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Addressing gender disparities in creative sectors using incentive frameworks under copyright law

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***E.I.P.R. 228 Abstract**

Female underrepresentation has been a persistent issue in the creative sector, where contributions by women are consistently underrecognised and neglected. The entertainment industry, in particular, has grappled with this issue, as is discernible from the systemic barriers that perpetuate gender disparities by limiting female professional participation and creative recognition. Copyright law plays a key role in this industry, as it provides a framework for protecting creative works, thereby influencing professional opportunities and recognition of creators. Given the lack of female representation in copyright-associated industries, this study explores the potential of modifying copyright law's incentive framework to improve gender equality in creative sectors. The study reviews relevant data, and gender dimensions of the Patent (Amendment) Rules, 2019 to determine whether the insights from these can be applied to copyright law. The study explores methods to adapt copyright incentives to increase female participation and facilitate gender diversity across creative fields.

Introduction

Creative sectors, which include art, music, cinema, drama and literature,¹ are key contributors to economic growth,² cultural enrichment and showcase a free and open society. They are designed to inspire storytelling, encourage creativity, and unite individuals to produce works that resonate with the masses. Despite being founded on creativity and collaboration, these sectors grapple with many challenges, including significant gender disparities.³ Historically, men have dominated the creative sectors owing to societal constructs and gender roles, which has resulted in the marginalisation of female creators.⁴ Due to myriad of social and political issues, women and their creations have been excluded from formal protection systems,⁵ and they have been extensively under-recognised for their contributions to the creative and innovative sectors.⁶ Although women have made great strides over the last few decades to bridge this gender gap, parity in representation is yet to be realised.

This paper, using the entertainment industry as a case, explores gender inequality and underrepresentation in the creative sector. The limited number of reports⁷ available on this topic indicates a significant gap in data collection and analysis. This gap is particularly evident in relation to the copyright system, where the US Copyright Office's **E.I.P.R. 229* report "Women in the Copyright System"⁸ stands out as one of the only comprehensive documents highlighting gender disparities by detailing statistics on copyright registrations by female authors over more than four decades. The lack of such research makes it difficult to obtain a detailed understanding of gender-related issues in creative fields, highlighting the need for focused research to determine the relationship between copyright law, its incentive framework and representation of women in the creative sector.

This study seeks to determine the role that copyright law may play in understanding certain dimensions of female underrepresentation including whether it is possible to incentivise female participation in the creative sector. By drawing inspiration from recent developments in Indian patent law (which expedite patent processing for female inventors),⁹ this study explores how the goals and intended outcomes of copyright law might be adapted to promote gender equality in the creative sector.

Part I of this paper explores the issue of female underrepresentation in creative sectors and

intellectual property systems. It examines reports that analyze these issues and also looks into the Matilda Effect which details the historical under-recognition of women in creative and innovative sectors. Part II of this paper examines the possibility of extending the incentive framework within copyright law to include social considerations such as gender disparities in copyright-based creative sectors. It attempts to determine whether the contours of the incentive theory can encompass social welfare from a gendered perspective. Part III of this paper explores the enactment of the Patent (Amendment) Rules, 2019 and its aim to encourage female entrepreneurship. This part highlights the challenges that would arise in attempting to apply the approach of the Patent Amendment to copyright law and includes a few potential workarounds to facilitate female participation in copyright-associated industries, keeping in mind the limitations of copyright law.

Women in Creative Sectors—The Issue of Underrepresentation

Copyright law covers several categories of works used in the entertainment industry, including cinematograph films, sound recordings, and musical and literary works.¹⁰ As discussed above, the underrepresentation of women has been a persistent issue in this industry for several reasons.¹¹ Although social awareness of this issue has been present, the lack of comprehensive statistical reporting hinders efforts to fully understand its scope and develop effective solutions. Moreover, given copyright law's association with creative sectors, less is known about the participation of women in intellectual property systems, apart from the well-established social understanding that the share of female participation is generally low and creations by women tend to remain unrecognised.¹² This part examines the few existing reports on women's representation in the entertainment industry and copyright systems. By analyzing these limited sources, we can begin to understand the systematic underrepresentation and unrecognised contributions of women in creative sectors.

'The OWomaniya! Report'—A Look at Female Underrepresentation in the Indian Entertainment Industry

The "OWomaniya!" report is a landmark report that contains detailed statistics on female representation in the Indian entertainment industry. It is prepared and released by Amazon Prime in association with Film Companion Studios and Ormax Media.¹³ The first edition of the report was released in 2021, making the latest report, released in 2024, the 4th edition.¹⁴ The aim of the report is to highlight the gender disparity in the entertainment industry with a specific focus on directors, producers, and writers. The report identifies opportunities for making the entertainment industry gender-inclusive.¹⁵ It analyses gender diversity in 3 sections of the entertainment industry: (i) content; (ii) marketing; and (iii) corporate. The authors of the report also discuss two tests in relation to female representation: (i) the Bechdel Test; and (ii) the Trailer Talk Time Test. Given that the OWomaniya! report is the first of its kind to highlight the issue of gender diversity in the entertainment industry in India, it is worth exploring the findings of the report in detail. We discuss the statistics reported in the latest edition of the report released in 2024 which presents data on female representation in the Indian entertainment industry between 2022–2023. ***E.I.P.R. 230**

The 2024 report bases its findings on 169 properties including theatrical and streaming films and streaming series across multiple languages—Hindi, Tamil, Telugu, Malayalam, Kannada and more.¹⁶ The report first discusses female representation in Head of Department positions across the analysed properties. Only 15% of women held HOD positions in 2023, which was only a 3% increase from the 12% reported in 2022.¹⁷ The percentage of female representation in HOD positions in 2023 across different departments is 24% in production design, 15% in writing, 18% in editing, 8% in direction and only 7% in cinematography.¹⁸ In theatrical films, female representation in HOD positions is striking a low share at 6% in 2023. In contrast, in streaming films and series, females in HOD positions are at 22% and 20%, respectively.¹⁹ In the age of streaming, given the exposure provided to gender diversity discourse, we see that the statistics on female representation show a more positive trend, though the situation is not yet ideal. The report also states that while women's representation in HOD positions in Hindi content across the analyzed properties is at 21% in 2023, it is below 10% across the south Indian industries, i.e., Tamil, Telugu, Malayalam and Kannada.²⁰

The report then proceeds to discuss the Bechdel Test (also referred to as the Bechdel-Wallace Test). This test was introduced by Alison Bechdel in her comic strip "Dykes to Watch Out For".²¹ The test is defined in the *Merriam-Webster Dictionary* as "a set of criteria used as a test to evaluate a work of fiction (such as a film) on the basis of its inclusion and representation of female characters."²² A work is deemed to pass the Bechdel Test if it consists of two or more women who talk to each other about something other than a man.²³ On applying this test to the properties, the authors of the OWomaniya!

report found that overall, 52% of works passed the test in 2023, in comparison to 47% in 2022.²⁴ This shows a promising trend in female-centric storylines in the industry. In streaming series, however, the report showed that the pass rate of the test reduced to 52% in 2023 from 55% in 2022, in contrast to the 12% increase in theatrical films and 8% increase in streaming films for the same time period.²⁵ Although the situation is not yet ideal, the statistics on the pass rate of the Bechdel test indicate a positive trend towards a greater number of storylines with a focus on women across different forms of entertainment distribution.

