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### **Creativity Deficiency in the Indian Film Industry: A Study Highlighting the Copyright Laws of India and the Notable Incidents of Infringements**

by  
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**INTRODUCTION**

It is an open secret that Bollywood has always looked to the West for inspiration. Be it for music or for cinema the West has always served as an inspiration for Bollywood. It would have been understandable to an extent had Bollywood stopped at just getting inspired from Hollywood, but that is not the case; nowadays, Bollywood not only looks to the West for inspiration for the script or the storyline but it goes on to lift entire scenes from their movies. It has been the case for a long time now, from Amitabh Bachchan and Hema Malini starrer 1982 movie '*Satte Pe Satta*' which immensely resembled the 1954 Hollywood movie '*Seven Brides for Seven Brothers*'<sup>1</sup> to the very recent Ajay Devgan and Kajal Aggarwal starrer 2011 movie '*Singham*' which had action sequences copied from the 2010 Hollywood movie '*Red*'.<sup>2</sup>

Bollywood has had a long history of infringing Hollywood's copyrights but for a long time though Hollywood seemed to not care about the violations of their rights which was largely due to the lack of awareness of the same in Hollywood. Bollywood has a huge fan base in India and has grown to have a good fan base abroad specifically in the United States therefore Bollywood manages to do good business and make good revenues in the Indian as well as in the foreign market. Hollywood after noticing the economic incentives of enforcing their copyrights, no longer wishes to remain tolerant and witness the violations in silence. It was in the year 2009 that the unprecedented step of filing a suit for infringement of copyright was



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taken by 20<sup>th</sup> Century Fox in the Bombay High Court of India. The suit was filed against *BR Films* for their movie '*Banda Yeh Bindaas Hai*' which 20<sup>th</sup> Century claimed was a rip-off of their 1992 Oscar winner, '*My Cousin Vinny*'. This case was however settled by the two parties in an out-of-court settlement.

In the year 2010, there was another plagiarism case filed in the Bombay High Court where 20<sup>th</sup> Century Fox sued *Sohail Maklai Entertainment* for infringement of their copyrights. In the case of *Twentieth Century For Film Corp. v. Sohail Maklai Entertainment*<sup>3</sup> the Bombay High Court held that *Sohail Maklai Entertainment's* film '*Knock out*' was indeed liable for infringing the copyrights of 20<sup>th</sup> Century Fox's movie '*Phone Booth*'. This decision of the High Court was historic in its own way as it marked the first time in India when the court actually held a Bollywood studio liable for plagiarism. The imitation in Bollywood happens not just from the likes of Hollywood but Bollywood is also notorious for stealing from film industries within India like from the Tamil Film Industry popularly known as Kollywood<sup>4</sup> or from the Telugu Film Industry which is popularly known as Tollywood.<sup>5</sup>

Under the provisions of the Indian copyright laws, no kind of protection is provided to an idea and that protection is only available for expression of an idea and this principle is of aid to the producers who make movies inspired from other's works. This topic would be better understood through a discussion on the Supreme Court judgment of *R.G. Anand v. Delux Films*,<sup>6</sup> as it was the first case in India where the copyright ability of an idea was discussed by the court. In this case, a production house was sued by the author of the play '*Hum Hindustani*'; the author alleged the stealing of the idea of provincialism growing in the Indian

mind-set which was the idea behind his play to have been copied in the movie by the producers. The judgment of the Supreme Court stated that copyright did not exist in an idea but existed only in expression of an idea. It has to be noted that as per the laws in place right now, any person may choose any idea (however common) of his interest and develop it in a way which is entirely his own and give expression to the idea while keeping it different from an other's expression of the idea. Fixation of work in a tangible form is essential for any claims of copyright ability to be made.

