

Think Before You Ink: Protection of Tattoos Under the Indian Copyright Law

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Abstract-The growing significance of protecting tattoos under Indian copyright law is explored in the case study. A lack of legal clarity affects tattoo artists and their clients. The study uses a qualitative research approach to conduct an extensive review of relevant literature and case laws to examine the current state of tattoo copyrights in India alongside international practices. The need for legal clarity and consistency is emphasized.

Recommendations for policymakers, tattoo artists and clients are provided by the study. The research aims to foster a deeper understanding among stakeholders regarding their legal rights and obligations within the dynamic landscape of tattoos, ultimately promoting a more informed and equitable legal framework.

Keywords: Tattoos, Copyright law, Indian Copyright Act, Intellectual property rights, Artistic works, Licensing, Authors rights, Infringement

I. INTRODUCTION

A Background of tattoo artistry

Tattoo artists in the past used their work to show their standing, wealth, spiritual views, and national identity. Recently, tattoos have become very famous all over India. They have become a modern way to show yourself. This trend is rising because people are becoming more exposed to different cultures around the world, social media is having an impact, and television shows about tattoos are becoming more popular. The Indian tattoo business grows by 30% every year.

B Rise in popularity of tattoos in India

People in India like getting tattoos. Some of the things that have caused the rise in appeal are more exposure to global culture, the power of social media, and the success of tattoo reality shows¹. A study found that the

tattoo business in India is growing at a rate of 30% per year.

C Importance of copyright protection for creative works
Copyright protection gives the person who made the work formal respect and security, which protects their exclusive rights to it. The person who made the work can copy, share, and show it, and they can stop other people from doing these things without their permission. Protecting people like this is important because it lets artists make money from their work and stops other people from taking advantage of their talent.

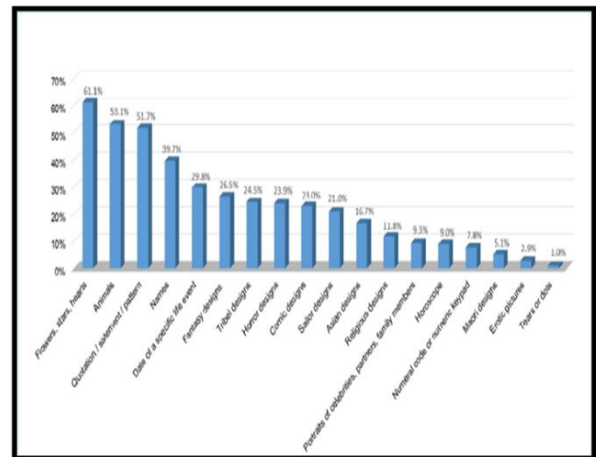


Figure 1: Market share

(Source:²)

D Overview of Indian copyright law

Copyright is a set of rights that only the person who created an original work can use to copy, share, and show their work. Creative works can be written, performed, made musical, or visual. Tattoos are not listed as protected works of art in the act.

¹Datta, R. 2021. Indigenous Communities in India and the Protection of Traditional Knowledge: An Inadequate Legal Initiative. *Supremo Amicus*, 25, 392

²Copyright.gov.in, 2024. *Copyright Office* Available at: [Febuarhttps://copyright.gov.in/](https://copyright.gov.in/) [Accessed on 9th February 2024]

II. MATERIALS AND METHODS

A literature review and case law research showed how successfully Indian copyright rules protect tattoos. Indian copyright laws were examined in the literature review. A solid understanding of the legal environment was gained via studying legal books, academic articles, and internet resources. We examined case rules in detail. Some places examined legal laws and judicial rulings more attentively. The research sought to identify tattoo industry issues and best practices³.

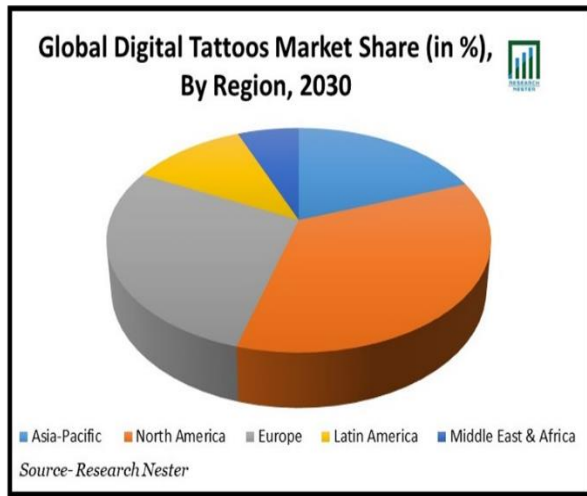


Figure 2: Global digital tattoos market (Source:⁴)

Combining these two methodologies offered us a complete understanding of tattoo property law. The two-pronged approach highlighted legal gaps. This research method's outcomes will be discussed next. We will discuss why Indian law doesn't have clear tattoo copyright laws, how other nations manage them, and case studies of court disputes over tattoo ownership rights in India. This study's major purpose is to contribute to the continuing discourse concerning tattoo protection under Indian copyright law by bringing together these findings and providing a more thorough view of the challenges involved in this ever-changing domain.

