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COPYRIGHT LAW WITHIN THE ARCHITECTURE OF INTELLECTUAL PROPERTY RIGHTS: TRACING THE INTERLINK

~ *Shahin*

Abstract

Copyright law is routinely used as a stand-in for "intellectual property" in everyday speech, but the two terms are not the same thing, and treating them as such obscures more than it clarifies. This paper argues that copyright is one constituent limb of a much larger legal family that also includes patents, trademarks, industrial designs and trade secrets, and that its distinctive doctrines only make sense once that family relationship is taken seriously. Drawing on the international treaty framework built around the Berne Convention and the TRIPS Agreement, the economic literature associated with Landes and Posner, and the Indian judicial experience beginning with Eastern Book Company v. D.B. Modak, the paper traces how copyright acquired its particular doctrinal character while remaining tethered to the broader justificatory logic of intellectual property protection generally. The claim, in short, is that copyright's rules on originality, the idea-expression dichotomy and the term of protection are not free-standing peculiarities of copyright but instances of a general IPR bargain adapted to the economics of expressive work.

I. INTRODUCTION

Ask a first-year law student to define intellectual property, and more often than not what comes back is a description of copyright - books, films, songs, the right to stop someone copying your work. That instinct is not hard to understand. Copyright is the one branch of intellectual property law that ordinary people run into constantly, whether they are streaming a film, photocopying a chapter for an exam, or uploading a photograph online. But the same instinct is also a small source of confusion, because intellectual property rights, usually shortened to IPR, is a considerably larger category than copyright on its own. It is really a family of doctrines - patents, trademarks, geographical indications, industrial designs, trade secrets, and copyright among them - held

together by a shared concern rather than a shared subject matter: how the law ought to treat products of the mind that can be copied far more cheaply than they can be created.¹

This paper tries to work out, with a bit more precision than the everyday usage allows, where copyright sits within that larger family, and why the answer matters. It is not just a matter of getting definitions straight for their own sake. Once copyright is seen as a species of the broader IPR genus, several of its doctrines stop looking arbitrary and start looking like sensible adaptations of a general principle. Why does copyright protect the expression of a story but never the plot idea underneath it? Why does protection run out after a fixed number of years instead of lasting forever? Why have courts spent so much energy arguing over how much "sweat of the brow" is enough to earn protection in the first place? None of these questions has a satisfying answer if copyright is treated as a self-contained field. They become far more tractable once copyright is read against the backdrop of the wider justification offered for intellectual property protection as such.

The discussion below moves through the conceptual architecture of IPR, copyright's place within it, a short history of how the two grew up together, the international treaty framework that formally binds them, the economic case usually offered in their defence, the Indian case law that has worked these ideas out in practice, a comparison of copyright with the other principal IPR categories, and finally a look at what digital technology and artificial intelligence are doing to all of this in the present moment.

II. CONCEPTUALISING INTELLECTUAL PROPERTY RIGHTS

At bottom, intellectual property rights are a set of statutory monopolies over intangible products of the intellect.² That label, though, covers a deliberately mixed bag of legal tools, and it is worth being clear about how mixed. Patents protect functional inventions - a new mechanism, process or chemical compound - for a limited period, in return for public disclosure of how the invention actually works. Trademarks protect signs that distinguish one trader's goods or services from another's, and unlike copyright or patent, they can in principle last indefinitely as long as they

¹Traverse Legal, "The Difference Between Intellectual Property and Copyrights" (Traverse Legal Blog, 19 September 2025) <www.traverselegal.com/blog/how-is-copyright-law-related-to-intellectual-property/> accessed 5 September 2026.

²Library & Information Science Education Network, "Intellectual Property Rights and Copyright Law" (21 December 2023) <www.lisedunetwork.com/intellectual-property-rights-and-copyright-law/> accessed 5 September 2026.

continue to be used and defended. Industrial designs protect how a product looks. Trade secrets protect confidential commercial information for as long as the secrecy holds. Geographical indications protect names tied to a particular region and the qualities associated with it. And copyright, the actual subject of this paper, protects original literary, artistic, musical and dramatic works, along with a handful of newer categories - sound recordings, films, computer programs, broadcasts - that were folded into the copyright net over the course of the twentieth century.³

What ties these otherwise quite different doctrines together is not what they protect but the problem they are all trying to solve. Intangible creations, once released into the world, tend to be non-rivalrous and hard to keep others away from: a song can be hummed by a thousand people without wearing out, a formula can be used by a dozen manufacturers at once without anyone using it up. Left to itself, a market like that would probably under-produce such things, because a creator who cannot stop competitors free-riding on the work has little reason to spend the time, money and effort of producing it in the first place.⁴ Intellectual property law's response is to manufacture a kind of artificial scarcity - a right to exclude others - pitched, in theory at least, at whatever level gives creators enough incentive to keep creating without taking more out of the public domain than is strictly necessary.