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In another judgment of the year 2004, the Calcutta High Court in the case of *Barbara Taylor Bradford v. Sahara Media Entertainment Ltd.*<sup>2</sup> relied upon the judgment of the Supreme Court delivered in the case of *R.G. Anand v. Delux Films*<sup>8</sup> and decided that there was no infringement of copyright as a theme is not protected under the Indian Copyright laws and reiterated the fact that ideas are given no protection and it is only the expression of an idea which can seek protection under the Indian copyright laws. Ideas can however be protected only when a person with an idea reveals the idea to another person in confidence or through the presence of non-disclosure agreements (NDA) between the parties. The important case to be noted here in this regard is the case of *Zee Telefilms Ltd. v. Sundial Communications Pvt. Ltd.*<sup>9</sup> where Sundial Communications accused and sought injunction against Zee Telefilms for stealing the concept and broadcasting a TV series on the lines of the idea of the script told by Sundial Communications to the Managing Director of Zee Telefilms in confidentiality. The court in this matter granted the injunction against Zee Telefilms as it would harm Sundial's business prospect and goodwill if Zee Telefilms were allowed to use the idea which was communicated in confidentiality.

This paper makes an attempt to thoroughly understand plagiarism in the Indian Film Industry from domestic as well as foreign cinema and the disputes and cases arising thereof. The paper also tries to look for reasons for the sudden interest of Hollywood in enforcing its copyrights against Indian filmmakers. Further, this paper attempts to understand various provisions and cases laws with regards to copyright laws and their practical applicability in the current scenario in addition to that this paper highlights how the filmmakers in India are exploiting the copyright laws of India to continue making movies that are immensely copied from other film industries all under the garb of 'expressing the idea differently' as under the laws of copyright in India no protection is provided to the idea itself but protection is only available to the expression of the idea.

### **THE INDIAN FILM INDUSTRY AND THE LONG HISTORY OF IMITATION**

Bollywood, which is the popular name of the Indian Movie Industry, as of today, is one of the most prominent producers of movies in the world, producing close to a thousand movies every year screened in over 13,000 cinema halls in India. This mammoth industry of India is also subjected to a plethora of legal disputes on a daily basis from domestic as well as foreign film industries. Bollywood is often accused of plagiarism to the effect of stealing scripts of movies, music and even ideas from domestic as well as

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international film industry - many a time from Hollywood, the film industry of the United States. A few of these works are inspired from other films; some are altered and varied in certain ways; some are blatantly copied while a few others are absolute reproduction of the original work.<sup>10</sup> There are certain cases where the demarcation between imitation and inspiration is absolutely lost. Now, to point out a few notable examples of this act of copying

and reproducing: the Bollywood film 'Kaante' was a remake of Quentin Tarentino's 'Reservoir Dogs'; The movie 'Wanted' copied a South Indian movie 'Pokiri'; director Mahesh Bhatt's 'Dil Hai Ke Manta Nahin' which was released in the year 1991 was a replication of 'It Happened One Night', a movie of the year 1934; 'Ghajini', which was commercially very successful in India, took inspiration from the Hollywood movie 'Memento'.<sup>11</sup>

### **Plagiarism In Bollywood From Domestic Cinema**

This imitation in Bollywood happens not just from the movies of the foreign film industries like Hollywood but also from different film industries within India like Kollywood which is the popular name of the Tamil film industry or Tollywood which is the Telugu film industry. Recent example of this is the movie 'Ladies Vs Ricky Bahl' which was accused to be a copy of the Kollywood film 'Naan Avan Illai'.<sup>12</sup> The Indian filmmakers sometimes go to the extent of lifting an entire scene from these movies knowing and realising well that to escape liability and accusations of plagiarism, they can take advantage of the various loopholes in the provisions of the Copyright Act, 1957 as well as find themselves to be protected by the lumbering legal system of India.

#### **Plagiarism In Music**

It is well known that in Bollywood, music and cinema go hand in hand; consequently, even the music industry which can be considered a sister industry of the Indian cinema Industry is not left uninfluenced by this phenomenon of imitating and plagiarising; as is observable from examples which include copying of the song 'Pungi' by Pritam<sup>13</sup> who happens to have a long history himself of accusations on him for plagiarising music,<sup>14</sup>



'Pungi' for instance was copied from a composition of a music group from Iran, and others like the copying of songs of the movie "Ashiq Banaya Apne" composed by Himesh Reshammiya.

