

Copyright Infringement in Digital Age:- Challenge & Solution

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ABSTRACT

This research study addresses multiple challenges that arise in the field of copyright protection in the digital age. Examines and evaluates the major problems of the digital age, such as online infringement, piracy, technological advancements, worldwide copyright concerns, and the difficult balancing act between user rights and copyright protection. It aims to utilize a range of academic, literature, business publications, and legal frameworks, the study takes a multifaceted approach to acquire a comprehensive understanding of the impending difficulties. The

widespread illegal distribution of copyrighted content and the ubiquitous problem of piracy are examined in this study, along with the underlying causes of these violations and the effectiveness of current anti-piracy methods. Assess the efficacy of further the study examines how technological advancements like encryption, streaming services, and digital watermarking affect copyright protection, illuminating the intricate relationship between technology and intellectual property rights. By examining the effects of fair use exceptions, transformative works, and user-generated content platforms, it also looks at the delicate balance between copyright protection and user right By carefully examining pertinent case studies and industry best practice.the goal of research is to determine practical solutions for the problems that copyright owners face in the digital era. This study has implications for content producers, policymakers, and copyright owners alike, offering insightful analysis and practical suggestions for enhancing copyright protection in the quickly changing digital era.

KEYWORDS: – copyright protection, infringement, digital era, intellectual property right, solution.

INTRODUCTION

Copyright protection has several difficulties in the Digital Age, when knowledge and artistic creations may be readily accessible, copied, and shared with a few clicks. These platforms frequently find it difficult to efficiently control and monitor the vast volumes of content that their users published users, and frequently recognize and eliminate copyrighted content that has been uploaded without authorization.

Copyright piracy has become a particularly urgent issue in India, as digital platforms are expanding quickly. It is challenging to properly monitor and enforce copyright laws due to the abundance of pirated content, the ease with which it may be shared without authorization via social media and file- sharing websites, and the worldwide reach of the internet. As a result, the integrity of intellectual property is continuously jeopardized, and copyright holders such as authors, artists, filmmakers, and software developers face large financial losses.

One of the main challenges facing India in enforcing copyright laws is the lack of effective legal procedures and instruments to combat online piracy. Despite the Copyright Act's protections against online piracy, these laws are occasionally outdated and insufficient. Section 52(1)(b) of the Copyright Act, for example allows for the personal use of copies of copyrighted works, but it doesn't define what precisely qualifies as such.

To address these problems, comprehensive legislative and technological measures that effectively counteract online piracy are needed. This could entail revising the Copyright Act to provide more precise guidelines on internet piracy and creating new legal instruments to counteract cross-border piracy. Furthermore, copyright monitoring Technical solutions like blockchain technology can make ownership and distribution more transparent and safe. In order to help people and businesses protect their creative works and navigate the complexity of copyright law, intellectual property firms in India are essential.

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The Indian copyright regime, governed by the Copyright Act, 1957, was designed at a time when the internet and digital technology were not as pervasive as they are today Through its involvement in the World Trade Organization's (WTO) Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) and the World Intellectual Property Organization's (WIPO) treaties, India has made significant progress in modernizing its copyright laws and bringing them into compliance with international standards. Nonetheless, there are still many issues with copyright enforcement in the digital sphere.

IPR: – is a general phrase that refers to the creation of the human intellect. It gives the owners or authors of these intangible assets the sole authority to manage and profit from their works. Creators can profit from their intellectual property by licensing, selling, or transferring these

rights to third parties. IPR is a general phrase that refers to the creation of the human intellect. It gives the owners or authors of these intangible assets the sole authority to manage and profit from their works. These rights can be sold, licensed, or otherwise transferred to third parties, allowing makers to make money off of their creations.

Copyright Right: – The term “copyright” was first used in this context in 1586 and is derived from the phrase “copies of the words.” It is a set of laws that give owners and authors exclusive rights of creative works, is essential for encouraging creativity and innovation as well as making sure that creators receive just pay.

The perception of an idea itself is protected by copyright laws. Works of literature, drama, music, art, cinematograph films, and sound recordings are all protected by copyright under section 13 of the Copyright Act of 1957. For instance, the Act protects computer programs and novels as literary works.

