

LEGAL LOCK JOURNAL
2583-0384

VOLUME 2 || ISSUE 4

2023

This Article is brought to you for “free” and “open access” by the Legal Lock Journal. It has been accepted for inclusion in the Journal after due review.

To submit your Manuscript for Publication at Legal Lock Journal, kindly email your Manuscript at legallockjournal@gmail.com.

IP RIGHTS IN THE MUSIC INDUSTRY AND THE PARTICIPATION OF WOMEN

Anhad Bawa¹

Abstract: -

Intellectual Property Rights (IPR) refer to the legal rights that are granted to individuals or businesses to protect their creative works or inventions. These rights allow the creators to control the use of their works or inventions and prevent others from using them without permission. There are four main types of IP Rights naming Patents, Trademarks, Copyrights and Trade Secrets. The study aims to provide an insight on them and highlight their immense role in music industry.

The paper will examine the new age remix culture and will address the legitimacy and authenticity of the same. A detailed analysis would be included signifying the scope of legislations in India, whether remix falls within the ambit of law and if yes, to how much extent it is permissible to remix an original piece of music without making an infringement. The same would be supported by references drawn from certain judgements laid down by Honourable Supreme Court and High Courts. Further, it will evaluate recently introduced music platforms such as Spotify, Apple Music, and Gaana. These platforms have created new system for content identification and copyright protection, the paper shall include a comprehensive study about the same.

Special attention would be conferred upon the magnitude of women's participation in the Indian music industry relative to the IP rights obtained by them. Emphasis would be made on identifying the core of the problem, supported by extracts obtained from case studies of different female music artists of India. At last, paper shall include steps and measure to mitigate obstacles women face while availing IP rights and strengthening their position in the industry.

¹ The author is a student of law at Guru Nanak Dev University Regional Campus, Jalandhar, Punjab.

Introduction

Music is eternal. The creation of music dates back to some 42,000 years ago, making it a universal human trait. Literally, there is no human civilisation which thrived without music. Over the time historians and archaeologists have made significant discoveries to highlight the colossal role of music in the early human life.

Till today, music not only plays an important part in everyday life, plus acts as a backbone of entertainment industry. The likes of Bollywood and Tollywood are heavily dependent upon music, without it the very existence of movie industry seems quite endangered. Music is in itself an art form, an impeccable art form, which brought the world together. With the improvement in science and technology, music has become omnipresent. The locally loved artists came to be internationally acclaimed, let it be BTS group from Korea or the likes of Akon and Backstreet Boys from USA. They all have enjoyed immense popularity around the world, which enunciates the fact that music is universal and transcends all the boundaries.

Now, when question arises about the protection and conservation of such a valuable art form, the Intellectual Property Rights (IPR) come into play. Though the term itself seems more inculcated in the corporate and business world, but it plays an immense role in protection of creatives, and music industry is no different. Musicians, lyricists, singers, composers and producers make a living through sales of the music. Other than these, they can also make money through live performances and tours. The role of intellectual property rights becomes profoundly significant because it is quite convenient to copy and sell music, thus making it absolutely common to find piracy in the entertainment industry, and even more so in the music industry.

Under Intellectual Property Rights, there are three things that are usually discussed the most: copyrights, trademarks, and patents. Considering music, patents are not relevant. Copyrights and trademarks are of importance, especially copyrights, since they have a very major role to play for the artists' earning. But to dismay, the strict implementation of IP rights in the music industry still remains in question, despite having the respective legislations enacted.

Flashback

Remembering the cases which drew massive public attention in past, but vanished within few days. Going back to the year 1996, when a hit movie ‘Diljale’ starring Ajay Devgan was released. This movie had a song named ‘Mera Mulk Mera Desh’ directed by a renowned music director Anu Malik. It was only until 2021, when an Israeli gymnast Artem Dolgopyat won a gold medal in the Tokyo Olympics and national anthem of Israel, ‘Hatikvah’ was played during the ceremony. As soon as this got telecasted, Indians immediately spotted some resemblance and the videos regarding same went viral on the internet². Furious Indians lashed out on social media³ tagging the famous director, questioning his professionalism.

