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COPYRIGHT IN EBOOKS: A TUSSLE BETWEEN DRM TECHNOLOGY AND PRINCIPLES OF COPYRIGHT LAW

Ananya Jain*

Abstract

Market of eBooks in India is expanding and people have failed to take note of the copyright issues that it brings for authors and the publishers, due to the ease of copying and distributing work over the internet involving negligible time and cost. The situation has compelled Copyright owners in digital sphere to use technology and software to restrict the rights of purchaser of an eBook. This new technology, called Digital Rights Management (DRM) brings with it a protective environment for the Copyright owner but at the same time, curtails certain rights which are conferred on the consumer by the Copyright Law, in order to ensure a balance between interests of the Copyright owner and the public at large. This paper argues against the fundamentalist view that people have taken of the DRM technology who see it as a bane to Copyright Law effecting various well settled principles of First Sale and Fair Use. Present paper suggests some technological and policy changes in the DRM technology to find a middle path which provides the opportunity to apply these principles in the digital environment while appreciating the challenges faced by the Copyright owners in protecting their material online and that the principle laid down for the physical work cannot be applied on as it is basis for the digital world.

Keywords: Copyright, eBooks, Digital Rights Management, Doctrine of Fair Use, Doctrine of First Sale.

INTRODUCTION

If anyone wants to buy a latest bestseller book in any genre, the person has various options as to how s/he wants to procure the book. Either the person can buy a physical copy of the book from a bookstore, can order a copy online or can opt to buy an eBook that s/he can

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read on any electronic device like kindle, tablets or phones. Technology of eBooks in lay man's terms refers to the electronic version of a book that can be read on a variety of electronic devices.[1] This technological advancement has brought about a lot of advantages for the consumers, making the book available to a large number of people spread over a large geographical area at low cost and in a more efficient manner. This wide reach has also facilitated the author and the publisher to reap more benefit from royalties and sales respectively, reducing the high cost of physically printing each copy of the book. The market for eBooks in India is believed to make a great potential and is currently valued at US$ 221 million in 2020 and is expected to grow at a rate of 8.8% and reach US$ 295 million by 2024.[2]

However, emergence of digital technologies has posed a great challenge to the authors and publishers to protect their copyright in books published in digital formats or as eBooks from the possibility of an individual to copy and manipulate the work. Traditionally, copyright infringement dealt with the physical imitation of the copyrighted work, and the unauthorized sale and distribution of the copyrighted work. The new technologies have brought with them, new and easier ways of infringing copyright in digital work that might have a greater impact on the author owing to its faster and wider reach.[3] Such social, economic and technological challenges require legal responses and the Copyright Act is no exception to the general rule. One of the legislative response to the issue was the introduction of Section 65A and 65B to the Copyright Act, 1957[4] (herein after referred to as 'the Act') vide the Copyright (Amendment) Act, 2012[5] which lays down liability for any person who circumvents a technological barrier used to protect copyright in digital works.

Present paper presents a viewpoint on the software of Digital Rights Management (DRM) which is used to protect copyrighted material online and detect copyright infringements. The paper would further analyze the threats posed by the application of DRM technology on various well settled Doctrines of Copyright Law like the Doctrine of First Sale and Fair Use and how certain policy and technological changes can be used under the current system to ensure that the purpose of the Copyright Law i.e. to ensure a balance between the rights conferred on a Copyright holder to be adequately rewarded and the right of consumers to access information by ensuring free flow of ideas and information, is always upheld.

1 *eBook*, Cambridge Dictionary, (May 29, 2020, 12:05 PM), https://dictionary.cambridge.org/dictionary/english/ebook.

2 *eBooks,* Statista, (May 30, 2020, 2:13 PM), https://www.statista.com/outlook/213/119/ebooks/india.