Copyright Act 1957 (as revised in 2012): The foundation of copyright protection in India is the Copyright Act of 1957. Original works of literary, dramatic, musical, and artistic works, including software, cinematographic films, and sound recordings are protected under the Act. Significant improvements were introduced by the 2012 amendment, which included measures to prevent online infringement, such as safe Harbor protections for internet platforms and ISPs.

Digital Millennium Copyright Act (DMCA): It was enacted in 1998 to address copyright issues arising from digital technology and the Internet. It provides copyright owners with a legal framework to protect their works and addresses digital piracy.

Let's closely examine how DRM might be beneficial: By using encryption and access controls, DRM enables content producers and copyright holders to manage who has access to their digital works. By restricting the quantity of digital content that may be copied, the technique can stop illegal copying and distribution. Using digital watermarks and photos to prove ownership and detect unauthorized copies is another example of this. One example of this is when media are given expiration dates, which limit how long users can access them or prevent them from doing

so beyond that date. It gives content producers the ability to specify precise licensing guidelines for the use and access of their digital works.

It monitors how content is being used, giving copyright holders insight into how their work is being seen and shared. It limits media access to specific devices, IP addresses, or places; for instance, it limits material access to those who live in a given nation.

National Copyright Policy 2016:-The Policy seeks to increase knowledge of copyright regulations and establish a more robust copyright ecosystem. It talks on the difficulties brought on by new technology and the internet's global reach.



Image Source: Combatting Digital Copyright Violations: Key Solutions | ETB Law

OBJECTIVE OF STUDY

To circumvent copyright protection's exemption and importance in the digital age.

To examine the many protection strategies used in the digital age.

Determine the obstacles and dangers to copyright defence

HYPOTHESIS

This study will investigate the legal and technological challenges in enforcing copyright law in digital age and their impact on the prevalence of copyright infringement on the internet. The hypothesis proposes that these challenges have contributed to high levels of copyright infringement in India.

METHODOLOGY

The methodology in a research study refers to the general strategy and systematic plan that specifies how the research will be done. Specific type of research method is adopted to define is document analysis or combination of qualitative and quantitative method. It includes ethical and reliable content to study.

EXEMPTION OF COPYRIGHT ACT

- **The Legal Doctrine of Fair Use:** Fair use is a legal doctrine that permits limited uses of copyrighted content for reasons akin to review, commentary, news reporting, tutoring, education, or research without the owner's consent.
- **Examine Transformative Work:** This involves examining how they work within the parameters of copyright legislation and evaluating their influence on artistic expression, cultural output, and participatory culture.
- **Educational and Research Purpose:** Teachers and students can access and use copyrighted content for educational reasons thanks to these exceptions. They are efficient in supporting innovation and facilitating research.
- **Library and Archival:** These exclusions are essential for maintaining long-term access to information, supporting academic research, and conserving cultural heritage.
- **Disability Access:** To help people with print, hearing, or vision impairments, these exclusions permit the development of accessible formats, such as digital, audio, or Braille versions.

- **Satire and Parody:** These exceptions permit the production of expressive and transformative works that offer commentary or criticism on the source material.

Significance of copyright act in digital age

Encouraging creativity and innovation :- It gives authors the only right to their creations, copyright protection is essential for encouraging creativity. Because of this exclusivity, producers are encouraged to devote time, energy, and resources to producing fresh, original material. In the end, a more dynamic, varied, and inventive cultural landscape results from copyright's protection of these works, which guarantees that artists can make money off of them.

Economic benefits for creative people and industry:- Through distribution, licensing, or sales, copyright protection allows artists to make money off of their creations. This promotes a flourishing creative economy by enabling them to obtain just recompense for their intellectual property. It encourages the creation of new content and helps create jobs, particularly in fields like software development, publishing, music, and film. This economic cycle promotes investment and future expansion in the creative industries.

Conservation and cultural heritage: – By preventing the loss or unjust exploitation of original works, copyright protection aids in the preservation of cultural heritage. Creators can protect their work and ensure that it is accessible to future generations by implementing rights management and regulated distribution. Books, artwork, music, and other kinds of cultural expression are all examples of how copyright preserves priceless cultural assets for future generations while fostering a sense of continuity between the past, present, and future.