On another instance, T-Series, a famous music label, was alleged of stealing the lyrics of a hit Punjabi song ‘Na Na Na Na’ by J STAR productions. The song was written, composed and sung, all three by a renowned Punjabi singer J Star. The Punjabi singer while speaking to a media house said that he was approached by T-Series for the rights of the same song about few months ago, but he refused to make a deal⁴. Subsequently, he finds his song being used in an upcoming movie titled ‘Raabta’ starring Sushant Singh Rajput and Kriti Sanon. He averred publicly that his legal team will take an action on T-Series. However, T-Series denied all the allegations levied by the singer and pointed out to an old song marking it as an inspiration for the new song ‘Main Tera Boyfriend’ included in movie ‘Raabta’, which was duly owned by T-Series itself. T-Series also took the path of social media for asking the Punjabi singer to stop misleading people⁵.

Referring to another report, where again, an esteemed music label ‘Zee Music Company’ was dragged into a controversy dating back to 2016. Every Indian must have heard and grooved on the catchy beats of the song ‘Kala Chashma’ while humming the lyrics. The song is such a

² Aakanksha Raghuvanshi, *Anu Malik Shredded On Twitter For Copying Israeli National Anthem In 1996 Song*, NDTV (Aug., 02, 2021) available at: [Anu Malik Shredded On Twitter For Copying Israeli National Anthem In 1996 Song \(ndtv.com\)](https://www.ndtv.com/entertainment/anu-malik-shredded-on-twitter-for-copying-israeli-national-anthem-in-1996-song-1947174) (last visited 17 April., 2023)

³ HT Entertainment Desk, *Twitter gives Anu Malik gold medal for copying Mera Mulk Mera Desh from Israel’s national anthem*, HINDUSTAN TIMES (Aug., 02, 2021) available at: [Twitter gives Anu Malik gold medal for copying Mera Mulk Mera Desh from Israel’s national anthem | Bollywood - Hindustan Times](https://www.hindustantimes.com/entertainment/bollywood/twitter-gives-anu-malik-gold-medal-for-copying-mera-mulk-mera-desh-from-israel-s-national-anthem-bollywood-hindustan-times/story) (last visited 17 April., 2023)

⁴ Dipali Patel, *‘Raabta’ In Trouble Again As Punjabi Singer, J Star Accuses T-Series Of Stealing His Song*, SCOOPWHOOP (May., 26, 2017) available at: [Punjabi Pop Singer J-Star Accuses T-Series Of Stealing His Song For Film ‘Raabta’ \(scoopwhoop.com\)](https://www.scoopwhoop.com/raabta-in-trouble-again-as-punjabi-singer-j-star-accuses-t-series-of-stealing-his-song/) (last visited 19 April., 2023)

⁵ Express Web Desk, *‘Raabta song Main Tera Boyfriend trouble: T-Series asks J-Star to ‘stop misleading people’*, THE INDIAN EXPRESS (May., 27, 2017) available at: [Raabta song Main Tera Boyfriend trouble: T-Series asks J-Star to ‘stop misleading people’ | Entertainment News, The Indian Express](https://www.indianexpress.com/news/raabta-song-main-tera-boyfriend-trouble-t-series-asks-j-star-to-stop-misleading-people-entertainment-news-the-indian-express/) (last visited 19 April., 2023)

massive hit, that it itself boasts of 900 million views on a video streaming platform 'YouTube'⁶. But a head constable in the Punjab police posted in Kapurthala (then), Amrik Singh Shera claimed to be one of its original writers⁷. The song is a remix of an old Punjabi song with same name released in 90's. Amrik Singh, a native of Talwandi Chaudhrian village near Jalandhar had no idea that his song, written in 1990, would feature in a movie ('Baar Baar Dekho' featuring Sidharth Malhotra and Katrina Kaif) he told in an interview. He claims to have received an amount of 11,000 Indian Rupees which doesn't seem justified considering the success of the song. The amount was paid by another company 'Angel Records' who didn't furnish the actual details and purpose of how song was going to be used and rather mislead him⁸.