III. COPYRIGHT AS A CONSTITUENT OF THE IPR FAMILY

Seen this way, copyright's place in the family becomes a good deal clearer. It is one of four or five core categories of intellectual property, sitting next to patents, trademarks and trade secrets, and its own particular job is to protect original creative expression rather than functional invention or commercial signalling.⁵ One useful way of putting the point, found in the practitioner literature, is that copyright and intellectual property are not really comparable as equals at all; copyright is simply a form of intellectual property, in much the same way a chapter is part of a book rather than a rival to it.⁶

³Traverse Legal (n 1).

⁴William M Landes and Richard A Posner, "An Economic Analysis of Copyright Law" (1989) 18 Journal of Legal Studies 325.

⁵Library & Information Science Education Network (n 2).

⁶Stanzione & Associates, PLLC, "Copyright Vs. Intellectual Property: What's The Difference?" (1 August 2025) <www.stanzioneiplaw.com/copyright-vs-intellectual-property-whats-the-difference/> accessed 5 September 2026.

This is not academic hair-splitting. It has consequences that show up constantly in ordinary commercial dealings. A business that licenses "the IP" in a photograph, without saying whether that licence covers copyright alone, or also extends to trademark rights that might exist in a logo appearing in the shot, or to a person's right of publicity if they happen to be pictured in it, is asking for trouble - each of those rights sits under a different body of law, with its own rules on assignment, duration and remedy.⁷ The traffic runs the other way too: the subject matter covered by intellectual property rights as a whole is far broader than anything copyright touches. An invention, a trade name, a manufacturing process and a novel are all, loosely speaking, "intellectual property," but only the last of these has anything to do with copyright.⁸ So the interlink cuts both ways. Copyright borrows its underlying justification - reward creative labour, encourage future production - from the general theory of intellectual property, and intellectual property as a system in turn relies on copyright to cover the one category, expressive rather than functional or reputational creations, that the other doctrines were never built to handle.

IV. HISTORICAL TRAJECTORY

The history bears this part-to-whole relationship out reasonably well. Copyright is usually traced back to the Statute of Anne of 1710 in England, the first law to give a statutory right against copying to the author of a book rather than to the printers' guild that had previously held a censorship-linked monopoly over the trade.⁹ Patents go back further still, to the Statute of Monopolies of 1624, which reined in the Crown's habit of handing out arbitrary trading monopolies while carving out a narrow exception for genuinely new inventions.¹⁰ Trademark law is later again, developing mostly through the common law action of passing off before it acquired statutory footing in the nineteenth century. None of these doctrines, in other words, grew out of one unified idea of "intellectual property" from the start. The umbrella term came afterwards, over the second half of the nineteenth century and through the twentieth, once commentators and treaty drafters

⁷Third Chair, "Copyright Intellectual Property: Key Differences and Overlap" (1 May 2026) <usethirdchair.com/blog/copyright-intellectual-property-key-differences-and-overlap> accessed 5 September 2026.

⁸Inter Justice Law Firm LLC, "Distinguishing Copyright and Intellectual Property Rights" (30 November 2025) <interjusticelawfirm.com/en/copyright-and-intellectual-property-rights/> accessed 5 September 2026.

⁹Statute of Anne 1710, 8 Ann c 19 (Great Britain).

¹⁰Statute of Monopolies 1624, 21 Jac 1 c 3 (Great Britain).

noticed a family resemblance among bodies of law that had until then been administered quite separately.

Formal unification followed with the creation of the World Intellectual Property Organization in 1967, which became a specialised United Nations agency in 1974.¹¹ From that point, copyright and the rest of the IPR family shared not just a common vocabulary but a common administrative and diplomatic address, which sped up the drafting of instruments that treated the whole family as one coherent system rather than a scatter of unrelated national quirks.