3 Siriginidi Subba Rao, *IPR in the ensuing global digital economy,* 19 Library HiTech, 179, 182 (2001).

4 The Copyright Act, 1957, No. 14, Act of Parliament, 1957 (India).

5 The Copyright (Amendment) Act, 2012, No. 27, Act of Parliament, 2012 (India).

Ownership v. License Dichotomy

It is not uncommon for a person 'buying' an eBook online to believe that s/he is the owner of the eBook. Therefore, the relevant question that arises is that, whether the purchaser really is the owner of the eBook purchased, or is s/he really only a licensee. The truth is that the eBook publishers merely license the purchaser the right to access the book and there is no transfer of actual title.[6] License is the permission granted by the Copyright owner, of revocable nature, giving the right to do an act which would otherwise be considered as unlawful.[7]

In the landmark case of *Vernor Vs. Autodesk*[8], the US 9th Circuit District Court, held the user of a software to be a licensee and not an owner as the title was retained by the company and restrictions were put on their transfer and usage. The analogy can be used in respect on eBooks as well, as even the terms and conditions of the so called 'sale' of eBook does not transfer the title of the eBook and puts complete restriction on its transfer and distribution. One of the clauses from the Terms of Use for the Amazon Kindle India, which is the most used eBooks platform in India, is reproduced below:

"**Use of Kindle Content**: ....Kindle Content is licensed, not sold, to you by the Content Provider.

Limitations: Unless specifically indicated otherwise, you may not sell, rent, lease, distribute, broadcast, sublicense, or otherwise assign any rights to the Kindle Content or any portion of it to any third party...."[9]

Hence, it can be said that an eBook is only licensed to the so called "purchaser", and limited rights to access the book is conferred under the license unlike the sale of a physical copy of a book which transfers the title and confers various other rights to the consumer.

Digital Rights Management (DRM)

Digital Rights Management, usually shortened to DRM refers to a system established for the purpose of protecting copyrighted material in electronic media and is used to guide the proper utilization of the digital content. It helps in trading, tracking and monitoring the

6 Lukas Feiler, *Birth of the First-Download Doctrine—The Application of the First-Sale Doctrine to Internet Downloads Under EU and US Copyright Law,* 17 Stanford-Vienna TTLF Working Papers, 2013, 16-18.

7 Henry Campbell Black, Black's Law Dictionary 1059 (10th ed. 2014).

8 Vernor v. Autodesk, 621 F.3d 1102, 1110–11 (2010).

9 *Amazon.in Kindle Terms of Use*, Amazon (May 30, 2020, 1:00 PM) https://www.amazon.in/gp/help/customer/display.html?nodeId=200771440.

digital data in order to prevent any copyright infringement and to catch hold of such cases.[10] Section 14[11] of the Act confers certain exclusive rights on the copyright holder in a literary work including the right to reproduce and distribute the work to public. DRM acts as an additional protection for the intellectual property by blocking third parties from doing any act which the copyright holder has the exclusive right to do.

It is easier to understand the working a DRM through an example. Suppose an author decides to publish his book online and launch it as an eBooks, the first layer of protection of the work is given by the Copyright Act, which protects the work from any infringement. Another layer of protection is provided by the new regime of DRM, through which the work can be assumed to be locked and can only be accessed by a person who is authorized and has a key to the lock. This extra protection becomes of prime interest of any eBook publisher due to the infringement becoming much easier and very hard to control when its starts to spread in the electronic world.[12]

However, with the pace at which technical advancement is happening in the world, it won't be long before people would find a way to circumvent the protection of DRM and start infringing copyrighted work without getting caught. Therefore, in order to protect the sanctity of DRM or any other software designed to protect copyrighted work, the Indian Legislature introduced sections 65A and 65B into the Copyright Act, making it unlawful to circumvent such technical protections, through Copyright Amendment Act, 2012. An action was taken even though India is not a party to the WIPO Internet Treaties, namely, WIPO Copyright Treaty[13] (WCT) and WIPO Performers and Phonograms Treaty[14] (WPPT), which makes it obligatory for contracting parties to lay down an adequate and effective legal solution against a person involved in unauthorized tampering of the rights management system being used by Copyright owner to protect his Intellectual Property.

