

# Exploring User-Generated Content and Copyright in the Digital Age

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## ABSTRACT

User-generated content (UGC) has become pervasive due to advancements in computer technologies and the proliferation of social media platforms. Each user can actively participate by logging into their social media accounts. UGC can manifest in various forms, such as texts, paintings, images, videos, game modes, and live streams. In the digital era, individuals cherish the freedom of expression, meanwhile, social media platforms and digital communities empower users to showcase their talents and ideas, fostering innovation, driving economic growth, and facilitating the global dissemination of culture. Nonetheless, copyright concerns arise as UGC flourishes in the digital marketplace. At times, users' creations and craftsmanship may be misconstrued as copyright infringement due to ambiguous regulations in the digital realm. Simultaneously, pirated works might infringe upon the copyrights of existing works, masquerading as UGC, ultimately causing detrimental effects on others' economic interests. Consequently, this paper underscores the significance of copyright in the contemporary digital landscape. It contends that legal scholars and policymakers must endeavor to establish a nuanced equilibrium between user-generated content and original works within the copyright protection framework.

**Keywords:** UGC, Copyright protection, Delicate balance, Social media platforms.

## 1. INTRODUCTION

### 1.1 Definition of User-Generated Content

User-generated content (UGC) is a broad term encompassing various media and creative content types created or substantially co-created by users outside traditional professional environments. It gained prominence with the emergence of Web 2.0 in the early 2000s [1]. UGC can be embodied in text, images, photos, videos, podcasts, and other media forms. It often involves opinions, experiences, advice, and commentary about products, brands, companies, and services [2]. In addition, Santos (2021) proposes a comprehensive definition of the UGC, describing it as any text, data, or action performed by online digital system users, published and disseminated through independent channels, with an expressive or communicative effect [3]. However, the concept of UGC has led to significant changes in the media industry, presenting both opportunities and challenges for media companies [4].

### 1.2 Importance of Copyright in the Digital Realm

The digital age has brought significant challenges to copyright law, as new technologies enable widespread distribution and creation of content. Young people, often termed "Digital Natives," frequently engage with copyrighted material without fully understanding their rights or restrictions [5]. The internet's global reach has complicated territorial jurisdiction of copyright law, with courts playing a crucial role in interpreting and creating laws to address rapidly evolving technical advancements [6]. The digitization of content has led to a dramatic increase in the unauthorized distribution of copyrighted works, necessitating stronger protection for authors' interests [7]. Issues such as file sharing and link setting raise questions of legal liability for copyright infringement. To address these challenges, educational interventions like the Creative Rights copyright curriculum have been proposed to empower young people as creators and engaged citizens. This scholarly article

contends that the copyright system must adapt to the evolution of user-generated content genres, while also emphasizing the need for the education system to thoroughly bolster the younger generation's understanding of copyright protection.

### ***1.3 This Paper's Statement***

The intersection of UGC and copyright on social media platforms creates a complex legal landscape that necessitates careful analysis and adaptation. As user participation in UGC increases, copyright frameworks must evolve to meet the unique challenges it presents. Ongoing discussions among legal scholars, policymakers, and industry stakeholders are essential for developing a comprehensive copyright framework that promotes innovation while safeguarding copyright and broader public interests. As the legal community navigates these intricate challenges, copyright considerations become a vital aspect of the discourse. It is essential to ensure that user-generated content (UGC) aligns with societal values and norms to facilitate its responsible integration across diverse domains. Addressing biases inherent in UGC, promoting fairness and accountability in its creation processes, and enhancing transparency are crucial for resolving copyright-related issues. Furthermore, the evolution of legal frameworks must incorporate reforms that address the transformative nature of emerging UGC, striving to achieve a delicate balance between user creativity and the safeguarding of copyright protections.

## **2. THE RISE OF UGC**

Content creation has a rich history predating the digital age. From Paleolithic cave paintings to modern cinema, humans have long sought to create immersive and interactive experiences. Digital technology has transformed content creation, offering new opportunities for accessibility and interactivity [8]. However, despite reduced barriers to sharing content, only a few individuals capitalize on these opportunities, with the creation and dissemination influenced by socioeconomic factors and gender. [9]. Procedural content generation, often associated with digital games, has roots in analog games where humans follow procedures to generate content [10]. The transition from analog to digital content creation has introduced challenges such as converting analog archives and designing content that exploits digital benefits. This shift has also created new job opportunities and transformed

traditional industries, highlighting the economic importance of digital content creation [11]. The rise of user-generated content platforms has revolutionized the creation and distribution of content, posing a challenge to traditional copyright frameworks [12]. Generally, UGC platforms facilitate social learning and adaptive learning ecosystems, empowering users to create and share content [13]. These platforms utilize Web 2.0 technologies to enhance information sharing and communication within organizations, potentially improving knowledge management systems [14]. Nevertheless, the rise of UGC has also led to challenges, such as algorithmic indirect copyright infringement. And platforms may collude with direct infringers, necessitating new governance strategies to protect copyright holders [15]. Therefore, the UGC environment requires a reconsideration of copyright laws, shifting from exclusivity and central control towards a framework that enables collaboration. Social media platforms play a crucial role in facilitating this new framework and balancing the interests of users, authors, and content industries.

