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An Analysis of Intellectual Property Rights Challenges in the Over-the-Top (OTT) Media Landscape: Balancing Innovation and Copyright Protection

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ABSTRACT

The article explores the legal intricacies and copyright issues in the rapidly evolving OTT media industry. OTT platforms, such as Netflix and Hulu, have revolutionized content consumption, offering flexibility and global access. However, this rise has led to challenges, particularly in managing intellectual property (IP) rights, piracy, and copyright infringement. Copyright laws are crucial for protecting content creators, but OTT platforms face complex issues in navigating global regulations, ensuring compliance with copyright protections, and combating piracy. Historical milestones, such as Netflix's shift to original content production and global expansion, highlight OTT's evolution and the impact on traditional media models. Legal cases, like "Justice for Rights Foundation v. Union of India" and "Viacom v. YouTube," demonstrate the tension between copyright protection and the need for innovation. OTT platforms must balance exclusive content rights with fair use while addressing piracy and licensing disputes. The paper also discusses future challenges, such as the growing role of AI in content creation and the need for international cooperation in intellectual property laws. Strengthening legal frameworks to safeguard intellectual property and encourage innovation is essential for the sustainable growth of the OTT industry.

Keywords: *Over-the-Top (OTT) platforms, Intellectual property (IP) rights, Copyright infringement, Piracy.*

I. INTRODUCTION

Over-the-top (OTT) media platforms have transformed the way we consume content, marking a significant shift in the entertainment industry. This evolution began with the advent of the internet and advancements in streaming technology, allowing viewers to access films, television shows, and other digital content directly through the web, bypassing traditional cable or satellite television services. The explosion of OTT platforms, such as Netflix, Hulu, Amazon Prime

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Video, and Disney+, has empowered consumers with unprecedented access to a vast array of content, available at their convenience and often at lower costs than traditional media.²

This landscape has been further enriched by user-generated content on platforms like YouTube and TikTok, which blur the lines between professional and amateur productions. The proliferation of OTT services has not only democratized content creation but also encouraged diverse storytelling, catering to a wide range of tastes and preferences. As a result, consumers have become more selective, driving OTT platforms to invest heavily in original content and innovative user experiences. However, this rapid expansion has introduced complex challenges, particularly in the realm of intellectual property rights.

(A) The Role of Intellectual Property in OTT Platforms

Intellectual property (IP) plays a crucial role in the OTT media ecosystem, safeguarding the rights of content creators and encouraging creativity and innovation. Copyright laws are designed to protect the original works of authors, musicians, filmmakers, and other creatives from unauthorized use or reproduction. In the context of OTT platforms, these laws become paramount as they navigate a digital landscape rife with potential copyright infringement and piracy issues. For OTT providers, the challenge lies in balancing the protection of their intellectual property while also fostering an environment conducive to innovation. They must establish robust licensing agreements and navigate an increasingly intricate web of legal regulations that vary by jurisdiction. As these platforms expand globally, the need for a comprehensive understanding of different copyright laws and enforcement mechanisms becomes critical. Moreover, as technology evolves, so too do the tactics used by infringers, requiring OTT platforms to stay one step ahead in protecting their content.

II. HISTORY OF OTT PLATFORMS: FROM EVOLUTION TO REVOLUTION

The emergence of Over-the-Top (OTT) platforms represents a seismic shift in the entertainment industry, disrupting long-standing media distribution models and reshaping how audiences consume content. These platforms have fundamentally altered the way films, television shows, and other forms of media are delivered to the public. They are often credited with democratizing content access, allowing users to stream media on-demand, from anywhere, at any time. To fully appreciate this digital revolution, it's important to examine the history of OTT platforms and how they have evolved from niche services to industry giants in just a few short years.