The authors of the OWomaniya! report developed a toolkit to encourage producers and writers to ensure gender diversity in their projects at the development stage. In order to satisfy the toolkit, the following requirements must be satisfied: there must be at least one female character with dialogue and with a role that is not linked to the male lead; at least one female character taking active economic, domestic or community decisions that are key to the story; the female lead must express a conflicting perspective to the male character on a key plot-point; and the film/show must not depict sexualisation of women or violence against women as acceptable.²⁶ The report states that only 52 properties satisfied the criteria of the toolkit and across different formats of distribution, 18 theatrical films, 31 streaming films and 45 streaming series passed the toolkit.²⁷

Next, the Trailer Talk Time test, which was developed by the authors of the OWomaniya! report. This test is used to determine the amount of talk-time a female character has in comparison to her male co-stars in trailers.²⁸ The findings in the report in relation to this test are that, across properties analysed, female talk time increased from 27% in 2022 to 29% in 2023.²⁹ Despite the marginal increase of 2%, it appears that female talk time in trailers is still low. As regards the pass rate of the trailer talk time test across different forms of distribution, the report states that theatrical and streaming films saw only a 2% increase each from 2022 to 2023, whereas streaming series had a 3% increase in the same period.³⁰

Lastly, the OWomaniya! report looked at female representation in the corporate sector within the entertainment industry. According to the findings, the share of women in senior management positions dropped from 13% in 2022 to 12% in 2023.³¹ Not only does this reflect a decrease in women's representation in higher corporate positions, but also that the overall percentage is strikingly low. This influences the power dynamics within the industry and tilts the bargaining power in favour of the gender with greater representation.

The OWomaniya! report highlights an already known phenomenon—female underrepresentation. Nevertheless, it is a pivotal document that communicates to the public the actual numbers associated with the underrepresentation of women in the entertainment industry. This is a significant starting point to understand and address the issue of lack of gender diversity. There **E.I.P.R. 231* exist several avenues to uplift women and bring about equal representation and opportunity across sectors and industries.³² When considering the entertainment industry, copyright law emerges as a fundamental mechanism that provides a framework for protecting intellectual property and potentially serves as a tool to facilitate a diverse environment. Thus, understanding female participation in the copyright system is also a key consideration.

Women in the Copyright System Report—US Copyright Office

The US Copyright Office, pursuant to the UN Sustainable Development Goal 8, "Decent Work and Economic Growth", commissioned and released a special report titled "Women in the Copyright System", where it analysed copyright registrations by female authors from 1978 to 2020.³³ The goal of this report was to highlight the gender disparity in the use of intellectual property systems, particularly copyright. According to the report, one of the major consequences of female underrepresentation in the copyright system is the lack of recognition of female creators.³⁴

The report by the US Copyright Office is the first of its kind, exploring trends in female participation in creative sectors and intellectual property systems.³⁵ This makes it a landmark frame of reference for other countries as well. The report was created using a data-driven approach, relying on public records from the Copyright Office and public catalogue data. The dataset included information about authors, different categories of copyrighted works, status of publication, and other related information.³⁶ The key findings of the report include:

Copyright registrations by women have increased gradually from 27.9% to 38.5% in 2020.³⁷

Across different categories of copyrighted works (such as artworks, dramatic works, motion pictures, musical works, non-dramatic literary works, and sound recordings), the share of copyright

registrations by women has generally increased. The share of female authorship in motion pictures and computer programs has doubled and tripled respectively. In performing arts, female authorship has experienced a moderate but steady increase. Whereas, for artistic works, female authorship is around 40% currently.³⁸

In the category of nondramatic literary works, copyright registration by women has reached parity with men over time.³⁹

The share of copyright registrations by women is higher in occupations within the creative sector where a greater number of women are present. Put simply, there seems to be a direct relationship between female participation in creative sectors and copyright registration by women in associated categories.⁴⁰

Women constitute a small share of authors across almost all categories of works in comparison to occupational authors, i.e., those who create copyrightable works as part of their professional occupation.⁴¹

This report is of great relevance given the deep-rooted gender disparities that exist in copyright-associated industries. By providing in-depth insights into systemic gender-related issues in creative sectors, such a report would function as a foundation upon which changes to applicable laws (which, in the context of this paper, is copyright law) can be contemplated to bring about equality and fairness to shape social culture.⁴² The challenge involved in addressing the issue, however, is not limited to the lack of such information or data. Gender-related issues in creative and innovative sectors can be traced back to the under-recognition of women, resulting in underrepresentation,⁴³ which is discussed below. **E.I.P.R. 232*

The Matilda Effect

The underrepresentation issue takes the form of the Matilda Effect when gender disparity is associated with intellectual property law. In the 19th century, scholar Matilda Joselyn Gage discussed the suppression of female inventors in her seminal paper from 1883 titled *"Woman As Inventor"*. This phenomenon later came to be known as the Matilda Effect, a term that was first used by Margaret W. Rossiter.⁴⁴ The Matilda Effect speaks to the under-recognition of women in science and technology. Gage highlights the misconception in society about women not being inventive, in contrast to the extensive contributions made by women throughout history.⁴⁵ She also discusses the neglect of female inventors, which has manifested in the form of inventions by women being registered in the name of men, thereby preventing women from reaping from their creations.⁴⁶ Gage explores several examples where women have been neglected, overpowered, and deliberately ousted to demonstrate the cause for female under-recognition in inventions.⁴⁷

