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**“Music Piracy”: A Threat to The Survival of Music Industries in The Era of  
Digitization?**

**Chaitali**

## INTRODUCTION

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*“There is no excuse for illegal copying, but when you get an offer that does not cost too much and is easy to use, it is less interesting to download illegally”*

-Olav Torvund<sup>1</sup>

In this dynamic world music plays a vital role in a daily cycle as well as, has become the essential factor which dwells everywhere and in every form of devices apparently. With the growth of creativity in the society, maintenance of copyright has taken on another level by the creators since the apprehension emanates of the music exploitation in the form of piracy. Whereas, in 1990's perception of music was prevalent in the form of Cassettes and CDs superseded by mp3, Peer2Peer (P2P) file-sharing services which has now faded but not exterminated. Perhaps, it may be suggested that digital intrusion has metamorphosed the conventional practice structure of music industry (MI)<sup>2</sup> from hardcopies to streaming platforms.

Instances of streaming services (SS) include Spotify, YouTube, Apple Music the legal listening prospects supported by MI.<sup>3</sup> Indeed, 89% of people throughout the globe often prefer streaming music.<sup>4</sup>

Although, it provides clear that proliferation of technology and an economical broadband connection has changed the consumption of music, at the same time the concept of piracy

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<sup>1</sup> Иәмхәш, ‘Music Streaming vs. Music Piracy’ (*Medium*, 31 July 2014) <<https://medium.com/@maxstrahan/music-streaming-vs-music-piracy-b1a939ec1602>> accessed 1 may 2020.

<sup>2</sup> Charlotte Hassan, ‘Is the Streaming Industry Lying About Piracy?’ (*Digital Music News*, 2016) <<https://www.digitalmusicnews.com/2016/03/31/is-streaming-making-piracy-worse/>> accessed 29 April 2020.

<sup>3</sup> Lennon Cihak, ‘How can the Music Industry Stop Music Piracy?’ (industry news, 2017) <<https://lennoncihak.com/blog/music-industry-piracy>> accessed 29 April 2020.

<sup>4</sup>IFPI, ‘Music Listening 2019’ < <https://www.ifpi.org/downloads/Music-Listening-2019.pdf>> accessed 30 April 2020.

remains perpetual via illegal digital copying accessibility: Stream-ripping (SR), a new face of piracy in the present world.<sup>5</sup>

In respect of this, from the numerous stream-ripping strategies, YouTube (video streaming) obtained the focal attention since it is free as well as licenced, which enticed the developers to rip music<sup>6</sup> by YouTube-mp3 or Convert2MP3. Although, it seems that stream-ripping sites came forward<sup>7</sup> to avoid the payment of Spotify or Apple Music.

And in fact, India and China are few countries with the steepest rate of consumption of SR services essentially and thereby exhibited in the Priority Watch List ascertained in the Special 301 Report for not fortifying Intellectual property rights (IPR) appropriately and particularly violated the copyright laws.<sup>8</sup>

Hence, undoubtedly not all artist supports the SS as the liaison amid artists and music streaming services has been always infirm since they do not obtain considerable royalties in comparison to album sale.<sup>9</sup> And, consequently deficit in remuneration and attaining benefits from the work of artists have discouraged the new artists to pursue their career in music.<sup>10</sup> Because piracy has notoriously affected the economic profits of the MI and loss of jobs all over the world and also became a dominant threat, especially in Indian music

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<sup>5</sup> Terrica Carrington, 'Stream-Ripping' A Growing Threat To The Music Industry' (Copyright Alliance, 10 November 2016) <[https://copyrightalliance.org/ca\\_post/stream-ripping-growing-threat-music-industry/](https://copyrightalliance.org/ca_post/stream-ripping-growing-threat-music-industry/)> accessed 30 April 2020.

<sup>6</sup> Kevin Madigan, 'Stream ripping emerges as the new face of music piracy' (CPIP, 5 September 2017) <<https://cpip.gmu.edu/2017/09/05/stream-ripping-emerges-as-the-new-face-of-music-piracy/>> accessed 1 May 2020.

<sup>7</sup> Madigan (n 6).

<sup>8</sup> Office of the United States Trade Representative, 'USTR releases Annual Special 301 Report and Notorious market list' (Washington DC, 2019) < <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2019/april/ustr-releases-annual-special-301>> accessed 28 April 2020.