² Anubhooti Saw, *Censorship and OTT Platforms: Critical Analysis*, Latestlaw.com, (July. 07, 2021), <https://www.latestlaws.com/articles/censorship-and-ott-platforms-critical-analysis>,

(A) Early Stages of OTT Media

The concept of OTT media dates back to the early 2000s, when internet streaming technology first began to mature. Before this time, television and film distribution were monopolized by cable and satellite providers, who controlled content delivery through expensive subscription models. Viewers were tied to strict schedules, with limited control over what they could watch and when. The digital age, however, opened the door to more flexible viewing options. The first OTT services were primarily focused on offering existing content online, allowing users to rent or purchase digital copies of films and shows. One of the earliest milestones in OTT history was the launch of YouTube in 2005, which allowed users to upload, share, and view videos online for free. While YouTube's user-generated content didn't immediately challenge traditional broadcasters, it demonstrated the potential of streaming video over the internet. Around the same time, companies like Netflix, which originally started as a DVD rental service, began experimenting with digital distribution models.³

In 2007, Netflix introduced its streaming service, enabling subscribers to watch movies and TV shows on-demand via the internet. This marked a turning point in the OTT space, as it was one of the first platforms to offer a large catalogue of content that could be streamed instantly, bypassing the need for physical media. Other early OTT pioneers like Hulu and Amazon Prime Video followed soon after, gradually expanding their offerings and attracting more users to their platforms. These early services largely depended on licensed content from traditional media companies, but they laid the groundwork for what would eventually become a massive industry.

(B) Milestones in the Development of OTT Platforms

As the technology behind streaming improved and internet speeds increased, OTT platforms grew more sophisticated. A major milestone occurred when these services began to invest in original content production. Netflix, in particular, made headlines in 2013 with the release of "House of Cards," its first major original series. This bold move signalled a shift in strategy from merely distributing content to becoming content creators themselves. By producing high-quality, exclusive programming, Netflix—and later other platforms like Amazon and Hulu—were able to differentiate themselves from traditional broadcasters and cable providers.

This trend toward original content creation accelerated throughout the 2010s, with platforms pouring billions of dollars into producing films, documentaries, and series that could only be accessed via their services. This not only boosted subscriber numbers but also led to a surge in

³ Majority of Indians Feel Censorship Should Be Mandatory for OTT Platforms, <https://inc42.com/buzz/majority-of-indians-feel-censorship-should-be-mandatory-for-ott-platforms/>

high-quality, diverse content that catered to a global audience. By offering original programming, OTT platforms were no longer dependent on third-party licenses, allowing them to control their own destinies and keep more of the profits from their content.

Another critical milestone in the evolution of OTT platforms was the global expansion of these services. While early OTT services were primarily focused on the U.S. market, platforms soon recognized the potential for international growth. Netflix, for example, aggressively expanded into Europe, Latin America, and Asia, localizing its content offerings to appeal to regional audiences. This international push helped cement OTT platforms as global entertainment powerhouses, catering to a diverse range of tastes and preferences.

Moreover, the rise of mobile technology further propelled OTT's development. As smartphones became global and mobile networks more advanced, users could now stream content directly to their devices, anytime, anywhere. This freedom transformed media consumption from a stationary, living-room activity into a dynamic, on-the-go experience. OTT platforms adapted by creating mobile-friendly interfaces, offering offline viewing options, and developing applications that made it easier for users to access content from various devices.⁴

(C) The Digital Shift: From Traditional Media to OTT Streaming

The shift from traditional media to OTT streaming did not happen overnight, but it was inevitable given the advancements in digital technology and changing consumer habits. Traditional broadcasters and cable companies initially downplayed the threat posed by OTT platforms, believing that their control over premium content and the live TV experience would keep viewers tethered to their services. However, the growing convenience and affordability of OTT services, coupled with their expanding content libraries, caused a steady decline in traditional TV subscriptions. The phenomenon of "cord-cutting" became widespread, with millions of households around the world cancelling their cable subscriptions in favor of OTT platforms. OTT streaming allowed viewers to watch content on their terms. No longer constrained by set schedules, people could binge-watch entire seasons of shows in one sitting or watch a movie whenever it suited them. The user-friendly interfaces of platforms like Netflix, with personalized recommendations based on viewing history, made it even easier for audiences to discover new content tailored to their tastes.

