

^H COPYRIGHT OWNERSHIP AND UNAUTHORIZED USE OF USER-GENERATED CONTENT ON SOCIAL MEDIA *

(Research Article)

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ABSTRACT

This article examines issues of copyright ownership and unauthorized use arising from user-generated content on social media platforms. The article focuses on the interaction between copyright law and social media, where users increasingly create, share, remix, and repost digital content. The study first defines social media and copyright, then explains how Web 2.0 platforms have transformed users from passive consumers into content creators. The article analyses the legal status of original user-created works, transformative uses, and the direct reposting of third-party content. It emphasizes that user-generated content may qualify for copyright protection when it is original and fixed in a tangible medium of expression. However, unauthorized sharing may also infringe the economic and moral rights of copyright holders. The article adopts a doctrinal and comparative legal approach, with reference to copyright law in the United States, such as the DMCA safe harbor regime, and the Copyright, Designs and Patents Act 1988 in the United Kingdom. In addition, YouTube is used as a case study to illustrate

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these issues. Specifically, the dispute between Lawrence Lessig and Liberation Music will be analyzed because it illustrates the risks of automated enforcement and over-blocking. The article argues that the central difficulty of user-generated content lies not merely in determining whether content is copyrightable, but in identifying how copyright ownership, platform licensing, user permissions, and automated enforcement mechanisms interact in a highly participatory digital environment. Ultimately, the article concludes that copyright protection, platform policies, and freedom of expression must be carefully balanced.

Keywords: Copyright Law, Social Media, User-Generated Content, Unauthorized Use, Content Creator.

SOSYAL MEDYADA KULLANICI TARAFINDAN OLUŞTURULAN İÇERİKLERİN İZİNSİZ KULLANIMI VE TELİF HAKKI SAHİPLİĞİ

(Araştırma Makalesi)

ÖZET

Bu makale, sosyal medya platformlarında kullanıcı tarafından oluşturulan içeriklerden kaynaklanan telif hakkı sahipliği ve izinsiz kullanım sorunlarını incelemektedir. Çalışma, kullanıcıların dijital içerikleri giderek artan biçimde oluşturduğu, paylaştığı, yeniden düzenlediği ve yeniden yayımladığı sosyal medya ortamında, telif hakkı hukuku ile sosyal medya arasındaki etkileşime odaklanmaktadır. Makale ilk olarak sosyal medya ve telif hakkı kavramlarını tanımlamakta; ardından Web 2.0 platformlarının kullanıcıları pasif tüketiciler olmaktan çıkararak aktif içerik üreticilerine nasıl dönüştürdüğünü açıklamaktadır. Bu bağlamda çalışma, kullanıcılar tarafından özgün olarak meydana getirilen eserlerin, dönüştürücü kullanımların ve üçüncü kişilere ait içeriklerin doğrudan yeniden paylaşılmasının hukuki niteliğini analiz etmektedir. Makale, kullanıcı tarafından oluşturulan içeriğin, özgünlük unsurunu taşıması ve maddi ya da dijital bir ortamda tespit edilmiş olması hâlinde telif hakkı korumasından yararlanabileceğini vurgulamaktadır. Bununla birlikte, izinsiz paylaşım, telif hakkı sahiplerinin mali ve manevi haklarının ihlaline de yol açabilir. Çalışma, özellikle Amerika Birleşik Devletleri ve Birleşik Krallık telif hakkı hukukuna atıf yapan doktrinel ve karşılaştırmalı bir hukuki yaklaşım benimsemektedir. Bu kapsamda, DMCA güvenli liman rejimi ve 1988 tarihli Copyright, Designs and Patents Act düzenlemeleri dikkate alınmaktadır. YouTube, Content ID sistemi ve özel hukuk temelli telif hakkı uygulama mekanizmalarındaki rolü nedeniyle örnek olay olarak ele alınmaktadır. Lessig v.

Liberation Music uyuşmazlığı ise otomatik telif hakkı uygulamalarının ve aşırı engellenmenin doğurabileceği riskleri göstermektedir. Makale sonuç olarak, telif hakkı koruması, platform politikaları ve ifade özgürlüğü arasında hassas ve adil bir dengenin kurulması gerektiğini ortaya koymaktadır.

Anahtar Kelimeler: Telif Hakkı Hukuku, Sosyal Medya, Kullanıcı Tarafından Oluşturulan İçerik, İzinsiz Kullanım, Aktif İçerik Üreticisi.

INTRODUCTION

At the outset, in this study, the legal provisions and available data concerning the scope and limits of social media will be discussed from various perspectives. In this regard, the study will define the key terms ‘social media’ and ‘copyright’. It will then examine the intersection between intellectual property and social media, with particular emphasis on the impact of social media on copyright. Finally, and in connection with these discussions, the article will briefly discuss the relationship between social media, human rights, ownership, and infringement.

Today, social media has become one of the most powerful tools of communication and marketing. Content creators generate income by conveying their ideas to followers through various platforms. Therefore, it is crucial for content creators who use platforms such as YouTube, Instagram, TikTok, Facebook, and X to be aware of their rights within these social media platforms and to draft their contracts accordingly in order to ensure the effective protection of those rights. In this framework, this study critically discusses the challenges relating to social media and copyright law. To make these issues more concrete, YouTube will be used as a case study to illustrate these issues.

YouTube is selected as a case study because it brings together the main copyright problems examined in this article. The platform allows users to upload original works, create content by using existing works, and directly upload content belonging to third parties. It also allows users and copyright holders to monetize content and regulates the use of uploaded material through its terms of service. In addition, YouTube uses Content ID and notice-and-takedown procedures to identify and control possible copyright infringement. Therefore, YouTube provides a useful example for examining copyright ownership, platform licenses, unauthorized use, automated enforcement, and the balance between copyright protection and freedom of expression. The disputes between Viacom and Google and Lawrence Lessig and Liberation Music also show how these problems may arise in practice.