³Jana, S., Jana, B., Singh, P. K., and Bera, P. (2021, December). Voronoi Diagrams Based Digital Tattoo for Multimedia Data Protection. In *International Conference on Advanced Network Technologies and Intelligent Computing* (pp. 777-793). Cham: Springer International Publishing

III. RESULTS

A Lack of explicit provisions for tattoo copyrights under Indian law

The Indian Copyright Act of 1957 did not include clear copyright rules for tattoos. TATTOO makers are not protected by the law because tattoos are not included in the acts that cover other kinds of art. There is disagreement about who should own tattoos.

The fact that the act doesn't have a specific section for tattoos makes people wonder about their legal standing and the safety of these one-of-a-kind and highly personal forms of art. Legal frameworks that aren't very clear have made it hard for tattoo artists and customers to know what their rights are. This has made it harder for India's tattoo industry to build a clear and uniform legal landscape. New laws are needed to protect and recognize the rights that come with tattoos. This will bring the law up to date with how art is expressed in modern society, which is always changing.

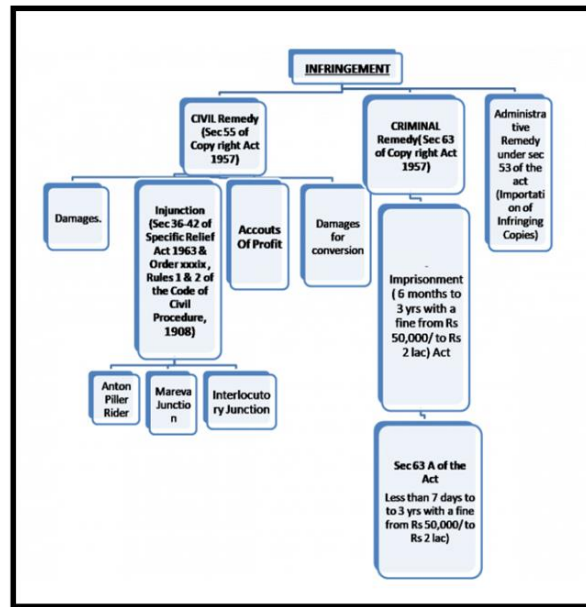


Figure 3: Copyright infringement suit (Source:⁵)

⁴Kumar, H. 2021. *PRINCIPLES OF COPYRIGHT LAW AND INTELLECTUAL PROPERTY LAW*. Horizon Books (A Division of Ignited Minds Edutech P Ltd)

⁵Muralidharan, A. 2022. An Inky Enigma: The Challenges Associated with Copyright Protection for Tattoos. *Indian J. Intell. Prop. L.*, 12, 99.

B Examination of international practices regarding tattoo copyrights

The law system in India is very different from this. A number of countries have taken steps to include tattoos in their rules about copyright. In the United States, tattoos are covered by copyright laws because they are seen as works of art. By recognizing tattoo artists, this law gives them more legal protections. It is against the law for people in Australia to get tattoos⁶. Tattoos are protected by the law because they are unique works of art. This acknowledgement shows how important tattoos are as a unique and valuable form of artistic expression. It also brings the law system in line with how people feel about body art changing over time.

The security system is stronger now that tattoos are covered by copyright rules. The lack of clear rules has led to legal uncertainty and disagreements over who owns tattoos. International examples show that it is possible to include clear copyright rules for tattoos in existing laws, recognizing the artistic value and intellectual property parts of this one-of-a-kind form of expression⁷. India needs to make its laws more in line with what other countries do. In order to make the law more uniform when it comes to protecting tattoos in India, this difference needs to be recognized and fixed.

C Case studies highlighting legal disputes over tattoo ownership rights in India

Tattoo ownership rights are often litigated. Tattooist and Indian cricketer headed to court. He or she stated the cricketer's tattoo design was original. The judge sided with the athlete even though the artist claimed victory since Indian tattoo copyright laws are unclear⁸. This shows the challenges tattoo artists encounter when trying to protect their work legally. The court's verdict didn't mention any legislation, indicating that tattoo ownership rights need to be amended. The judgement revealed the legal ambiguity that makes tattoo business disputes difficult.

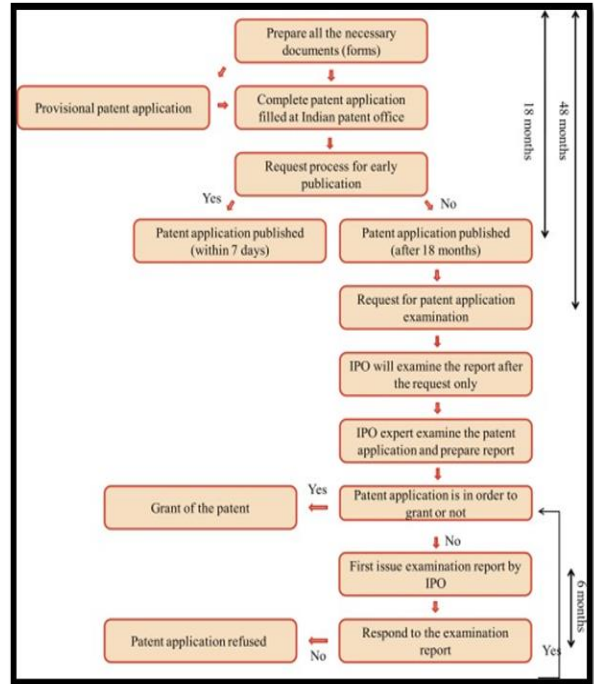


Figure 3: Process of copyright safeguard (Source:⁹)

These case studies demonstrate how real life affects tattoo artists' rights. These cases demonstrate the complexity of tattoo ownership and suggest legislation reform. This strengthens the argument for precise wording in Indian copyright law to safeguard tattoo artists' IP.