Earlier, the two film industries, Hollywood and Bollywood, had quite a distinct and varied audience, where one set was unaware of the other. With the advent of globalisation and the technological advancements in recent times, the varied industries have come remarkably close now and audiences in India also acknowledge movies and music coming from abroad. While the producers in Hollywood seem more interested in investing in Bollywood projects than they ever were before.

### **HOLLYWOOD'S INCREASING INTEREST IN ENFORCING THEIR COPYRIGHTS: REASONS AND RECENT DEVELOPMENTS**

The producers of Hollywood movies are also aware of the infringements of their copyrights; withal, until a few years back, they had chosen not to get into the process of litigation as it would demand great amount of time, money and energy from them.<sup>15</sup> However, lately some of the producers from Hollywood have taken to pursuing legal suits against the Indian film makers. In the spring of 2009, 20<sup>th</sup> Century Fox took the unprecedented move of filing suit for copyright infringement in the Bombay High Court of India against *BR Films*.<sup>16</sup> The Mumbai-based film production company, *BR Films*, was set to release 'Banda Yeh Bindaas Hai' in June 2009. 20<sup>th</sup> Century Fox in its complaint alleged that the producers and director of having gone on to the extent of audaciously creating a significant reproduction of their 1992 Oscar winning movie 'My Cousin Vinny'. 20<sup>th</sup> Century Fox admitted however that they had permitted *BR Films* to make a movie roughly based on their movie; but it was only a permit to base the movie roughly on their script and they had not parted with the rights of a remake in Hindi and its contention was that the rights for a Hindi remake had not been sanctioned. The Bombay High Court issued an injunction to delay the release of the movie 'Banda Yeh Bindaas Hai';<sup>17</sup> the case however was settled in an out-of-court arrangement by the two parties.<sup>18</sup> This settlement between



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the two parties left the major question surrounding the two industries of whether Bollywood could make anymore of such unauthorized remakes of Hollywood films with exemption, unanswered as a holding in this regards was not reached from the case.

However, in the year 2010, another case of plagiarism cropped up in *Twentieth Century fox Film Corp. v. Sohail Maklai Entertainment*,<sup>19</sup> where the court had a chance to reach a holding regarding the issue of legality of an unauthorized Bollywood remake. Sohail Maklai Entertainment was sued by 20<sup>th</sup> Century Fox for unlawfully copying the story and the script of their 2002 movie 'Phone Booth' for their movie 'Knock Out'. In this case out-of-court settlement was not done and the court in its judgment held that the accused production house was liable for the infringement of copyright laws.<sup>20</sup> To reach its holdings, the court cited the case of *Sheldon v. Metro-Goldwyn Pictures Corp.*<sup>21</sup>, and said that lifting substantial parts from a work is enough to prove violation. The court went on to add that the dissimilarities in the two works did not exculpate the defendant of copyright infringement for the substantial similarities.<sup>22</sup> The court going against the arguments of the defendants held that copyright infringement could be found even when a small part happens to be substantially similar to the copyrighted work. In conclusion, the court held 'Knock Out' to have infringed on 'Phone Booth'.

This decision of the Bombay High Court was the very first time in India when the court actually held a Bollywood Studio liable for plagiarising a Hollywood movie.

Earlier, Hollywood did not pay much attention to these unauthorized remakes of their movies for many years, the primary reason was because compared to the returns from Hollywood; Bollywood was not profitable enough to even notice. But the things have changed now, Indian Film Industry has a large audience base in the overseas markets like the United States and the markets keep growing in accordance with the growth in the South-Asian communities, and this makes for a large chunk of the Bollywood's revenue.<sup>23</sup> According to the Internet Movie Database, which is



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an organisation which tracks the box office sales and figures of the movies of various countries including that of Bollywood, Indian movies on a regular basis manage to do more business than movies from any other film industry releasing their movie in the United States.<sup>24</sup>