## **3. TRENDS OF UGC**

The UGC referenced in this research excludes illegal pirated content that contravenes fundamental social values and ethical standards. Research indicates that UGC should primarily generate original works rather than piracy, though popular content often references existing works [16]. In contemporary times, numerous nations have implemented diverse strategies to address copyright concerns and user-generated content (UGC). Certain countries have amended their copyright laws to incorporate UGC. For instance, Canada introduced a semi-open fair dealing system, while the US employs a fair use system [17]. In Indonesia, the safe harbor doctrine has been proposed to protect UGC platforms from copyright infringement by users [18]. The UK is exploring the introduction of a UGC exception, with a semi-open fair dealing regime similar to Canada's approach considered more suitable than the US fair use system. These developments reflect ongoing efforts to balance copyright protection with the evolving nature of content creation in the digital age.

## **4. THE INTERSECTION OF UGC AND COPYRIGHT**

### **4.1 Owner Issues**

The ownership of user-generated content (UGC) is a complex issue involving users, platforms, and copyright law. While users typically own the initial copyright to their creations, platforms often acquire rights through terms of service agreements. However, these agreements may be legally questionable, especially for minors [19]. To address this imbalance, some propose an ex-post remuneration system and community-based monitoring approach for platforms [20]. Also, the safe harbor doctrine has been suggested to protect platforms from user copyright infringement. Furthermore, private ordering, through end-user license agreements and open access initiatives, plays an increasingly important role in governing access to UGC. The Web 2.0 environment has shifted the focus from proprietary exclusivity to sharing and collaboration, although some private ordering strategies may inadvertently reinforce proprietary notions [21]. These issues highlight the need for a balanced approach to UGC rights and ownership.

### **4.2 Fair Use Doctrine**

The Fair Use Doctrine is a crucial element of copyright law that balances creators' rights with public interest in using copyrighted works for specific purposes without permission or payment. It originated from the need to protect both authors' interests and the development of new knowledge. The doctrine is defined in U.S. law and includes a list of potential fair use purposes and a four-factor test to determine if a particular use is fair [22]. However, the doctrine's context-sensitivity creates uncertainty for users seeking ex-ante assurance about the legality of proposed uses [23]. Despite its long history, the fair use doctrine lacks a consistent theoretical framework, leading to calls for developing more coherent governing principles rooted in copyright law objectives [24].

### **4.3 Challenges in Enforcement**

The enforcement of copyright in user-generated content (UGC) faces significant challenges due to the limitations of automated filtering systems and the complexities of fair use. While content identification technologies like audio and video fingerprinting have become standard measures for

policing infringement on UGC platforms [25], these filters often struggle to accommodate fair use principles [26]. The Digital Millennium Copyright Act (DMCA) aimed to establish "standard technical measures" through consensus between copyright owners and service providers, but this goal remains elusive. Private enforcement procedures, including DMCA takedowns and automated filtering, can lead to overextension of copyrights against UGC creators [27]. The EU's approach to UGC platform liability, while institutionalizing algorithmic enforcement, also emphasizes the need to safeguard user freedoms for transformative works, potentially encouraging the development of more balanced content filtering tools [28]. The central concern revolves around establishing a harmonious and equitable digital environment that accommodates the needs of users, platforms, original authors, and companies. Managing the economic interests of copyright holders and addressing commercial considerations are inherent challenges that require the attention of policymakers and copyright law researchers.

## **5. CASE STUDIES**

### **5.1 YouTube and Content ID**

YouTube's Content ID system, which is intended to identify copyright infringement, has generated both commendation and criticism. While it enables copyright holders to manage and monetize their content effectively, its efficacy remains contentious. Critics argue that Content ID is overly broad, frequently flagging legitimate uses of content and potentially hindering creativity. The system's automated matching and monetization processes can result in false positives and inequitable compensation, thereby undermining YouTube's objectives of fostering creativity and upholding fair use principles. Furthermore, some contend that Content ID effectively circumvents judicial precedents by shifting the presumption of fair use away from uploaders [29].

### **5.2 Keller v. Electronic Arts**

The Keller v. Electronic Arts case, along with related litigation, challenged the use of student-athletes' names, images, and likenesses (NIL) in video games and other media without compensation [30]. These cases highlighted the tension between NCAA amateurism rules and athletes' rights of publicity [31]. The litigation raised important questions about copyright, user rights, and the

balance between creators and users in the digital ecosystem [32]. As exemplified by the Ryan Hart case, video game avatars closely resembled real athletes, potentially infringing on their publicity rights [33]. The outcomes of the case *Keller v. Electronic Arts* carry significant implications for the future of college sports, the concept of amateurism, and the rights of student-athletes. A user-rights approach to copyright law may provide a viable framework for addressing these complex issues, recognizing users as active participants in the advancement of copyright objectives. This perspective emphasizes the necessity of balancing the rights of copyright holders with the rights of individuals to engage with and utilize creative works, thereby fostering an environment conducive to innovation and fair compensation within the realm of collegiate athletics.

## 6. CONCLUSION

UGC on Web 2.0 platforms presents both opportunities and challenges for various sectors. In higher education, reforms like establishing the Higher Education Commission in Pakistan aimed to address UGC-related issues and improve educational standards [34]. User-generated content (UGC) raises significant legal and regulatory concerns, including issues related to intellectual property, liability, and privacy. In the banking sector, Islamic banks encounter challenges in effectively leveraging UGC and social media platforms to enhance brand engagement and customer awareness [35]. To maximize UGC utility, various assessment and ranking methodologies have been developed, including community-based, end-user-based, designer-based, and hybrid frameworks [36]. These approaches seek to evaluate and predict the value of UGC across various domains. While UGC presents significant opportunities for information exchange and engagement, it necessitates careful management and assessment to address the challenges it poses and to maximize its potential benefits.

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