The Trouble

In all the aforementioned cases, piracy was speculated and despite catching public eyes, no action was actually initiated in order to check such infringement. Well, India ranks 43 out of the 55 countries as per the International IP Index, 2022. There had been a mammoth increase in pirated content during the Covid-19 pandemic. The rate of music piracy in India specifically remains higher than the global average (30%) at 68%, as per the reports of the Indian Music Industry (IMI). While other reports have suggested that the Indian demand for pirated content may be double or triple the global average⁹. This enunciates the abysmal conditions of Intellectual Property Rights in India especially in the field of music. But the question arises what exactly lies or pertains within Indians or the Indian system which should be blamed for such conditions. Well, the foremost would be, lack of awareness among people about Intellectual Property rights and laws. Einfolge, an international patent analytics and market research company, conducted a study on students, scholars, teachers and managers from 203 educational institutions in Karnataka, Tamil Nadu, Kerala and Telangana. It revealed that about

⁶ Zee Music Company, *Kala Chashma*, YOUTUBE (Jul. 27, 2016) available at – [Kala Chashma | Baar Baar Dekho | Sidharth M Katrina K | Prem, Hardeep, Badshah, Kam, Neha, Indeeep - YouTube](#) (last visited – April. 19, 2023).

⁷ ABP NEWS, *'Kala Chashma' writer Amrik Singh earned Rs 11000 for it*, YOUTUBE (Sept. 12, 2016) available at – ['Kala Chashma' writer Amrik Singh earned Rs 11000 for it - YouTube](#) (last visited – April. 19, 2023).

⁸ Express Web Desk, *Kala Chashma was originally written by a Punjab police head constable, he earned Rs 11000 for it*, THE INDIAN EXPRESS (Sept., 11, 2016) available at: [Kala Chashma was originally written by a Punjab police head constable, he earned Rs 11000 for it | Entertainment News, The Indian Express](#) (last visited 19 April., 2023)

⁹ Priyanka Khimani, *India needs stronger copyright and IP laws*, HINDUSTAN TIMES (Aug., 11, 2022) available at: [India needs stronger copyright and IP laws - Hindustan Times](#) (last visited 20 April., 2023)

35% of the respondents were unaware of Intellectual Property rights¹⁰, and emphasising on the fact that this study was conducted on well-educated population, the figure for uneducated would definitely lie somewhere near 100%. In a country like India, which is blessed with a rich diversity and heritage, it comes along with a collection of rich traditional practices and skills as well. These skills and practices don't discriminate between educated and uneducated, rather the culture and heritage rests more in the hands of uneducated. This amplifies our problem to another level, considering the unfamiliarity of people about the concept of conservation and security of their skills and practices by the codified law. In respect to music, we have witnessed clips and videos going viral on the internet, millions of views are poured, but the creator remains unaffected. It is a usual sight that some third person reaps the benefit of the skill of someone else, by just putting minimalistic efforts crowned with the access to knowledge and awareness or its appropriate to call it a practice of deceiving the less aware. To quote an example, it was reported that 'Kacha Badam' singer Bhuban Badyakar, the internet sensation, now can't even sing his own song due to copyright issues¹¹.

The second reason would be the legislations and guidelines enacted by the Government of India. The laws themselves are problematic. One of the most significant developments in recent years has been the amendment of the Indian Copyright Act in 2012, which updated the law to be more in line with international standards. But, in the bigger picture, it's been more than ten years now, so it won't be inappropriate to say that the Indian government hasn't kept with the pace of technology and developments in different sectors. With the onset of technology in different industries, piracy and plagiarism have reached to their peaks, but the scope of law was never enhanced sufficiently in order to mitigate the same. The exact provisions under Indian laws would be discussed later in this paper.

Coming forward to the third reason, which often seems latent, but plays a pivotal role in deciding the situation of IP rights in India. Usually, it is believed the one who has more resources would produce an original piece of work, and the one with less might indulge in malpractices. But in India, on contrary rich and powerful are fearless of the laws and society. They tend to indulge in such malpractices more. On numerous instances, the renowned music labels, worth millions of dollars, indulge in foul play and despite receiving due criticism, any

¹⁰ Neetu Chandra Sharma, *Study shows low IPR awareness in India*, MINT (Sept., 8, 2018) available at: [Study shows low IPR awareness in India | Mint \(livemint.com\)](#) (last visited 20 April., 2023)

