial exploitation.

Additionally, there are difficulties in enforcing laws due to the worldwide nature of body art and the accessibility of sharing designs online. Social media and other internet platforms have made it simple to distribute and copy tattoo designs without the owner's permission. It might be difficult to track and monitor such instances of violation when dealing with international boundaries and countries. In order to properly enforce copyright rules in the context of body art, cooperation across many nations and legal systems become crucial.

Clearer rules and regulations regulating the ownership and enforcement of copyright in the context of body art must be established in order to solve these issues. Campaigns for education and awareness can also help to enlighten both customers and artists about their rights and obligations. Tattoo artists should take proactive measures to safeguard their designs by keeping records of their work, establishing contracts or licences with clients, and watermarking or copyrighting their creations.

Additionally, the setting of body art may be used to examine alternate strategies for copyright enforcement, such as community-based norms and industry standards. Professional organisations and trade groups can create rules and codes of conduct to encourage adherence to artists' rights and prevent unauthorised use or duplication of designs. Collaboration in the

body art industry may assist develop best practises and promote a culture of copyright observance among artists, customers, and the larger body art community.

## **8. Future Implications and Recommendations for Addressing Copyright Issues in Body Art**

The need for copyright protection in this industry is growing as body art gets more and more popular. Copyright concerns in the body art industry have far-reaching potential effects, thus solving these problems is essential to safeguarding the rights of artists, customers, and the integrity of the sector as a whole. Here are some significant recommendations and potential consequences for handling copyright problems with body art.

### ***Implication 1: Evolving Legal Frameworks***

The sector will be greatly impacted by the changing legal frameworks governing copyright in body art. Establishing thorough and understandable legal frameworks that handle the particular characteristics of body art is crucial as more nations become aware of the necessity for specialised rules and laws in this area. The breadth of copyright protection, ownership rights, and dispute resolution processes are all included in this.

### **Recommendation:**

To create comprehensive and sector-specific legal frameworks, legislators and legal professionals should consult with artists, business leaders, and copyright experts. The temporary character of body art, collaborative creative methods, and the difficulties in establishing ownership should all be considered in these frameworks. To stay up with how body art practises are growing, these frameworks will need to be reviewed and updated on a regular basis.

### ***Implication 2: Technology and Digital Copyright***

Technology advancements and the growing digitalization of body art offer potential and difficulties for copyright protection. Social media and digital platforms have made it simpler to distribute and replicate tattoo designs without the correct credit or permission. Concerns concerning copyright violations and the unlicensed commercial usage of designs are raised by this.

**Recommendation:**

It is essential to create digital copyright enforcement methods and inform the public and artists about their rights and obligations in the digital sphere in order to handle these difficulties. Online design protection tools for artists include digital watermarking, licencing platforms, and digital rights management systems. The body art industry and technological businesses working together can develop creative ways to identify and monitor copyright violations.

***Implication 3: International Collaboration and Harmonization***

Body art is a worldwide phenomenon, and copyright problems frequently cross international boundaries. To solve copyright difficulties in body art, it will be necessary to harmonise copyright rules and promote international cooperation. This entails developing procedures for cross-border enforcement and reciprocal acknowledgment of copyright rights.

**Recommendation:**

International organisations like the World Intellectual Property Organisation (WIPO) can be crucial in encouraging international talks and international cooperation to create universal rules and guidelines for copyright protection in body art. Promoting communication, exchanging best practises, and setting up international conventions or accords can help to create a more unified and efficient worldwide approach to copyright enforcement.

***Implication 4: Education and Awareness***

To solve copyright concerns with body art, education and awareness are essential. It is important to educate artists, clients, and the general public on copyright laws, their rights and obligations, and the repercussions of violating these laws. Teaching designers how to safeguard their work, clients about ownership rights, and the general public how to respect intellectual property rights are all part of this.

**Recommendation:**

To provide thorough educational materials and programmes, industry groups, professional organisations, and educational institutions should work together. To increase public



understanding of copyright laws, best practises for preserving designs, and the value of acquiring the correct licences and permissions, these programmes may include workshops, seminars, and online resources. The accuracy and applicability of the instructional materials will be guaranteed by collaboration with legal and copyright professionals.

### ***Implication 5: Alternative Dispute Resolution Mechanisms***

Body art copyright issues can be difficult and expensive to resolve. Traditional legal processes might not always be accessible or viable for all parties. Alternative dispute resolution procedures can therefore provide a more effective and accessible way to settle copyright issues using body art.

#### **Recommendation:**

It may be advantageous to promote the use of arbitration, mediation, or groups specifically designed to settle copyright issues using body art. These systems could provide quicker resolutions.

### **CONCLUSION**

The demand for clearer, more effective copyright legislation to safeguard the rights of tattoo artists and customers grows along with the popularity of body art. Future consequences and suggestions for handling copyright problems with body art include:

**Increase education and awareness:** The lack of knowledge and comprehension among artists and customers is one of the main obstacles to solving copyright problems in body art. Artists and customers may better safeguard themselves and their intellectual property by raising awareness and education about copyright rules.

**Develop specific laws and regulations:** Although copyright laws can be used to regulate body art, there are currently few rules and legislation that specifically address the problems this business faces. For the benefit of artists and customers, particular rules and regulations that deal with matters like ownership, licencing, and infringement can be developed.

**Implement licencing and contract agreements:** Implementing licencing and contract agreements will protect the rights of tattoo artists and customers. These agreements might

contain any payment or royalties for the tattoo artist, as well as the conditions of usage and ownership of the tattoo design.

**Utilize technology:** In order to handle copyright concerns with body art, technology might be useful. Customers may utilise blockchain technology to confirm ownership and validity of their tattoo designs, while tattoo artists can use digital platforms to register their designs and track their usage.

**Increase enforcement:** The rights of artists and customers can also be protected through stricter enforcement of copyright laws, which can assist prevent infringement. For individuals who break copyright laws, both civil and criminal sanctions are included.

In conclusion, dealing with copyright concerns in body art presents a difficult and complicated problem that calls for a mix of technological, pedagogical, and legal solutions. We can better safeguard the rights of tattoo artists and customers in this expanding business by creating clearer rules and regulations, putting licencing and contract agreements in place, using technology, and stepping up enforcement.