Section 65A clause (1)[15] of the Act lays down penalty for anyone who circumvents the applied technological measure, used to protect rights of the copyright holders conferred on

10 Gulshan K. Sachdeva, *A Digital Right Management and IPR in the Information Age*, 1 International Journal of Librarianship and Administration, 13, 14-16 (2010).

11 The Copyright Act, Section 14 (1957) (India).

12 Frederick W. Dingledy, *What is Digital Rights Management?*, William & Mary Law School Scholarship Repository (2016), (May 30, 2020, 01:00PM), https://scholarship.law.wm.edu/cgi/viewcontent.cgi?article=1121&context=libpubs.

13 World Intellectual Property Office Copyright Treaty on Protection of works and the rights of the authors in digital environment, Dec. 20, 1996.

14 World Intellectual Property Office Performers and Phonograms Treaty on the rights of performers and producers of phonogram in digital environment, Dec. 20, 1996.

15 The Copyright Act, Section 65A (2012).

them by the Act, with the aim of copyright infringement, of imprisonment that could be extended to two years, along with fine. However, clause (2) lays down various exceptions to the above penal measure.

Section 65B[16] of the Act makes any person who tampers with rights management information without consent or sells, distributes or communicates to public, copies of the electronic work having knowledge about the rights management information being tampered with, shall be liable for imprisonment that could be extended to two years, along with fine.

Therefore, DRM plays a primary role in ensuring that authors are properly compensated for their work and rights of the authors are very well protected and further DRM technology is protected through statutory law. However, technology of DRM, as seen in its current form, does not complement the purpose of Copyright Law of maintaining a balance between the rights of Copyright holder and the consumers.[17] Though protecting rights of the author, it puts unregulated constraint on the consumer with no freedom of dealing with the books as per his wish, thereby affecting the free flow of information. Besides posing threats to Privacy of the users and making the use of eBooks complicated, the system grossly violates two very well settled principles of Copyright Law i.e. Doctrine of First Sale and Doctrine of Fair Use.

Doctrine of First Sale

Copyright Act confers certain exclusive rights on the Copyright holder by virtue of section 14 of the Act. Such exclusive right in case of literary work includes the right to reproduce the work in any material form, to issue copies to public, to make translation and to communicate the work to public. One of the most important right is the right to distribute copyrighted work to public or to authorize such distribution. However, the right of distribution is only related to copies that are not already in circulation by virtue of section 14(a)(ii) of the Act[18]. This means that the Copyright holder has exclusive right to regulate first sale of the copy of a book and once such copy is sold to a purchaser legally, the Copyright holder loses the right to regulate subsequent use and sale of the copy. This is known as the Doctrine of First Sale. This Doctrine acts as a favorable defence in cases of copyright infringement as it makes the Copyright holder incapable of exerting control over copies that are already sold to a purchaser. The Doctrine was first applied by the US Supreme Court in the case of

16 The Copyright Act, Section 65B (2012).

17 Divyesh Pratap, *Is 'Fair Use' of Copyrighted Work a thing of the past?,* Lexpress (Aug 30, 2015,08:00AM), http://www.lexpress.in/law-development/digital-rights-management-provisions-and-indian-copyright-law.

18 The Copyright Act, Section 14(a)(ii) (1957).

Bobbs-Merrill Co. v. Straus[19], where it was categorically laid down that one who has sold a copyrighted article, loses all the rights to control subsequent sale and hence, the publisher has no right to control the price at which a subsequent retailer sells the book.

