

Copyright Infringement Response Checklist (India)

Evidence preservation and enforcement response checklist for copyright infringement incidents

HOW TO USE THIS TEMPLATE

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| 1. | This document: Copyright Infringement Response Checklist (India). |
| 2. | Complete all bracketed fields before use. Review annually. |
| 3. | Template only — not a substitute for qualified legal advice. |

1. INCIDENT IDENTIFICATION

1.1 What Constitutes Infringement. Under Section 51 of the Copyright Act 1957, infringement occurs when any of the following is done without authorisation: reproducing the work; publishing or distributing copies; communicating to the public (streaming, posting online); making adaptations or translations; and importing infringing copies.

Incident Reference Number: Assign INFRINGE-YYYY-NNN immediately on detection.

Record: Description of infringing work; URL or location; date discovered; person who discovered; your copyrighted work that was copied; and your CRN number if registered.

2. EVIDENCE PRESERVATION — DO FIRST

2.1 Web Evidence (within 24 hours). Take timestamped screenshots showing infringing content, full URL, and page metadata; use web.archive.org to create a permanent archived snapshot; download infringing content with timestamps; capture WHOIS records for the hosting domain.

2.2 Software and Code Infringement. Download infringing repository or file with timestamp; note commit history if visible; create side-by-side code comparison documenting similarity; preserve your own git commit history establishing prior creation.

2.3 Physical Products. Purchase samples and retain receipts and packaging; photograph infringing product from all angles; note manufacturer and distributor details; preserve a sample of your original work for comparison.

2.4 Consumer Confusion Evidence. Collect customer service queries showing confusion; social media comments showing confusion; negative reviews attributable to the infringer being associated with your brand.

3. ENFORCEMENT OPTIONS

Platform Takedown (Fastest). Under the IT Rules 2021, Indian intermediaries must acknowledge within 24 hours and resolve within 15 days. Use each platform's IP complaint portal. Most respond within 1–7 days for clear infringement.

Cease and Desist Letter. Send by registered post and email simultaneously. Reference Section 51 of the Copyright Act 1957. Demand: immediate removal; written undertaking; account of profits. Response deadline: 14–21 days.

Civil Litigation. File in District Court or High Court. Reliefs: interim injunction; permanent injunction; damages up to Rs. 2,00,000 per work; or account of profits (if greater); delivery up and destruction; costs.

Criminal Complaint. Section 63: imprisonment 6 months to 3 years plus fine Rs. 50,000 to Rs. 2,00,000. File FIR at Cyber Crime Cell. Best for large-scale commercial piracy.

4. ACTION LOG

Complete for each enforcement action taken:

Action taken and date: _____

Response received: _____

Infringement resolved: Yes / No — next action: _____

Legal costs incurred: Rs. _____

Revenue loss estimated: Rs. _____

Case status: Open / Closed — date: _____

IMPORTANT NOTE

This is a working template for Copyright Infringement Response Checklist (India). Verify all requirements with a qualified IP advocate before use. Indian IP law evolves — confirm current requirements.

BUILDING A COMPLETE COPYRIGHT ENFORCEMENT STRATEGY

ASSESSING AND DOCUMENTING THE INFRINGEMENT CASE

Substantial Similarity Assessment. Copyright infringement requires the defendant to have taken a substantial part of the claimant's expression. 'Substantial' is a qualitative, not purely quantitative, assessment — copying even a small but important part of a work can constitute infringement. For software, even copying a critical algorithm or a distinctive architectural pattern may be substantial. For artistic works, copying the most distinctive and original elements is sufficient.

Independent Creation Defence. The infringer may argue they independently created the similar work without copying. To defeat this defence: establish that the infringer had access to your work before creating theirs; demonstrate the similarity is too close to be coincidental; and present any evidence of the infringer's awareness of your work (website visits, conference attendance, prior relationship). A forensic code analysis comparing code structure, variable naming, and commit history can defeat an independent creation claim for software.

Fair Dealing Assessment. Section 52 of the Copyright Act 1957 provides a 'fair dealing' exemption for: research or private study; criticism or review; reporting current events; and reproduction for certain educational and library purposes. Indian fair dealing is narrower than US fair use — it is not a general 'reasonableness' test. Commercial use is a strong indicator against fair dealing. If there is any argument that the use could be fair dealing, obtain a legal opinion before sending the cease and desist.

