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## Joint Authorship in Copyright Law: A Comparative Study

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*When it comes to intellectual property law, the concept of joint authorship is one of the most important and nuanced aspects of copyright law. This concept is particularly relevant in many copyright disputes, so understanding the exact meaning of joint authorship and its implications is paramount. This article will provide an overview of the legal interpretations of joint authorship and its implications in the United States, the United Kingdom, and India, as well as any associated legal implications. The exact meaning of joint authorship can be complex, but it is generally accepted that a joint author is someone who makes a considerable contribution to the creation of the subject matter in question and who should receive credit and royalties for the work. This means that the work of two authors must be so interrelated that their contributions form a unified and complete work. This concept is especially important in software development and similar projects requiring collaborative work with multiple authors. In the United States, the definition of joint authorship is codified in the Copyright Act, which states that joint authorship exists when two or more authors, working independently, combine their ideas to create a work. In terms of the UK, this has been affirmed by the courts, and it is expected that each author will make an equal contribution of effort and talent to the work in question. To epitomize, joint authorship is an important concept under copyright law and has far-reaching implications. To understand joint authorship and the associated legal implications, it is important to be familiar with the relevant judicial opinions, international conventions, and common law.*

**Keywords:** *intellectual property rights, copyright law, authorship, joint authorship.*

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## INTRODUCTION

The concept of joint authorship is essential for understanding the laws of copyright, especially for works produced by multiple authors. By examining judicial decisions and opinions of jurists within the United States (*hereinafter* referred to as the US), the United Kingdom (*hereinafter* referred to as the UK), and India, it is possible to understand when multiple authors of a work may legally be considered joint authors.

To start, the concept of joint authorship is based on 'copyright principles' established in Intellectual Property Rights (IPR), which is outlined in the Indian Copyright Act (*hereinafter* referred to as Act) and other international conventions. This principle states that each author has an independent copyright in the portion of the work attributed to him/her, and this copyright is co-equal with that of every other contributing author. When establishing and determining joint authorship, an important authority on copyright law is US Supreme Court Justice Felix Frankfurter's opinion in a case known as *Reynolds v Weston Drum Company* (1910). This opinion establishes the essential elements of joint authorship, which include a considerable contribution of talent, toil, and effort.

The concept of joint authorship has been further clarified by the United Kingdom's Copyright, Designs, and Patents Act of 1988 (*hereinafter* referred to as CDPA), US Copyright Office Circulars, and court decisions in other countries. One ruling in particular, the European Court of Justice's decision in the case of *Society of Composers, Authors, and Publishers of Music v British Sky Broadcasting*<sup>1</sup>, outlines three factors in assessing joint authorship: if two authors collaborate on a work if the collaboration is so intertwined that the resulting work cannot be separated, and if the authors did not carry out their contributions independently.

Ultimately, understanding joint authorship requires examining the dichotomy between two authors' independent works and their collaborative works, as established in law and decided on in court. It is essential for copyright holders and professionals with expertise in copyright

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<sup>1</sup> *Society of Composers, Authors, and Publishers of Music v British Sky Broadcasting* [2013] EWHC 379 (Ch)

law to become familiar with the concept of joint authorship to assess the legal standing of works created by multiple contributors.

## LEGISLATION

*India:-*

A 'joint work' is a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors.<sup>2</sup> With that said the Act also gives a few rights to the joint author, "the authors shall be the first owners of the copyright, and the rights shall be exercised by a majority of the authors unless otherwise agreed upon."<sup>3</sup>

In *Indian Performing Right Society Ltd. v Sanjay Dalia and Ors*<sup>4</sup>, the Court held that to prove joint authorship, it must be established that the work was produced by the collaboration of two or more authors and the contribution of one author is not distinct from the contribution of the other author or authors. Similarly, another judgment delivered by the Supreme Court of India in *Eastern Book Company v D.B. Modak*<sup>5</sup> held that it must be shown that the collaboration was to such an extent that the contributions of the authors are inseparable, and the contributions of one author cannot be distinguished from the contributions of the other authors.