The lack of recognition and importance of female creations in copyright-associated contexts has been extensively discussed by scholars. For instance, Professor Ann Bartow highlights the lack of copyright protection over creative works by women that have generally developed in the domestic realm, for failing to be considered as sufficiently creative.⁴⁸ She also states that there is a clear distinction between works that have been propertised, i.e., considered as marketable property, and works associated with the domestic sphere which do not attract strict copyright protection.⁴⁹ Women are forced to create works that directly rival male creations, failing which, any works created by women that originate from the domestic sphere will not be recognised as protectable subject matter under the law.⁵⁰

Professor Carys J. Craig discusses how the exclusion of women from copyright discourse can be traced back all the way to the Lockean theory of copyright law. Craig states:

"for Locke, "women are excluded from the status of "individual" in the natural condition". The "masculinist underpinnings" of the Lockean premise of self-ownership are thus imported into copyright's theoretical framework with every invocation of the author's right to "reap what he has sown" and to enjoy the "fruits of his labor".⁵¹

This points to the marginalisation of women and their creations from the contours of the existing copyright discourse. Like Bartow, Craig also points out that women were primarily involved in the creation of traditional domestic works which have been excluded from formal copyright protection, and, as a consequence, from historical records as well.⁵² Both Craig and Bartow's perspectives are reflective of the Matilda Effect, as they discuss the erasure of female creations throughout history.

Although the Matilda Effect is primarily discussed in the context of science and technology, attempts have been made to extend the phenomenon to other fields, given that it exists in other sectors as well. For instance, in 2013, Silvia Knobloch-Westerwick, Carroll J. Glynn and Michael Huge sought to extend the Matilda Effect to science communication by highlighting the presence of systemic gender imbalances in scientist positions.⁵³ Beyond scientific fields, the Matilda Effect is present in other sectors, indicating a pattern of gender-based marginalisation. Particularly in the creative sector, gender inequality has been a persistent issue, with women being neglected, under-recognised and severely underrepresented.⁵⁴ This remains an endemic challenge that extends beyond any deliberate attempt to extend the Matilda Effect to this industry.

Addressing this inequality requires an examination of existing institutional frameworks to determine how current structures alleviate these gender-based disparities. Before we explore this in relation to copyright legislation and compare it with the steps taken under the Patent Amendment, we first discuss whether copyright law mechanisms, and mainly its incentive frameworks, can accommodate the social dimension of female underrepresentation in copyright-related industries. ***E.I.P.R. 233**

Incentives under Copyright Law and Social Considerations

Incentives and their Operation within the Copyright System—Generally

The concept of incentives in intellectual property law originates from various foundational theories, one of which is the utilitarian theory.⁵⁵ According to the Utilitarian theory, the purpose of incentives under copyright law is to encourage authors to create and distribute valuable works, which in turn maximises benefits for society.⁵⁶ By granting exclusive rights, authors can exploit and gain financially from their works. As such, copyright law incentivises investment in creativity.⁵⁷ Professor Jeanne C. Fromer observes that incentive frameworks in copyright law contain a balance between benefits gained by society and the incentives granted to creators.⁵⁸ This balance creates justification for the incentives to exist and operate within the copyright system.

The incentives under copyright law which are designed to encourage authors to create works, as discussed above, manifest in the form of two broad categories of exclusive rights. They are, first—the right to exclusively deal with their works by exercising the rights granted under copyright statutes; and second, the right to prevent others from exploiting their works without authorisation.⁵⁹ A key element in these entitlements conferred by copyright law is the exclusivity held by authors. According to Sara K. Stadler, granting such incentives gives rise to a circularity of incentives and expectations. Stadler says *"With the stated goal of generating creative 'incentive,' the law asks what rights creators expect to enjoy; it grants rights in satisfaction of those expectations; and each new grant raises expectations among creators, thus forming the basis of demands for more rights."*⁶⁰ Put simply, incentives are central to copyright.⁶¹

Another similar dual framework upon which copyright law operates—ex-ante production and ex-post reward, is discussed by Professor Shyamkrishna Balganesh. Ex-ante production is encouraged by the presence of ex-post rewards. Balganesh says *"Copyright law much like the common law, is concerned with inducing behavior of a certain kind by incentivising it. By providing creators with an ex post reward, it attempts to incentivise their ex ante production of creative expression"*.⁶² When viewed from the utilitarian perspective, ex-ante considerations are limited to the production of works. From a gendered perspective, elements of ex-ante inclusion can be introduced, with the support of ex-post rewards. According to Balganesh, although the main aim of copyright law is incentivising, the internal doctrinal devices of copyright do not effectively achieve this aim.⁶³ This can be said for gender-based incentives as well, as none currently exist within the framework of copyright law. Further, Professor William Fisher observes, "Copyright supports a sector of creative and communicative activity that is relatively free from reliance on state subsidy, elite patronage, and cultural hierarchy".⁶⁴ It can be inferred that copyright is completely separate from cultural hierarchies that exist (for example, in terms of gender) in industries that are governed by copyright. This calls into question the role of copyright law in facilitating a harmonious and equal creative sector where underrepresentation is effectively tackled.

The circularity in copyright law can also occur in the form of wealth maximisation. This circularity does not account for non-economic measures. Given this shortcoming, Professor Wendy J. Gordon relies on Paretianism which states, "forms of advantage-taking should be allowed if it works to the longrun benefit of those disadvantaged by it, but not otherwise".⁶⁵ With this understanding of Paretianism, the ideal outcome would be to uplift women in copyright-associated industries without affecting the

existing structure of copyright, without affecting the interests of others.⁶⁶ We now discuss whether it is possible to achieve such an outcome, i.e., extending the incentive framework to gender equality within copyright law.

Copyright Incentives and Social Considerations—A Possible Marriage?

When viewed strictly from an economic perspective, social concerns and inequalities are highly divorced from copyright discourse. This perspective fails to acknowledge the influence of law and social norms on human behavior, an important consideration even if it complicates existing bodies of law.⁶⁷ This is because social norms are thought **E.I.P.R. 234* to bring about more efficient results than compliance with the law.⁶⁸ Professor Mark F. Schultz makes a notable observation regarding the overlap of law and social norms, "If a social norm consistently and systematically alters how people enforce or comply with law, then analyzing the law alone will not reveal all of the outcomes likely to result from that law."⁶⁹

Social norms can have a significant influence on people's behavior.⁷⁰ However, the shortcoming in the relationship between law and social norms is that, although the law can contribute to social norms, it cannot mandate acceptance of the norms.⁷¹ This creates the basis for attempting to discern whether copyright law and social norms can accommodate the issue of gender inequality. The relationship and overlap between copyright law and social norms was extensively discussed by Professor Christopher Jon Sprigman in relation to comedy. Sprigman says that comedy is not deeply rooted in copyright law, and only the expression or structure of a joke is protected. This gives rise to a thin layer of protection.⁷² Incentive within comedy is founded on social norms including the threat of community action. Sprigman goes on to discuss the consequences of violating these social norms which govern comedy. The consequences may include being otherised, boycotted and even violence.⁷³ Similarly, in the entertainment industry, the issue of gender disparity does not find a solution within copyright law. Rather, community action and social consequences, as discussed in relation to comedy, could be a starting point to ensure female participation in the industry. This could serve as a foundation for incorporating social norms within the framework of copyright law with the aim of addressing gender inequality in creative sectors.