Another key factor in the transition to OTT was the cost-effectiveness of these platforms. While

⁴ Ministry Of Electronics And Information Technology, it (Intermediaries guidelines and Digital Media Ethics Code) Rules, 2021, G.S.R. 139 (E). (February, 25, 2021), <https://mib.gov.in/sites/default/files/IT%28Intermediary%20Guidelines%20and%20Digital%20Media%20Ethics%20Code%29%20Rules%2C%202021%20English.pdf>

cable subscriptions often included dozens of channels that went unwatched, OTT platforms allowed users to pay only for the content they wanted. Subscription fees for platforms like Netflix or Disney+ were significantly lower than the average cable bill, making them an attractive option for consumers looking to cut costs without sacrificing entertainment. The rise of OTT has also impacted content creation itself. Unlike traditional TV networks, which are bound by certain constraints, OTT platforms enjoy greater creative freedom. They have fewer restrictions on length, format, and content, allowing for more diverse and experimental storytelling. As a result, audiences have been exposed to a wider range of voices and narratives that might not have found a place on traditional television.⁵

III. LEGAL PRECEDENTS SHAPING OTT MEDIA

As the Over-the-Top (OTT) media industry continues to expand globally, various legal challenges and precedents have emerged, significantly influencing the operational and regulatory framework of OTT platforms. Copyright disputes, intellectual property violations, and regulatory interventions have shaped how these platforms function within national and international jurisdictions. This section explores the key court rulings and regulatory interventions that have had a major impact on the OTT landscape, examining landmark cases that provide insights into the evolving legal landscape surrounding OTT media.

(A) Key Court Rulings and Regulatory Interventions

a. Justice for Rights Foundation v Union of India (2018)⁶

This case is one of the most prominent legal challenges surrounding the regulation of OTT platforms in India. Justice for Rights Foundation filed a petition seeking the establishment of a regulatory framework for the content available on OTT platforms, arguing that the unregulated nature of digital content allowed the proliferation of explicit, obscene, and harmful material. The petitioner argued that there was an urgent need for censorship similar to what was applied to broadcast television and films in India, which are subject to the Indian Cinematograph Act, 1952, and the Central Board of Film Certification (CBFC). The Union of India responded that existing laws, such as the Information Technology Act, 2000, and other content regulations under various statutes, were sufficient to handle complaints related to OTT content. The government contended that OTT platforms were self-regulating, and there were already

⁵ Digital India Act To Monitor OTT and Social Media Platforms, Says Report, (august, 17,2022) The QUINT, <https://www.thequint.com/tech-and-auto/tech-news/digital-india-act-to-monitor-streaming-social-mediaplatformsreport#:~:text=For%20OTT%20platforms%2C%20the%20Digital,and%20above%20the%20Censor%20Board.&text=The%20upcoming%20Digital%20India%20Act,development%20told%20The%20Economic%20Times>.

⁶ Justice for Rights Foundation v. Union of India, 2019 SCC OnLine Del 10962

mechanisms in place for addressing grievances related to objectionable content.

The Delhi High Court, while hearing the case, acknowledged the importance of regulating online content but also recognized the need to balance freedom of expression with reasonable restrictions. The court did not impose immediate censorship but emphasized the importance of self-regulation by OTT platforms and urged the Union of India to examine whether further regulations were needed in the digital streaming space. This case-initiated discussions on the broader need for a regulatory body for OTT platforms, ultimately leading to the 2021 introduction of the "Information Technology (Intermediary Guidelines and Digital Media Ethics Code) Rules," a significant regulatory framework for digital content in India.

(B) Case Studies: Landmark Copyright Disputes in OTT Content

a. Pranay Rai v Clean State Films (2021)⁷

This case involved a dispute between Pranay Rai, a film director, and Clean State Films, an OTT content producer, over the alleged unauthorized adaptation of Rai's copyrighted script. Rai claimed that Clean State Films had copied the central plot of his script to produce an original web series. Rai's claim hinged on the idea of "substantial similarity," which is a key standard in copyright law, arguing that the storyline, characters, and certain sequences were direct copies of his script. Clean State Films, in its defence, argued that while the general theme of the series might be similar, there was no direct evidence of copying, and the similarities were coincidental. They maintained that their series was an original work and that the narrative structures used were common in the genre and, therefore, not subject to copyright protection.

