



The Indian Journal for Research in Law and Management

Open Access Law Journal – Copyright © 2024

Editor-in-Chief – Prof. (Dr.) Muktai Deb Chavan; Publisher – Alden Vas; ISSN: 2583-9896

This is an Open Access article distributed under the terms of the Creative Commons Attribution-Non-Commercial-Share Alike 4.0 International (CC-BY-NC-SA 4.0) License, which permits unrestricted non-commercial use, distribution, and reproduction in any medium provided the original work is properly cited.

Intellectual Property Rights (IPR) grant exclusive rights to inventors or creators for their creations or inventions. The primary goal of IPR is to safeguard these innovations and reward the creative efforts of individuals. It serves to encourage and stimulate talented creators. Intellectual Property encompasses innovations, unique names, symbols, logos, or designs used for commercial purposes. Copyright, a crucial form of Intellectual Property, is protected by the Copyright Act of 1957 in India, providing both economic and moral rights to authors.

Introduction

As per WIPO, Intellectual Property (IP) pertains to "products of the intellect, including inventions, literary and artistic works, designs, symbols, names, and representations." Legal protection safeguards IP, allowing individuals to gain acknowledgment and financial advantages from their innovations or creations. Copyright ensures that creators have the rights to their own literary and artistic works. It's essentially the 'Right to Copy,' exclusive to the author or creator. If someone else reproduces the original work without permission, it's considered an infringement under the Copyright Act. Importantly, copyright protects the way an idea is expressed, not the idea or content itself. Ideas fall under the domain of Patent law, not the Copyright Act. The Copyright Act of 1957, along with Copyright Rules, oversees copyright protection laws in India. Simple ideas or concepts can't be copyrighted, but copyright protects the original way information and ideas are expressed. The right to copyright can belong to the creator, someone who inherited the rights, or an authorized agent.

Under the Copyright Act, authors have economic rights like reproducing, issuing copies, performing, or communicating the work to the public. There are also moral rights, including the right to claim authorship, protect one's honor and reputation, and prevent false attribution, which persist even after copyright assignment.

For enforcement, the Copyright Board used to handle cases, but it dissolved in 2017, with its functions moving to the Intellectual Property Appellate Board (IPAB). However, in 2021, the IPAB was abolished, and the authority transferred to Commercial Courts within High Courts.

History of Copyright Act in India

The law of Copyright was spread in India over three phases. The law was introduced during the reign of British in 1911. The second phase of this law was introduced in 1914. It was similar to the British Copyright Act 1911. The major change in this act was the criminal sanction for infringement. Then this law was constantly amended and third phase of this law was introduced by independent Indian in 1957 which has the provisions of Berne Convention. India is following this Copyright Act 1957 till date.

As per the Indian Copyright Act 1957 [16], copyright is valid only within the borders of India. To secure the protection in foreign countries, India has become a member of the international

conventions on copyrights and signs agreement with Berne Convention for the Protection of Literary and Artistic works, Universal Copyright Convention, Multilateral Convention for the Avoidance of double Taxation of Copyright Royalties and TRIPs. India evolves many changes in the Intellectual Property regime since 1995.

Procedure for the registration

The procedure for copyright registration, outlined in Chapter VI of the Copyright Rules, 1956, involves various steps:

1. Submit an application using form IV for each work.
2. Pay the prescribed fees, ranging from Rs. 400 to Rs. 600 for each work.
3. Accompany the application with a signed Power of Attorney or Vakalatnama from the applicant or advocate.
4. Reply to every column in the Statement of Particulars for future reference.
5. Include a copy of the manuscript with the application.

Copyrights of works from countries listed in the International Copyright Order are protected in India. Additionally, works from countries that are members of the Berne Convention, Universal Copyright Convention, and TRIPs agreement receive copyright protection in India. However, the copyright provided by the Indian Copyright Act is valid only within the country's borders.

To ensure protection for Indian works abroad, India is a member of various international agreements, including the Berne Convention, Universal Copyright Convention, Convention for the Protection of Producers of Phonograms, Multilateral Convention for the Avoidance of Double Taxation of Copyright Royalties, and the TRIPs Agreement.

Related rights

After completing high-quality work, copyright is obtained automatically, making registration non mandatory. Nevertheless, registering copyright offers numerous advantages to the creator, serving as evidence and proof of ownership.