Ascribing gender-based incentives within the economic models on which copyright law functions is challenging. From a utilitarian perspective, given that the focus is on ex-post economic gains, any ex-ante prescriptions may not result in action towards inclusion.⁷⁴ This would require ex-post rewards to move away from economic to social considerations (such as improving gender representation). Within the economic theory itself, having incentives for creating works and diminishing the loss of associated welfare are important goals.⁷⁵ The consideration here is to include gender equality within the meaning of associated welfare. This would result in a direct relationship between gender-based incentives for creating and welfare in terms of gender equality.

Sprigman clearly points out that social norms are not an element of the formal IP framework. However, they play a key role in incentivising creation.⁷⁶ His exploration of comedy and its role in linking copyright and social norms indicates that incentives for creativity, if structured appropriately, can achieve their intended purpose.⁷⁷ This perspective supports the possibility of extending incentives under copyright law to social considerations such as gender equality.

Within copyright discourse, William Fisher says that the concepts of fairness, incentives and culture-shaping are intertwined.⁷⁸ This is particularly relevant in the context of social issues such as gender inequality. The lack of equality and fairness, and gender-based incentives for female representation in copyright-associated industries sets out a requirement for copyright law to accommodate representation issues within its incentive framework from a renewed social welfare perspective. Presuming now that incentives under copyright law are extended to encompass gender representation, the system of ex-ante and ex-post rewards becomes highly relevant. The root of this presumption is found in the Indian Patent (Amendment) Rules, 2019 which explicitly extended incentives within the registration process to female entrepreneurs with the intention of encouraging women's participation in innovation. This is discussed in detail in the following section of the paper.

Borrowing from the Patent Amendment Approach—Probable or Possible?

The Patent (Amendment) Rules, 2019—Female Applicants and Expedited Examination

In 2019, the Indian Patent Rules, 2003 ("Patent Rules") was amended by the Patent (Amendment) Rules, 2019 ("Patent Amendment"). Rule 24C was amended by the Patent Amendment, allowing any

applicant who is female or, in the case of joint applicants, at least one of the applicants is a female, to file a request for expedited examination of the patent application.⁷⁹ Generally, the **E.I.P.R. 235* stages of a patent application can be lengthy, taking up to several years to result in registration. An expedited examination can reduce the overall time taken for patent registration. The purpose of the amendment is to encourage and incentivise female inventors by shortening the time required for patent examinations, thereby increasing their opportunities to commercialise their inventions.⁸⁰

The amended Patent Amendment, Rule 24C(1)(d) reads as follows:

"An applicant may file a request for expedited examination in Form 18A along with the fee as specified in the first schedule only by electronic transmission duly authenticated within the period prescribed in rule 24B on any of the following grounds, namely:...

...(d) that if the applicant is a natural person or in the case of joint applicants, all the applicants are natural persons, then the applicant or at least one of the applicants is a female;..."⁸¹

Usually, when a patent application is filed, the entire registration process takes 3 to 5 years to conclude.⁸² The examination stage⁸³ of the registration process is often time-consuming and can result in the grant of registration taking a long time. An expedited examination can reduce the patent grant time to 18 months,⁸⁴ thereby significantly reducing the delays in securing a patent registration. By virtue of the Patent Amendment, women are now among the few eligible applicants who can apply for an expedited examination using Form 18A to obtain patent registration at a faster pace. The "Annual Report 2023–23" released by The Office of the Controller General of Patents, Designs & Trade Marks (CGPDTM) provides data on the number of requests filed for expedited examination on a yearly basis. This report does not specifically state the number of such requests filed by female applicants.⁸⁵ Rather, requests filed by women are grouped and presented under the heading "Others" which includes other categories of applicants under Rule 24C(1)(d) of the Patent Rules. It is noteworthy that the number of requests filed by applicants under the category of "Others" has increased from 304 in 2019–20 to 2471 in 2022–23.⁸⁶ However, according to a report released by NASSCOM on 'Patenting Trends in India-Edition 2024', the share of female inventors in India has decreased from 14.4% in 2018 to 11.6% in 2022.⁸⁷

The Indian Patent Office says that the Patent Amendment was introduced with the intention of encouraging women's entrepreneurship. The reason for introducing this amendment is, broadly, two-fold. One, although there are several female inventors across India, very few apply for patents.⁸⁸ Two, previously, there has not been any provision encouraging female participation within intellectual property laws.⁸⁹ The Patent Amendment aims to address these shortcomings and is able to do so because of one major element within patent law: mandatory registration. This is a crucial consideration when attempting to borrow from the Patent Amendment to copyright law, which we discuss next.

Applying the Patent Approach to Copyright—Challenges

A patent is a statutory right granted by the government which confers exclusive rights on the patentee to prevent others from making, using, selling and importing a product or process, based on the patented invention without the patentee's prior permission.⁹⁰ To enjoy exclusive rights, a patentee must mandatorily obtain patent registration over their invention. Registration allows a patentee to have exclusive ownership over the invention and, as a consequence, ensure commercial return for the time and money spent in creating the invention.

Put simply, to bear the fruits of one's own labour, a patentee must obtain registration over their invention. This creates an unavoidable requirement for commercial exploitation of the intellectual property created, thereby adding some significance to the changes brought about by the Patent Amendment. Since registration is mandatory, introducing a condition precedent and subsequent to the filing of an application for registration can cause the occurrence of such a condition precedent. With the aim of promoting female participation in male-dominated industries, the condition precedent introduced by the Patent Amendment is the requirement **E.I.P.R. 236* for an application to be filed by a female or a group wherein at least one applicant is a female.⁹¹ The condition subsequent is the ability to apply for an expedited examination process, which speeds up what is generally a lengthy registration process.⁹² These conditions, when put together with the mandatory and lengthy registration requirement, become an incentive for the applicant.