It is important to understand that the right granted under the Doctrine is to resell the copy of the work and not to make unauthorized copies. The purchaser only has the right to resell the legally obtained genuine copy of the copyrighted work and the purchaser is not entitled to make or distribute any illegitimate copies of the work. This means that the purchaser cannot buy one copy of the eBook and then go on to duplicate it to make 50 illegal copies of it and then seek protection under the Doctrine. The Doctrine only confers a right to resell the one copy which was legally obtained.

The issues that arises in digital sphere brings up the question of whether the Doctrine is applicable to digital materials including eBooks and specially in case where there is a mere license to use the copyrighted material. In respect to the first question i.e. whether the Doctrine of First Sale can be applied in cases of digital products, it can be said that under the current system, most ePublishers use DRM technology which restricts copying and transfer of the work and this clearly acts as a threat to the Doctrine as it is restricts purchasers from further utilizing the copyrighted material as per his own wishes and the Copyright holder retains full control over the eBook.[20]

There is no jurisprudence on this issue in India and the same has not yet been discussed by Indian judiciary. Therefore, one has to analyze judicial decisions in other jurisdictions to bring in more clarity. The US District Court of Southern District of New York, in the case of *Capitol Records, LLC v. ReDigi Inc*.[21], held that consumers does not have any right to resell the digital music owned by them. The Defendant ReDigi provided a platform to resell digital music that was purchased from iTunes after a software called Media Manager had authenticated the file. After verification, the file would be uploaded on remote Cloud Locker, from where anyone could purchase the music. Once purchased the music file could no longer be accessed by the first purchaser. The Court denied the defence of First sale Doctrine and held it be a copyright infringement as the user was creating a copy and uploading it on the cloud server. The Court further held that the Doctrine is applicable only to material items that the Copyright holder has put into the stream of commerce. The same line of reasoning can be applied in respect of eBooks as well, to conclude that in the present scenario, law does not facilitate the applicability of First Sale Doctrine to eBooks.

19 *Bobbs-Merrill Co. v. Straus*, 210 U.S. 339 (1908).

20 Joseph Gratz, *Digital Book Distribution: The End of the First-Sale Doctrine?*, LANDSLIDE (2013).

21 *Capitol Records, LLC v. ReDigi* Inc., 934 F. Supp. 2d 640, 655 (2013).

With respect to the second question i.e. whether Doctrine of First Sale can be applied to licensed products, it is important to analyse the judgement of United States Court of Appeals for the Ninth Circuit, in *Vernor v. Autodesk, Inc.*[22], wherein the Court held that the Doctrine does not extend to licensees of the digital copy but only to legal owners of the copyrighted material. Further, licensee is governed and restricted by provisions of the license agreement. Therefore, in case of license where the company retains the title, and only confers a non-exclusive license with restriction on copying and distributing, no right to resell by the way of First Sale Doctrine can be claimed. Therefore, it is clear that in the current judicial scenario, the Doctrine of First Sale does not apply to digital products and eBooks.[23]

The lack of any judicial decision or any legislative intent to extent the Doctrine of First Sale to digital products actually brings in a question of whether is it not really feasible to apply the historic well settled principles of Copyright Law in the current situation or has it really become obsolete owing to the fast paced technologically changing environment. One of the most evident fall back for Digital First sale Doctrine would be loss of control that the Copyright holder can assert over digital content, which are at a high risk of being easily and quickly exchanged between people as compared to tangible products. This would not only give the consumers an easy chance of piracy but would have a huge impact on the sale of eBooks as people can purchase a copy of the eBook through the secondary market place at cheaper cost with no difference in quality. Therefore, Digital First Sale Doctrine may have an adverse effect on the authors and publishers of eBooks due to loss of revenue and high risk of piracy.[24]

Therefore, the publishers of eBooks are compelled to use techniques like DRM and licensing in order to protect their copyrighted work and hence, granting Digital First Sale rights would not be a great idea under the present circumstances. However, the author is not in favor of completely separating the Doctrine from digital products and suggests designing of the First Sale Doctrine in a way to ensure balance between rights of the Copyright holder and that of the consumers to alienate their property.