Promotion diversity and creativity: – By preventing the loss or unjust exploitation of original works, copyright protection aids in the preservation of cultural heritage. Creators can protect their work and ensure that it is accessible to future generations by implementing rights management and regulated distribution. Books, artwork, music, and other kinds of cultural expression are all examples of how copyright preserves priceless cultural assets for future generations while fostering a sense of continuity between the past, present, and future.

Innovation and digital distribution: – Copyright protection is crucial in the digital age to promote creativity in the distribution of creative works. Strong copyright rules are essential to the growth of digital platforms like software apps, streaming services, and e-books because they enable authors to share their work with a worldwide audience while maintaining control and receiving just pay. Copyright protection encourages investment in digital infrastructure and new technologies, which propels the digital economy's expansion and guarantees that content producers can keep making creative money off of their work.

Fighting piracy and abuse: – Copyright protection gives authors the legal means to stop illegal use and piracy of their creations. Copyright law serves to prevent infringement and unlawful copying, distribution, or reproduction of content by defining clear rights and enforcement methods. In addition to safeguarding the financial interests of artists, this also guarantees the authenticity and uniqueness of their creations, keeping them from being misuse or undervalued by unapproved parties.

COPYRIGHT PROTECTION VS USER RIGHTS

Copyright Holder's Right

Exclusive right: Copyright Holders' Rights Exclusive Rights: Copyright holders are granted exclusive rights to control the reproduction, distribution, public performance, and adaptation of their works to encourage creativity, financial returns, and investment.

Economic interest: Copyright holders rely on the protection and enforcement of their rights to generate revenue from their creative works. They seek to safeguard their economic interests and ensure fair compensation for their creations.

User right and access

Freedom of speech: In order to balance the interests of copyright holders with the advantages of society, user rights are crucial for freedom of speech, education, research, and cultural involvement.

Fair Use and Other Exceptions: Copyright exceptions, including parody, educational use, fair use, and other restrictions on copyright, safeguard user rights. Users can interact with copyrighted works in particular situations thanks to these exceptions without

requesting consent from the owner Information Access: For legitimate research, teaching, criticism, and other uses, users depend on having access to copyrighted materials. A key component of user rights is ensuring fair access to knowledge and information.

Balancing Copyright Protection

User Rights: Restrictions and Exceptions: To make sure that protection does not obstruct appropriate applications, copyright law allows for flexibility for specific uses of copyrighted works, such as fair use, transformative works, and educational usage.

Technology Protection Measures: Assessing the harmony between copyright protection and user liberties requires examining how technology protection measures affect user rights.

Aspects of the Public Interest: Although copyright laws must protect user rights, they are crucial for advancing the public interest, encouraging creativity, and facilitating access to information and cultural expression.



Image Source: Navigating Copyright in the Digital Age – Sul Lee Law Firm

CHALLENGES OF COPYRIGHT PROTECTION IN DIGITAL AGE

- **Online Piracy and Unauthorized Sharing:** The unlawful dissemination of copyrighted content over a variety of digital media is known as online piracy. Unauthorized streaming websites, file-sharing services, and peer-to-peer (P2P) networks facilitate the sharing and downloading of content by users without the consent of copyright holders or producers.

Because it disrupts legal sales and distribution routes, the publishing, software, and entertainment sectors suffer large financial losses as a result.. Unauthorized Sharing and Online Piracy

- **Cross-Border Enforcement:** Because copyright regulations differ from one nation to another, it can be challenging to enforce them. Cross-border infringement of content gives rise to jurisdictional problems, and enforcement can be challenging because of variations in national legal systems, cultural perspectives on piracy, and enforcement strategies. This makes it difficult to enforce copyright rights globally since it results in a patchwork of laws and uneven protection.
- **Limitations of Digital Rights Management (DRM):** DRM systems are intended to prevent unauthorized distribution and duplication of digital content. However, the effectiveness of these safeguards is limited because they are not infallible and can be circumvented by astute users. Furthermore, there is a conflict between safeguarding intellectual property and upholding consumer rights because DRM can occasionally prevent acceptable uses of copyrighted information, such moving data across devices or creating personal backups public campaigns and educational initiatives are crucial.
- **Education and Awareness:** Due to a lack of knowledge, many people inadvertently violate copyright, and public comprehension of copyright laws is frequently lacking. More responsible behaviour can be promoted by teaching users about the value of upholding intellectual property rights and the legal repercussions of piracy. To encourage the consumption of ethical content and lower the number of incidents of infringement.
- **Online platform responsibility:** Streaming services, file-sharing websites, and social media platforms are essential to the dissemination of material. Their function in stopping copyright violations is debatable, though. Even if websites like Facebook and YouTube have features like Content ID, these are not infallible and frequently allow for misuse or hold-ups in resolving infringement.
- **Tormenting and Sharing Digital Files:** Peer-to-peer (P2P) file sharing is made possible by decentralized file-sharing platforms like BitTorrent, which makes it challenging to monitor and regulate the dissemination of copyrighted content. Because these systems don't rely on a central server, users can upload and download content anonymously, which makes it harder to enforce Copyright law.