The court found in Favor of Pranay Rai, ruling that Clean State Films had indeed infringed on his copyrighted script. The court emphasized that while genres and themes can be similar, copying specific plot points, character arcs, and narrative structures in substantial quantities constituted infringement. This ruling highlighted the importance of protecting creative works in the OTT space and set a precedent for content creators to be vigilant about unauthorized adaptations.

b. Zee Entertainment Enterprises v MSM Satellite (2019)

In this copyright dispute, Zee Entertainment Enterprises filed a case against MSM Satellite, alleging that MSM had aired Zee's copyrighted content on its OTT platform without proper licensing or authorization. Zee Entertainment claimed that MSM Satellite had violated the broadcasting rights they held for certain TV shows and movies by illegally streaming them on

⁷ W. P. No. 5441 (W) of 2020 with C.A.N. 3148 of 2020

its platform. MSM Satellite, on the other hand, argued that it had acquired broadcast rights for the content in question and that Zee Entertainment was attempting to monopolize the broadcasting market. The case revolved around the interpretation of broadcast rights in the OTT space and how these rights apply when content moves from traditional media to online platforms.

The court ruled in Favor of Zee Entertainment Enterprises, holding that broadcast rights for traditional television do not automatically extend to OTT platforms unless expressly stated in licensing agreements. This case set a precedent in the interpretation of content rights in the OTT world, emphasizing that broadcasters must clearly define their rights for different media formats to avoid conflicts in the future.

c. **Viacom International Inc. v YouTube (2010)**

This case is one of the earliest and most significant copyright disputes in the digital streaming era. Viacom sued YouTube, accusing the platform of hosting thousands of unauthorized clips from its TV shows, including popular series like "SpongeBob SquarePants" and "The Daily Show." Viacom sought over \$1 billion in damages, arguing that YouTube had knowingly profited from copyrighted content uploaded by its users without proper licenses. YouTube defended itself under the provisions of the Digital Millennium Copyright Act (DMCA), which grants platforms limited liability for user-generated content, provided they comply with takedown requests from copyright holders. YouTube argued that it had complied with DMCA procedures by removing infringing content when notified by Viacom, and therefore, it could not be held liable for the unauthorized uploads.

The court ultimately ruled in Favor of YouTube, stating that the platform was protected under the DMCA's safe harbour provisions. This ruling underscored the importance of intermediary liability protections for OTT platforms, setting a precedent for how platforms manage user-generated content and the limits of their legal responsibilities. The case also encouraged platforms to develop better content identification and takedown mechanisms to protect intellectual property rights.

d. **MySpace Inc. v TheGlobe.com (2007)**⁸

In this case, MySpace Inc. sued TheGlobe.com, a social networking platform, for infringing on its copyrighted software code and certain features related to its user interface. MySpace claimed that TheGlobe.com had copied elements of its platform, including user interaction features,

⁸ **MySpace, Inc. v. The Globe.com, Inc.**, 2007 WL 1686966 (C.D. Cal., Feb. 27, 2007).

content display systems, and certain proprietary algorithms. TheGlobe.com argued that the similarities were incidental and that its platform was developed independently. They also claimed that user interface features were not subject to copyright protection as they were functional elements of the platform.

The court ruled in Favor of Myspace Inc., determining that while functional elements cannot be copyrighted, the specific implementation of those functions and the unique software code developed by Myspace were protected by intellectual property laws. This case emphasized the importance of protecting not only the content but also the underlying technology of OTT platforms, highlighting the need for robust intellectual property strategies to safeguard both content and the platforms themselves.

(C) Global Legal Framework and Its Influence on OTT Operations

The aforementioned cases underscore the complexity of copyright and intellectual property challenges in the OTT industry. As OTT platforms operate across multiple jurisdictions, navigating the global legal framework is essential to ensure compliance with varying copyright laws and regulations. Cases like *Viacom v YouTube* demonstrate the importance of intermediary liability protections under laws such as the DMCA in the United States, while *Justice for Rights Foundation v Union of India* reflects the evolving regulatory landscape in countries like India, where OTT content is subject to increased scrutiny and regulation.