¹¹ IANS Mumbai, *'Kacha Badam' singer Bhuban can't sing his own song because of copyright issues*, DECCAN HERALD (Mar., 07, 2023) available at: ['Kacha Badam' singer Bhuban can't sing his own song because of copyright issues | Deccan Herald](#) (last visited 20 April., 2023)

concrete action is not even initiated. Cherry on the cake would be weakness of our judicial system, the delays, the inconvenience or the huge sums of money one has to spend in order to get justice delivered, sums it all for ignorance and an effortless escape from such cases. For a middle-class man, life is larger than money or career and he can't afford to take a risk with it for just an infringement. The infringement which seems larger on papers becomes a petty issue or a trifle when enters in an Indian courtroom. Going by facts, Judiciary is not all to blame, the overburdened judges can't be expected to perform best of their abilities all the time, the judge to people ratio in India is still miserable for which Indian economy can't be left out of the scene, the roots of our problem somewhere do lie in terrible economic conditions of India. Going back to rich and poor disparity, it is not hard to believe, or at least it doesn't seem impossible if an out of court illegit settlement is done, in such cases, enriched with money and power. After all, everyone works to earn their bread and money seems supreme, so, creativity and skills take a setback when encountered with money.

A brief on Intellectual Property Rights

Intellectual property rights (IPR) refer to the legal rights that are granted to individuals or businesses to protect their creative works or inventions. These rights allow the creators to control the use of their works or inventions and prevent others from using them without permission. There are four main types of intellectual property rights:

Patents: A patent is a legal document granted by the government that gives the holder exclusive rights to an invention for a certain period of time. This means that no one else can manufacture, sell, or use the invention without the permission of the patent holder. Patents are typically granted for inventions that are new, non-obvious, and useful.

Trademarks: A trademark is a word, symbol, or design that is used to distinguish one company's, individual's or LLP's products or services from another. Trademarks can be registered with the government to prevent others from using the same or similar mark. This helps to protect the brand identity and reputation of the individual or the company.

Copyrights: Copyrights are legal protections for creative works such as books, music, art, and software. The copyright owner has the exclusive right to reproduce, distribute, and display the work. Copyrights are typically granted for a specific period of time, after which the work becomes part of the public domain.

Trade Secrets: Trade secrets are confidential information that gives a business a competitive advantage. Examples of trade secrets include customer lists, manufacturing processes, and recipes. Unlike patents, trademarks, and copyrights, trade secrets are not registered with the government. Instead, they are protected through confidentiality agreements with employees and other parties. Specifically in India, there is no uniform legislation protecting trade secrets and confidential information. It is protected by numerous, disparate provisions of various statutes.

In addition to these four main types of intellectual property rights, there are other types of IPR, such as industrial designs, geographical indications, and plant breeders' rights. Each of these types of IPR provides different protections for different types of creative works or inventions.

Significance of Intellectual Property Rights in the field of music

Intellectual property rights (IPR) play a critical role in the entertainment industry, particularly in the music industry. Considering the same, only copyrights remain as a subject of importance while other types have not much to do in the field of music. As discussed before, in India, the music industry has faced numerous challenges in protecting their intellectual property due to piracy, copyright infringement, and a lack of proper legal frameworks. However, in recent years, the government has taken several steps to improve IPR protection in the entertainment industry.

One of the most significant developments in recent years has been the amendment of the Indian Copyright Act in 2012, which updated the law to be more in line with international standards. The new law strengthened the rights of copyright owners and increased penalties for copyright infringement. It also established a statutory license for broadcasters and digital music providers, which ensures that music creators are compensated for the use of their work. The detailed evaluation of the said act and provisions will be included further in the paper.

Another development that has helped protect IPR in the music industry is the growth of digital music platforms such as Spotify, Apple Music, and Gaana. These platforms have created new revenue streams for artists and music labels, providing an alternative to traditional music sales. These platforms also have robust content identification and copyright protection systems, which helps to prevent piracy and unauthorized use of copyrighted material. It will be a subject to future discussion in this paper.

In addition to protection, IP rights have anchored a role in enhancement of economy of the country. Quoting an example, in the first half of 2020, U.S. recorded music revenues grew 5.6% to \$5.7 billion at retail value, continuing the positive growth trends of recent years. Streaming music grew to 85% of the market by value, compared with 80% the previous year. At wholesale value, revenues grew 5.1% to \$3.7 billion¹². Overall, it can be firmly said, that with application of IP rights, an art can be put to earn money which not only supports the creator but also impacts economy at large, of course positively.