- **Ripping Streams:** The process of extracting and downloading audio or video content from streaming services such as YouTube, Spotify, or Netflix is known as “stream ripping.” Third- party solutions are frequently used by users to get around Digital Rights Management (DRM) restrictions and store content for offline viewing. Stream ripping threatens the financial interests of artists, creators, and distributors by undermining their lawful revenue sources, as these streaming platforms usually function under licenses with content creators.
- **Plagiarism and Digital Manipulation:** Digital manipulation is the process of changing or reusing copyrighted works, frequently by deleting, modifying, or combining them into unapproved new content. In the digital sphere, plagiarism can occur when someone copies significant portions of original works and passes them off as their own. This reduces the originality and market worth of the producers’ intellectual property in addition to breaking copyright rules. It is especially common in fields like literature, digital art, and even scholarly content.
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- **Insufficient International Collaboration:** Inconsistent international cooperation makes copyright enforcement more difficult. Copyright protection rules vary from one country to another, creating legal gaps that infringers might take advantage of. Certain forms of digital piracy, for example, might not be as strictly enforced in different areas, providing safe havens for illicit activities. In the absence of an international enforcement framework, copyright holders find it challenging to safeguard their creations across borders.
- **Cyber lockers and Search Engines for Cyber lockers:** Cyber lockers are online file storage services that let users upload and store data (like Drop box and Mega). Although there are legitimate uses for these services, they are frequently abused to distribute illegal

software, music, and film. Users can more easily locate and obtain information that is infringing thanks to cyber locker search engines (like Google or specialized sites). It could be difficult for copyright holders to get illegal content taken down from these networks, particularly when items are shared, downloaded, and published quickly.

MULTIFACETED SOLUTION

- **Update Copyright rules:** In light of the difficulties presented by digital distribution, online piracy, and technological improvements, copyright rules should be reviewed and updated to reflect the digital environment. Make sure copyright laws give copyright holders sufficient protection.
- **Distribute Adequate Resources:** To successfully enforce copyright rules in the digital sphere, give law enforcement organizations and specialized intellectual property units the tools and assistance they need. This entails investing in tools and technology, educating staff, and setting up effective procedures for looking into and pursuing cases of copyright infringement.
- **Cooperation and Information Exchange:** Encourage cooperation and information exchange.
- **Cooperation and Information Exchange:** To detect and stop online piracy, encourage cooperation and information exchange between copyright holders, tech firms, internet service providers (ISPs), and law enforcement organizations. Create avenues for prompt reporting, best practice sharing, and takedown protocols.
- **Better Digital Rights Management (DRM):** Promote the creation of strong and intuitive DRM systems that safeguard copyrighted material without unnecessarily limiting user rights. DRM systems ought to be flexible, interoperable, and able to adjust to changing customer demands and new technology.
- **Programs for Copyright Education:** Raise public, educational, creative, and corporate awareness and comprehension of copyright laws, rights, and obligations. Create instructional materials and initiatives that encourage moral consumerism, regard for knowledge of intellectual property and the consequences