The author proposes a system that could be called “Digital Transfer Doctrine”, whereby the eBook publishers are bound by law to modify their licensing agreement to permit licensees to resell the eBook license, in such a way that a part of resale price has to go to

22 Vernor v. Autodesk, 621 F.3d 1102, 1110–11 (2010).

23 Tanya Aplin, Copyright Law in the Digital Society (1st ed., 2005).

24 Eurie Hayes, *Digital First Sale: Friend or Foe?,* 22 Cardozo Arts & Ent. L.J. 853, 854 (2005).

the Copyright owner.[25] Royalties on sale in secondary digital market tries to maintain a balance between the interest of Copyright owner and user, while appreciating the difference between physical books and eBooks. Allowing resale of digital books brings in a unique risk non-degrading digital files, connected with a vast and boundaryless distribution system, and hence, the benefit sharing on resale would help the Copyright owner offset some risks posed by this new system.[26]

Further, stakeholders of an eBook can utilize the technology called 'Rights Locker Architecture', which would enable the publisher to store the content on a remote server, rather than it being stored locally on each device. When a consumer wants to access the eBook, it shall be directly done from the server, after verifying the authentication of the request.[27] This would help facilitate the application of the Doctrine by preventing the creation of any copy of the work. When any consumer decides to resell his license, access of the consumer to the eBooks from the server would be cancelled and would be granted to purchaser in the secondary market, thereby preventing any chances of a duplicate copy still remaining with the first purchaser as no copy was ever stored locally with the consumer and s/he was only granted access through the server.

It is not feasible to apply the Doctrine of First Sale on as it is bases to eBooks as it might ignore some of the valid risks that Copyright owner might face. On the other hand, the complete non-application of the given Doctrine would give unrestricted control to the Copyright owner and hamper rights of the consumer to alienate their property and be entitled to free flow of information. Therefore, no change in the statuary law is required as it already recognizes the Doctrine of First Sale. However, a detailed guideline by the Government allowing royalties for resale as well would indeed serve the purpose of Copyright Law of maintaining a clear balance.

Doctrine of Fair Use

Copyright Act as also discussed earlier, by virtue of section 14 confers certain exclusive rights on the Copyright owner, including the right to distribute or make the work available to public. Any person who violates any of these rights can be made liable for

25 Kristin Cobb, *The Implications of Licensing Agreements and the First Sale Doctrine on U.S. And EU Secondary Markets for Digital Goods*, 24 Duke Journal of Comparative & International Law 529, 536-542 (2014).

26 Sarah Reis, *Toward A "Digital Transfer Doctrine"? The First Sale Doctrine In The Digital Era*, 109 Northwestern University Law Review, 174, 194-197 (2015).

27 Tomas Sander, *Golden Times for Digital Rights Management?,* 5 Financial Cryptography, 64, 68-71 (2002).

copyright infringement. However, these rights are not absolute in the sense that under certain circumstances a person doing an act which would otherwise amount to copyright infringement cannot be held liable for the same as it falls under the scope of 'Fair Use'. The Doctrine of Fair Use is laid down under section 52 of the Act[28], which states certain acts that are exempted from the purview of copyright infringement. Under the Copyright Act, Fair Use in respect of literary work includes use of the copyrighted work for private use including use for research or for purpose of review or criticism or to report it as news. Purpose of the Doctrine is to encourage creation of new works and to develop knowledge. This is based on the belief that if copyright is absolute and unrestricted, adverse economic incentives would be created.[29]