<sup>9</sup> Aoife Coffey, 'The Impact That Music Streaming Services Such as Spotify, Tidal and Apple Music have had on Consumers, Artists and The Music Industry Itself' (Masters Research Paper, University of Dublin 2016) 1,30.

<sup>10</sup> Daniel L Lawrence, 'Addressing the Value Gap in the Age of Digital Music Streaming' (2019) 52 Vand J Transnat'l L 511,542.



industry (IMI) which is in top 10 music market but is hampered. It is also found that the notion of free music was created which further declined the sales.<sup>11</sup>

Despite, it can be seen that apps began to endeavour protection under the safe harbour provisions to abscond the liability, that eventually made significant to scrutinise the concern of SR which makes accessible the unauthorised content to the users owned by record labels through distribution, communication to the public or exploitation of such recordings in another manner.<sup>12</sup> Admittedly, there are existing laws and regulations to deal with swift technological growth in few countries to mitigate digital piracy nevertheless, explicit provisions are still to be contemplated like, in India when dealing with online piracy. On the whole, state put themselves a controversial task to maintain the balance amid exclusive rights of right holders and public liberties to access information.<sup>13</sup>

Part-I discusses the development in music piracy since 90s and how the new form of piracy made a shift of music industry from hardcopies to the streaming platforms and its prospective consequences on the economic growth will also be explored.

Further, Part-II is the most intriguing section of the work as to analyse the Indian position in comparison with other jurisdictional structure where copyright laws have been covered in dealing with modern technology under piracy. ultimately the endeavours to curb the SR approach would be examined via apt implementation of legislative measures which facilitates blocking orders as instructed<sup>14</sup>

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<sup>11</sup> Music plus, 'Value gap remains a key challenge despite a 24.5% growth in the Indian music industry in 2018' <<https://www.musicplus.in/value-gap-remains-a-key-challenge-despite-a-24-5-growth-in-the-indian-music-industry-in-2018/>> accessed 2 May 2020.

<sup>12</sup> Music plus (n 11).

<sup>13</sup> Patrick Tyson, 'Evaluating Australian's New Anti-Piracy Website Blocking Laws' (2018) 3 UniSa Student Law Rev 87, 89.

<sup>14</sup> Pankhuri Agarwal, 'Global Music Record Industry Plays The Fight Song Loud, As "Stream Ripping" Explodes To Be The Most Aggressive Form Of Piracy' (*Spicy Ip*, 3 December 2017) <<https://spicyip.com/2017/12/global-music->

Lastly, conclusion would be drawn towards the efforts of annihilating the music piracy in India through the implementation of adequate legislative measure in the deliberation of distinct countries to negate the discrepancies while determining copyright violation due to the presence of modern technology.

## **EXPANSION OF MUSIC CONSUMPTION**

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### **EVOLUTION OF MUSIC PIRACY**

Interestingly, the enthusiastic entertainment for the people is listening to music according to their requirement and without any barriers or of any age restrictions.<sup>15</sup> Well, when talking about music with no barriers, it becomes significant to comprehend the inceptions of technological shifts in music piracy.

Initially, in 1990's music was acquired in the form of Compact Discs (CD's) and DVD by which MI got disturbed latterly due to diminishing sales of CD, allegedly by advanced physical piracy and especially of internet piracy.<sup>16</sup> Moreover, P2P file sharing such as Napster and Lime wire captured the market of MI in the year 2000 which was used to distribute the unauthorised copies of music in mp3 format.<sup>17</sup> While, it was introduced as an incursion into free music, however resulted in a massive loss of MI as claimed by International Federation of the Phonographic Industry (IFPI).<sup>18</sup>

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[record-industry-plays-the-fight-song-loud-as-stream-ripping-explodes-to-be-the-most-aggressive-form-of-piracy.html](#) > accessed 2 May 2020.

<sup>15</sup> IFPI, 'Digital Music Study 2019' < <http://indianmi.org/be/wp-content/uploads/2019/09/output.pdf> > accessed 5 May 2020.

<sup>16</sup> Jelle Janssens and others, 'The Music Industry On (The) Line? Surviving Music Piracy in A Digital Era (2009) 17 Eur J Crime Cr L Cr] 77.