The Federation of Indian Chambers of Commerce and Industry (FICCI) estimates suggest that filmed entertainment industry in India grossed around Rs 16,860 crore by the year 2013 which would grow at around 9.1 per cent over the next three years.<sup>25</sup>

The media of Bollywood provides to a huge and densely populated subcontinent with over one billion people and an ever growing international audience in the USA and other countries.<sup>26</sup> Considering the market and the enormous popularity of the Hollywood remakes by the audiences, various Hollywood production houses themselves are willing to make movies including remakes of their movies to cater the needs of the Bollywood audience. The popularity of Bollywood, which has now grown manifold both internationally and within the United States, and it's rising commercial value has played a huge role in drawing the attention of the Hollywood producers. The producers from Hollywood are entering the Indian market with their own projects<sup>27</sup> and thus no longer wish to remain indifferent and tolerate the unauthorized Bollywood adaptations of Hollywood entertainment.<sup>28</sup> The other reasons why enforcing the film copyrights is beginning to interest the Hollywood producers and other producers from India and abroad whose copyrights are that infringed include reasons such as

the belief that the original creative works should be given their due international recognition, the revenues which are made by the remake of the original movie has to be shared with the original moviemakers as well and the belief that the unauthorised imitations should have penalties imposed upon them to act as a deterrent.

Additionally, as already discussed in the paper, now that Hollywood and other industries from where Bollywood lifts its contents from, have understood the economic incentives of enforcing copyright, they will now be

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more than willing to enforce their copyrights against Bollywood infringers as now the perks are greater than they ever were before.<sup>29</sup>

Hollywood may have been lenient or not known about the violations of their rights by Bollywood filmmakers but now that is not the case; Bollywood has earned global popularity today and the recent events like the series of cases which have been filed by the Hollywood production houses against the Indian violators show that various Hollywood studios and production houses have taken to an aggressive enforcement of their copyrights against Indian infringers.


Among various factors, a prominent indication which shows that Hollywood studios are now in no mood to let even a single incidence of copyright violation go unnoticed is the opening of the office of Motion Picture Association of America (MPAA) in India in the year 2009 with the sole objective of scouting for plagiarised content for protecting and promoting the American film industry in India.<sup>30</sup>

### **To Minimize Potential Liability and Subsequent Litigation**

For Bollywood filmmakers who are willing to make remakes or make movies which are in some way or other imitation of any other work already present be it from domestic cinema or from any other international film industry, procuring requisite rights and licence for adaptation or remakes will cost only a very small portion of the budget which is set for the film to be produced. Though there are certain charges levied for procuring the licence to remake or adapt any original work on the producers but it has immense benefits in the longer run as it helps in reducing future litigation and potential liability. The filmmakers should ideally procure the adaptation or reproduction rights of the movie they wish to take themes and storylines from at the pre-production stage itself.

The recent instances show that some of the Hollywood production houses have taken measures to commence with legal action against the infringing Bollywood filmmakers for even mere allegations of violation of their copyrights. The incidents like the issuing of a pre-emptive public notice by Warner Bros against any adaptation or remake of their movie *The Curious Case of Benjamin Button*, following reports that some studios from India were planning on making a film based on the story of *The Curious Case of Benjamin Button*<sup>31</sup>, only goes on to reiterate the fact.

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### **COPYRIGHT LAWS AND JUDGMENTS OF THE COURTS DEALING WITH THE ISSUE OF 'IDEA' AND 'EXPRESSION OF IDEA'**

It has to be noted that the International copyright is protected by both the Copyright Act of 1957 and India's membership in the Berne Convention for the Protection of Literary and Artistic Works.<sup>32</sup> There is just the need of ensuring better enforcement of these laws.