Globally, OTT platforms are constantly adapting their operations to stay compliant with diverse legal systems, while simultaneously addressing copyright infringement and content protection issues. The future of OTT media will depend largely on the development of more comprehensive international frameworks for intellectual property, allowing platforms to operate seamlessly while respecting the rights of creators across the world.⁹

IV. NATIONAL AND GLOBAL LEGAL FRAMEWORK GOVERNING OTT MEDIA

As the Over-the-Top (OTT) media landscape continues to expand, it is essential to understand the legal frameworks that regulate content distribution, copyright protection, and user interaction within this dynamic environment. Both national and global legal frameworks play a pivotal role in shaping the operational guidelines for OTT platforms, ensuring that intellectual property rights are respected while fostering innovation and creativity. This section discusses key national laws in India, international statutes, and treaties that collectively form the legal

⁹ Satyaki Baidya, How Censoring of OTT Platforms will Hamper Art GOI MONITOR, s[<https://www.goimonitor.com/story/how-censoring-ott-platforms-will-hamper-art>]

backbone of the OTT ecosystem.

(A) National Legal Framework

a. The Copyright Act, 1957¹⁰

The Copyright Act of 1957 is a fundamental piece of legislation in India that governs the protection of creative works, including literary, dramatic, musical, and artistic works. This Act provides creators with exclusive rights to their works, allowing them to control how their creations are used and distributed. In the context of OTT platforms, the Copyright Act plays a crucial role in determining the legality of content that these services offer.

The Act grants authors and creators a bundle of rights, including the right to reproduce, distribute, and publicly perform their works. Additionally, it establishes provisions for fair use, which allows for limited use of copyrighted material without permission under certain circumstances, such as criticism, commentary, and educational purposes. As OTT platforms continue to grow, navigating the nuances of copyright protection has become increasingly vital. Content creators and OTT providers must be aware of these rights to avoid infringing on others' intellectual property while also safeguarding their own.

Furthermore, amendments to the Copyright Act have sought to address challenges posed by digital media. For example, the introduction of provisions related to online piracy and the unauthorized dissemination of copyrighted material has made it imperative for OTT platforms to implement robust content management systems and copyright enforcement strategies.

b. Cable Television Networks Act, 1995¹¹

The Cable Television Networks Act of 1995 regulates the operation of cable television services in India. While it primarily focuses on traditional cable distribution, its relevance has grown in light of the emergence of OTT platforms, which often compete with cable providers for viewership. This Act mandates that cable operators obtain licenses and adhere to specific content guidelines, including the prohibition of broadcasting content that is deemed offensive or detrimental to public interest.

As OTT platforms proliferate, they face pressure to align with existing regulatory frameworks, including the Cable Television Networks Act. Although OTT services operate over the internet rather than through traditional cable infrastructure, the convergence of media formats necessitates a cohesive regulatory approach. This is particularly significant when it comes to

¹⁰ The Copyright Act, 1957 (Act No. 14 of 1957)

¹¹ Act 7 of 1995

content moderation and the need to address complaints related to objectionable content.

The government has recognized the importance of regulating OTT content, leading to discussions about whether OTT platforms should adhere to similar content standards as cable television providers. This has prompted calls for clearer guidelines and regulations specifically tailored to the unique challenges posed by OTT media, highlighting the need for a balanced approach that encourages creativity while protecting public interest.

c. Information Technology Act, 2000

The Information Technology Act of 2000 is a landmark piece of legislation that provides a comprehensive legal framework for electronic commerce and digital communication in India. While the Act primarily addresses issues related to electronic contracts, cybersecurity, and data protection, its implications for OTT platforms are significant.

Under the IT Act, intermediaries—such as OTT service providers—are granted certain liabilities and protections. Section 79 of the Act outlines the conditions under which intermediaries can claim safe harbour from liability for user-generated content. This provision allows OTT platforms to avoid legal responsibility for infringing content uploaded by users, provided they act promptly to remove any infringing material upon receiving proper notice.¹²

This legal protection is vital for the functioning of OTT platforms, as it encourages them to host a wide array of user-generated content without fear of being held liable for copyright infringement. However, this protection is not absolute; OTT platforms must actively monitor content and ensure compliance with copyright laws to maintain their safe harbour status. As the digital landscape evolves, the IT Act will continue to play a critical role in shaping the responsibilities of OTT platforms in India.