V. THE INTERNATIONAL ARCHITECTURE: BERNE, TRIPS AND WIPO

The clearest formal proof of the interlink lies in the treaty architecture itself. The Berne Convention for the Protection of Literary and Artistic Works, first concluded in 1886 and revised a number of times since, is the foundational instrument of international copyright, and WIPO administers it alongside the treaties covering patents, trademarks and the other IPR categories.¹² Long before "globalisation" was a word anyone used, Berne had already established the principle of national treatment - a work first published in one member country gets the same copyright protection in every other member country that the host country gives its own nationals - while leaving considerable room for domestic law to decide questions such as who actually counts as an author.¹³

That link was made explicit rather than merely implicit by the Agreement on Trade-Related Aspects of Intellectual Property Rights, concluded during the Uruguay Round and administered by the WTO since 1995. TRIPS covers copyright and related rights, trademarks, geographical indications, industrial designs, patents, integrated-circuit layout designs and undisclosed information, all within a single treaty text, and it sets minimum standards of protection and enforcement across every one of them.¹⁴ Its copyright provisions do not try to restate copyright law from the ground up; Article 9 simply requires members to comply with the substantive

¹¹Convention Establishing the World Intellectual Property Organization (adopted 14 July 1967, entered into force 26 April 1970) 828 UNTS 3.

¹²Sam Ricketson and Jane C Ginsburg, *International Copyright and Neighbouring Rights: The Berne Convention and Beyond* (3rd edn, Oxford University Press); Berne Convention for the Protection of Literary and Artistic Works (adopted 9 September 1886, as revised at Paris, 24 July 1971) 1161 UNTS 3.

¹³*Ibid.*

¹⁴World Trade Organization, "An Overview of the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS Agreement)" <usinfo.org/law/treaties/intell2.htm> accessed 5 September 2026.

provisions of Berne (leaving out the moral rights clause) and adds that copyright protection extends only to expressions, not to ideas, procedures, methods of operation or mathematical concepts as such.¹⁵ TRIPS has been described, for this reason, as a "Berne-plus" agreement so far as copyright goes - it layers extra obligations on computer programs, data compilations, rental rights and enforcement onto the pre-existing Berne framework, doing much the same "Paris-plus" job for patents and trademarks by reference to the Paris Convention.¹⁶

Placing copyright, patents and trademarks inside one treaty, subject to shared general principles like national treatment and most-favoured-nation treatment, is itself a fairly strong institutional statement about the interlink this paper is concerned with. TRIPS does not treat copyright as a self-contained field; it treats it as one substantive chapter within a unified international law of intellectual property, sharing enforcement machinery, a dispute settlement mechanism through the WTO, and a common rule against any IPR holder abusing their rights to restrain trade unreasonably.¹⁷

VI. THE ECONOMIC RATIONALE FOR THE INTERLINK

Granted that the historical and doctrinal connection exists, the theoretical literature is where one finds the argument for why the connection was worth drawing at all. The most influential account is still the one offered by William Landes and Richard Posner, who argued that intellectual property generally, and copyright as one instance of it, is best understood as a response to the public-good nature of information. Information is expensive to produce but cheap to copy once it exists, so an unregulated market would tend to under-supply it, since creators could never recover their up-front investment against a flood of cheap copies.¹⁸ Landes and Posner frame the whole design problem for copyright law as a trade-off between the benefit of giving creators an incentive to produce and the cost of restricting the public's access to what has already been produced -

¹⁵Agreement on Trade-Related Aspects of Intellectual Property Rights (adopted 15 April 1994, entered into force 1 January 1995), Marrakesh Agreement Establishing the World Trade Organization, Annex 1C, 1869 UNTS 299, art 9.

¹⁶World Trade Organization (n 14).

¹⁷Inter Justice Law Firm LLC (n 8).

¹⁸Landes and Posner (n 4).

copyright doctrine, on this account, should be judged by how well it balances those two costs against each other, not by any inherent moral claim the author is thought to have.¹⁹

That "incentive-access" framing carries over, with only small adjustments, to the rest of intellectual property. Patent law gives inventors a temporary monopoly in return for disclosing an invention that could otherwise have been kept secret, which is really the same trade-off between incentive and diffusion applied to technology instead of expression. Later scholarship has tried to sharpen the Landes-Posner model - proposing more precise microeconomic versions of the incentive-access trade-off better suited to digital distribution - but it keeps treating copyright as a special case of the general intellectual property problem rather than an entirely separate field of policy.²⁰ It is worth adding, in fairness, that Landes and Posner themselves later grew more cautious about the whole exercise, conceding in subsequent work that economic analysis has not actually settled the question of whether intellectual property protection produces a net welfare gain at all. That caution applies just as much to copyright specifically, and if anything it reinforces the point being made here: copyright and the rest of the IPR family are judged by the same analytical yardstick, not by two separate ones.