The main research question of this article is how copyright ownership and unauthorized use be assessed when users create, upload, modify, repost, monetize, or otherwise distribute content through social media platforms. This question is important because social media has changed the traditional distinction between authors, users, intermediaries, and distributors. A single user may create original content, use parts of an existing work, grant certain rights to a platform, and upload content owned by a third party.

To answer this main question, the article addresses three related sub-questions. First, under what conditions may user-generated content qualify for copyright protection, and who is the initial owner of the relevant rights? Second, how do platform terms of service and contractual licenses affect the rights of users and social media platforms? Third, when may the reposting, remixing, quotation, or other reuse of copyrighted material constitute infringement, and when may such use fall within limitations or exceptions such as fair use or fair dealing? The article argues that these questions cannot be resolved by treating all material uploaded by users as a single category of ‘user-generated content.’

The article makes an original contribution by proposing a three-part classification of social media content: (i) original user-generated content, created by the user; (ii) derivative or modified user-generated content, that uses an existing work; and (iii) user-uploaded third-party content, in which protected material is uploaded without a meaningful creative contribution by the user. This distinction provides a structured framework for distinguishing questions of authorship and initial ownership from questions of platform licensing, copyright infringement, statutory exceptions, and enforcement. The article applies this distinction comparatively to United States and United Kingdom copyright law and uses YouTube as a case study to examine how these legal distinctions operate in the context of automated copyright enforcement.

Furthermore, this article argues that user-generated content on social media requires a structured legal analysis. The first step is to determine whether the content is original and fixed, and therefore capable of copyright protection. The second step is to determine who owns the relevant rights, considering authorship, collaboration, derivative creation, and platform licenses. The third step is to assess whether a particular use is authorized, infringing, or justified by an exception such as fair use or fair dealing.

The analysis shows that social media has not abolished copyright law, but has changed the practical conditions under which it operates. Users now create and distribute content on a large scale, platforms are introducing broad contractual licenses, and

copyright protection is often carried out through automated systems. This evolution makes it difficult to maintain the traditional boundaries between authors, users, distributors, and infringers.

From a policy perspective, protecting user-generated content requires more than just the mechanical application of traditional copyright rules. Platforms should offer clearer license terms, transparent takedown procedures, effective complaint mechanisms, and human review in cases involving fair use, quotation, parody, education, criticism, or transformative expression. At the same time, users should be made aware that uploading content does not usually transfer ownership of the copyright to the platform but may grant the platform broad contractual rights.

This article therefore concludes that the future of copyright protection on social media depends on balance. Copyright owners should be protected from direct copying, commercial exploitation, and systemic infringement. However, compliance with the law should not harm legitimate expression, cultural engagement, access to information, or transformative creation. A fair system should protect the rights of authors, inform users of relevant information, regulate platform behavior, and ensure that automated enforcement is always subject to human and legal oversight.

This article is structured as follows: Section I explains the methodology of the study; Section II defines social media and examines the rise of user-generated content; Section III discusses the copyrightability, ownership, and licensing of user-generated content; Section IV examines the relationship between intellectual property and social media; Section V analyzes the impact of social media on copyright law; Section VI discusses infringement, ownership, and the relationship between human rights and social media; Section VII examines AI-assisted user-generated content; and Section VIII uses YouTube as a case study to discuss copyright enforcement and excessive blocking. The final section presents the conclusions of the study.

I. METHODOLOGY

This article uses doctrinal and comparative legal research methods. In this context, analysis is based on legislation, judicial decisions, platform terms of service, and relevant academic literature. The study focuses on copyright ownership, infringement, limitations and exceptions, and liability of online platforms. These issues determine how existing copyright principles apply to original user-generated content, content created by using existing works, and third-party content uploaded through social media platforms.

The article focuses on the copyright laws of the United States and the United Kingdom. These jurisdictions are selected because they have an important influence on copyright regulations and different approaches to the use of copyrighted works. United States law has a fair use doctrine under § 107 of the Copyright Act and a detailed safe harbor framework for online service providers under § 512 of the Digital Millennium Copyright Act. In the United Kingdom, the Copyright, Designs and Patents Act 1988 (CDPA) regulates copyright infringement, ownership and fair dealing exceptions. Comparing these legal systems makes it possible to examine how different copyright rules affect user-generated content on social media.

This article does not examine European Union law separately. The study makes a limited comparison between two common-law systems. European Union law has a different and broader legal framework that includes several directives and their implementation in the laws of the Member States. A detailed examination of this framework would require a separate study and would go beyond the main purpose of this article. However, the importance of Article 17 of Directive (EU) 2019/790 for online content-sharing platforms and user-uploaded content is acknowledged. Therefore, European Union law is excluded only from the detailed comparative analysis and not because it is unrelated to the subject.

The comparison does not attempt to cover every aspect of copyright law in the United States and the United Kingdom. Instead, it focuses on the rules most directly relevant to social media content, including copyright protection and ownership, platform licenses, unauthorized use, fair use, fair dealing, notice-and-takedown procedures, and automated copyright enforcement. YouTube and selected disputes involving the platform are used as a case study to show how these legal principles work in practice.

II. THE CONCEPT OF SOCIAL MEDIA AND THE RISE OF USER-GENERATED CONTENT

Before examining copyright-related issues, it is necessary to define what is meant by social media. There are too many different definitions of ‘social media’. Some of them are provided below:

‘The hybrid that springs from mixed technology and media origins that enable instantaneous, real-time communications, and utilizes multi-media formats and numerous delivery platforms with global reach’¹

¹ **Mangold W. Glynn and Faulds David J.:** Social Media: The New Hybrid Element of the Promotion Mix, *Business Horizons*, Vol: 52, I: 4, 357.