*Super Cassettes Industries Ltd. v Sanjay Dalia* (2009) - This case dealt with the issue of joint authorship in the context of musical works. The court held that for a work to be considered a joint work, it must be shown that the contributions of the authors are inseparable and cannot be distinguished from each other. Delhi High Court in the case of *Eastern Book Company v D.B. Modak* (2008) held that for a work to be considered a "joint work" under the Copyright Act, it must be established that the collaboration was to such an extent that the contributions of the

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<sup>2</sup> Copyright Act 1957, s 2(d)

<sup>3</sup> Copyright Act 1957, s 17

<sup>4</sup> *Indian Performing Right Society Ltd. v Sanjay Dalia and Ors* (2015) SC 8253

<sup>5</sup> *Eastern Book Company v D.B. Modak* (2007) SC 6472

authors are inseparable, and the contributions of one author cannot be distinguished from the contributions of the other authors.

*United States:-*

In the United States, the ownership of the copyright in a joint work is defined as “the work prepared by two or more authors with the intention that their contributions be merged into inseparable or interdependent parts of a unitary whole”.<sup>6</sup> In the case of a community for Creative Non-Violence v Reid<sup>7</sup>, the Supreme Court held that to determine joint authorship, a court should examine whether the parties intended to create a joint work and whether their contributions are inseparable or interdependent parts of a unitary whole. Here, intention plays an important role while determining joint authorship. Similarly, in Feist Publications, Inc. v Rural Telephone Service Co.,<sup>8</sup> the Supreme Court, in this case, held that to establish joint authorship, it must be shown that the collaboration was to such an extent that the contributions of the authors are inseparable, and the contributions of one author cannot be distinguished from the contributions of the other authors.

Additionally, while claiming joint authorship there has to be the contribution of both parties as we can see in the case of Aalmuhammed v Lee,<sup>9</sup> which dealt with the issue of joint authorship in the context of the film. The court held that for a work to be considered a joint work, it must be shown that the contributions of the authors are inseparable and cannot be distinguished from each other. Tufenkian Import/Export Ventures, LLC v Einstein Moomjy, Inc.,<sup>10</sup> The court held that to establish joint authorship, it must be shown that the collaboration was to such an extent that the contributions of the authors are inseparable, and the contributions of one author cannot be distinguished from the contributions of the other authors.

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<sup>6</sup> Copyright Act 1976, s 17

<sup>7</sup> *Community for Creative Non-Violence v Reid* [1989] US SC 88-293

<sup>8</sup> *Feist Publications, Inc. v Rural Telephone Service Co* [1991] US SC 89-1909

<sup>9</sup> *Aalmuhammed v Lee* [2000] USC 1227

<sup>10</sup> *Tufenkian Import/Export Ventures, LLC v Einstein Moomjy, Inc* [2003] 338 F.3d 127 (2d Cir.)

*United Kingdom:-*

In the United Kingdom, the CDPA governs the issue of joint authorship. The Act defines a joint work as a work "produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors."<sup>11</sup> In the case of *Kogan v Marin & Ors*,<sup>12</sup> The United Kingdom Court of Appeal recently addressed the often complex matter of works of joint authorship. It is important to note that merely wielding the pen does not necessarily make one the sole author of the work and other elements of collaboration must be taken into consideration. This decision sets out the factors that must be considered when undertaking such an analysis. These factors must be kept in mind, as joint authorship may come in many forms. As such, it is of utmost importance to be aware of the potential complexities involved in determining joint authorship and to consider all relevant factors with great care. Similarly, in the case of *Re F.A.B. Films Ltd.*,<sup>13</sup> the court held that to prove joint authorship, it must be established that the work was produced by the collaboration of two or more authors and the contribution of one author is not distinct from the contribution of the other author or authors.

**ANALYSIS**

No matter how different or similar the countries may seem, one thing they all have in common is joint authorship. In the United States, the United Kingdom, and India, joint authorship is defined as work created through the collaboration of two or more individuals, where the contributions of each author are not distinct from the others. As joint authors, each individual owns an equal share of any royalties collected from the work. Any of these joint authors also have the right to assign their share of the copyright to another person, at which point that person shall only have the rights of an assignee regarding said share. In summary, the standards for joint authorship are consistent throughout the world, making the formal definition one constant shared by the United States, the United Kingdom, and India.

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<sup>11</sup> Copyright, Designs and Patents Act 1988, s 10(1)

<sup>12</sup> *Kogan v Marin & Ors* [2019] EWCA Civ 1645

<sup>13</sup> *Re F.A.B. Films Ltd* [1972] Ch. 241

In India, the rights of joint authors in a work are exercised by a majority of the authors, unless otherwise agreed upon. However, each joint author has an equal right to use or license the work in both the United States and the United Kingdom. The difference between these two countries can be observed in the terms of termination of the transfer of copyright in a joint work. In the United Kingdom, the transfer of copyright in a joint work takes effect on the expiry of five years from the date of the notice. Whereas in the United States, it takes effect after 35 years from the execution of the grant. Furthermore, in the United States, this transfer of copyright in a joint work has to be executed by all the authors unless the author transferring his share of the copyright has the power of attorney from the other authors to carry out the transfer. This particular requirement is not specified in the laws of India and the United Kingdom.