The owner of copyright enjoys the following rights:

1. For the Right of Translation:

The owner holds the complete right to translate their work into another language. Unauthorized translation by any other person constitutes a violation of this right. Individuals interested in translating copyrighted work must seek permission from the owner before proceeding.

2. For Moral Rights:

Moral rights are exclusive to individual authors and, in many countries, are connected to economic rights. They encompass the right to claim authorship and object to any distortion or modification of a work. Importantly, moral rights persist even after the assignment of copyright

3. For the Right of Reproduction:

The owner of the Copyright possesses the right of reproduction for their work. Unauthorized copying by anyone other than the author is prohibited, and permission from the copyright owner is necessary for making copies in any form.

4. For the Right of Communication:

Communication to the public involves making any work accessible to the public, a right reserved for the author. Without the author's permission, a registered work, like a film, cannot be made available to the public under the copyright act.

5. For the Right of Adaptation:

Adaptation or alterations involve creating a new work based on an existing one. The Copyright Act defines the right of adaptation, encompassing various transformations like converting a dramatic work into a non-dramatic work or rearranging literary or dramatic works. This right allows taking the idea and making changes according to requirements.

Recent Developments

On March 30, 2021, the Copyright (Amendment) Rules, 2021 came into effect, aiming to align existing rules with relevant legislations and enhance accountability and transparency. The amendments facilitate smoother operations by emphasizing electronic communication and work in the Copyright Office. Additionally, a new provision introduces the publication of a copyrights journal on the Copyright Office's official website.

For increased transparency, Copyright Societies must now prepare an Annual Transparency Report, publicly disclosing information such as license refusals, collected and distributed royalties, and transactions with foreign societies. The time limit for the Registrar of Copyrights to decide on an application for copyright society registration has been extended from 60 to 180 days for a thorough examination. With the new amendments, software registration no longer requires the submission of the entire "source and object code." Instead, applicants need to provide the first 10 and last 10 pages of the source code or the entire source code if less than 20 pages, without any blocked out or redacted portions.

Copyright encompasses

- Musical works: songs, choruses, solos, band performances, orchestras, etc.
- Artistic works: paintings, drawings, sculptures, architecture, advertisements, etc.
- Photographic works: landscapes, fashion or event photographs, portraits, etc.
- Motion pictures: films, dramas, documentaries, television broadcasts, video tapes, DVDs.
- Computer programs: computer programs, software, and their related databases, etc.

In India, the realm of Intellectual Property is regulated by laws such as the Patent Act of 1970, Trademarks Act of 1999, Copyright Act of 1957, Designs Act of 2001, among others.

According to the Indian Copyright Act 1957, other rights related to various types of copyright

Rights in Musical Works:

Copyright for musical works grants exclusive rights, such as reproducing the work, issuing copies to the public, incorporating it into cinematograph films or sound recordings, and creating adaptations and translations.

Rights in Sound Recordings:

Copyright for sound recordings includes the right to create other sound recordings embodying it, sell or rent copies of the sound recording, and communicate the sound recording to the public.

Rights for Computer Programs:

Copyright for computer programs falls under literary work, entailing all literary rights. The owner has the right to sell, give, or rent the work, and making copies of the software without permission is a criminal offense.

Rights in Dramatic and Artistic Works:

Copyright for dramatic or artistic works entails exclusive rights, including reproducing the work, publicly communicating or performing it, issuing copies to the public, incorporating it into cinematograph films, and creating adaptations.

Conclusion

Copyright plays a crucial role in Intellectual Property Rights. It is essential to motivate writers, musicians, and artists to officially register their creations. The Copyright Act of 1957 outlines a straightforward registration process in India, accessible at reasonable fees. Owners of copyrighted material have the option to grant licenses, transferring some rights to others for financial gain. However, challenges may arise for non-profit organizations in the context of copyright-related issues. Copyrights play a crucial role in the realm of Intellectual Property Rights. It is important to motivate creators to officially register their artistic creations using the straightforward procedures and reasonable fees outlined in the Copyright Act of 1957. This not only ensures the safeguarding and acknowledgment of their work but also opens up opportunities for financial benefits through the granting of licenses by copyright owners. However, challenges, especially for non-profit organizations, may surface when dealing with copyright-related issues within the broader context of Intellectual Property Rights. In essence, maintaining a balanced and well-informed approach is vital to nurture creativity while upholding the rights and interests of creators and the wider community.