VII. THE INDIAN EXPERIENCE: STATUTE AND CASE LAW

India's own statutory architecture follows the same pattern. The Copyright Act, 1957 sits alongside the Patents Act, 1970, the Trade Marks Act, 1999, the Designs Act, 2000 and the Geographical Indications of Goods (Registration and Protection) Act, 1999, all administered under the Department for Promotion of Industry and Internal Trade,²¹ though copyright registration runs through a dedicated Copyright Office while patents and trademarks go through a separate Controller General.

Indian courts have had plenty of occasion to work out how far copyright protection should stretch, and they have leaned heavily on the general IPR justification of rewarding skill and labour while keeping the public domain intact. The clearest illustration is the Supreme Court's judgment in

¹⁹Ibid.

²⁰Sami Valkonen and Lawrence J White, "An Economic Model for the Incentive/Access Paradigm of Copyright Propertization: An Argument in Support of the Proposed New §514 to the Copyright Act" (2009) 29 Hastings Communications and Entertainment Law Journal, issue 3.

²¹Copyright Act 1957 (India); Patents Act 1970 (India); Trade Marks Act 1999 (India); Designs Act 2000 (India); Geographical Indications of Goods (Registration and Protection) Act 1999 (India).

Eastern Book Company v. D.B. Modak, which arose out of a dispute between two law-report publishers over whether their copy-edited versions of Supreme Court judgments - complete with paragraph numbering, cross-referencing and notes on which judges concurred or dissented - were original enough to attract copyright.²² The Court's answer was that nobody can copyright the raw text of a judgment, but that the editorial work of segregating and numbering paragraphs, cross-referencing across judgments and flagging concurrence or dissent did involve enough skill and judgment to count as an original literary work, even though mere clerical correction of the same text would not have cleared that bar.²³ In getting there, the Court moved away from the older "sweat of the brow" standard, under which labour and expense alone were enough to found originality, and settled instead on a middle position borrowed from the Canadian Supreme Court's decision in CCH Canadian Ltd v. Law Society of Upper Canada - a work has to be the product of an exercise of skill and judgment, not mere mechanical effort, though it need not clear the higher creativity bar that United States copyright law demands.²⁴

A second, earlier illustration is R.G. Anand v. Delux Films, where the Supreme Court applied the idea-expression dichotomy to a dispute over whether a film had lifted the plot of a stage play. The Court held that similarity of idea or theme is not infringement on its own; the defendant has to have copied the particular expression, arrangement and treatment the plaintiff gave that idea.²⁵ Taken together, these two decisions make the point argued in Part VI in a very concrete way: Indian courts are, case by case, calibrating copyright to the same incentive-access balance the general theory of intellectual property prescribes - generous enough to reward genuine editorial or creative effort, but withheld from raw facts, bare ideas and mechanical labour that ought to stay available for the next creator to use.

VIII. COPYRIGHT COMPARED WITH OTHER FORMS OF IPR

²²Eastern Book Company v D.B. Modak, (2008) 1 SCC 1 (Supreme Court of India); see also "Case Brief: Eastern Book Company & Ors. v. D.B. Modak & Anr." (The Legal Lock) <thelegallock.com/?p=29894> accessed 5 September 2026.

²³Ibid.

²⁴Lakshmikumaran & Sridharan, "White Paper: IP Infringement Analysis" <www.lakshmisri.com/Media/Uploads/Documents/WHITE_PAPER_IP_Infringement_Analysis_Esheeta_REWISE_D.pdf> accessed 5 September 2026, discussing CCH Canadian Ltd v Law Society of Upper Canada [2004] 1 SCR 339 (Supreme Court of Canada).

²⁵R.G. Anand v M/s Delux Films, (1978) 4 SCC 118 (Supreme Court of India).

Perhaps the best way to see the interlink is to hold the doctrines up next to one another. Patent law demands novelty, an inventive step and industrial applicability, and grants a monopoly for a fixed term - usually twenty years from filing - in exchange for disclosing the invention in enough technical detail for a person skilled in the field to reproduce it. Copyright asks for a great deal less: originality in the qualified sense discussed above, arising automatically the moment a work is fixed, with no registration, examination or disclosure requirement at all, though registration remains available and does help evidentially if litigation follows.²⁶ Duration diverges just as sharply: copyright in most jurisdictions runs for the life of the author plus a further period, commonly fifty or seventy years, while a patent's twenty-year clock starts at filing regardless of how long the inventor lives.²⁷

Trademarks pull apart from both. Because a trademark exists to stop consumers being confused about where a product comes from, rather than to reward creative labour, it is not capped at any fixed term at all - a mark can in principle be renewed forever, provided it stays in commercial use and the renewal formalities are kept up. Trade secrets are different again: protection rests not on registration or fixation but on maintaining confidentiality, and can in theory last forever, or vanish the instant the secret gets out.