- **Technologies for Watermarking and Tracking:** Encourage the use of tracking and watermarking technology to locate and monitor copyrighted content, making it easier to detect and prevent illegal use and dissemination of piracy.
- **Education and Support for Creators:** Give creators especially independent artists and small businesses the tools, direction, and assistance they need to deal with copyright concerns, safeguard their creations, and successfully make money off of them.
- **Cooperation with Online Platforms:** Promote the adoption of proactive measures by social media networks, content sharing websites, and online platforms to stop and lessen copyright infringement. This may entail putting in place reliable content identification mechanisms, offering simplified procedures for reporting violations and encouraging conscientious user conduct.
- **Anti-Piracy Alliances:** Encourage collaborations between online platforms, payment processors, advertisers, and copyright holders to cut off pirate websites' sources of income, lessen ad-supported piracy, and stop online infringement with focused actions.
- **Easy to use Availability and Cost of Legal Content Access:** Through a variety of business models, including subscription services, ad-supported platforms, and adjustable price options, promote the accessibility and affordability of lawful digital content. This encourages the usage of legal channels and lessens the incentive for customers to turn to piracy.
- **User Experience and Convenience:** Make sure that legal content platforms provide a large selection of content, simple access, and appealing features that are on par with or better than those of pirate platforms. This will improve the user experience, convenience, and value of these platforms.
- **Investigation and Cooperation:** Encourage more research on copyright concerns in the digital era, such as user behaviour, pirate patterns, and the efficacy of anti-piracy initiatives. This Policy choice, business procedures, and the creation of novel solutions can all be influenced by research.
- **Collaboration Among Stakeholders:** Encourage cooperation and communication between interested parties, including as copyright owners, tech firms, legislators, academic institutions, and user advocacy organizations. Have conversations with multiple stakeholders to create fair and practical copyright protection plans.



Image Source: Protecting Your Brand in the Digital Age: A Copyright Wake-Up Call for Marketers

CASE ANALYSIS

Universal Studios vs. DotMovies.Baby

The Delhi High Court's ruling by Justice Prathibha Singh not only gave six major Hollywood studios Universal Studios, Disney, Warner Bros., Paramount, Columbia, and Netflix victory over the websites that streamed their protected works, but it also marked a significant turning point in India's changing legal landscape regarding digital piracy and copyright enforcement. The Delhi High Court heard the six studios' lawsuit against the rogue websites that were illegally streaming their copyrighted content on August 24, 2023. The decision marked a turning point in the issue of a Dynamic+ injunction a state-of-the-art legal instrument designed to counteract the strategies

employed by piracy websites to avoid detection in the digital era. This piece examines the background, legal defences, and consequences of this landmark court decision and the new standard it establishes for copyright protection.

Case background

Piracy has been a major barrier for centuries for content producers and distributors, almost becoming a plague on the entertainment sector. Digital streaming services have attempted to increase internet piracy, which has greatly increased in recent years. Users can access or download movies, TV series, and other media items without paying royalties or getting any legal permissions thanks to DotMovies.Baby and other websites with a similar structure. To avoid detection and punishment, these pirated websites quickly switch up their domain names, IP addresses, and URL. The vast library of copyrighted movies and television series owned by Universal City companies LLC. Plaintiffs and five other major companies is heavily searched on unauthorized websites. DotMovies and other websites are cited by these studios. By stealing viewers from other platforms and denying legitimate outlets revenue, Baby seriously damages the entertainment sector. In order to prohibit DotMovies, the plaintiffs requested an injunction. Sites from hosting, distributing, or streaming protected content, such as Baby.

The plaintiffs argued that typical injunctions that targeted specific URLs or domain names were useless against hydra-like piracy networks because blocking one site leads to the creation of other mirror sites. Therefore, the plaintiffs sought injunctions that were dynamic or flexible enough to allow them to pursue piracy continuously without requiring a new court order each time a site that violated the law arose. This resulted in the special Dynamic injunction which the court has now decided to apply to both the main infringing website and any future modifications or mirror sites.

Legal analysis & arguments

Finding a remedy that might be as quick as the infringers themselves was the main legal challenge in this case. Historically, copyright holders have filed distinct lawsuits or applications

whenever an old pirate website changed its domain. Because of this technique, copyright enforcement was costly and time-consuming. Given how quickly piracy websites would change, the plaintiffs contended that such an antiquated strategy was ineffectual; they asserted that a shift in their virtual footprint happened in a matter of hours. According to the plaintiffs, the Delhi High Court had previously issued dynamic injunctions that prohibited particular URLs and permitted copyright holders to add mirror sites over time.