‘Collaborative online applications and technologies that enable participation, connectivity, user-generated content, sharing of information, and collaboration among a community of users’²

‘A group of Internet-based applications that build on the ideological and technological foundation of Web 2.0, and that allow the creation and exchange of User-Generated Content’³

Taken together, these definitions show that emerging communication technologies create new environments in which people can share ideas and/or intellectual or artistic productions of their own or others and transmit and disseminate forever. Therefore, these technologies have presented a new media where the culture of sharing and discussion is essential. The most important feature of this new media, which is called ‘social media’ and can be in media/application/platform/site view, is that it is user-originated.⁴ In this sense, the remarkable development of social media has helped people to create, exchange and share information in a ‘virtual’ community by shaping their connections with others through different social media platforms.⁵ For a clearer examination, the operation of social media sites is examined in three parts: Introduction and Experience; Terms of Service or Use; Copyright issues.⁶

For the purposes of this article, social media is understood not only as a means of communication, but also as a platform environment in which users produce, upload, transform, distribute, and sometimes monetize digital content. This practical definition is important because copyright issues in social media arise primarily from user participation, not from the availability of digital communication technologies.

Moreover, the large number of users participating in social media platforms, together with the new forms of interaction emerging among them, has conferred a new level of social significance on user-generated content.⁷ Some social media sites like Facebook, Instagram, YouTube, and Twitter are particularly popular. Facebook is the

² **Henderson Alison and Bowley Rachel:** Authentic Dialogue? The Role of Friendship in a Social Media Recruitment Campaign, *Journal of Communication Management*, Vol: 14, I: 3, 237.

³ **Kaplan Andreas M and Haenlein Michael:** Users of the World, Unite! The Challenges and Opportunities of Social Media, *Business Horizons*, Vol: 53, I: 1, 59.

⁴ **Kaynak Selva and Koc Serhat:** Telif Hakları Hukuku’nun Yeni Macerası : Sosyal Medya, *Folklor/Edebiyat*, Vol: 21, I: 83, 389.

⁵ **Colliander Jonas and Dahlén Micael:** Following the Fashionable Friend: The Power of Social Media, *Journal of Advertising Research*, Vol: 51, I:1, 313.

⁶ **Gard Elizabeth Townsend and Whetstone Bri:** Copyright and Social Media: A Preliminary Case Study of Pinterest, *Mississippi College Law Review*, Vol: 31, I: 2, 249, 253.

⁷ **Hetcher Steven:** User-Generated Content and the Future of Copyright: Part Two—Agreements Between Users and Mega-Sites, *Santa Clara High Technology Law Journal*, Vol:24, I: 4, 829 <https://digitalcommons.law.scu.edu/chtlj/vol24/iss4/3> accessed 2 May 2026.

largest ‘social media platform’ with 2.4 billion users. There are more than one billion users at other social media platforms such as YouTube and WhatsApp. These huge figures show that 7.7 billion people all over the world are using them and 3.5 billion people are online on those platforms at the same time. In other words, these platforms are used by 1/3 of the world population and approximately 2/3 of all Internet users are using these platforms.⁸ As a further illustration of this transformation, while internet videos in the past were often choppy and prone to freezing, today major platforms function as venues where thousands of music groups can upload their music and videos.⁹

III. COPYRIGHTABILITY, OWNERSHIP, AND LICENSING OF USER-GENERATED CONTENT

After defining social media, it is also necessary to explain the concept of copyright. Copyright aims to promote the advancement of art and science.

At the international level, the Berne Convention for the Protection of Literary and Artistic Works is an international intellectual property treaty concerning the protection of literary and artistic works. Article 2 of the 1886 Berne Convention for the Protection of Literary and Artistic Works enumerates the intellectual creations that are subject to copyright protection.¹⁰

In English law, ‘copyright’ is the term used to define the field of intellectual property law that regulates the creation and use of various cultural products, such as books, songs, films and computer programs.¹¹ Copyright is also defined in Copyright Act 1976 article 102¹², and CDPA article 1; ‘Copyright and copyright works. (1) Copyright is a property right which subsists in accordance with this Part in the following descriptions of work;

- (a) original literary, dramatic, musical or artistic works,
- (b) sound recordings, films or broadcasts, and
- (c) the typographical arrangement of published editions.’¹³

⁸**Ortiz-Ospina Esteban:** The Rise of Social Media, Our World in Data, <https://ourworldindata.org/rise-of-social-media> accessed 02 May 2026.

⁹ **Hetcher,** 876.

¹⁰ **Christie Andrew and Gare Stephen:** Blackstone’s Statutes on Intellectual Property, Oxford University Press, 2018, 274 <https://www.wipo.int/wipolex/en/text/283698> accessed 02 May 2026.

¹¹ **Bently Lionel and others:** Intellectual Property Law 5th Edition, Oxford University Press, 2014, p.31.

¹² **Copyright Act,** 1976.

¹³ **Copyright, Designs and Patents Act,** 1988.

Copyright protection gives the copyright owner certain exclusive rights over the protected work. In the United States, these rights include reproduction, distribution, the preparation of derivative works, public performance, and public display.¹⁴ Similarly, under the CDPA, the copyright owner has the exclusive right to carry out or authorize acts such as copying the work, issuing copies to the public, communicating it to the public, performing or showing it in public, and making an adaptation.¹⁵ Copyright may also protect the author's moral interests. In the United Kingdom, these include the right to be identified as the author and the right to object to derogatory treatment of the work.¹⁶ However, these rights are not absolute and remain subject to limitations and exceptions such as fair use and fair dealing.

The limitations and exceptions to copyright have an important role in protecting freedom of expression and allowing the lawful use of existing works. In the United States, § 107 of the Copyright Act provides the fair use doctrine. Whether a particular use is fair depends on four factors: the purpose and character of the use, the nature of the copyrighted work, the amount and importance of the part used, and the effect of the use on the potential market for the original work.¹⁷ Therefore, criticism, comment, news reporting, teaching, scholarship, and research may constitute fair use depending on the circumstances of each case.

The United Kingdom follows the more specific fair dealing approach. The CDPA permits fair dealing for purposes including criticism, review, and quotation, provided that the relevant legal conditions, such as sufficient acknowledgement where required, are satisfied. It also contains an exception for caricature, parody and pastiche. Parody may also fall within fair use in the United States when the new work comments on or criticizes the original work. Transformative use is not a separate copyright exception. It is mainly considered as part of the first fair use factor in the United States and examines whether the later use has a different purpose or character.¹⁸ However, adding a new expression, meaning, or message does not automatically make every use fair. The application of these exceptions depends on the facts of each case.