D Challenges faced by tattoo artists in protecting their work under current copyright laws

There aren't any clear rules that make it easy for tattoo artists to protect their work. A lot of tattoo artists have said that customers have copied or changed their tattoos without their permission, which can be bad for the artist's finances and mental health¹⁰. Tattoo artists have a hard time going after people who steal their work because tattoo copyrights are not recognized by the law. Because Indian copyright law doesn't cover tattoos, there are

⁶Naqvi, A. N. 2021. Think before You Ink: Protection of Tattoos under the Indian Copyright Law. *Indian JL and Legal Rsch.*, 3, 1

⁷ Pal, I. 2021. Who Is the Owner of the Tattoo Which I Have on My Body?. *Jus Corpus LJ*, 2, 615.

⁸ Prakash, G. 2020. Digital Tattoo, Digital Footprints and Reputation of Children. *Digital Tattoo, Digital Footprints and Reputation of Children* (March 13, 2020).

⁹Prakash, G. 2020. Digital Tattoo, Digital Footprints and Reputation of Children. *Digital Tattoo, Digital Footprints and Reputation of Children* (March 13, 2020).

¹⁰ Rohith, M. M., Belcher, W. R., Roy, J., Abraham, S. O., Chakraborty, P., Nandaniya, N. J., and Johnson, A. 2020. Tattoo in forensic science: an Indian perspective. *Journal of Forensic and Legal Medicine*, 74, 102022.

worries about cultural abuse. People may think it's rude to use traditional tattoos without permission.

IV. DISCUSSION

Some of the things that are done to find ways to protect tattoos under Indian copyright law are lobbying for changes to the law, setting industry standards, and teaching stakeholders. Tattoos should be protected as works of art by changing the law, which would bring India's rules in line with those around the world. If tattoo artists were recognized by the law, they could keep their work safe¹¹. Standards in an industry can help keep disagreements to a minimum. Conflicts over who owns a design should be avoided by tattoo artists' agreement forms. This approach could lead to a place where people work together more.

As an answer, education stands out. The people who get tattoos and the people who buy them should both know what their intellectual property rights are. Artists can tell you about the legal consequences of copying something without permission. Clients can understand how valuable tattoos are. It is important to think carefully about what it means for tattoos in India to have full copyright protection. It's hard to tell which tattoos are original because they all have the same patterns¹². Figuring out if a tattoo is original or a change is hard, and copyright protection needs to be handled in a complex way.

There needs to be a mix between artistic expression and what people want to see. Some restrictions should be put in place to make sure that people can freely express themselves. Finding a balance between the rights of artists and the freedom of the people to express themselves through body art is important for everyone to get along¹³. Comparative research can be done in a number of different ways. Some people in the US and Australia have tattoos. The European union has higher standards for creativity. Understanding global variations can inform policymakers in shaping a contextually appropriate legal framework.

Recommendations for policymakers, artists and clients are more than one thing. Voluntary registration of tattoo

designs makes the process simpler for artists. Stakeholders should be educated about intellectual property rights. The burden of the legal system is reduced by alternative dispute resolution mechanisms. Legal amendments, industry standards, education, and awareness campaigns are needed to protect tattoos under Indian copyright law.

V. CONCLUSION

The protection of Tattoos under "Indian copyright law" needs urgent attention and presents a multifaceted nature. Though the popularity of tattoos in India is growing, there is a lack of legal framework and provision of explicit copyright under the Indian constitution. Considering the international laws that underscore the importance of integrating Tattoos into law to provide a safeguard for artistic expression. Collaboration among the artists, policymakers, and clients is required to promote the importance of intellectual property rights in terms of Tattoos. It is important to recognize tattoos as an artistic creation and need to provide legal protection through Copyright Law.

V. ACKNOWLEDGEMENT

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¹¹ Shukla, S. 2020. Tattoos and Copyright: Can Getting Inked Lead You to the Court?.*LexForti Legal J.*, 2, 87.

¹²Stockton-Brown, M. 2023. Inking Cultures: Authorship, AI-Generated Art and Copyright Law in

Tattooing. *International Journal for the Semiotics of Law-Revue internationale de Sémiotiquejuridique*, 1-29

¹³ Wasnik, A. 2022. Tattoo Artist and Tattoo Bearer's Rights under the Law. *Issue 2 Int'l JL Mgmt. and Human.*, 5, 77.