The changes introduced through the Patent Amendment may not be directly transposable onto

copyright law for one main reason: the difference in the requirement for registration. This is where we run into a hurdle with copyright law as registration is not mandatory to enjoy exclusive rights under copyright law. Under the Berne Convention for the Protection of Literary and Artistic Works, copyright protection is automatic. Article 5 (2) of the Berne Convention embodies one of the core principles of the Convention, which is the Principle of Automatic Protection. According to this principle, contracting states must not make copyright protection for a work dependent on any condition or formality.⁹³ Protection is automatic. India is a signatory to the Berne Convention and follows the principle of automatic protection. The Indian Copyright Act, 1957 ("Copyright Act") does not mandate registration for the enjoyment of the exclusive rights granted to an author/owner under the Act.⁹⁴

The challenges of infusing gender representation considerations into copyright law are not limited to the issue of registration. Much of the scholarly literature points to gender discrimination being a systemic issue across industries and sectors.⁹⁵ As such, devising novel methods and adopting new avenues can play a key role in addressing the issue of gender disparity. Within copyright-associated industries, however, there is a significant lack of awareness of rights entitlements and a large imbalance in bargaining power among interested stakeholders.⁹⁶ It is worth highlighting that composers and lyricists also faced powerlessness in the creative sector due to unbalanced bargaining power. This was highlighted and addressed in the Copyright (Amendment) Act, 2012 ("Copyright Amendment").⁹⁷ By virtue of the Copyright Amendment, composers and lyricists were conferred with an inalienable right to royalty for the use of their works.⁹⁸ Extending this incentive to social considerations such as gender diversity and representation in the creative sector can be tricky. Composers and lyricists are a class of recognised right holders under the Copyright Act.⁹⁹ Therefore, legislating to incentivise classes of statutorily recognised rights holders falls within the scope of the Act. On the other hand, the Copyright Act does not distinguish between male or female authors or owners. As such, it becomes challenging to introduce and justify any statutory amendments that cater to female representation, notwithstanding the fact that female under-representation is a glaring issue in creative sectors¹⁰⁰ that are deeply intertwined with copyright law.

Despite these differences and challenges within copyright law, Assistant Attorney General from Tennessee, Austin C. Ostiguy, notably observes, "no matter the nuances of the function of each branch of intellectual property, both copyrights and patents operate as a quid pro quo".¹⁰¹ With this understanding, we now consider whether it is possible to have any workarounds within copyright law to facilitate gender equality in creative sectors.

Probable Gender-Based Incentives Within Copyright Law

When considering workarounds to use copyright law to improve female representation, the aim is not to have gender-based protections for the sake of it. The goal must be to ensure gender inclusivity with the intention to bring in new perspectives¹⁰² and enrich the creative process. The purpose is to overcome and further prevent years of under-recognition, underrepresentation, neglect, and exclusion of women from formal copyright protection systems. Keeping in mind the limitations imposed by voluntary registration of copyright, effective incentives within copyright law may require innovative strategies. These workarounds could manifest in the following ways:

Workaround Involving Royalties:

A potential solution could include collective management societies offering a higher percentage of royalties or expedited royalty **E.I.P.R. 237* payouts for female creators or, in the case of a group of joint authors, where at least one author is a female. Such an incentive could encourage greater participation and inclusion of women in the creative process. To prevent unanticipated long-term disadvantages, this solution could be limited to a certain time period, or until the parity sought for is achieved.

Subsidised Filing Costs:

As discussed above, since copyright registration is voluntary and authors are not required to engage with the system to exercise their rights, introducing conditions to registration mechanisms could be inconsequential in achieving the intended outcomes. Nevertheless, another potential solution could be to subsidise registration fees for female applicants or, in the case of a group of joint authors, where at least one is a female. This would mirror the Patent Amendment, and instead of relaxations on registration timelines, it would grant reduced fees for female applicants applying for copyright registration. Such concessions could further promote female participation in creative sectors. This

would constitute a small step that could serve as the catalyst for greater change in the long term by initiating a process that builds over time, leading to nuanced systemic changes.

Creation of Copyright-Focused Women Collectives:

There are several female-centric collectives which advocate for women's rights across diverse fields such as agriculture, rural development, family care, and sanitary health.¹⁰³ Specifically within the entertainment industry, the Women in Cinema Collective has been championing the cause of women empowerment and gender equality in the Malayalam film industry.¹⁰⁴ Most recently, the Althea Women's Collective called on the state government of Kerala to establish guidelines in the Malayalam film industry in response to the issue of sexual exploitation highlighted by the Justice Hema Committee report.¹⁰⁵ Much like these collectives, the Copyright Act could include measures to establish women's copyright collectives, through provisions similar to Chapter VII of the Copyright Act which establishes copyright societies. These collectives can be tasked with the responsibility of raising awareness, conducting educational programs for women in the industry or aspiring to enter the industry. These programs and the objectives of the collective can be centred around encouraging female participation in copyright systems and creative sectors.

It is evident through the above-proposed workarounds that copyright law does not possess the mandatory frameworks that are present within patent law, particularly in relation to the requirement for registration. As such, it is challenging to introduce mandatory obligations within the voluntary mechanism of copyright law. Notwithstanding, the above voluntary measures are meant to take advantage of the existing incentive framework within copyright law from the perspective of social considerations, i.e., female representation in the creative sector.

Conclusion

Creating incentives within the copyright law framework could have a significant impact on female participation in creative sectors, which have historically been male-dominated. Although the workarounds may be currently limited, it is important to recognise the dynamic nature of law, which evolves to accommodate the changing requirements of society. Laws have a close relationship with social norms, each heavily influencing the other.¹⁰⁶ This is observable through the enactment of the Patent Amendment which sought to encourage women inventors. With a growing focus on improving female participation in industries where they are underrepresented, such as the entertainment industry, there could exist greater scope for legal reform within copyright law to address this issue. These reforms can include targeted provisions within copyright law that aim to reduce gender disparities and promote equality in creative fields. As more women are encouraged to enter into the creative sectors, it will evolve into a more inclusive, diverse and safe environment. These changes would break down systemic barriers that have historically marginalised women and celebrate women's contributions.

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1. See generally Susan Galloway and Stewart Dunlop, "A Critique of Definitions of the Cultural and Creative Industries in Public Policy" (2007) 13 *International Journal of Cultural Policy* 17; Terry Flew and Stuart Cunningham, "Creative Industries after the First Decade of Debate", (2010) 26 *The Information Society* 113. These scholars point out the difficulty in defining the creative sector given its broad and context-dependent nature.