In relation to originality, *Bleistein v. Donaldson Lithographing Co.* is the leading early case in the United States for the widely stated proposition that originality in the sense of artistic merit is not an appropriate standard for determining the copyrightability

¹⁴ 17 USC § 106.

¹⁵ Copyright, Designs and Patents Act 1988, ss 16–21.

¹⁶ *Ibid.*, ss 77–89.

¹⁷ 17 USC § 107.

¹⁸ *Andy Warhol Foundation for the Visual Arts, Inc. v. Goldsmith*, 598 U.S. 508, 528–29 (2023).

of a work.¹⁹ Similarly, *Feist Publications, Inc. v. Rural Telephone Service Co.* is a landmark decision of the U.S. Supreme Court concerning copyright law. In this case, the Court held that the mere compilation of facts is not sufficient for copyright protection and declared that a work must contain at least a minimal degree of creativity to qualify for such protection.²⁰ Besides originality, another requirement for copyright protection is that user-generated content must be fixed in a tangible medium of expression from which it can be perceived, reproduced, or otherwise communicated by any method now known or later developed. This requirement is also generally satisfied. Since much user-generated content exists in digital form, it can be perceived by the human senses or reproduced and communicated through everyday digital technologies.²¹ However, since pre-existing materials are not brought together through a particular creative process of selection, coordination, or arrangement to form an original work, typical content creation in the context of user-generated content generally does not constitute a compilation.²²

A distinction should also be made between user-generated content and content that is merely uploaded by the user. User-generated content involves at least some personal, conceptual, or creative contribution from the user. However, when a user simply uploads an image, video, music, text, or other third-party copyrighted work without permission and without adding any creative input, the content is better described as third-party user-generated content rather than actual user-generated content. This distinction is necessary because only the former can result in copyright ownership in favor of the user, while the latter can primarily raise questions of copyright infringement. Consequently, legal analysis of social media content should begin by identifying the type of content in question. Original user-generated content, derivative or modified content based on existing works, and direct uploading of third-party content raise different copyright questions. To consider them all as ‘user-generated content’ blurs the distinction between copyright, licensing, copyright infringement, and platform liability. A further level of complexity arises when user-generated content uses existing works. The user’s new creative work may be copyrightable, but this does not exclude the rights of the original author. For example, a remix, reaction video, meme, mashup, or clip may contain original elements created by the user, but also incorporate copyrighted material owned by someone else. In such cases, ownership must be distinguished on a variety of levels: the user may own the copyright in the new elements, but the use of the original work may still require permission or justification under an exception such as fair use or fair dealing.

¹⁹ 188 U.S. 239, 251-52 (1903).

²⁰ See *Feist Publ'ns.*, 499 U.S. 345-46.

²¹ 17 U.S.C. § 101 (defining "copies, fixed").

²² **Hetcher**, 888.

In principle, the user who creates an original photograph, video, text, illustration, musical work, or other copyrightable expression is the first owner of copyright in that work, unless the applicable law or a valid agreement provides otherwise. This principle remains applicable in social media environments. The fact that a work is created for Instagram, YouTube, TikTok, Facebook, X, or another platform does not by itself transfer copyright ownership to the platform.

However, it is not possible to understand copyright ownership on social media without examining social media agreements. Most social media platforms require users to agree to terms of service or terms of use before uploading content. These agreements typically do not transfer copyright ownership from the user to the social media platform. Instead, they grant the social media platform a broad license to host, copy, publish, distribute, adapt, promote, or monetize the content in connection with the operation of the service.

The practical effects of such licenses can be significant. Even if the user is the copyright owner, the social media platform may acquire broad contractual rights to the content. The scope of these rights depends on the wording of the social media agreement, including whether the license is worldwide, non-exclusive, transferable, sublicensable, revocable, or survives the removal of the user's access. Therefore, the main question of ownership is not only who owns the copyright, but also to what extent the social media platform has a contractual license to use the content.

IV. THE LINK BETWEEN INTELLECTUAL PROPERTY AND SOCIAL MEDIA

Having explained the basic concepts, in this part of the article, the intersection of intellectual property law and social media will be discussed. Social media has been an inevitable part of our lives for almost two decades. Since the printing press was invented, people have been constant observers of world cultural consumers for the entire history of copyright.²³ However, now people have become active members in producing and distributing culture. A revolution in user-created content has only begun to be explored. In other words, Web 2.0 is exciting and offers extraordinary questions and changes to copyright law.²⁴ In other words, remembering that the emergence of the Internet is founded on the philosophy of communication, it is seen that it has a significant impact on

²³ **Gard Elizabeth Townsend and Whetstone Bri:** The Present (User-Generated Crisis) Is the Past (1909 Copyright Act): An Essay Theorizing the 'Traditional Contours of Copyright' Language, *Cardozo Arts & Entertainment Law Journal*, Vol:28, I: 3, 455.

²⁴ **Schwartzreich Lauren E:** Internet Evidence From Start to Finish: Consequences of Web 2.0 in Employment Litigation 2012 Conference Materials, Gard and Whetstone, (n 7).

the progress of the Internet and ‘sharing technologies’, and the use and rules of copyright-protected materials.²⁵ Therefore, while producing and distributing culture with social media which is an inevitable part of our lives, it is also seen that social media has a compelling influence on copyright-protected materials.

In this context, the concept of social media is a term that is evaluated under the concept of new media and is used to define the websites that are composed of user-sourced content. In other words, the content of social media sites that are mostly used in daily life is created by users. The development of these Web 2.0-based and user-based content services has increased the use of copyright-protected creations and created a remix culture. In this sense, today, the social media user has ceased to be a consumer and has become an active participant who puts forward a creative effort, albeit amateur.²⁶ Thus, the creation of social media sites by users shows that the social media user today is not only a consumer but a participant who makes a creative effort.