In the case of *Chancellor Masters and Scholars of the University of Oxford v Narendra Publishing House and Ors.*[30], the Delhi High Court has very rightly summarized the Doctrine of Fair Use. The Court laid down that the very purpose behind the Doctrine is to maintain a balance between the rights conferred on the Copyright owner by the law and the opposing interest of enriching public domain. Therefore, it legitimizes reproduction of copyrighted work for private use and not for making commercial gains. Doctrine aims at promoting creativity by enriching the public domain, however, at the same time it condemns and prohibits blatant copying of protected work. However, digital market has brought about new challenges to the application of the Doctrine. Publishing an eBooks brings with it a certain set of challenges not faced by a publisher in the physical world and hence, the application of the traditionally Doctrine of fair is on as it is basis would not be the greatest idea.[31]The application of the Doctrine is dependent on the use of the copyrighted material for private versus public use. Such a distinction has been eroded in the digital environment where an individual has the capability to put the work on the internet to reach people across the globe who can use the same and utilize the work for private use. Therefore, in such cases even though the copy of the work is used only for private use of the third party, its availability over the internet to a large number of people may work in derogation of the interests of the Copyright owners.[32] Therefore, publishers of eBooks are compelled to use

28 The Copyright Act, Section 52 (1957).

29 Sangharsh Pandey, *Changing Mechanisms in Copyright Ontology: Digital Rights Management,* Manupatra, (June 1, 2020, 10:00 AM) http://www.manupatra.com/roundup/328/Articles/digital%20rights%20management.pdf.

30 *University of Oxford v Narendra Publishing House and Ors.*, CS(OS) 1656/2005 (India).

31 Shih Ray Ku R, *The creative destruction of copyright: Napster and the new economics of digital technology*, 69, The University of Chicago Law Review, 263, 275-276 (2002).

32 Megha Nagpal, *Copyright Protection through Digital Rights Management in India: A Non-Essential Imposition,* 22 Journal of Intellectual Property Rights 224, 228 (2017).

technologies like DRM in order to restrict the unauthorized usage which in turn also has the effect of restricting certain activities that would fall under the ambit of Fair Use and hence, the digital work brings in its own set of new issues into the world of Copyright.

DRM technologies permits only certain kind of access to the copyrighted material and forbids all other, thereby having the effect of preventing use of the work in a way that would otherwise would had come under the purview of Fair Use. Therefore, DRM technology is in direct derogation with the well settled principle of Fair Use, giving the Copyright holders in digital environment an upper hand over their work and hampering the rights of fair users, who might now become liable for copyright infringement of the digital work as any kind of Fair Use is also prohibited[33]. However, the author is of the belief that certain tweaking of the DRM technology might help it foster the Doctrine of Fair Use rather than hamper it. The author proposes a system where in a person can utilize copyrighted material for any purpose falling under the Fair Use category, only after an authorization through remote or local means has been granted through the DRM, which would be further monitored by a Rights Expression Language.

The author proposes a hybrid approach to the authorization process involving two types of authorization for different situation, in case a person wants to make Fair Use of the copyrighted work. Through this approach a person may seek authorization locally, for a set of preauthorized uses which clearly fall under the scope of section 52 of the Act, and for permissions that are not preauthorized, the person would have to seek the authorization through a remote process, showing adequate proofs in order to receive a digital key necessary to use the material beyond the scope of preauthorization. Remote authorization would help curb the issue created by the ambiguity of the scope of Fair Use and try to accommodate uses that do not directly fall under the scope of the Doctrine.[34]

With the help of a built in authorization mechanism combined with the subjective authorization though remote process, the Copyright holder would be able to provide a reasonable opportunity to the public to make Fair Use of the copyrighted material. As there would be no incentive for the Copyright holder to introduce such a mechanism, Parliament has to make the required amendments in the Copyright Law in order to obligate the same.

Once an authorization has been granted, the person to whom the authorization has been given will have the capability of using the material beyond the scope of the license and

33 James T C, *Indian Copyright Law and Digital Technologies*, 7 JOURNAL OF INTELLECTUAL PROPERTY RIGHTS, 423, 430-434 (2002).