2. *FICCI-EY Report, Reinvent: India's Media & Entertainment Sector Is Innovating for the Future*, (2024). According to the FICCI-EY Report, the Indian Media and Entertainment Industry crossed INR 2.3 trillion in 2023 and is expected to reach

- INR 2.55 trillion by 2024.
3. Kate Whiting, "This Is the State of Gender Parity in the Film Industry in 2024" (2024) World Economic Forum, <https://www.weforum.org/agenda/2024/03/oscars-film-industry-gender-parity/>.
 4. Dan L. Burk, "Bridging the Gender Gap in Intellectual Property" (2018) WIPO, https://www.wipo.int/wipo_magazine/en/2018/02/article_0001.html; Ann Bartow, "Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law", (2006) 14 Journal of Gender, Social Policy & the Law 551.
 5. Bartow, "Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law"; Carys J Craig, "Feminist Aesthetics and Copyright Law: Genius, Value, and Gendered Visions of the Creative Self", *Osgoode Legal Studies Research Paper Series 1* (2014).
 6. Matilda Joslyn Gage, "Woman as an Inventor" (1883) 136 The North American Review 478. See generally, Lucas Beard et al., *Shattering the Glass Screen*, (McKinsey and Company 2020). According to this report, women face several "micro-aggressions" within the entertainment industry which can include—being interrupted while speaking, having their ideas stolen, having to prove their competence more than others do, and hearing degrading and disrespectful remarks. The exploration of these issues is beyond the scope of this paper. The focus of this study is the plausibility of addressing the underrepresentation of women in the creative sector by reimagining incentives under copyright law.
 7. See generally, Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024), <https://www.ormaxmedia.com/data/library/OWomaniya!2024.pdf>; United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022), <https://www.copyright.gov/policy/women-in-copyright-system/Women-in-the-Copyright-System.pdf>. See also San Diego State University, Research-Center for the Study of Women in Television & Film, <https://womenintvfilm.sdsu.edu/research/>; Dr Martha M Lauzen, *The Celluloid Ceiling: Employment of Behind-the-Scenes Women on Top Grossing U.S. Films in 2024*, (2024); Dr Martha M Lauzen, *Indie Women: Behind-the-Scenes Employment of Women in U.S. Independent Film, 2023–24*, (2024); Dr Martha M Lauzen, *Boxed In: Women On Screen and Behind the Scenes on Broadcast and Streaming Television in 2023–24*, (2024). In addition to the OWomaniya! Report and the US Copyright Office Report, the Center for the study of Women in Television and Film at the San Diego State University has released several reports detailing female representation in the US across top grossing films, independent films and in broadcast and streaming television. Since this paper is focused on Indian law, we primarily explore the OWomaniya! Report which details statistics on female representation in the Indian film industry. We explore the US Copyright Office report on Women in the Copyright System as it covers subject matter that is relevant to the scope of this paper and as there is no equivalent report present in India.
 8. United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022).
 9. The Patent (Amendment) Rules, 2019.
 10. The Copyright Act, (1957), ss.2(f), (xx), (p), and (o).
 11. Lucas Beard et al., *Shattering the Glass Screen*, (McKinsey and Company 2020).
 12. Gage, "Woman as an Inventor".
 13. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024). See also Sonal Jha, *Bollywood's New Woman: Liberalisation, Liberation, and Contested Bodies*, 97 PACIFIC AFFAIRS 467 (2024). ("Bollywood too has become aware of the debates surrounding the representation of women in its films, as evidenced by a recent study titled O Womaniya! conducted by Ormax, a media consulting firm, and Film Companion, a website dedicated to film reviews and related interviews, with support from the streaming platform Amazon Prime").
 14. Links to the previous editions of the report can be found at: Film Companion Studios & Ormax Media, *OWomaniya!*, (2021), <https://www.owomaniya.org/assets/files/OWomaniya2021.pdf>; Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2022), <https://www.owomaniya.org/assets/files/OWomaniya2022.pdf>; Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2023), <https://www.ormaxmedia.com/data/library/OWomaniya2023.pdf>.
 15. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 7.
 16. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 9.
 17. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 11.
 18. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 12.
 19. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 13.
 20. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 14.
 21. See also Alison Bechdel, *Dykes to Watch Out For* 22 (Firebrand Books 1986).
 22. Definition of Bechdel Test, Merriam-Webster, <https://www.merriam-webster.com/dictionary/Bechdel+Test>.
 23. Dr. K. Faith Lawrence, "SPARQLing Conversation: Automating The Bechdel-Wallace Test", Proceedings of the ACM Hypertext Conference [Online] (2011), <https://nht.ecs.soton.ac.uk/2011/papers/12-flawrence.pdf>; Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 17.
 24. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 18.
 25. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 19.
 26. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 22.