At this point, even if a computer user does not publish the content they create in an online environment, that work can still be considered user-generated content.²⁷ For protection to be granted under copyright law, a work must fall within one of the categories of works specified by law and must bear originality (individual character).²⁸ However, content that a user merely copies and uploads does not qualify as user-generated content. Rather, it should be regarded as user-uploaded content. For this reason, for content to be considered user-generated, it must involve an element of creativity.²⁹ Content created by placing a piece of music over a video image, even if it involves only a low level of creativity, is still considered user-generated content.³⁰ Nevertheless, user-generated content is not synonymous with creative content. User-generated digital content does not necessarily constitute creative content.³¹

In practical terms, the emergence of social media has enabled everyday users to shift from passive consumers to active participants due to their inherent interaction. This means that on the one hand, users have the status of the content creators, on the other

²⁵ **Bosher Hayleigh and Yeşiloğlu Sevil:** An Analysis of the Fundamental Tensions between Copyright and Social Media: The Legal Implications of Sharing Images on Instagram, *International Review of Law, Computers and Technology*, Vol: 33, I: 2; 164.

²⁶ **Kaynak and Koc,** (n 5).

²⁷ **Lessig Lawrence:** *Free Culture*, Penguin Press, 2004, 105 (describing our 'cut and paste' culture).

²⁸ **Bently and Others,** 736-738, **Kılıçoğlu Ahmet M:** *Sınai Haklarla Karşılaştırmalı Fikri Haklar*, Turhan Kitabevi, 2013, 119; **Barrelet Dennis and Egloff Willi:** *Das neue Urheberrecht*, 2nd edn, Bern 2000, 12; **Küçükali Canan:** *Fikri Hakların İhlalinden Kaynaklanan Tazminat Davası*, 3. Bs., Seçkin Yayıncılık, 2024, 21-23.

²⁹ **Hetcher,** (n. 8) 871, 872.

³⁰ *Ibid.* 872.

³¹ *Ibid.* 872.

hand, they can cause copyright infringement due to this interaction. Accordingly, social media has enabled the passive user to create and share new work both by creating and sharing it himself or by making use of the works already created.³²

Although these platforms are often compared to earlier file-sharing models, the new user-generated content sites differ from Napster in that the reactions of mainstream commentators, the media, and other opinion-shapers toward these platforms have been more nuanced and balanced. When Napster first emerged, major copyright industries, perceiving it as a threat to their interests, reacted with intense criticism.³³ By contrast, there is no consensus regarding the gray area concerning unauthorized elements in user-generated content. The higher the level of creativity and ‘user contribution’ in a user-generated content work, the further it moves away from infringement. For this reason, the mainstream reaction to these mega-sites has been more favorable than the reactions directed at Napster and Grokster. Andrew Keen describes this positive attitude as Web 2.0 euphoria.³⁴

From a statutory perspective, the link between IP and social media can also be found in Section 512 of the 1976 Copyright Act. According to this Section, the traditional copyright law in the context of social media is partially mediated. Section 512, a correction introduced in 1998, provides online service providers with a safe harbor of copyright infringement during the activities of their users. To benefit from this safe harbor, every social media website should meet specified requirements. The study examines the application of Section 512 of the U.S. Copyright Act, with particular attention to its provisions concerning content owners, users of copyrighted works, and online service providers. Although Section 512 represents only one component of the broader copyright framework, it is particularly relevant to social media platforms because it establishes limitations on the liability of online service providers for copyright infringement arising from user-generated content.³⁵

A further example may be seen in blogs and wikis. In blogs that are user-generated and protected by copyright, the person who manages the blog is also the content creator. The texts, images, or other creative materials published on the blog may qualify as copyrightable works, as they are products of intellectual effort. Therefore, the blog owner often holds the status of both content creator and, in many cases, the author of the work.

³² Ibid.

³³ **Hetcher**, (n.8) 866.

³⁴ **Keen Andrew**: User-Generated Confusion: The Legal and Business Implications of Web 2.0, (keynote address, Vanderbilt Journal of Entertainment and Technology Law Symposium, 2 November 2007) <http://law.vanderbilt.edu/publications/journal-entertainment-technology-law/index.aspx> accessed 5.5.2026.

³⁵ **Gard and Whetstone**, (n 7).

Wikis, which are a variation of blogs, are user-generated platform that provide broader opportunities for random users to contribute to online discussions.³⁶ Similarly, if a blog has multiple authors, each content creator holds separate copyright over the content they produce. In such cases, the blog administrator generally functions as the platform provider or the person responsible for editorial organization.

V. THE IMPACT OF SOCIAL MEDIA ON COPYRIGHT LAW

After examining the link between intellectual property and social media, this part of the article will discuss social media's effect on copyright law.

First of all, copyright law encourages the production of copyrightable content. Since works created through user-generated content are fixed, they fall within the scope of copyright law.³⁷ Social media has significant implications for copyright law. In particular, the widespread use of social media platforms has created new challenges concerning the protection and use of copyrighted works. These developments demonstrate the need for an approach that takes into account both the characteristics of social media and the existing limitations of copyright law in order to reduce potential conflicts. One of the most important effects of social media on copyright is therefore the need to increase users' awareness of copyright protection. Greater awareness may contribute to the proper use of copyrighted works while also supporting access to information and encouraging creativity.³⁸

More specifically, these platforms encourage users to share original and third-party content tools like 'resend', 'share', 'retweet' and 'quote-retweet'. Since social media platforms generate income through advertising, when people use them, the relevant company's main source of income increases. However, sharing on social media platforms may conflict with copyright law governing 'the use of literary, artistic and dramatic works'. Specifically, the law restricts copying and communicating 'the copyrighted works' online to the public without the right holder's permission.³⁹

On the one hand, there is a desire to share those created to reach as many people as possible and to share information in this respect. On the other hand, there is a demand for people who want to access information quickly and smoothly so that they can easily access all this content without intermediaries. These two demands can be met with the

³⁶ Hetcher, (n. 8), 878.

³⁷ Hetcher, (n. 8), 870.

³⁸ Kaynak and Koc, (n 5).

³⁹ Copyright, Designs and Patents Act, 1988 (n 10); Copyright Act of 1976, 17 USC; Boshier and Yeşiloğlu, (n 14).

presence of social media; the user is also aware of the rights of the author because he himself produces the content.⁴⁰ This dual structure makes the copyright analysis more complex.