34 Timothy K. Armstrong, *Digital Rights Management and the Process of Fair Use,* 20 HARVARD JOURNAL OF LAW & TECHNOLOGY, 50, 81-84 (2006).

the DRM restriction are removed in respect of the purpose for which the authorization was availed. This makes the copyrighted material again susceptible to easy copying and distribution. Therefore, the stakeholders of an eBook have to further lay down an another layer of technological protection called "Rights Expression Language" (REL). It is used to lay down clear set of rules for the usage of the copyrighted material once the authorization is granted. Even after the authorization to use the copyrighted material is granted, REL ensures that user cannot use the material in whatever way s/he deems fit. The right granted to use and access the digital content may be given with certain restrictions on the time period, geographical extent of use, devices and certain other restrictions.[35] Also the number of time and the frequency at which it can be accessed can also be limited. Therefore, this would ensure that once the authorization is granted, the user does not have a blanket right to use the copyrighted material and REL can be imposed to limited such rights and monitor the activities to prevent any chances of copyright infringement.[36]

Such a mechanism is not full proof solution and might come with certain drawbacks, however, it has the capability of conferring the right of Fair Use to the public while taking into consideration the unique risks that are faced by the copyright holder in digital sphere, thus maintaining a balance between the rights of copyright holder and the public at large.

Conclusion

In the coming future, India is going to witness a steep growth in the market for digital goods including eBooks, which would bring with it a wide range of legal issues besides the technical issues as already being faced. The difficulty faced to apply well settled principles of Copyright Law is one such legal issue that needs to be addressed by the Parliament and the judiciary.

Consumers and the Copyright owners in digital work have to adapt to the new digital environment and the first step towards achieving that is through building a sense of trust in the system. eBook publisher have to be more open and transparent about their licensing policies and make the consumers well aware before persuading them to buy the eBook, that they are mere licensee of the eBooks and no title is transferred to them.

The Indian Legislature, Judiciary and also the public at large have to accept and appreciate various new issues that the digital world has brought to the copyrighted material and

35 Stefan Bechtold, *The Present and Future of Digital Rights Management,* Springer, 597, 600-605 (2003).

36 Deirdre Mulligan & Aaron Burstein, *Implementing Copyright Limitations in Rights Expression Languages,* Springer, Apr. 12,2020, 01:00AM), https://link.springer.com/chapter/10.1007/978-3-540-44993-5_9.

that application of the law drawn to protect the physical work cannot be applied without modification to suit the new environment. Copyright owners have to be more careful and vigilant than ever to protect their work online and hence, have to be given extra protection than traditionally conferred to them.

The paper argues against fundamentalist viewpoint that people have towards the new technology of DRM, who see it as a tool only capable restricting the access to the copyrighted material. Fundamentalists are against the adoption of such a technology as they view it as a bane to the Copyright world and believe that it hampers the Doctrine of First Sale and Fair Use, which are considered to be the two strong pillars of the Copyright Law which are required to ensure a balance between the rights of the Copyright holder and the interests of public. While discussing the various concerns against DRM technology, the paper shows that it is more flexible than it is commonly perceived to be and a little framework change in it can help foster the purpose of Copyright Law.

The DRM technology is believed to be the heaven for the Copyright owners and hell for consumers, however, people fail to understand the middle path between these two extreme opinions. It is difficult to think of a balanced DRM system which protect the rights of the Copyright owner and that of the society at large, but the suggestions presented in the paper show that it is not impossible. The potential of DRM to create a balance and information friendly environment is by large still unexplored by the humans. Just like all technologies, even DRM is malleable, and people shall not miss an opportunity to create a value addition design that fulfills the requirements of the well settled principles of Copyright Law while appreciating the difference in environment created in the digital world. Further, Parliament and the Judiciary is duty bound to lay down better Laws for protection against the circumvention of any such technological measures and encourage and facilitate the formation of a new system in a Copyright friendly manner.