A creation which is inspired from the original work cannot infringe the copyrights of the

original work.<sup>33</sup> There is a lack of definition of the term 'Copying' with regards to making a copy of the script and idea of the film, in either the Copyright Act of 1911 or the Copyright Act of 1957 and that causes a host of problems. To look for the definition of the term 'copying' the judges in the case of *Barbara Taylor Bradford v. Sahara Media Entertainment Ltd.*<sup>34</sup> citing Justice Bayley, said that the nearest definition was given by Justice Bayley himself, which is: 'A copy is that which comes so near to the original as to give to every person seeing it the idea created by the original'.<sup>35</sup> If we look at the Copyright Act, 1957, it clearly states in section 13(a) of the Act that Copyright subsists in 'original' literary, dramatic, musical and artistic works; whereas, in section 13(b) and 13(c) which deal with cinematograph films and sound recordings, no such requirement of 'originality' is presented. The copyright law in India is liberal in its structure of definition of the term 'copyright' itself; and looking at the copyright laws in India, one can easily notice the copyright protection that is granted to cinematographic films<sup>36</sup> or sound recordings<sup>37</sup> is not as wide as that granted for work that is literary<sup>38</sup>, dramatic<sup>39</sup> or artistic<sup>40</sup> in nature.

'Original' is the independent input of author from which others are derived.<sup>41</sup> It is one of the key determinants of copyright ability. As per the Copyright Act of 1957, originality per se is not a key requirement for subsistence of copyright in a cinematograph film or a sound recording.<sup>42</sup>

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While discussing concept of originality, it will be pertinent here to look at the 1978 Supreme Court case of '*R.G. Anand v. Delux Films*'<sup>43</sup> as it was the first case in India where the copyright ability in an idea was discussed by the court. A production house was sued by the author of '*Hum Hindustani*' play; the author alleged that the movie in the instant matter was an "exact copy" of his play '*Hum Hindustani*' and alleged the stealing of the idea of 'provincialism and parochialism that is growing in the Indian mindset'. The Supreme Court while dismissing the appeal observed, that no lay observer could get an impression that the film appears to be a copy of the play. The Supreme Court in its holding of this case stated that copyright did not exist in an idea but existed only in an expression of the idea and also added that a case for infringement may be made out only when such infringement may be identifiable by a reasonable man. The principles laid down in this case with regards to the infringement of copyright in case of substantial similarity still hold good.

Hence, to ascertain whether an infringement of copyright has happened or not, the test is simple, one has to simply check whether the audience, after having gone through both the pieces of work, gets an impression and is of the opinion that the subsequent work appears to be a clear imitation of the original work;<sup>44</sup> if the totality of the impression is that generally one piece or work is a copy of another, in that case, violation of copyright is proved. The court before determining the infringement of copyright generally looks into both the quantitative and qualitative similarities in the two pieces. The two works in dispute have to be considered not too censoriously and critically or with meticulous scrutiny, but only by observations and impressions of the lay audience.<sup>45</sup>

The Copyright laws of India do not offer any sort of protection to idea and it only provides protection for expression of an idea or theme. It is allowed however that a person chooses an idea of his interest and moulds and develops it in a manner which is his own and gives expression to the idea by also managing in keeping it differently from others.<sup>46</sup> Until and unless given a tangible form with adequate details and modelling an idea does not get any sort of copyright protection. One single idea can make way or lead into developing multiple scripts and stories with each being capable of separate copyright protection.

### **Requirement Of Fixation In Case Of Cinematographic Films**

It is believed that the copyright laws of India as per the Copyright Act, 1957 require that to make any claims for protection under copyright laws,

subject matter of copyright must have a fixed concrete physical, material or tangible form. Fixation of work in a tangible structure is a prerequisite for any claims of copyright ability to be made. However, fixation does not necessarily have to be permanent in nature; it can even be temporary or transient. The rationale of this principle is the requirement of certainty as to what the work is.<sup>47</sup> Here the statutory provision in the Section 2(f) of the Act itself makes it abundantly clear that recording, which would essentially function as a fixation, is an essential eligibility qualification of cinematographic films for protection under the copyright law. So, in case of Cinematographic films, the text of the Statute is explicit in its requirement of fixation and hence it is conclusive in itself.

However, for the much disputed cases of musical works, the requirement of fixation in a medium has been done away since the amendment of the Act in 1994<sup>48</sup> as can be deduced from the amended definition of the term 'musical work' in the Act.