Provisions related to music in Copyright Act, 1957

Section 13 of the act¹³ lists out the works in which copyright subsists. It reads as follows: -

Works in which copyright subsists. - (1) Subject to the provisions of this section and the other provisions of this Act, copyright shall subsist throughout India in the following classes of works, that is to say,

(a) original literary, dramatic, musical and artistic works;

(b) cinematograph films; and

(c) [sound recording].

This clearly demonstrates the fact that music is very much included in the act, but as such songs, the way we mostly come across music is through songs, aren't directly mentioned. Song is all together a different thing; it contains various different elements. First the lyricist writes the lyrics for the song. Then music is given to the lyrics by the composer of the song sometimes referred to as music director. This is an age-old sequence, however in recent years a change has been observed, many times music is composed beforehand and lyrics are written in accordance with music afterwards. Then, finally a singer has to sing the song, which sums up to a complete song. Now, this song could have been performed by the singer or recorded in a music studio. The producer of the song usually records it. Generally, a song is the effort of many people combined. But at times a song may be wholly owned by only one person if he writes the song, gives music to it and sings it, like in the case of song "Na Na Na Na" referred above, where a notable Punjabi singer J Star exercised the complete right over the song.

¹² RIAA, MID-YEAR 2020 RIAA REVENUE STATISTICS, Author: Joshua P. Friedlander (Senior Vice President, Research and Economics, RIAA)

¹³ The Copyright Act, 1957, S. 13.

Since song is not treated as a single piece of work in the act. The owner of each part can obtain a copyright for his part in the song. In case the song is written, composed and sung, all three by one person, he or she can claim copyright over the whole song, to present an example, “Na Na Na Na’ would again be utmost suitable.

The persons involved in making a song and their copyright in it is as follows: -

Lyricist

Section 2(d)(i) of the Act¹⁴ states that in a literary work, the person who writes is the author of that respective work. The person who writes the lyrics of a song is called lyricist. The lyricist is the author of the song, and it comes under literary work in the Act. Thus, he can obtain the copyright for the lyrics of the song posing as the author of it.

Composer

Section 2(d)(ii) of the Act¹⁵ states that in relation to a musical work, the composer is the author of it. According to Section 2(p) of the Act¹⁶, musical work means a work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music. Thus, musical work is giving music to the lyrics of the song and for instance, an actor’s movements while rendering the song cannot be copyrighted¹⁷. Composer of a song is the person who provides music to a song, and thus is the author of the music in a song. He can obtain a copyright for the background music in a song.

Singer

Section 2(qq) of the Act¹⁸ states that, the performer includes an actor, singer, musician, dancer, acrobat, juggler, conjurer, snake charmer, a person delivering a lecture or any other person who makes a performance. Thus, it defines a performer which includes a singer of the song. When the singer gives the performance of a song, he has the performer’s right concerning his performance. He has the right to make a sound recording of his performance and reproduce it or issue copies of it on an electronic or digital medium. He can exercise the right to sell the copies or recording made by him as well as the right to protect his copies or recording against

¹⁴ *Id.*, S. 2.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Dr. B.L. Wadhwa, LAW RELATING TO INTELLECTUAL PROPERTY, 267 (2007).

¹⁸ *Supra* 13.

any infringement. But his performer's right will not affect the rights of the author, that is the lyricist and composer of the song¹⁹.

Producer

Section 2(d)(v)²⁰ of the Act states that the person who does the sound recording is the author in respect of that sound recording. Section 2(uu)²¹ defines the producer of a sound recording as the person who takes the initiative and responsibility for doing the work. Since the producer of a movie or album undertakes the recording of a song and broadcasts it in movie or album, he is the author of the recording of the song. Thus, he can get the copyright for his recording of the song. On another instance, when a song is going to be used in a movie or so, once the author of a lyric or a musical work parts with a portion of his copyright by authorizing a film producer to make a cinematograph film in respect of his work and thereby to have his work incorporated or recorded on the sound track of a cinematograph film, the latter acquires by rectitude of section 14(d) of the Copyright Act²² on completion of the cinematograph film a copyright which gives him the exclusive right inter alia of performing the work in public for example to cause the film in so far as it consists of visual images to be seen in public and in so far as it consists of the acoustic portion including a lyric or a musical work to be heard in public without securing any further permission of the author (composer) of the lyric or a musical work for the performance of the work in public²³. The author of a lyric or a musical work, however, still retains the right of performing it in public for profit otherwise than as a part of the cinematograph film and he cannot be restrained from doing so.