For this reason, the question of how to approach the issue of work/rights ownership in social media is significant. In classical approaches, the main subject of copyright law is the ‘creator’. And the creator is the person who has the rights. Besides, in the classical sense, the author who created the work and whose creative effort was awarded was standing on one side and benefiting from these works created on the other side; however, in performing this action, users are obliged not to undermine the financial and moral rights of the creator.⁴¹ To clarify, the creator is a kind of content creator and the rightful owner of the right; beneficiaries should not infringe the author’s economic and moral rights.

In recent years, the growth of social networking sites (SNS) has increased the ability of users and organizations to disseminate knowledge. Social networking platforms allow persons and organizations to share, communicate, and reach wider audiences and markets. Images and videos may be protected as artistic works under Chapter 1 of Title 17 of the U.S. Code and section 1 (1) (a) of the CDPA in the UK.⁴² Although social media platforms facilitate access to wider audiences, they may also give rise to copyright-related issues. Such issues are addressed, at least in part, through the legal frameworks established by these statutes.

Due to the user-based structure of social media, it may be possible to group the actions and behaviors of social media sites concerning copyright law into three categories. What these categories have in common is the existence of the form of action and behavior, which have been basically called ‘sharing’, which is the main reason why copyright law is involved. In this context, social media users:

(i) share original intellectual products of their own creation on social media sites, and their own intellectual products on social media sites;

(ii) create and share their own works by using the work of another person; or

(iii) directly share the work of another person.⁴³

⁴⁰ Kaynak and Koc, (n 5).

⁴¹ Ibid.

⁴² Boshier and Yeşiloğlu, (n 14).

⁴³ Kaynak and Koc, (n 5).

Consequently, one of the important issues about the copyright law of social media sites is the concept of sharing. While sharing is considered the basis of social media, it may also infringe copyright. Claims of infringement generally include material protected under the doctrine of fair use.⁴⁴ Thus, the same act of sharing may have both social and legal consequences.

VI. ADDITIONAL INFORMATION ON INFRINGEMENT, OWNERSHIP, HUMAN RIGHTS LINK WITH SOCIAL MEDIA

In addition to ownership and infringement issues, it is important for users to understand that the ideas are not protected when creating and sharing their original work. Since ideas are not protected, the sharing of an idea by materializing it will not result in any copyright infringement for users providing the content. However, the limits of this statement need to be carefully determined. Because it is not always easy to evaluate whether an idea is embodied in such a way that it qualifies as a copyrightable work, the existence of an intellectual product on the Internet does not mean that the product can be used freely. Therefore, to share on social media without violating the rights of the author, the user providing the content must either obtain permission from the author/owner or act within the framework of the provisions regulating the limitations and exceptions in the law.⁴⁵

Furthermore, social media has an important and expanding role in selling and distributing fake and pirated goods. This issue, called online fraud, covers a series of activities such as impersonation, fan pages, business social media pages, and the spread of websites promoting and selling counterfeit goods or making fraudulent offers. In this sense, social media provides a kind of shelter for impersonators who use likes, retweets and fan pages that spread through open and closed group pages. Evidence from trade standards has shown that social media sites are the second most frequent place for fraud investigations.⁴⁶

When the matter is considered only from the copyright perspective, it is seen that users of social media sites raise a wide range of copyright claims. The largest disputes before courts and in trade negotiations are held on behalf of major content providers.⁴⁷ However, in addition to the legality of user content in social media, basic principles

⁴⁴ Copyright Act of 1976, 17 USC.

⁴⁵ Kaynak and Koc, (n 5).

⁴⁶ Boshier Hayleigh: Key Issues Around Copyright and Social Media: Ownership, Infringement and Liability, Journal of Intellectual Property Law & Practice, Vol: 15; I: 2, 123–133.

⁴⁷ Zimmerman Diane Leenheer: Copyright and Social Media : A Tale of Legislative Abdication, Pace Law Review, Vol: 35; I: 1, 260.

should also be considered. Freedom of expression is one of the most important rights requiring protection in social media. It includes not only the freedom to hold thoughts and opinions, but also to explain and disseminate thoughts and opinions and, accordingly, to receive and impart information and ideas. Furthermore, freedom of expression requires that individuals be able to freely access any content that may manifest in the form of news, works of art, information or ideas of others, and can freely express, defend, transmit and disseminate them alone or with others. These basic principles should not be ignored while assessing the lawfulness of user content on social media.⁴⁸

At the same time, the main copyright issues in the field of user-generated content revolve around copyright ownership, platform agreements, and copyright infringement. According to Section 103 of the U.S. Copyright Act, copyright protection in a compilation extends only to the author's original contributions in the compilation. It does not grant exclusive rights over the pre-existing works included in the compilation. Therefore, the creator of the compilation does not acquire special rights over the underlying content itself.⁴⁹

In practice, the transfer or licensing of rights is usually regulated through online agreements that platforms require users to accept, such as Terms of Service, Terms of Use, or End User License Agreements. Consequently, the ownership and scope of rights over user-generated content depend largely on the content of the agreement between the user and the platform.⁵⁰

If such an agreement is problematic or invalid, a platform's copying or commercial use of user content may constitute copyright infringement. For example, Facebook attempts to obtain certain rights over user-generated content through various legal mechanisms embedded in its platform agreements. Such provisions may, in some cases, be evaluated as unconscionable terms. Moreover, most users are not aware of the rights they hold over the content they create, and they often do not realize when these rights are violated.⁵¹ This shows the practical importance of user awareness in addition to legal regulation.

VII. AI-ASSISTED USER-GENERATED CONTENT

The increasing use of generative artificial intelligence has created new questions concerning user-generated content. Social media users can now produce images, videos,

⁴⁸ **Kaynak and Koc**, (n 5).

⁴⁹ **Hetcher**, (n.8) 890.

⁵⁰ *Ibid* 891.