(B) Global Framework

a. Digital Millennium Copyright Act (DMCA)

The Digital Millennium Copyright Act (DMCA) was enacted in the United States in 1998 to address the challenges posed by the digital age on copyright protection. This legislation provides copyright owners with legal tools to protect their works from unauthorized use while offering safe harbour provisions for online service providers.

The DMCA establishes a framework for handling copyright infringement complaints, allowing copyright owners to submit takedown notices for infringing content hosted by online platforms.

¹² Athistha (2019), The Regulatory Regime Surrounding OTT Content and Operators, <https://www.tilleke.com/wp-content/uploads/2019/12/OTT-Content-Regulations-inThailand.pdf>

In return, service providers are protected from liability if they promptly remove the infringing material. This balanced approach has been instrumental in shaping the operations of OTT platforms in the U.S. and has influenced similar legislation in other countries.

For OTT platforms, the DMCA represents a critical legal framework that allows them to host user-generated content while protecting them from liability for infringing material. However, the Act also places the onus on these platforms to respond to copyright complaints, necessitating the implementation of effective content monitoring systems.

(C) International Conventions and Treaties

1. Berne Convention & WIPO Copyright Treaty¹³

Internationally, the Berne Convention for the Protection of Literary and Artistic Works is a cornerstone of copyright law. Established in 1886, this treaty aims to ensure that authors are granted adequate protection for their works across member countries. It establishes the principle of automatic copyright protection, meaning that creators do not have to register their works to receive copyright protection.

The Berne Convention also enshrines the "right to remuneration" for authors, allowing them to receive compensation for the use of their works in other countries. This principle is crucial for OTT platforms, as it facilitates the cross-border distribution of content while ensuring that creators are fairly compensated for their works, regardless of the jurisdiction in which their content is accessed.

The WIPO Copyright Treaty, adopted in 1996, further enhances copyright protection in the digital age by addressing issues related to the online distribution of copyrighted works. This treaty acknowledges the unique challenges posed by digital media and reinforces the need for strong copyright protections in the context of internet-based content distribution. For OTT platforms, compliance with international treaties like the WIPO Copyright Treaty is essential to ensure that their operations align with global copyright standards.

V. COPYRIGHT CHALLENGES FACED BY OTT PLATFORMS

The rise of Over-the-Top (OTT) platforms has dramatically transformed the entertainment landscape, offering unprecedented access to a vast array of content for global audiences. With the proliferation of streaming services like Netflix, Amazon Prime, Hulu, and Disney+, the way we consume media has become more flexible and personalized. However, this innovation has also introduced complex legal challenges, particularly in the realm of copyright law. As OTT

¹³ Berne Convention for the Protection of Literary and Artistic Works, Sept. 9, 1886

platforms expand their reach, they are increasingly confronted with issues related to copyright infringement, piracy, fair use versus exclusivity, and streaming rights. This paper explores these challenges in depth, addressing their implications for both content creators and OTT service providers.

(A) Copyright Infringement and Piracy Concerns

One of the most pressing concerns for OTT platforms is the widespread issue of copyright infringement and piracy. In the digital age, pirated content is readily accessible to users through illegal streaming websites, torrent downloads, and even social media platforms. This practice has significantly impacted the revenue streams of OTT platforms and the creators whose work they distribute. Piracy not only deprives content creators of legitimate earnings but also diminishes the value of intellectual property (IP), undermining the incentive to produce new and original content.

Piracy methods have evolved alongside technological advancements. From screen recording to unauthorized distribution through peer-to-peer networks, pirates have become increasingly sophisticated in bypassing security measures. The economic impact is substantial; a 2019 study estimated that online piracy costs the U.S. economy \$29.2 billion annually in lost revenues across various sectors, including film and TV production. OTT platforms must therefore invest heavily in anti-piracy measures to safeguard their content. Technologies like digital rights management (DRM), content identification systems, and forensic watermarking are commonly employed to track and restrict unauthorized distribution.