¹⁹ CLEAR, *Copyright A Song In India* (Oct. 12, 2021) available at – [Copyright A Song In India \(clear.co.in\)](https://www.clear.co.in/copyright-a-song-in-india) (last visited April. 22, 2023).

²⁰ *Supra* 13.

²¹ *Id.*

²² *Supra* 13. S. 14.

²³ LEGAL SERVICE INDIA, *Copyright of Cinematograph Films and Sound Recording*, available at – [Copyright of Cinematograph Films and Sound Recording - Video, song, Film \(legalserviceindia.com\)](https://www.legalserviceindia.com/copyright-of-cinematograph-films-and-sound-recording-video-song-film) (last visited April. 22, 2023).

Evaluating the Remix culture

Remix culture refers to the practice of taking existing works, often copyrighted ones, and creating new works by rearranging, combining, or altering them in some way. The provisions of law provide the leeway to music composers to come out with their pirated and remix versions of old musical works. The social media has majorly supported the remix culture, where users engage with content by creating derivative works, especially with the introduction of likes of reels and shorts. Remixes take many forms but a popular one is in the idea of sampling bits from other songs or creating music mashups. The question of whether remix culture constitutes infringement of copyright depends on several factors, including the nature and extent of the remix, the purpose and character of the use, the effect on the market for the original work, and the potential for harm to the copyright owner.

Under the Copyright Act of India, copyright protection is granted to original literary, dramatic, musical, and artistic works. Copyright owners have the exclusive right to reproduce, distribute, perform, and display their works. Any use of a copyrighted work without the permission of the copyright owner may constitute infringement.

However, the Copyright Act also provides for certain exceptions and limitations to copyright, including the doctrine of fair use/fair dealing. This doctrine allows for the limited use of copyrighted material without permission for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. The key factor in determining whether a use constitutes fair use is whether it is transformative - that is, whether it adds something new and original to the original work.

In the case of remix culture, the use of copyrighted material may be considered transformative if the resulting work is significantly different from the original and adds new meaning or expression. For example, a remix that takes a portion of a copyrighted song and creates a new work that comments on or parodies the original may be considered fair use. On the other hand, a remix that simply copies a significant portion of the original without adding new meaning or expression may be considered infringement.

In addition, the effect on the market for the original work is also a crucial factor in determining whether a use is fair. If the remix does not compete with the market for the original work, and instead creates a new market or audience, then it may be considered fair use. However, if the remix takes away from the market for the original work, or undermines its value, then it may be considered infringement.

But still, it seems to be a matter of confusion, especially when considering the digital age. For the same, the act has been provided with copyright exceptions. Section 52 (1) (j) of the Copyright Act²⁴ states that it, would not count as an infringement if there exists a sound recording of the original literary or musical work and the person who wishes to copy it has given a due notice of his intention to use it and make a sound recording and has also paid the original owner-the royalty price that has been fixed by the Copyright Board.

The person wanting to make the remix, cannot make alterations without taking the consent of the owner or cannot make changes which are not reasonably necessary for the adaption of the work. The new sound recording should not be marketed with labels or packaging that might mislead the public about the identity of the artist. The remix should not be made until the expiration of two years after the end of the year in which the original song was made.

The original owner has the right to inspect all records and books related to the remix. The consent of the owner of the original song is of great importance as the original sound recording was created by him and he enjoys the exclusive right of ownership. If the owner of the copyright, brings a complaint to the effect that royalty has not been paid in full and if the Copyright Board is prima facie, satisfied about this complaint, it may pass an order asking the sound recording to stop making any further copies and after conducting further inquiries, it may take necessary actions as it thinks fit. Section 52 (1) (j)²⁵, states that works like music and sound recordings are subject to seeking permission from the owner of the copyright for certain uses and changes. This acts as legal authorization to use the copyrighted work in certain ways as long as the user pays the required fee and otherwise meets the conditions in the law.

Overall, the question of whether remix culture is infringement of copyright is complex and depends on the specific circumstances of each case. While some remixes may be considered fair use, others may be infringing. It is important for individuals engaging in remix culture to be aware of the copyright laws in their jurisdiction and to seek permission from copyright owners when necessary.