⁵¹ *Ibid*. 892.

music, and written content with the assistance of AI tools. In such cases, it is necessary to distinguish between AI-assisted content, in which the user makes a creative contribution, and content generated mainly by an AI system with little or no human contribution. This distinction is important for deciding whether the content can receive copyright protection and who may own the relevant rights.

The United States and the United Kingdom may approach this issue differently. In the United States, copyright protection generally requires a sufficient human creative contribution. The use of an AI tool does not prevent copyright protection when a person creates, selects, arranges, or modifies the expressive elements of the final work. However, content generated only by an AI system may not receive copyright protection merely because a user provided prompts.⁵² In the United Kingdom, section 9(3) of the CDPA contains a special rule for computer-generated works. Where a literary, dramatic, musical, or artistic work is computer-generated and has no human author, the author is considered to be the person who made the arrangements necessary for the creation of the work.⁵³ However, the application of this rule to generative AI outputs remains unclear and is currently the subject of legal and policy discussions in the United Kingdom.⁵⁴

AI-assisted content may also create infringement problems. An AI-generated output may reproduce a protected work or a substantial part of it, and users may share such content through social media without knowing its source.⁵⁵ The use of copyrighted works for training AI systems also raises questions concerning permission, licensing, transparency, and copyright exceptions.⁵⁶ Therefore, social media platforms may need clearer rules for the identification, labelling, monetization, and removal of AI-generated content. These developments show that copyright ownership and unauthorized use on social media must now be examined by considering both human creativity and the role of AI.

VIII. CASE EXAMPLE: YOUTUBE

To illustrate these issues more concretely, YouTube is chosen as a relevant ‘case study’ in this article. Since it is one of the most popular social networking sites for video

⁵² US Copyright Office, *Copyright and Artificial Intelligence, Part 2: Copyrightability* (January 2025) iii, 26–28 <https://www.copyright.gov/ai/Copyright-and-Artificial-Intelligence-Part-2-Copyrightability-Report.pdf> accessed 29 July 2026.

⁵³ Copyright, Designs and Patents Act 1988, s 9(3).

⁵⁴ UK Intellectual Property Office, ‘Copyright and Artificial Intelligence’ (Consultation, 17 December 2024) paras 126–155 <https://www.gov.uk/government/consultations/copyright-and-artificial-intelligence/copyright-and-artificial-intelligence> accessed 29 July 2026.

⁵⁵ Ibid paras 157–159.

⁵⁶ Ibid paras 41–47.

sharing, it deserves further examination.⁵⁷ YouTube has more than 2 billion users, that is 1/3 of the Internet users who visit YouTube every month, and people watch over a billion hours of video and generate billions of views every day. YouTube has launched local versions in 80 different languages in more than 100 countries.⁵⁸ Therefore, YouTube provides a useful example for observing copyright enforcement on a very large scale.

YouTube uses digital fingerprint technology to find user-generated videos that may infringe copyright in known works. The technology works by scanning every video uploaded to the YouTube platform against a database of video and audio reference files submitted by claimed copyright owners.⁵⁹ When a match is found, YouTube's digital fingerprint system automatically monetizes, blocks, or tracks the allegedly infringing video for the person supplying the reference file when it identifies a match between the reference file and another video.⁶⁰

A significant example in this regard is the Lessig dispute. Lessig delivered a lecture entitled 'Open' at a Creative Commons conference held in South Korea in June 2010. The lecture included a few short video clips of amateurs. They were dancing to the song 'Lisztomania' by the French band 'Phoenix'. According to some claims, Lessig uploaded the lecture video on YouTube in June 2013. Initially, YouTube blocked access to the content after receiving copyright complaints from the American mass media company Viacom International Inc. The company claimed that it owned or licensed rights to the content. Later, Lessig sent a notice objecting to the block and YouTube restored access to them.⁶¹

Subsequently, it became clear that a record label called Liberation Music was responsible for blocking the video clip by YouTube in addition to Viacom. However, Lessig did not get any notice about the block by Liberation Music. After that, YouTube restored access to the clip and Liberation Music sent a DMCA takedown notice alleging copyright infringement on June 30, 2013. In the following days, YouTube prevented public access to the clip of Lessig's lecture. Lessig received an email that notified him of

⁵⁷For an example of the sorts of issues that can arise in these sorts of disputes, see *Viacom International Inc v YouTube Inc*, No 1:07-cv-02103 (SDNY) https://www.courtlistener.com/docket/4329759/viacom-international-inc-v-youtube-inc/?entry_gte=186&page=2. This case has been fairly influential in shaping the law concerning the relationship between copyright law and user-generated content.

⁵⁸ **YouTube for Press** <https://www.youtube.com/intl/en-GB/about/press/> accessed 02 May 2026.

⁵⁹ **YouTube, How Content ID Works** <https://support.google.com/youtube/answer/2797370?hl=en> accessed 02 May 2026.

⁶⁰ **Shinn Lauren D:** Youtube's Content ID as a Case Study of Private Copyright Enforcement Systems, *AIPLA Quarterly Journal*, Vol: 43, 359.

⁶¹ **Tan Corinne:** Lawrence Lessig v Liberation Music Pty Ltd: YouTube's Hand (or Bots) in the Over-Zealous Enforcement of Copyright, *European Intellectual Property Review*, Vol: 36; I: 6, 347-351.

the removal of his video. He was warned that in the event of following similar copyright infringement his YouTube account would be deleted along with any video clips he had uploaded. Lessig brought a lawsuit under §512(g) of the DMCA. However, Liberation Music threatened him with a counter lawsuit for copyright infringement within 72 hours in federal court. So, Lessig withdrew his lawsuit.