<sup>17</sup> Asis panda, 'India:99 Problems of The Music Industry-Can Blockchain Technology Be A Panacea?' (*NovoJuris Legal*, 18 December 2018) < <https://www.novojuris.com/thought-leadership/99-problems-of-the-music-industry-can-blockchain-technology-be-a-panacea> > accessed 6 May 2020.

<sup>18</sup> Molly Hogan, 'The Upstream Effects of The Streaming Revolution: A Look into The Law and Economics of a Spotify-Dominated Music Industry' (2015) 14 Colo Tech LJ 131.

Although, ultimately cessation of Napster with endeavours of Recording Industry Association of America (RIAA) was made in the year 2001.<sup>19</sup> And, RIAA has played a prime role in safeguarding the intellectual property rights by instituting numerous lawsuit against the people for illegally sharing of files in the year of 2003 and this continued for years but was ineffectual.<sup>20</sup>

Accordingly, the effects of the service never fell apart and reflected in industry till today, but in the contemporary form termed “Stream ripping”, an outcome of detrimental technology. With this regard, SS has become the most prominent choice of the public at large, since it facilitates the accessibility of music library from country to country and on-demand SS at economical subscription rates.<sup>21</sup>

IFPI in an official report of 2019 though manifested that highest rate of music fanatics or lovers exists in South Africa and United States on the highest rate in different genres globally,<sup>22</sup> Nevertheless, 23% of the populace still rips songs illegally in the world.<sup>23</sup> Also, it has often suggested that profound shifts in technologies have eased the way of deriving music and led to the abundant of piracy.<sup>24</sup> Whereby, a new level of intricacy arose in preserving copyright owners and exclusive licensee around the world.<sup>25</sup>

### **SHIFTS IN THE MUSIC INDUSTRY WITH ITS GROWING THREAT**

Distinctly, Streaming services have appeared to be the most accessible service, since the last few years the consumption of music through on-demand music streaming has become

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<sup>19</sup> Hogan (n 18) 133.

<sup>20</sup> Didi, ‘The Effects of Pirated Music on Individual Musicians’ (BA theses, Skidmore college creative matter 2016) 3.

<sup>21</sup> IFPI, Music Listening 2019 (n 4) 5.

<sup>22</sup> IFPI, Music Listening 2019 (n 4) 13.

<sup>23</sup>IFPI, Music Listening 2019 (n 4) 7.

<sup>24</sup> Coffey (n 9).

<sup>25</sup> Tyson P (n 13) 88.

attractive amid 89% of the populace circuitous the world as of 2019.<sup>26</sup> Further, the perceived rationale behind the usage of SS is to broaden the access of music catalogues and its cited convenience. Notwithstanding, the upsurge of digital access to music streaming services, like, Spotify, Apple Music, JioSavaan, Gaana, Wynk (Indian SS) and YouTube failed to determine the perpetual menace of online piracy.<sup>27</sup> Moreover with this, Stream-Ripping arose as the latest inclination and an immense threat in the online marketplace as asserted by PRS for Music's Rights Protection Unit (formerly known as Anti- Piracy Unit).<sup>28</sup> Basically, Stream Ripping is the illicit practice mechanism where streaming file accessible on the internet is converted into a downloadable file<sup>29</sup> with plenty of alternatives wherein software tools, special websites, browser plugins<sup>30</sup> in which the prepotent are, convert2mp3.com, YouTube Downloader and Tubemate (apps),<sup>31</sup> where audio visual content are accumulated.

Arguably, pirate services operate as an alternative for the off-screen consumption in which India comes at 2<sup>nd</sup> country in terms of the piracy rates, where 67% respondents use stream ripping to obtain free downloads of music that is more than the global average so far.<sup>32</sup> Conversely, the escalation of smartphones and Internet with reduced data costs is an auxiliary factor in the world wide growth of digital audio streaming, where India subsists

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<sup>26</sup> IFPI, Music Listening 2019 (n 4) 7.

<sup>27</sup> Paige Clark, 'The Invisible Defence Against Music Piracy' (2016) 15 John Marshall Review of Intellectual Property Law" 297.