Referring to some landmark judgements

In *Gramophone Co. of India Ltd. Vs Mars Recording Pvt. Ltd.*²⁶, respondent was seeking sound recording of cassettes and was alleged to have complied with provisions under Section

²⁴ *Supra* 13. S. 52.

²⁵ *Id.*

²⁶ *Gramophone Co. of India Ltd. v. Mars Recording Pvt. Ltd.*, (2002) 2 SCC 103.

52(1)(j)(ii) of copyright act. Respondent also made payment for recording and circulated recorded cassettes. Subsequently defendant refused to permit the plaintiff to make recordings and returned the banks drafts. Suit for injunction restraining defendant from seizing the respondents' said cassettes was filed. Injunction was granted and affirmed by High Court, case pleaded and argued in appeal centring around certain submissions such as that it is only such record which embodies sound recording which amounts to infringement, but if another signal is created such as in case of version recording it is not an infringement. An appeal was filed before the apex court. By quoting "The plaint not supporting the said aspects" - Supreme Court set aside the order granting, temporary injunction, permitted the parties to raise proper pleadings by amendments or otherwise.

In *Universal Music (India) Pvt. Ltd vs Super Cassettes Industries Pvt. Ltd*²⁷, Bombay High Court held that only owner/assignee has a right to issue any licence and/or permission to record its musical works or part thereof - Only owner can hold itself out as owner of the copyrights and nobody else.

In *Mars Recording Private Limited vs Saregama India Limited*²⁸, appeal was raised before Karnataka High Court involving right to make sound recordings. Question to be considered was to whether the Plaintiff could proceed to make sound recordings of subject works without the express consent of the Defendant, on merely issuing a notice of intention. Court held that the plaintiff, on due compliance with the procedure contemplated under Section 52 (1)(i)(ii) of the Copyright Act, read with Rule 21 of the 1985 Rules and subject to meeting other conditions prescribed thereunder would be entitled to make the intended sound recordings, notwithstanding the refusal of consent by the respondent.

Music streaming platforms

The emergence of music streaming platforms has revolutionized the way people listen to music in today's time. Music streaming platforms like Spotify, Apple Music, and YouTube Music offer users' access to a vast library of songs, playlists, and radio stations at the click of a button.

²⁷ *Universal Music (India) Pvt. Ltd. v. Super Cassettes Industries Pvt. Ltd.*, 2019(6) BCR 469

²⁸ *Mars Recording Private Limited v. Saregama India Limited.*, 2015 AIR (Karnataka) 72

These platforms have colossal significance in today's time as they provide users with a convenient and affordable way to access and enjoy music. Gone are the days when people had to buy individual albums or songs to listen to their favourite music. With music streaming platforms, users can access millions of songs at a fraction of the cost, making music more accessible to everyone.

Moreover, music streaming platforms have also become a significant source of revenue for the music industry. With more and more people subscribing to these services, artists and record labels can reach a larger audience and earn more money through streaming royalties. This has created new opportunities for emerging artists to gain exposure and reach a broader audience, democratizing the music industry. These platforms deal with the copyrights by way of obtaining licenses, but what's more interesting that likes Spotify, Gaana, YouTube Music etc. use a combination of automated systems and human moderators to enforce copyright on the content published on their platforms. Here are some of the ways they do this:

Content Identification Technology: These platforms use advanced technology like Content ID to scan and match the uploaded content against a database of copyrighted material. This technology can identify copyrighted music, videos, and other types of content and flag them for further review²⁹.

Copyright Claims: Once copyrighted content is identified, copyright owners can file claims to have the content removed or monetized. The platforms will then review the claim and either remove the content or allow the copyright owner to monetize it through ads or other means.

DMCA Takedown Notices: Platforms also receive Digital Millennium Copyright Act (DMCA³⁰) (USA) takedown notices from copyright owners. These notices require the platform to remove infringing content. The platform will then remove the content or ask the uploader to provide a counter-notification if they believe the takedown request was made in error.

²⁹ ZUYKOV, *Criteria for classifying streaming platforms as information intermediaries in case of violation of copyright and related rights on the Internet*, available at – [Criteria for classifying streaming platforms as information intermediaries in case of violation of copyright and related rights on the Internet - read the article online at Zuikov & Partners \(zuykov.com\)](#) (last visited April. 22, 2023).