The discussion in this regard will not be complete if the case of *Barbara Taylor Bradford v. Sahara Media Entertainment Ltd.*<sup>49</sup> is not mentioned. Bringing the case before the Calcutta High Court in the year 2004, the plaintiff, Barbara Bradford, filed a complaint against the TV serial 'Karishma -The Miracle of Destiny'. This TV serial was being financed by a public limited company, 'Sahara Ltd'. The complainant, Barbara Taylor, who was herself quite a renowned author, claimed that the serial 'Karishma -The Miracle of Destiny' infringed her copyright in a book she authored called "A Woman of Substance".<sup>50</sup> The Calcutta High Court, however, in this case relied upon the judgment of the Supreme Court delivered in the case of *RG Anand v. Delux Films* and decided that there was no infringement of copyright of Barbara Taylor's work as a theme is not protected under the Indian Copyright law. The court went on to add that the theme of a work does not go on to sell by itself. On the contrary, it requires a substantial amount of money invested in the work and the project and it is only then the theme starts selling.<sup>51</sup> The judges added that, if the two works in question happen to have the same theme, but are developed in manners which are substantially different, then, in that case, there is no copyright infringement as the second work constitutes a new work. Finally, the court said that since the theme in question was adapted and prepared keeping an Indian audience in mind, there was no substantial and material resemblance between the

two works. So, we can see that essentially it means that copyright protection according to Indian laws can only apply to the expression of an idea, but not to the idea itself and also to prove infringement, the plaintiff has to prove that the defendant's work is a 'substantial' and 'material' copy of the copyrighted work. And hence, the Indian Apex Court has held that the best way to determine or test whether an infringement of anyone's copyright has occurred is to "see if the reader, spectator, viewer or the audiences in general, after having read or seen both the works, is clearly of the belief and gets an unmistakable notion that the subsequent work appears to be a copy of the original work."<sup>52</sup>

#### Communication In Confidence: The Only Time When An Idea Can Seek Protection

Idea can only be protected through the non-disclosure agreements (NDA) or when the person ensures to communicate the idea in confidence.


At this point now we must look at the much quoted decision in this regard of *Zee Telefilms Ltd. v. Sundial Communications Pvt. Ltd.*<sup>53</sup> In this case, Sundial Communications claimed that it had shared the idea, concept note and the character sketches of a TV series with the Managing Director of Zee Telefilms After some time, it was found that a TV series on the same lines were being broadcasted on Zee TV and this TV series had substantial similarity to

the idea which was communicated by Sundial Communications to the Managing Director of *Zee Telefilms* Subsequently, seeking injunction and other damages, Sundial Communications filed a suit against *Zee Telefilms* Sundial Communication was successful in getting an injunction at the interim stage. When Zee Telefilms went to the Bombay High Court with their appeal against the injunction, the Bombay High Court stated that an average reasonable observer would definitely conclude that the TV series made by Zee Telefilms was based on Sundial Communication's concept and ideas and thus the court upheld the injunction against Zee Telefilms as Sundial Communication's business and goodwill would be harmed if the confidential information of this kind is allowed to be used.

### **How The Indian Filmmakers Exploit The Copyright Laws**

The movies in the Indian Film Industry which are made by copying the scripts and storylines of major Hollywood movies and movies from domestic industries like Kollywood or Tollywood generally have embellishments added to them like songs and dance numbers which make these movies run an hour longer generally or make the run-time differ as compared to the original movie; these alterations and additions are done to alter the original

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concept to a great extent and after all the additions are done with, an ideal commercial movie, oozing with entertainment for the Indian market is considered prepared.<sup>54</sup>

And, as already discussed above in the paper, the copyright protection according to the Indian copyright laws, only apply to the expression of an idea, but not on the idea itself and in order to prove infringement of copyright, one has to prove that the defendant's work is a 'substantial' and 'material' copy of the copyrighted work. All these spices are added to make it entertaining for Indian moviegoers and it all takes place in the garb of taking 'inspiration' from the original work of Hollywood or the other domestic industries.