<sup>28</sup> Anita Awbi, 'In Focus: Stream-Ripping' (*Magazine*, 8 septemeber 2017) < <https://www.prsformusic.com/m-magazine/features/focus-stream-ripping/>> accessed 9 May 2020.

<sup>29</sup> Yash bagal, 'Contributory Copyright Infringement In Music Industry: Technological Implications' (2019) 24 Journal of Intellectual Property Rights 28.

<sup>30</sup> Joao Pedro Quintais and Joost Poort, 'The Decline of Online Piracy'' How Markets-Not Enforcement-Drive Down Copyright Infringement' (2019) 34 Am U Int'L Rev 807,813.

<sup>31</sup> Awbi (n 28).

<sup>32</sup> IFPI, 'Digital Music Study 2019' (n 15) 11.

at the highest rate (about 97%).<sup>33</sup> Nevertheless, 76% of music content is obtained through the pirated means often.<sup>34</sup>

It is evident that SS is not restricted to audio streaming since YouTube has emerged as the prevailing video SS on the focal point which also confers licenced music videos for free, although it constitute as the destination for ripping music perhaps to avoid the payment of SS which entices the attention of copyright violation.<sup>35</sup>

### **DIMINUTION IN REVENUE**

Certainly, the foremost factor is overlooked that music is the business industry and unauthorised distribution of music by illegal means affects the economic growth of Music industry as a whole.<sup>36</sup> And unfortunately, not only the music composers, publishers and record labels mainly get suppressed from adequate compensation but also, other low-level workers like technicians lose their jobs in the industry. However, Spotify and other models have not much beneficial for the proper revenue<sup>37</sup> considerably, of its freemium services, which is why various artists like Tylor Swift have also opposed Spotify SS to give away their music for free.<sup>38</sup>

Although, this might be one of the factors where some scholars argue that music piracy have positively impacted on the musicians as now, they can unquestionably achieve their revenue with the following practices either live concerts, streaming services, movie or the

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<sup>33</sup>IFPI, Music Listening 2019 (n 4) 25.

<sup>34</sup> Indian Music Industry, 'Economic Impact of The Recorded Music Industry In India' (*Deloitte*, 2019) <[https://www2.deloitte.com/in/en/pages/technology-media-and-telecommunications/topics/telecom-media-entertainment.html?icid=top\\_telecom-media-entertainment](https://www2.deloitte.com/in/en/pages/technology-media-and-telecommunications/topics/telecom-media-entertainment.html?icid=top_telecom-media-entertainment) > accessed 9 May 2020.

<sup>35</sup> Madigan (n 6).

<sup>36</sup> Priya, 'Effects Of Piracy On Music Industry' (*wikye*, 9 April 2019) <<https://www.wikye.com/effects-of-piracy-on-music-industry/>> accessed 9 May 2020.

<sup>37</sup> Hogan (n 18) 143.

<sup>38</sup> Coffey (n 9) 4.

new form of royalties. Nonetheless, formerly physical album sale was a very essential source of revenue.

Undoubtedly, digitalisation has enormously altered the position<sup>39</sup> though piracy has formulated the impact that music is a free service. But with the introduction of SS at cheaper prices has encouraged to public morally procure music rather than unfair download to battle against the piracy.<sup>40</sup> Despite, Indian Music Industry (IMI) spotted with 50-60% revenue loss as approximately \$250 million because of Stream Ripping services or P2P (file sharing) precisely.<sup>41</sup> In the consequence, career of the new artists is thereby threatened simultaneously with the established artist, since MI is already suffering from lesser revenue which reflects that MI would not sign the new artists.<sup>42</sup>

It is evident that the flourishing technology has attracted many pirates to come up via ingenious methods for illegally downloads and once found the proper method they would initiate the selling of downloaded music for illegal gain, if this burning issue stays undecided.<sup>43</sup> Thus, understanding of this should support to achieve injunctive reliefs against infringers by making liable under copyright laws with technological protection measures (TPM) to restrict music piracy.

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<sup>39</sup> Didi (n 20).

<sup>40</sup> Coffey (n 9) 3.

<sup>41</sup> Indian Music Industry, 'Audio OTT Economy in India- Inflection Point' (n 34) 42.

<sup>42</sup> Priya (n 36).