Documenting Damages. For a civil damages claim: document your lost sales or revenue caused by the infringement; document the infringer's profits from the infringing use; document the market rate for a licence (what you would have charged for the use); and document any reputational or brand damage. Indian courts award the higher of actual damages (loss) or account of profits (infringer's gain). Prepare evidence supporting both calculations and let the court choose the higher amount.

CRIMINAL COPYRIGHT ENFORCEMENT AND POLICE COMPLAINTS

When to File a Criminal Complaint. Criminal enforcement is most appropriate for: large-scale commercial piracy (mass reproduction and sale of infringing copies); organised software piracy operations; counterfeiting operations producing physical products; willful and repeated infringement after civil cease and desist; and infringement causing significant commercial harm to the Company.

How to File an FIR. File a First Information Report (FIR) at: the local police station (Economic Offences Wing or Cyber Crime Cell) for the jurisdiction where the infringement occurs or where the infringer operates. The FIR must: describe the infringing activity; attach evidence (screenshots, purchased infringing products, expert comparison); identify the infringer; and request investigation under Section 63 of the Copyright Act 1957 and if applicable Section 66 of the IT Act 2000.

Supporting Police Investigation. The police may need: technical expert assistance to understand the infringement (provide your technical expert's contact); market intelligence on where infringing products are sold or where pirated software is distributed; and documentation of all evidence gathered before the FIR. Engage an IP advocate to coordinate between the civil and criminal proceedings — they often proceed simultaneously.

Remedies and Sentencing. Section 63A of the Copyright Act 1957 provides enhanced penalties for repeat infringement: minimum imprisonment of 1 year (up to 3 years) and minimum fine of Rs. 1,00,000 (up to Rs. 2,00,000). Section 64 empowers police to seize infringing copies without warrant. Section 65 provides for additional penalties for infringing on computer programmes and software. Criminal conviction creates a strong deterrent for

future infringement.

ONLINE PLATFORM ENFORCEMENT AND TAKEDOWN PROCEDURES

GitHub and Code Repository Takedowns. For source code infringement on GitHub: file a DMCA takedown notice through github.com/contact/dmca; include: identification of the original code (GitHub repo URL or description); identification of the infringing repository (URL); statement that you own the copyright; and contact details. GitHub typically responds within 1–5 business days. Repeated DMCA notices against a user can result in account termination under GitHub's policies.

Google Search Content Removal. Infringing content that appears in Google Search results can be removed through: Google's URL Removal tool (for cached copies of removed pages); Google's Legal Troubleshooter for copyright complaints; and the Lumen Database (lumendatabase.org) which is used by Google and other platforms to process DMCA-style notices. Content removal from Google Search complements platform takedowns — even if the infringing page is taken down, cached copies may remain searchable.

Social Media Enforcement — Platform-Specific. For copyright infringement on social media: Facebook and Instagram — file through facebook.com/help/contact/1758255661104383; Twitter/X — file through legal.twitter.com/copyright.html; LinkedIn — file through linkedin.com/help/linkedin/ask/ts-ccr; YouTube — use the YouTube Copyright Center (support.google.com/youtube/answer/2807622); and TikTok — use the TikTok IP infringement report form. Each platform's process takes 1–14 days. Repeat infringement triggers escalating consequences under each platform's policies.

E-Commerce Platform Takedowns for Creative Content. For infringing creative content on e-commerce platforms (product images, descriptions copied from your website): Amazon — file through amazon.com/gp/help/customer/display.html?nodeId=200570090; Flipkart — contact legal.flipkart.com; and Meesho, Myntra, Snapdeal — contact each platform's seller support team. Include: your copyright registration number (if registered); the infringing URL; your original work URL; and a statement of ownership.

Internet Archive and Wayback Machine. The Internet Archive's Wayback Machine can be used both offensively (to preserve evidence of infringing content that was later removed) and defensively (a request can be made to remove specific URLs from the Wayback Machine if sensitive content is archived). For evidence preservation: use web.archive.org immediately to create timestamped archives of all infringing web pages. These archived snapshots are reliable third-party evidence of the content as it existed at a specific date.