Making crucial alterations to the movie help the producers in claiming that their film is no more a replica of the original work as the very expression of the idea or theme in which the copyright subsists has been changed and it is provisions like these which create legal difficulties for Kollywood or Hollywood studios to initiate copyright infringement proceedings against a Bollywood film maker and this is how the film makers exploit the Indian Copyright laws.

### **V. CONCLUSION**

It is understood that Bollywood has made it a habit to imitate the works of Hollywood primarily taking it to be the formula for a sure-shot successful film. But, Bollywood has to realise that when they copy and imitate Hollywood scripts, styles, and themes, they are effectively conceding creative inferiority of their own. Noting the recent incidents and the cases of copyright infringement being filed and won by the Hollywood studios and the heavy penalty imposed on Bollywood's imitating producers; there is a greater need now for Bollywood to rethink its long allegiance towards imitating Hollywood.

The Indian audiences have largely appreciated home grown works before and there is no reason why the audiences will not appreciate it now. The Indian film industry is a mammoth industry and the factors like increased franchising, higher ticket rates and the growth in diaspora have resulted into enormous amounts of money being made which should give the filmmakers the confidence to take more risks, divert from the set standards and conventions and venture into the formerly untouched areas. As already discussed, the presence of less government regulations on the content of the work, more themes, scripts, subjects and ideas are available now to be worked upon by the production companies.

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We can see that now the filmmakers in India are daring to make original movies and venture into different aspects covering the rich Indian history or taking up stories from the wealth of Indian literature which can be seen as an advantage of effective copyright enforcements by Hollywood. Additionally, Bollywood has to look towards making investments in writers; as it is the script of a movie which plays a big role in deciding the success of a movie in today's market. If there are investments made by the filmmakers in getting new scripts and not just copy scripts from Hollywood or other movie industries, more people will see becoming movie writer as a viable career option and which would in turn allow new and creative ideas to come in.

Thus, more producers and filmmakers in India have to consider taking up fresh projects altogether and not simply imitate other's works and concede creative inferiority as has been the case till now.

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<sup>1</sup> Gaurav Malani, 'It's raining remakes in Bollywood in 2012' *The Times of India* (TNN, 27 December 2011) <<http://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news-interviews/Its-raining-remakes-in-Bollywood-in-2012/articleshow/11255854.cms>> accessed 12 June 2014.

<sup>2</sup> 'Copycats: Bollywood pays tribute to Hollywood' *Emirates* 24/7 (1 November 2012) <<http://www.emirates247.com/entertainment/films-music/copycats-bollywood-pays-tribute-to-hollywood-2012-11-01-1.481118>> accessed 12 June 2014.

<sup>3</sup> [2010] 112 Bom LR 4216.

<sup>4</sup> 'Ladies Vs Ricky Bahl in plagiarism row' *Hindustan Times* (New Delhi, 13 December 2011) <<http://www.hindustantimes.com/entertainment/bollywood/ladies-vs-ricky-bahl-in-plagiarism-row/article1-781773.aspx>> accessed 14 June 2014.

<sup>5</sup> 'Chennai Express' South Connection: Is Shah Rukh Khan the Only Non-South Person in Film?' *International Business Times* (16 June 2013) <<http://www.ibtimes.co.in/039chennai-express039-south-connection-is-shah-rukh-khan-the-only-non-south-person-in-film-479227>> accessed 14 June 2014.

<sup>6</sup> [1978] 4 SCC 118.

<sup>7</sup> [2004] 28 PTC 474 Cal.

<sup>8</sup> *ibid.*

<sup>9</sup> [2003] 27 PTC 457 Bom.

<sup>10</sup> Kanchana Banerjee, 'Cloning Hollywood' *The Hindu* (03 August 2003) <<http://www.hindu.com/thehindu/mag/2003/08/03/stories/2003080300090400.htm>> accessed 17 June 2014.

<sup>11</sup> Gautaman Bhaskaran, 'Aping Hollywood' *The Hindu* (22 August 2003) <<http://www.hindu.com/thehindu/fr/2003/08/22/stories/2003082201380200.htm>> accessed 19 June 2014.