<sup>43</sup> Clark (n 27) 299.

# **ENFORCEMENT OF INDIAN COPYRIGHT LAWS TO GOVERN MUSIC PIRACY**

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## **NATIONAL AND INTERNATIONAL STANDARDS FOR INTELLECTUAL PROPERTY LAWS AT DIGITAL STAGE**

International Treaties and Conventions inevitably serve a significant role in order to implement National Laws in member countries. So, copyright is one of those subjects which is harmonised by International Laws with its implementation of key rules. With this respect, Berne Convention,<sup>44</sup> Trade-Related Aspects of Intellectual Property Laws (TRIPS)<sup>45</sup> and WIPO treaties on Copyright (WCT) and Performances and phonograms (WPPT)<sup>46</sup> (as WIPO Internet Treaties) are the pertinent international regimes in copyright law. In addition, WIPO treaties extended its rights to the digital age and provides legal protection against the circumvention of technological protection measures (TPMs).<sup>47 48</sup>

Undoubtedly, Copyright law comprises multiple rights that provides protection to the right holders for their work, although, the essentials could be distinct from country to country but the fundamentals hover around remains.

## **INSTANCES OF MEASURES TAKEN BY INDIVIDUAL COUNTRIES**

Evidently, with the ratification of internet treaties, member countries are obliged to adhere to it. Due to which online acts of various jurisdictions like, Australia, European Union, and

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<sup>44</sup> Berne Convention 1886 for the protection of literary and artistic works, <<https://global.oup.com/booksites/content/9780198259466/15550001>> accessed 11 May 2020.

<sup>45</sup> TRIPS Agreement 1994, detailed overview of the TRIPS Agreement, <[https://www.wto.org/english/tratop\\_e/trips\\_e/intel2\\_e.htm](https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm)> accessed 11 May 2020.

<sup>46</sup> WIPO-Administered Treaties, <<https://www.wipo.int/treaties/en/>> accessed 11 May 2020.

<sup>47</sup> WCT 1996, art 11; WPPT 1996, art 18.

<sup>48</sup> Quintais and Poort (n 30) 830.

others interpreted to ascertain the legal status under national laws,<sup>49</sup> in reference to the illegal downloading from online sources including Stream-Ripping.

Whereby, liabilities are commanding on infringers by persuasive civil or criminal proceedings as commenced by the right holders to prevent the infringement rather retrieving damages.<sup>50</sup> For example, Website-Blocking for illicit copyright act as a statutorily measure. Ostensibly, 21st century was surfaced with consecutive acceleration in the enactment of many countries, which empowers the court to order Internet Service Providers (ISPs) for website blocking orders.<sup>51</sup>

It provides clear, website blocking orders have developed as progressive measure to fight against online piracy, and apparently the most prevalent practice in EU, since it has explicitly manifested under article 8(3) of InfoSoc directive<sup>52</sup> that right holder can demand for an injunction against the intermediaries whose services are used by 3<sup>rd</sup> parties to infringe copyright or related right, Recital 59 of the same provides for the condition to obtain blocking injunctions as the matter for national law. And, member states are liable to execute this directive in their national laws like, UK incorporated.<sup>53</sup>

Beyond Europe, Japan deals under the ISP Liability Limitation Act with injunction information and also, recently in 2018 made the pirate Website-Blocking proposals. On the other hand, Brazil have emerged as the compelling as they can held secondarily liable to

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<sup>49</sup> Quintais and Poort (n 30) 833.

<sup>50</sup> *ibid* 860.

<sup>51</sup> Tyson (n 13) 91.

<sup>52</sup> Council Directive 2001/29/ EC of 22 May 2001 on the harmonisation of certain aspects of copyright and related right in the Information Society [2001] OJ L 167/10 (InfoSoc Directive).

<sup>53</sup> Copyright, Designs and Patents Act 1988, s 97A.