- [27.](#) Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 23 and 24.
- [28.](#) Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 27.
- [29.](#) Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 28.
- [30.](#) Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 29.
- [31.](#) Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2024) at 34.
- [32.](#) See generally, Five ways to build gender equality and sustainability, UN Women–Headquarters (2022), <https://www.unwomen.org/en/news-stories/feature-story/2022/02/five-ways-to-build-gender-equality-and-sustainability>. This article proposes the following with respect to building gender equality: Empower women smallholders, Invest in care, Support women's leadership, Fund women's organisations, Protect women's health.
- [33.](#) United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022). See also Ashley Tucker, *World IP Day: How the Copyright System Builds Our Common Future | Copyright, The Library of Congress* (2024), <https://blogs.loc.gov/copyright/2024/04/world-ip-day-how-the-copyright-system-builds-our-common-future>.
- [34.](#) United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022) at 2. See also Alex Bell et al., Who Becomes an Inventor in America? The Importance of Exposure to Innovation, (2019) 134 *The Quarterly Journal of Economics* 647. ("a lack of exposure to innovation among women and historically marginalised individuals and the resulting failure to harness the innovative potential of large swaths of the population has resulted in "lost Einsteins.").
- [35.](#) United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022) at 1.
- [36.](#) United States Copyright Office, *Women in the Copyright System–An Analysis of Women Authors in Copyright*, <https://www.copyright.gov/policy/women-in-copyright-system/>.
- [37.](#) United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022) at 6.
- [38.](#) United States Copyright Office, *Women in Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022) at 8.
- [39.](#) United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022) at 6 ("For certain categories, such as nondramatic literary works, women authors have achieved parity with or surpassed registration rates by men").
- [40.](#) United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022) at 13–16. Amazon Prime, Film Companion Studios, & Ormax Media, *OWomaniya!*, (2023) at 16. This directly ties in to the opinion shared by Alankrita Shrivastava (writer, director and producer) in the *OWomaniya!* Report. "I think the most proactive thing that we can do is encourage each department head to hire more female assistants. That is the only way that the next generation will have very competent and trained people".
- [41.](#) United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022) at 14 ("there is a clear divergence between women's registration authorship shares and occupational participation shares. Across nearly every category, women make up a substantially smaller proportion of authors in copyright registrations than they do of occupational participants").
- [42.](#) See generally William Fisher, "Theories of Intellectual Property", in *New Essays in the Legal and Political Theory of Property* (Stephen R. Munzer ed., 2001).
- [43.](#) United States Copyright Office, *Women in the Copyright System-An Analysis of Women Authors in Copyright Registrations from 1978 to 2020* (2022) at 2.
- [44.](#) Margaret W. Rossiter, "The Matthew Matilda Effect in Science Margaret W. Rossiter *Social Studies of Science*", (1993) 23 *Social Studies of Science* 325, 337. ("the sexist nature of much of the women's systematic under-recognition should be acknowledged, noted and even high-lighted in the sociology of knowledge or science, as in a named 'effect'", *American Matilda J. Gage of New York best befits the honour for first articulating (but, alas, also experiencing herself) what we can call in her memory the "Matilda Effect". Perhaps if we call attention to her and this tendency, which goes back centuries, it will remind and help current and future scholars to write a more equitable and comprehensive history and sociology of science that not only does not leave all the "Matildas" out, but calls attention to still more of them.*).
- [45.](#) Gage, "Woman as an Inventor".
- [46.](#) Gage, "Woman as an Inventor" at 483 and 484.
- [47.](#) Gage, "Woman as an Inventor". For example, while discussing the patent for the mower and reaper in the US, Gage says that, "Mrs. Ann Harned Manning, of Plainfield, New Jersey, who, in 1817–18, perfected a system for the combined action of teeth and cutters, patented by her husband, William Henry Manning....Mrs. Manning also made other improvements, of which, not having been patented, she was robbed after her husband's death by a neighbor whose name appears in the list of patentees upon this machine". This is just one of many examples where Gage highlights female under-recognition in science and technology.
- [48.](#) Bartow, "Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law" at 572. ("While it is clear that female authors who produce creative content in direct competition with men can make parallel use of the copyright industrial complex, despite potentially receiving a smaller amount of monetary compensation for their efforts, it is less clear that copyright protections are as readily available for more traditionally feminine creative arts. The copyright laws seem to

assume that certain types of creative works within the domestic sphere are either not appropriately creative or that they should not be subject to monopolistic control."). Bartow also provides examples of creative works in the domestic sphere that are excluded from copyright protection such as food preparation methods, cooking recipes, sewing techniques, knitting and crocheting.

49. Bartow, "Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law" at 559.
50. Bartow, "Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law" at 572.
51. Craig, "Feminist Aesthetics and Copyright Law: Genius, Value, and Gendered Visions of the Creative Self" at 9. See also Carole Pateman, *The Sexual Contract* (1988).
52. Craig, "Feminist Aesthetics and Copyright Law: Genius, Value, and Gendered Visions of the Creative Self" at 10–11. Similar to Bartow, Craig lists food preparation, fabrication of clothing as creative works in the domestic realm that are excluded from copyright protection.
53. Silvia Knobloch-Westerwick, Carroll J. Glynn and Michael Hoge, "The Matilda Effect in Science Communication: An Experiment on Gender Bias in Publication Quality Perceptions and Collaboration Interest" (2013) 35 *Science Communication* 603.
54. Amazon Prime, *Film Companion Studios*, & Ormax Media, *OWomaniya!*, (2024).
55. Jeanne C Fromer, "Expressive Incentives in Intellectual Property" (2013) 98 *Virginia Law Review* 1745, 1746.
56. Shyam Balganesh, "Foreseeability and Copyright Incentives" (2009) 122 *Harvard Law Review* 1569, 1577. Fromer, "Expressive Incentives in Intellectual Property" at 1751. Fromer goes on to say that *"Without this incentive, the theory goes, authors might not invest the time, energy, and money necessary to create these works because they might be copied cheaply and easily by free riders, eliminating authors' ability to profit from their works"*.
57. Christopher Jon Sprigman, "Copyright and Creative Incentives: What We Know (And Don't)" (2017) 55 *Houston Law Review* 451, 454.
58. Fromer, "Expressive Incentives in Intellectual Property" at 1752. (*"At bottom, utilitarian theories of intellectual property rest on the premise that the benefit to society of creators crafting valuable works offsets the costs to society of the incentives the law offers to creators"*). See also Mark A. Lemley, "The Economics of Improvement in Intellectual Property Law" (1997) 75 *Texas Law Review* 989, 997.
59. Wendy J. Gordon, "An Inquiry into the Merits of Copyright: The Challenges of Consistency, Consent, and Encouragement Theory" (1989) 41 *Stanford Law Review* 1343.
60. Sara K Stadler, "Incentive and Expectation in Copyright", (2007) 58 *Hastings Law Journal* 433.
61. Justin Hughes, "Fair Use Across Time" (2003) 50 *UCLA Law Review* 775, 797.
62. Balganesh, "Foreseeability and Copyright Incentives" at 4.
63. Balganesh, "Foreseeability and Copyright Incentives" at 7.
64. Fisher, "Theories of Intellectual Property" at 4.
65. Gordon, "An Inquiry into the Merits of Copyright: The Challenges of Consistency, Consent, and Encouragement Theory". See also Anthony Kronman, "Contract Law and Distributive Justice" (1980) 89 *The Yale Law Journal* 471, 474.
66. Gordon, "An Inquiry into the Merits of Copyright: The Challenges of Consistency, Consent, and Encouragement Theory" at 1444 and 1445. When discussing paretianism in the context of fair use, Gordon says: *"Pareto superior' result: helping the public without doing substantial harm to the copyright proprietor"*.
67. Gordon, "An Inquiry into the Merits of Copyright: The Challenges of Consistency, Consent, and Encouragement Theory".
68. Gordon, "An Inquiry into the Merits of Copyright: The Challenges of Consistency, Consent, and Encouragement Theory" at 4. See also Robert C. Ellickson, *Order Without Law: How Neighbors Settle Disputes* (Harvard Univ. Press 1991).
69. Mark F. Schultz, "Copynorms: Copyright Law and Social Norms", in *Intellectual Property and Information Wealth* (Peter K. Yu ed., 2006), at 5.
70. See also Paul H. Robinson & John M. Darley, "The Utility of Desert" (1997) 91 *Northwestern University Law Review* 453, 468–71.
71. Schultz, "Copynorms: Copyright Law and Social Norms" at 41.
72. Sprigman, "Copyright and Creative Incentives: What We Know (And Don't)" at 469.
73. Sprigman, "Copyright and Creative Incentives: What We Know (And Don't)" at 470.
74. Balganesh, "Foreseeability and Copyright Incentives" at 1574, 1589. See also Gideon Parchomovsky, Peter Siegelman & Steve Thel, "Of Equal Wrongs and Half Rights" (2007) 82 *New York University Law Review* 738, 756 (Discussing windfalls—Gains in an ex-ante world are lesser than the cost multiplied by the probability of an event. On the other hand, gains in the ex post world are greater).
75. Fisher, "Theories of Intellectual Property" at 27 (*"one of the objectives of economic theorists is simultaneously to increase incentives for creative activity and to reduce the associated welfare losses"*).
76. Sprigman, "Copyright and Creative Incentives: What We Know (And Don't)" at 470.
77. Sprigman, "Copyright and Creative Incentives: What We Know (And Don't)" at 475. (*"the takeaway from this experiment is not that copyright is useless and only patent-based incentive structures do any work. However, the experiment 's*