In response to these challenges, governments worldwide have enacted legislation aimed at curbing piracy. The U.S. Digital Millennium Copyright Act (DMCA) is a notable example, providing legal recourse for copyright holders to issue takedown notices and combat infringing content. Yet, despite these efforts, piracy remains a pervasive issue. OTT platforms must continue to innovate and collaborate with regulators to devise more effective solutions.

(B) Fair Use vs. Content Exclusivity in OTT

The tension between fair use and content exclusivity represents another major challenge for OTT platforms. Many OTT providers rely on exclusive content to differentiate themselves in an increasingly competitive market. Exclusive streaming rights to popular movies, TV shows, and original productions have become a cornerstone of their business models. However, the principle of fair use complicates this exclusivity by allowing limited uses of copyrighted material without explicit permission from the copyright holder.

Fair use is a doctrine in U.S. copyright law that permits the use of copyrighted material for

purposes such as criticism, commentary, news reporting, teaching, and research. While fair use is essential to ensuring a free flow of information and fostering creative expression, it often clashes with the desire of OTT platforms to retain control over how and where their content is viewed.

For example, a user might upload clips of a Netflix show to a platform like YouTube under the guise of criticism or parody, claiming fair use protection. Such cases frequently lead to legal disputes, as OTT platforms seek to protect their exclusivity while users assert their fair use rights. The courts have been inconsistent in their rulings on these matters, further complicating the landscape for OTT providers.¹⁴

To navigate these challenges, OTT platforms must strike a balance between protecting their exclusive content and respecting the principles of fair use. One solution is clearer licensing agreements that specify the boundaries of fair use and content sharing. Additionally, platforms can explore collaborations with content creators to find mutually beneficial arrangements that respect both copyright law and user freedoms.

(C) Streaming Rights and Licensing Disputes

OTT platforms heavily depend on acquiring and renewing streaming rights for third-party content. Licensing agreements are essential to their business models, as these agreements grant them the legal authority to stream content to subscribers. However, the complexity of licensing negotiations often leads to disputes between content creators, rights holders, and OTT platforms.

Licensing issues arise for several reasons. First, there are territorial restrictions, meaning content that is available in one country may be inaccessible in another due to varying licensing agreements. This fragmentation frustrates users and creates a demand for unauthorized alternatives, such as VPNs to bypass geo-blocks or pirated versions. Second, content providers often demand high licensing fees, which can make it difficult for smaller or emerging OTT platforms to compete with industry giants. Lastly, disputes frequently arise over contract renewals, as content creators seek to maximize their revenue by re-negotiating terms or moving their content to the highest bidder.

These disputes underscore the need for greater transparency and fairness in the licensing process. OTT platforms can mitigate conflicts by entering long-term licensing agreements that are flexible enough to adapt to changing market conditions. Additionally, global licensing

¹⁴ Sahana Priya Satish (2020), Copyright Infringement Vis-À-Vis OTT Video Piracy, <https://www.iralr.in/post/copyright-infringement-vis-%C3%A0-vis-ott-video-piracy>

frameworks could be explored to reduce the inefficiencies caused by territorial restrictions.¹⁵

VI. THE WAY FORWARD: REGULATORY AND LEGAL PROPOSALS

(A) Potential Reforms in Intellectual Property Laws for OTT

Current intellectual property laws were not designed with the unique characteristics of digital platforms in mind, and this misalignment can hinder innovation. To better support OTT platforms while protecting creators, there is a pressing need for reform. One potential area for reform is the expansion of statutory licensing provisions, which could allow platforms to use copyrighted material under certain conditions without having to negotiate individual licenses. This would simplify the process of acquiring rights, especially for smaller platforms with limited resources.

Moreover, reforming the concept of fair use to provide clearer guidelines would benefit both creators and OTT providers. A more defined fair use standard could reduce the ambiguity surrounding the use of copyrighted materials, making it easier for creators to know their rights and responsibilities. Clearer definitions would not only protect creators' rights but also foster an environment where innovation thrives.