ISPs, if they fail to comply with blocking orders held by judiciary.<sup>54</sup> Further, even Spain exhibited to block the infringing content followed with cutting off the internet services<sup>55</sup>

Ultimately, India also joined the WIPO internet treaties in 2018 and counted in one of those countries which yet not implemented its obligation within their National Law. Although, recently Delhi High Court has passed “dynamic injunction”<sup>56</sup> in *UTV Software Communications Ltd vs 1337TX.TO & Ors*<sup>57</sup> for the very first time, in the consideration of Singapore High Court’s decision in *Disney v. M1 Ltd.*<sup>58</sup> Nevertheless, blocked websites can still be accessed from outside of India through VPN-Masking devices.<sup>59</sup> With this in mind, Australia copyright amendment came out as the astonishing and the reliable example, in which ISPs are required to block access the overseas copyright infringing website.<sup>60</sup>

It is often believed, until 2017 no actions appeared in respect to the stream ripping services, but position has changed finally by US and UK record industry and IFPI collectively, as now widely known stream ripping site YouTube mp3 discontinued.<sup>61</sup> Again, one should not forget the recent development in Australian Copyright Act in which “primary effect” would be sufficient to target online service rather “primary purpose of infringing” as based on overseas sites,<sup>62</sup> by which Sony, Universal and Warner with Music Rights Australia and

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<sup>54</sup> Quintais and Poort (n 30) 861, 862.

<sup>55</sup> *ibid* 859; Intellectual Property Commission, s 2.

<sup>56</sup> Dynamic injunction- It refers when court have granted to block rogue websites which develops again after the initial injunction as the “mirror websites” with the minor alterations in URL and infringes same content.

<sup>57</sup> On 10-4-2019 in CS(COMM) 724/2017 and Ors, Delhi High Court.

<sup>58</sup> [2018] 5 SLR 1318.

<sup>59</sup> Anushree Rauta, Interview with Blaise Fernandes, President and CEO of Indian Music Industry, (December 11 2019) < <http://iprmentlaw.com/2019/12/11/guest-interview-in-conversation-with-mr-blaise-fernandes-president-ceo-indian-music-industry-imi-part-1-piracy/>> accessed 11 may 2020.

<sup>60</sup> Copyright Amendment (Online Infringement) (Australia) Act 2015, s 115A.

<sup>61</sup> Chris cooke, ‘YouTube-mp3 Officially Shuts Down’ (*CMU*, 8 September 2017) <<https://completemusicupdate.com/article/youtube-mp3-officially-shuts-down/>> accessed 12 May 2020.

<sup>62</sup> The Musical Network, ‘How The US Can Learn From Australia About Blocking Stream Ripping’ < <https://themusicnetwork.com/how-the-us-can-learn-from-australia-about-blocking-stream-ripping/>> accessed 11 May 2020.

APRA were fortunate to attain the blocking injunction against conver2mp3, 2conv, Flv2Mp3 and Flvto.<sup>63</sup>

Likewise, China is also not very far behind in handling online piracy as it organised special court in Hangzhou that deals with the copyright disputes and internet actions which certainly eases the way to handle cases through the online trials, whereby it handled over 10,000 cases in the 1<sup>st</sup> year.<sup>64</sup> Also, SWORD Net Action resolved 90% cases in 2018 by imposing fines, shutting down and takedown of content which was proposed by National Copyright Administration of China.<sup>65</sup>

In comparison, it seems questionable that India is attempting elevating measures in order to curb online piracy, since it holds 2<sup>nd</sup> rank globally in highest rate of piracy. However, there are IPR Crime unit namely, MCDCU, TIPCU<sup>66</sup> and NIXI<sup>67</sup> and also the propitious judicial order by Delhi High Court to enduringly incapacitate the infringing sites. Precisely, on one hand, it might embark that Indian copyright laws are updated<sup>68</sup> since it confers protection against circumvention of effective TPMs which was inserted in 2012<sup>69</sup> to comply with WIPO (WCT), on the contrary, it lacks in expressly cover general TPMs like

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<sup>63</sup> Rohan Pearce, 'Music Industry Seek to Block Stream-ripping services as part of piracy fight' (*ComputerWorld*, 3 April 2019) < <https://www.computerworld.com/article/3471859/music-industry-seeks-to-block-stream-ripping-services-as-part-of-piracy-fight.html> > accessed 12 May 2020.