results suggest that the structure of creativity incentives matters. We detected a positive relationship between high threshold reward and performance.""); See also Christopher Buccafusco et al., "Experimental Tests of Intellectual Property Laws' Creativity Thresholds" (2014) 92 Texas Law Review 1921.

78. Fisher, "Theories of Intellectual Property" at 8.
79. The Patent (Amendment) Rules, 2019 at r.4(d).
80. Patent applications by female innovators to get faster clearance: Draft rules, Business Today (2018), <https://www.businesstoday.in/pti-feed/story/patent-applications-by-female-innovators-to-get-faster-clearance-draft-rules-122335-2018-12-16>.
81. The Patent Rules, 2003, (2003), at r.24C(1)(d).
82. Ministry of Electronics and Information Technology, Patents, Ministry of Electronics and Information Technology | Government of India, <https://www.meity.gov.in/content/patents>.
83. For the sake of brevity, only the examination stage is mentioned. For a list of the different stages involved in the patent registration process, see Patents, Ministry of Electronics and Information Technology | Government of India, <https://www.meity.gov.in/content/patents>.
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87. NASSCOM, Patenting Trends in India Edition 2024, (2024) 10, <https://nasscom.in/system/files/publication/nasscom-patent-filing-trends-in-india-apr-2024-final.pdf>.
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89. Patent applications by female innovators to get faster clearance, Business Today (2018), <https://www.businesstoday.in/pti-feed/story/patent-applications-by-female-innovators-to-get-faster-clearance-draft-rules-122335-2018-12-16>.
90. Ministry of Electronics and Information Technology, *supra* note 82.
91. The Patent (Amendment) Rules, 2019 at r.4(d) and 6.
92. The Patent (Amendment) Rules, 2019 at r.4(d) and 6.
93. Berne Convention for the Protection of Literary and Artistic Works, (1886) at art.5 (2). (*"The enjoyment and the exercise of these rights shall not be subject to any formality; such enjoyment and such exercise shall be independent of the existence of protection in the country of origin of the work."*).
94. Copyright Office Government of India, Department For Promotion of Industry and Internal Trade Ministry of Commerce and Industry, & Department of Secondary Education and Higher Education, A Hand Book of Copyright Law, <https://copyright.gov.in/documents/handbook.html>. In answering the question "Is it necessary to register a work to claim copyright?", the Hand Book states "No. Acquisition of copyright is automatic and it does not require any formality. However, certificate of registration of copyright and the entries made therein serve as prima facie evidence in a court of law with reference to dispute relating to ownership of copyright".
95. See generally Gage, "Woman as an Inventor"; Bartow, "Fair Use and the Fairer Sex: Gender, Feminism, and Copyright Law"; Craig, "Feminist Aesthetics and Copyright Law: Genius, Value, and Gendered Visions of the Creative Self".
96. See generally Enrico Bonadio and Bryan Khan, "Remix, Reuse and Reggae: Creativity and Copyright in Jamaican Music", in *Music Borrowing and Copyright Law* Enrico Bonadio and Chen Zhu eds., (2023).
97. Parliamentary Debate on the Copyright (Amendment) Bill, 2010, https://rsdebate.nic.in/bitstream/123456789/603476/2/PD_225_17052012_p443_p496_25.pdf. Indian screenwriter, poet and lyricist, Javed Akhtar strongly advocated for composers and lyricists to retain their royalty rights pursuant to which, a change in the law for the benefit of songwriters was introduced in the form of the Copyright (Amendment) Act, 2012.
98. The Copyright Act, 1957, s.18(1) proviso 3 & 4 and ss.19(9) and (10).
99. The Copyright Act, 1957. Section 2(d) states: "*author*" means,—(i) in relation to a literary or dramatic work, the author of the work; (ii) in relation to a musical work, the composer;".
100. Amazon Prime, Film Companion Studios, & Ormax Media, OWomaniya!, (2024).
101. Austin C Ostiguy, "Back to Basics: The Utility of Copyright" (2023) 47 Vermont Law Review 296, 318.
102. Amazon Prime, Film Companion Studios, & Ormax Media, OWomaniya!, ((2023) at 25. Zoya Akhtar says, "I'm not inclusive for people because it's a charitable thing to do. I'm inclusive because it makes my work stronger and adds perspective that I may not have".
103. Women's Collective (WC), <https://www.womenscollective.net/>; Swashakt: Empowering Indian Women's Collectives (3ie), <https://www.3ieimpact.org/research/swashakt-empowering-indian-womens-collectives>.
104. Women in Cinema Collective—Pioneering Gender Equality in Cinema, Women in Cinema Collective, <https://wccollective.org/>.
105. Express News Service, "Women's Collective Urges Govt to Create Guidelines for Malayalam Film Industry", The New

Indian Express (2024),

<https://www.newindianexpress.com/states/kerala/2024/Sep/20/womens-collective-urges-govt-to-create-guidelines-for-malayalam-film-industr>

106. See generally Schultz, "Copynorms: Copyright Law and Social Norms".

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