None of this variation suggests copyright and the rest of the IPR family are unrelated - quite the opposite. It is the same general bargain being tuned differently for different subject matter. Functional inventions benefit from disclosure because the public gains from knowing how something works even while the inventor's monopoly is still running, which is why patent law insists on it. Expressive works do not raise the same concern, since the work is usually published and available the moment it becomes commercially worthwhile, so copyright dispenses with any formal disclosure step. A trademark would lose its entire point if it expired automatically after twenty years, so trademark law ties the life of the right to continued use rather than a fixed calendar date. Confidential information cannot be disclosed without losing the very thing that makes it valuable, so trade secret law protects secrecy rather than publication. Each doctrine is really answering the same question - how much protection is needed to give creators and inventors an incentive without unnecessarily restricting public access to knowledge - just answering it

²⁶Traverse Legal (n 1).

²⁷Stanzione & Associates, PLLC (n 6).

differently, because books, machines, brand names and confidential formulae behave differently as economic goods.²⁸

IX. CONTEMPORARY PRESSURES: DIGITAL TECHNOLOGY AND ARTIFICIAL INTELLIGENCE

Digital technology is putting fresh pressure on this whole arrangement. Software sits awkwardly across copyright and patent law at once: source and object code are protected as literary works under copyright, following TRIPS's specific instruction to that effect, while the underlying functional algorithm may, in some jurisdictions, also attract patent protection if it clears the ordinary bar of novelty and inventive step.²⁹ Data compilations raise a similar question. TRIPS extends copyright protection to databases that are original because of how their contents are selected or arranged, while leaving the underlying data itself, and any purely functional way of compiling it, outside copyright altogether - a line that tracks the idea-expression distinction discussed earlier quite closely.³⁰

More recently still, generative artificial intelligence trained on huge quantities of copyrighted text, images and music has reopened questions sitting right at the junction between copyright and the wider theory of intellectual property: can training on copyrighted works without the author's consent be justified on incentive-access grounds if it does not directly substitute for the original in the market, and is output produced by such a system even eligible for copyright at all, given that most jurisdictions still insist on a human author exercising the kind of skill and judgment described in *Eastern Book Company v. D.B. Modak*. These are not disputes confined to copyright. They are disputes about the entire IPR bargain, because much the same question - how much protection preserves incentives without choking off future innovation - keeps turning up in patent disputes over AI-assisted invention and in trademark disputes over AI-generated brand content. The fact that the same underlying trade-off keeps resurfacing across every corner of intellectual property law, in contexts its nineteenth-century drafters could never have imagined, is itself fairly strong evidence that copyright was never meant to stand alone. It was always part of one connected system.

²⁸Landes and Posner (n 4).

²⁹TRIPS Agreement (n 15), art 9.

³⁰*Ibid.*

X. CONCLUSION

The relationship between copyright and intellectual property rights is not simply that one is a subset of the other, in the trivial sense that a smaller set sits inside a bigger one. The interlink runs through history, through the design of international treaties, through the economic case made for both, and through the everyday reasoning of courts. Copyright grew up alongside patents and trademarks as one strand of a much older struggle over how legal monopolies on information should be built; it was tied formally to the rest of the IPR family through the Berne Convention and, more decisively, through TRIPS, which folds copyright, patents, trademarks and trade secrets into one treaty text governed by shared principles; it is justified, as the rest of the family is justified, by an economic trade-off between the incentive to create and the cost of restricting access to what already exists; and it is applied by courts, in India as much as anywhere else, using tools - originality, skill and judgment, the idea-expression line - that are themselves particular adaptations of a general intellectual property logic to the specific economics of expressive work. Studying copyright without reference to that wider architecture is a bit like reading one chapter and ignoring the book it belongs to. But treating copyright and intellectual property as interchangeable terms, which is what casual usage so often does, makes the opposite mistake - collapsing the part into the whole. Both errors disappear once the interlink is taken seriously: copyright is intellectual property, certainly, but intellectual property is a good deal more than copyright.

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