<sup>12</sup> Chennai Express, (n 5).

<sup>13</sup> Robin Bansal, 'Pritam to take legal action against Iranian band' *Hindustan Times* (Mumbai, 28 March 2012) <<http://www.hindustantimes.com/Entertainment/Bollywood/Pritam-to-take-legal-action-against-Iranian-band/Article1-832141.aspx>> accessed 23 June 2014.

<sup>14</sup> Nikhil Taneja, 'Pritam gets 'inspired' again' *Hindustan Times* (New Delhi, 19 June 2009) <<http://www.hindustantimes.com/news-feed/chunk-ht-ui-entertainmentsectionpage-bollywood/pritam-gets-inspired-again/article1-423166.aspx>> accessed 23 June 2014.

<sup>15</sup> Bootie Cosgrove-Mather, 'Is Bollywood A Hollywood Clone?' *CBS NEWS* (AP, 4 June 2003) <<http://www.cbsnews.com/news/is-bollywood-a-hollywood-clone/>> accessed 24 June 2014.

<sup>16</sup> Hetal Vyas, 'Ravi Chopra's film in Legal Trouble' *The Times of India* (Mumbai, 16 June 2009) <<http://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news-interviews/ravi-chopras-film-in-legal-trouble/articleshow/4661068.cms>> accessed 24 June 2014.

<sup>17</sup> Available at <<http://bombayhighcourt.nic.in/data/original/2009/NMS156109050809.pdf>> accessed 24 June 2014.

<sup>18</sup> 'Bollywood copy case 'is settled' *BBC NEWS* (7 August 2009) <<http://news.bbc.co.uk/2/hi/entertainment/8189667.stm>> accessed 24 June 2014.

<sup>19</sup> Twentieth Century, (n 3).

<sup>20</sup> 'Fox knocks out rip off' *The Times of India* (Mumbai, 16 October 2010) <<http://timesofindia.indiatimes.com/entertainment/hindi/bollywood/news-interviews/Fox-knocks-out-rip-off/articleshw/6752342.cms>> accessed 25 June 2014.

<sup>21</sup> [1936] 81 F 2d 49 (2<sup>nd</sup> Cir).

<sup>22</sup> Twentieth Century, (n 3).

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<sup>29</sup> *ibid.*

<sup>30</sup> Elizabeth Flock, 'Who Will Bell the Copycat' *Forbes India* (22 July 2009) <<http://forbesindia.com/printcontent/2322>> accessed 27 June 2014.

<sup>31</sup> *ibid.*

<sup>32</sup> *ibid.*

<sup>33</sup> Timm Neu, 'Bollywood is Coming! Copyright and Film Industry Issues Regarding International Film Co-Productions Involving India', (2006) 8 San Diego International Law Journal 123.

<sup>34</sup> [2004] 28 PTC 474 Cal.

<sup>35</sup> *Barbara Taylor Bradford v. Sahara Media Entertainment Ltd*, [2004] 28 PTC 474 Cal¶ 109.

<sup>36</sup> The Copyright Act, 1957, s 2(f).

<sup>37</sup> The Copyright Act, 1957, s 2(xx).

<sup>38</sup> The Copyright Act, 1957, s 2(o).

<sup>39</sup> The Copyright Act, 1957, s 2(h).

<sup>40</sup> The Copyright Act, 1957, s 2(c).

<sup>41</sup> Hariani Krishna & Hariani Anirudh, 'Originality' In *Copyright Law: Transcending Jurisdictional Disparity* (2011) 51 IDEA 3 491-510.

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<sup>43</sup> [1978] 4 SCC 118.

<sup>44</sup> *R.G. Anand v. Delux Films*, [1978] 4 SCC 118.

<sup>45</sup> *Twentieth Century Fox Film Corporation v. Stonesife,r*, [1852] 140 F 2d 579.

<sup>46</sup> *R.G. Anand*, (n 44).

<sup>47</sup> 'Intellectual Property', *Halsbury's law of India* (2004) 24.

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<sup>53</sup> [2003] 27 PTC 457 Bom.

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