After these developments, Lessig filed a complaint in the US District Court in Massachusetts on August 22, 2013. He requested declaratory judgment, injunctive relief and damages caused by Liberation Music's 'material misrepresentation' in accusing Lessig of infringement of its copyright. He claimed that Liberation Music had tried to use copyright infringement against him improperly and misused the notice and lawful fair use under §107 of the Copyright Act. In support of this argument, the complaint stated that Lessig's use of the video clips was 'fair use' regarding the DMCA since it was 'a public lecture about culture and the internet' and the Lessig's aim was 'educational, non-commercial and transformative'. It also noted that Lessig did not profit from the use of the clips in the disputed lectures on YouTube, and that the song Lisztomania was popular worldwide in 2009. Of course, he accepted that Phoenix or Liberation Music had some rights. However, their rights to control were only on the first broadcasting of the song Lisztomania.⁶²

He also claimed that his use of the five clips, including the clip containing "Lisztomania", was minimal, as he used only between 10 and 47 seconds from each of the five clips rather than using them in their entirety. In addition, Lessig claimed that his use did not cause any 'market harm'. The essence of his argument was that Liberation Music acted 'in bad faith' since Liberation Music knew that the Open lecture clip did not infringe copyright. Moreover, Liberation Music was under the obligation to act 'with reasonable care or diligence' prior to claiming infringement of its copyright. However, as a result of Liberation Music's takedown notice, Lessig's lecture video was temporarily unavailable on YouTube. YouTube restored access to the video after Liberation Music withdrew the takedown notice.

In February 2014, Liberation Music reached a settlement with Lessig and the Electronic Frontier Foundation (EFF). Under the settlement, Liberation Music agreed to pay US\$25,000 in compensation and to revise its policies concerning the issuance of takedown notices. It also agreed to adopt new procedures requiring consideration of fair use before issuing future takedown notices. Most importantly, Liberation Music

⁶² In support of this argument, the complaint stated that Lessig's use of the video clips was 'fair use' regarding the DMCA since it was 'a public lecture about culture and the internet' and the Lessig's aim was 'educational, non-commercial and transformative'. I

undertook that the takedown process could only rely on a human review.⁶³ Liberation Music also accepted that Lessig's use was 'fair use under the copyright laws' of the USA, and copyright laws of Australia as well. Thus, they agreed that in the future, before takedown requests can be accepted, fair use considerations must also be taken into consideration.⁶⁴

This example also shows that large-scale platforms not only aggregate and filter content but also materially incentivize its creation. Since websites such as Second Life provide the environment necessary for content creation, they may claim certain proprietary rights or interests over the resulting content. Accordingly, platform power becomes an important part of copyright analysis in the social media context.⁶⁵

CONCLUSION

Considering the foregoing discussion, social media has fundamentally transformed the traditional relationship between copyright law, authorship, and the public. While copyright law was historically designed around a relatively clear distinction between creators and users, social media platforms have blurred this boundary by enabling users to create, modify, share, and disseminate content instantly and globally. In this environment, users are no longer merely passive consumers of copyrighted works; they are also active participants in cultural production. As a result, user-generated content has become an important subject of copyright protection, if it meets the requirements of originality and fixation. However, the same participatory structure also increases the risk of unauthorized use, particularly through reposting, remixing, and sharing third-party works without permission.

More broadly, social media has created new tools for a culture of sharing that is essentially user-generated. People can create and share their professional or amateur works through platforms such as Facebook, Instagram, X, YouTube, and other similar social media platforms. In this respect, the owners of these works hold copyright, and when these rights are violated, they may bring legal action to protect their rights against infringement.

As this study has shown, there is a connection between social media and copyright issues across several areas, such as ownership and infringement. It demonstrates that the intersection between copyright infringement and social media is important in many respects. This article has shown that the main copyright issues surrounding user-generated

⁶³ Tan, 347-351.

⁶⁴ Ibid

⁶⁵ Second Life: Terms of Service, <http://secondlife.com/corporate/tos.php> accessed 02 May 2026.

content on social media concern ownership, licensing, platform agreements, infringement, and enforcement mechanisms. Although users may retain copyright over the original content they create, the scope of their rights is often affected by the terms of service imposed by social media platforms. These agreements may grant platforms broad licenses to use, reproduce, distribute, or monetize user content. At the same time, copyright holders face significant challenges in controlling the unauthorized use of their works across large-scale digital platforms. Therefore, the existence of social media, the problems of copyright law, and the current legal landscape suggest that a balanced perspective is necessary to reduce existing problems. This may be described as one of the most significant impacts of social media on copyright.

This article argues that user-generated content on social media requires a structured legal analysis. The first step is to determine whether the content is original and fixed, and therefore whether it is copyright protectable. The second step is to determine who owns the relevant rights, considering copyright, collaboration, derivative works, and platform licenses. The third step is to assess whether a particular use is permissible, infringing, or justified by an exception such as fair use or fair dealing.

The analysis also shows that social media has not eliminated copyright law but has changed the way copyright law operates. Users now create and distribute content on a large scale, platforms enforce broad contractual licenses, and copyright enforcement is often carried out through automated systems. These developments make it even more difficult to maintain the traditional distinction between author, user, distributor, and infringer.

From a policy perspective, protecting user-generated content requires more than the mechanical application of traditional copyright laws. Platforms must provide clearer licensing terms, transparent takedown procedures, meaningful appeals mechanisms, and human review in cases involving fair use, attribution, parody, education, criticism, or transformative expression. At the same time, users should be informed that uploading content does not typically transfer copyright ownership to the platform, but it can grant the platform broad contractual rights.

Therefore, this article concludes that the future of copyright protection on social media depends on balance. Copyright holders must be protected against direct copying, commercial exploitation, and systematic infringement. However, enforcement should not undermine legitimate expression, cultural engagement, access to information, or transformative creativity. A fair system should protect authors, inform users, penalize

platforms, and ensure that automated enforcement remains subject to human and legal oversight.

In conclusion, copyright law must respond carefully to the realities of social media without undermining the creative and communicative potential of digital culture. Effective protection of copyright holders remains necessary, especially in cases of direct copying, commercial exploitation, and systematic infringement. Nevertheless, excessive enforcement may harm freedom of expression, access to information, and the participatory nature of social media. Therefore, a balanced approach is required—one that protects the economic and moral rights of authors while also recognizing the legitimate interests of users, content creators, and the public. In this respect, clearer platform policies, transparent enforcement procedures, human review mechanisms, and greater user awareness are essential for achieving a fair balance between copyright protection and the dynamic culture of sharing that defines social media.

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