Using this legal framework, the plaintiffs requested an extended Dynamic+ injunction, which would enable them to alert the Department of Telecommunications (“DoT”) and Internet service providers (“ISPs”) to the provision of services through infringement-related URLs to websites like DotMovies.Baby and other rogue websites. Without requiring additional court orders from the plaintiffs, ISPs and the DoT would have to act right away to block access to these infringing websites under this legal framework.

Additionally, by projecting large revenue losses from illegal streaming and downloads, the plaintiffs highlighted the financial toll that internet piracy takes on India’s entertainment sector. They maintained that in order to safeguard content creators’ intellectual property rights and uphold a strong injunction like Dynamic enduring business plan for the sector. They also emphasized that although ISPs are crucial in preventing access to websites that violate the law, the temporary nature of these websites necessitates a creative solution that may change in real time.

DotMovies.In this instance, Baby did not present a defence. When there is no fear of punishment, it is not uncommon for piracy websites to offer no defence. As a result, the court had the authority to evaluate the evidence that the plaintiffs had presented and issue an ex parte order against the contested location. Even the absence of protest against the Plaintiffs demonstrated the defendants’ piratical behaviour, which supported the Plaintiffs’ assertion that an efficient method to stop recurrent infringers.

Judgement

While advancing the Dynamic injunction for a forward-thinking strategy to enforce digital copyrights, Justice Prathibha Singh delivered a landmark ruling. In accordance with the Dynamic+ injunction, the court ordered DotMovies.Baby and numerous of its clones to cease streaming any content that was copyrighted by the Plaintiffs. Additionally, the court ordered the Plaintiffs to create any new websites that violate copyrights to ISPs and further ordered the ISPs to block these domains within a week and DoT without further recourse to court filing.

According to Justice Singh, a Dynamic+ injunction was required to address the unique issues surrounding online piracy in a digital environment where the infringing websites frequently change their appearance to evade detection. By expanding the court provided a relief mechanism that could keep up with the defendants' attempts to transmogrify their actions and divert them from the enforcement gaze within the scope of the injunction over future domains. Justice Singh went on to discuss the necessity of a worldwide perspective on copyright enforcement in the digital realm, pointing out that any problems pertaining to proxy servers, VPNs, and international jurisdiction made copyright protection more difficult. Furthermore, the court recognized that the demands of international digital piracy cannot be adequately met by the laws and regulations now in place, and stakeholders from all over the world were urged to develop legally enforceable solutions for better enforcement of copyright by cooperation. Therefore, this Dynamic injunction is an innovative way to address the conflict between copyright protection and the challenges of enforcing it against online piracy. Justice Sigh noted that while this was a positive move, its long-term efficacy would require backing from a constantly changing regulatory and technology landscape.

RECOMMENDATION/ SUGGESTION

- **Using Cutting-Edge Technologies for Enforcement and Monitoring:** To keep an eye on illegal distribution of their works, copyright holders could spend money on machine learning (ML) and artificial intelligence (AI) methods. Copyrighted content is already identified and managed by platforms such as YouTube using Content ID systems. AI-powered solutions that automatically identify and remove illegal content from online

platforms can potentially be developed in cooperation with governments and industry players.

- **Enhance Academic Instruction on Intellectual Property Rights (IPR):** A generation that is more conscious of intellectual property issues can be produced by integrating IPR education into the curricula of students studying law, media, and technology. Content producers can also be empowered to take charge of their intellectual property by attending workshops, seminars, and training sessions on copyright registration and protection.
- **Boost Inter-Border Collaboration:** India ought to participate in more international treaties and agreements that address copyright enforcement, considering how global the internet is. Collaboration with other nations, particularly those that frequently host pirated content, can facilitate takedown procedures and guarantee more successful international copyright enforcement.
- **The Notice-and-Takedown System Reform:** The notice-and-takedown procedure may be improved in India, even though it has worked well in other jurisdictions. Copyright holders can file complaints more swiftly and easily if the procedure is simplified and made more user-friendly.
- **Promoting Cooperation between Creators and Content Platforms:** In order to identify and stop infringement, content platforms such as social media websites, streaming services, and file-sharing platforms should be urged to work more closely with content providers. This can entail putting in place more robust algorithms or providing better incentives for authors to safeguard their creations. Additionally, platforms might offer authors simple mechanisms for reporting infringement, along with improved assistance and speedier outcomes.

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