### **RIGHTS AND RESPONSIBILITIES EXERCISED BY AUTHORS**

The criteria for joint authorship varies across nations and is dependent on factors such as the degree of collaboration and the interdependence of the authors' contributions. In general, courts will assess the authors' purpose, the nature of the contributions, and if the contributions form an inseparable or interdependent unit. In regards to rights and duties, joint authors are seen as joint proprietors of the copyright in the work and are usually entitled to an equivalent portion of any gains. They also have the right to employ or license the work and assign their part of the copyright. Nevertheless, there may be discrepancies in rights and responsibilities according to the laws of the specific country. Disputes related to joint authorship can arise when there is a disagreement between the authors about the distribution of royalties, the use of the work, or the assignment of copyright. Resolving these disputes may require legal action through the courts or alternative dispute resolution methods, such as mediation or arbitration.

The courts or arbitration will typically consider the intent of the authors, the nature of their respective contributions, and whether the contributions are inseparable or interdependent parts of a unitary whole. Additionally, in some countries, such as the US, authors have the right to terminate the transfer of copyright in a joint work after a certain period, which may also contribute towards resolving any disputes between the authors. Every co-author will have an equal, undivided interest in the entire work, be it illustrations, text, or any other form. This

means that if two people have contributed to the work, each person will hold a 50% share. Each co-author can grant non-exclusive rights to the work to third parties, however for exclusive rights to be granted, the permission of all co-authors is needed.

It is important to remember that each co-author has a duty to the other co-authors to provide accounts of any profits obtained from the exploitation of the work. As co-authors of a work, you have the right to assign your share of the ownership to a third party or bequeath it to your heirs. Furthermore, you will be ensured of equal authorship credit for the work upon its publication. This assurance is provided to ensure that you receive the recognition you deserve for your contribution.

## **TRENDS**

Recent trends related to joint authorship in India, the United States, and the United Kingdom are that all three countries define joint authorship as a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors. In recent years, joint authorship laws and regulations have become increasingly important in India, the United States, and the United Kingdom due to the growing number of collaborations between authors in various fields such as the arts and technology. As a result, it has become necessary to clearly define the rights and responsibilities of joint authors. One noteworthy trend that has been observed in all three countries is the recognition of digital collaborations as joint authorship. With the rise of the internet and digital technologies, authors are now able to collaborate online to create works that wouldn't have been achievable without the internet – and the laws in these countries have been updated to reflect this.

Joint authorship is becoming increasingly relevant in today's modern world, and laws are adapting to make sure authors can benefit from their collaborations regardless of the medium they are using. Technology has also played a crucial role in determining joint authorship. Through advanced algorithms and software, it is now easier to analyze and track the

contributions of authors to a work. As a result, this method of determining joint authorship has been increasingly adopted in recent years.

Furthermore, the laws and regulations of many countries are providing more clarity on the rights and responsibilities of joint authors, and how potential disputes related to joint authorship can be resolved. This includes the process of terminating the transfer of copyright in joint works and the process of resolving disputes related to joint authorship. It is clear that joint authorship is becoming increasingly important in the modern world, and authors must understand their rights to benefit from their collaborations.

## CONCLUSION

The case law on joint authorship and copyright matters has evolved a great deal in recent years. There is now a general accord that the primary factor to determine joint authorship is the active involvement of each individual in the creation of the work. What's more, since such works are indivisible, any decision concerning the copyright – such as transfer, licensing, or assignment – must be made with the consent of all authors involved. The Act leaves difficult topics, such as these, up to judges to decide upon. That is understandable as the concept of joint authorship is still being redefined. Nonetheless, it is possible for there to be codified guidance on the points mentioned here, which are now quite settled.

Joint authorship in India is still developing, with applicable statutes, amendments, precedents, juristic opinions, and international conventions providing guidance. Statutory backing of joint authors' rights and duties is an essential step towards ensuring mutual benefit for all parties involved. Therefore, it is essential to ensure that relevant laws and conventions be properly adhered to to ensure the well-being and rights of joint authors.