<sup>64</sup> Dr Frederick Mostert, Study on IP Enforcement Measures, Especially Anti-Piracy Measures in the Digital Environment' in 14<sup>th</sup> session of Advisory Committee on Enforcement-WIPO/ACE/4/7 < [https://www.wipo.int/edocs/mdocs/enforcement/en/wipo\\_ace\\_14/wipo\\_ace\\_14\\_7-annex1.pdf](https://www.wipo.int/edocs/mdocs/enforcement/en/wipo_ace_14/wipo_ace_14_7-annex1.pdf) > accessed 11 May 2020.

<sup>65</sup> Rauta (n 59).

<sup>66</sup> Maharashtra Cyber Digital Crime Unit; Telangana Intellectual Property Crime Unit are the spur progress towards the online copyright piracy to diminishing the menace.

<sup>67</sup> Referred as, National Internet Exchange of India.

<sup>68</sup> International Intellectual Property Alliance (IIPA), Copyright Protection and Enforcement (*IIPA Special 301 Report*, 7 February 2019) < <https://www.iipa.org/reports/special-301-reports/> > accessed 12 May 2020.

<sup>69</sup> Copyright (Amendment) Act, 2012, No 27, Acts of Parliament (India).

access control. Moreover, neither it has defined the effective TPMs nor distinctly prohibited importing or dealing with circumvention devices.<sup>70</sup>

Therefore, not only it requires to enhance its enforcement of adequate IPR in across 29 Indian states for the national enforcement agency and Administrative site blocking, But, also, a legal framework for the reformation in the TPMs is essential.

In fact, s.69A of IT Act<sup>71</sup> read with IT Rules<sup>72</sup> is futile due to ambiguity of IPR violations, although its insertion would encourage ISPs to comply with the blocking orders of the court more effectively, therewith, s.52(1)(c)<sup>73</sup> have also not epitomised the term “person” which must include ISPs corresponding to operate the potent measures in restraining infringement and disables the access of violative content. Lastly, Rule3(4)<sup>74</sup> needs to be solidified as it provides notice and takedown.

Thus, to combat against the menace of piracy as aid of global jurisdiction becomes crucial due to its boundary-less character of the internet. Consequently, it is clear, the above-mentioned measures would encourage the Indian government to adopt the legislative measures in their national laws.

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<sup>70</sup> Copyright (Amendment) Act, 2012, s65A.

<sup>71</sup> Information Technology Act,2000, No 21, Acts of Parliament (India).

<sup>72</sup> Information Technology (Procedure and Safeguards for Blocking for Access of Information by Public) Rules, 2009.

<sup>73</sup> Copyright ((Amendment) Act, 2012.

<sup>74</sup> Information Technology (Intermediaries Guidelines) Rules, 2011.

## RECOMMENDATIONS AND CONCLUSION

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Unfortunately, often claimed that piracy could not be abolished entirely, but to assure the fair compensation for the right holders and new talent in the future, piracy needs to be curbed. Since, it is like a demand and supply rule in which user would never pay for the music if there is an availability of offline access without any subscriptions. Hence, MI of India particularly is jeopardised with the thriving piracy rate. For which, sincere efforts by the government in handling SR via strict enforcement of anti-circumvention provisions is vital.

And Substantially, in order to battle against online piracy, legal enforcement as taken in above-mentioned countries could be an elevated example for India, specially the YouTube mp3 case for protecting the right holders against the illegal access via ISPs and end-users.<sup>75</sup>

Undoubtedly, Administrative blocking orders have started to attain its objective in several countries but, it has undermined Indian laws which are either not illustrated explicitly in statutory measures or not defined existing laws, for which IIPA suggested to explicitly include the infringement of IPR as the factor for intermediaries to remove the access of infringing content<sup>76</sup> to effectuate the Blocking orders and implement National Legislative Agencies for the robust actions. In addition, E-filing would also be a sweeping step to avoid delays in adjudication of the cases in related issues.

Hence, Indian courts are required to alter its copyright laws in conformity with tech innovation in resolving the cases of SR more effectively.<sup>77</sup>

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<sup>75</sup> Quintais and Poort (n 30) 863.

<sup>76</sup> International Intellectual Property Alliance (IIPA), Copyright Protection and Enforcement (*IIPA Special 301 Report*, 6 February 2020) <<https://www.iipa.org/reports/special-301-reports/>> accessed 12 May 2020.

<sup>77</sup> Yash Bagal (n 29) 28.

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