Another crucial reform could involve creating more robust penalties for copyright infringement. Current penalties may not deter piracy effectively, especially in a digital age where unauthorized sharing can occur rapidly and anonymously. By implementing stricter penalties, regulators could better protect intellectual property and reinforce the value of original content.

(B) International Cooperation and Harmonization of IPR Standards

In an increasingly globalized media environment, international cooperation in intellectual property regulation is essential. Copyright laws differ widely across countries, leading to a patchwork of regulations that can be challenging for OTT providers operating on a global scale. To address these inconsistencies, countries must work together to harmonize intellectual property rights (IPR) standards.

This could involve developing international treaties or agreements that establish common guidelines for copyright protection and enforcement.¹⁶ By streamlining regulations, OTT platforms would face fewer barriers when distributing content across borders. Such cooperation would not only protect creators' rights but also encourage cross-border collaborations that

¹⁵ Rahul M. & S. DineshBabu, A Comparative Study on Ott Platform Censorship and Policies in India, *Annals of R.S.C.B.*, ISSN:1583-6258, Vol. 25, Issue 6, 2021

¹⁶ Effect on Content Piracy on OTT Platforms Worldwide, <https://atconline.biz/2022/04/effectof-content-piracy-on-ott-platforms-worldwide/>

benefit the industry as a whole.

Additionally, organizations like the World Intellectual Property Organization (WIPO) can play a pivotal role in fostering dialogue among member states. By facilitating discussions on best practices and sharing knowledge on emerging trends in the digital landscape, WIPO can help create a more coherent framework for intellectual property in the OTT realm.

(C) Emerging Trends: AI, Content Creation, and IP in OTT

The rise of artificial intelligence (AI) is transforming content creation and distribution in the OTT space. AI technologies are being used to analyze viewer preferences, create personalized content recommendations, and even assist in content production. However, the integration of AI raises new questions regarding intellectual property rights. As AI-generated content becomes more prevalent, determining ownership and rights associated with this content is crucial. For instance, if an AI system creates a film or music track, who holds the copyright? This question necessitates a reevaluation of existing copyright laws to accommodate the role of AI in content creation. Regulations must be developed that address the nuances of authorship and ownership in the context of AI-generated works, ensuring that human creators are still recognized and protected. Moreover, the ethical implications of using AI in content creation should not be overlooked. As platforms leverage AI to enhance user experiences, they must also consider the potential impact on human creators and the broader cultural landscape.¹⁷ Striking a balance between utilizing AI's capabilities and preserving the rights and contributions of human creators will be critical in shaping the future of OTT media.

VII. CONCLUSION

The future of intellectual property in the Over-the-Top (OTT) media landscape is poised for significant transformation. As the digital age continues to reshape how content is created, distributed, and consumed, it becomes increasingly imperative to develop legal frameworks that can adapt to these changes. The rapid evolution of technology, including the integration of artificial intelligence in content production, presents both challenges and opportunities for copyright protection. To navigate this complex terrain, a proactive approach to reforming intellectual property laws is essential. This includes clarifying fair use guidelines, establishing more robust protections against infringement, and recognizing the unique aspects of AI-generated content.

Ensuring a balanced ecosystem that promotes innovation while safeguarding copyright is

¹⁷ OTT Platforms brought under Government Regulation, <https://www.obhanandassociates.com/blog/ott-platforms-brought-under-governmentregulation/>

crucial for the sustainability of the OTT industry. Stakeholders—including regulators, content creators, and technology developers—must collaborate to create a legal environment that encourages creative expression while providing adequate protection for intellectual property. This balance is vital not only for the economic viability of OTT platforms but also for the cultural richness they contribute to society. By fostering international cooperation and harmonizing intellectual property standards, we can mitigate the challenges posed by differing copyright laws across jurisdictions. As we look to the future, embracing change and fostering dialogue among all stakeholders will be key to cultivating a dynamic OTT media landscape that thrives on creativity and respects the rights of creators. Ultimately, a collaborative and adaptive approach will ensure that the OTT industry continues to innovate while protecting the foundational principles of copyright and intellectual property.