³⁰ DMCA, *Protecting Copyrighted Content Online: Understanding the Legal Process for Content Removal*, available at – [What is a DMCA Takedown?](#) (last visited April. 22, 2023).

Human Moderation: Some platforms also have teams of human moderators who review content for copyright violations. These moderators review flagged content and take appropriate action, such as removing or monetizing it.

Overall, these platforms use a variety of tools and techniques to enforce copyright on their platforms and ensure that copyrighted content is not distributed without permission from the copyright owners.

Women and IP

Intellectual property (IP) rights are crucial for protecting creativity and innovation, yet women continue to lag behind when it comes to securing these rights. Despite making up nearly half of the global workforce, women own only a fraction of patents and trademarks, and are underrepresented in the fields of science, technology, engineering, and mathematics (STEM) where many of these innovations take place.

One of the reasons for this gap is the gender bias that persists in the workplace. Women face numerous barriers, including a lack of role models, discrimination, and unconscious bias. This makes it difficult for women to gain the experience and expertise needed to create and protect intellectual property. Additionally, women are more likely to work in industries that are traditionally considered "feminine," such as fashion, beauty, and food, where IP protection is often not prioritized or considered. This lack of emphasis on IP in these industries means that women are less likely to be aware of their rights and how to protect their intellectual property. Another factor is the cost and complexity of obtaining IP rights. The process of filing for patents and trademarks can be expensive and time-consuming, and women-owned businesses may not have the resources or support to navigate the process. This can be especially challenging for women who are also juggling caregiving responsibilities or working part-time due to family obligations.

Talking about the field of music, the percentage participation from women is abysmal, according to an article³¹, out of 172 artists featured on the Hot 100 Year-End Billboard Chart in 2019, 131 were male (76.2%), 38 (22.1%) were female and two (1.2%) were gender nonconforming. The amount of song writing credits awarded is perhaps the biggest sign of the

³¹ ROLLING STONE INDIA, *6 Findings that Show the Gender Gap in the Music Industry Is Real*, available at – [6 Findings that Show the Gender Gap in the Music Industry Is Real \(rollingstoneindia.com\)](https://www.rollingstoneindia.com/news/6-findings-that-show-the-gender-gap-in-the-music-industry-is-real) (last visited April. 22, 2023).

super unbalanced gender ratio in the industry. In 2019, out of the 513 song writing credits examined, 74 (14.4%) were for women and 439 (85.6%) were for men.

Story doesn't end here, to dismay gender bias is very much present in music industry as well. Remembering, Linda McCartney, a musician and photographer who was married to Paul McCartney of The Beatles. Although she contributed significantly to the band's music and was a member of Paul McCartney's post-Beatles group Wings, she was often overlooked and not given the credit she deserved. It was only in recent years that her contributions to the music industry have been more widely recognized³².

Despite these challenges, there are encouraging signs of progress. More women are entering STEM fields, starting their own businesses, or taking up creative profession such as music and there is a growing recognition of the importance of diversity and inclusion in these fields. Initiatives such as mentorship programs and entrepreneurship training are helping to level the playing field and provide women with the tools they need to succeed. In addition, organizations like WIPO (World Intellectual Property Organization) are working to increase awareness of IP rights and provide resources to help women protect their intellectual property. WIPO's "Women in IP" program, for example, provides mentorship, training, and networking opportunities for women in the field. But still, there's room for more, especially in countries like India, where talent lies in each and every corner, just awareness is lacking. Considering music, digital platforms serve as the most convenient way in order to earn recognition and the due money, more and more women shall be encouraged to make use of it.

It is important to recognize that intellectual property is not just about protecting individual rights, but also about promoting innovation and economic growth. When women are able to create and protect their intellectual property, they can contribute to the development of new products, services, and technologies that benefit society as a whole.

In conclusion, while women still face significant challenges when it comes to securing intellectual property rights, there are signs of progress and growing recognition of the importance of diversity and inclusion in different fields. By continuing to support and empower women in these fields, we can help close the gender gap in IP rights and unleash the full potential of women's creativity and innovation.

³² FAR OUT, *In defence of Linda McCartney's music*, available at – [In defence of Linda McCartney's music \(faroutmagazine.co.uk\)](https://faroutmagazine.co.uk) (last visited April. 22, 2023).