

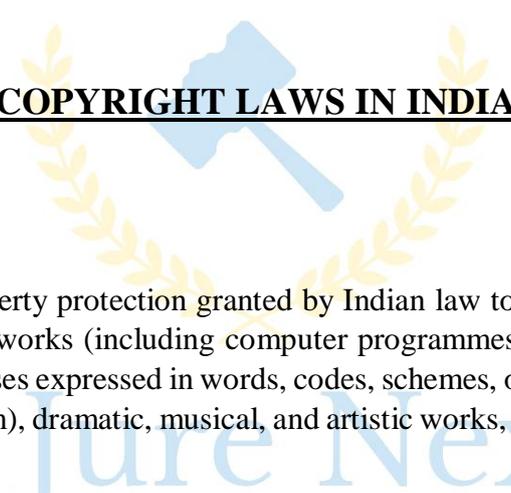
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**COPYRIGHT LAWS IN INDIA****INTRODUCTION**

Copyright is a sort of property protection granted by Indian law to creators of original works of authorship like literary works (including computer programmes, tables, and compilations, as well as computer databases expressed in words, codes, schemes, or any other form, including a machine readable medium), dramatic, musical, and artistic works, cinematographic films, and so on.

Copyright is a set of exclusive rights granted to the owner of copyright under Section 14 of the Act. These rights can only be exercised by the copyright owner or any other person who has been legally licensed in this respect by the copyright owner. These rights include the right of adaptation, reproduction, publication, translation, and public communication, among others. All original literary, artistic, musical, dramatic, cinematograph, and sound recording works are granted copyright protection. The term "original" refers to a work that has not been duplicated from another source.

The author or creator of the work is the initial proprietor of copyright, according to Section 17 of the Act. In cases where an employee develops a work in the course and scope of employment, the employer becomes the copyright owner. A copyright proprietor who intends to pursue a civil or criminal action against an infringement will benefit greatly from copyright registration. The registration process is straightforward, and the paperwork is minimal. If the work was created by someone other than an employee, a copy of the assignment deed must be included with the application.

One of the most significant benefits of copyright protection is that it is available in numerous nations across the world, even if the work is initially published in India due to India's membership in the Berne Convention. In respect of all nations that are member states of treaties and agreements to which India is a member, works initially published in India are protected. Copyright protection is therefore available to works initially published in India, across many nations, without the need to apply for it legally. In addition, the Indian government has

extended copyright protection to works initially published outside India by the International Copyright Order, 1999.

STEPS FOR COPYRIGHT

- 1) **REGISTRATION OF COPYRIGHT:** In India, copyright registration is not required since it is regarded as merely a record of a fact. The registration does not provide or create any new rights, and it is not required to take legal action against infringers. The Indian courts have endorsed this viewpoint in a series of rulings.
- 2) **ENFORCEMENT OF COPYRIGHT:** In India, copyright law allows not only for civil remedies such as permanent injunctions, damages or accounting of profits, surrender of infringing material for destruction, and legal costs. etc., but also makes copyright infringement a cognizable crime punishable by imprisonment for a term of not less than six months but not more than three years, as well as a fine of not less than Rs 50,000 (approx. US\$ 800) but not more than Rs 2,00,000 (approx. US\$ 3,000). Under the Copyright Act, there are provisions for increased fines and penalties for the second and subsequent offences. The (Indian) Copyright Act, 1957 empowers police authorities to file a FIR and act independently to arrest the defendant, search his or her premises, and confiscate the infringing material without the need for judicial intervention.
- 3) **LICENSING OF COPYRIGHT:** The copyright owner or his properly authorized representative can only assign or licence copyright in any work, current or future, in writing.

PRESPECTIVE ON COPYRIGHT PROTECTION

In India, the Copyright Act of 1957 protects copyright. It protects the author's copyright in two ways:

1. Economic rights of the author, and
2. Moral rights of the author.

1. **ECONOMIC RIGHTS:** Original literary, theatrical, musical, and creative works, as well as cinematographs and sound recordings, are protected by copyright. Under Section 14 of the Act, the authors of copyright in the aforementioned works have economic rights. In the case of literary, dramatic, and musical works, the rights are primarily to reproduce the work in any material form, including storing it in any medium by electronic means, to issue copies of the work to the public, to perform or communicate the work in public, to make any cinematograph film or sound recording in the work, and to make an adaptation of the work. In the case of a cinematograph film, the author has the right to create a copy of the film, including a photograph of any image that is a part of it, to sell or hire any copy of the film, and to transmit the film to the public. Similarly, the author of a sound recording has these rights. In addition to the aforementioned rights, if the creator of a painting, sculpture, drawing, or manuscript of a literary, dramatic, or musical work was the initial

owner of the copyright, he is entitled to a part of the selling price of such original copy if the resale price reaches rupees ten thousand.

2. **MORAL RIGHTS:** The two basic moral rights of an author are defined in Section 57 of the Act. These are the rights of paternity and integrity, respectively.

The right of paternity refers to an author's right to claim authorship of his work as well as his right to prohibit others from doing so. The author's right to integrity allows him to prohibit the distortion, mutilation, or other changes of his work, as well as any other action related to it, that would be detrimental to his honor or reputation. The caveat to section 57(1) states that the author has no right to enjoin or seek damages for any adaptation of a computer programme that falls under section 52 (1) (aa) (i.e., reverse engineering of the same). It should be emphasized that failure to show a work or to display it to the author's satisfaction is not considered a violation of the rights granted by this section. Other than the right to claim authorship of the work, the legal representatives of the author may exercise the rights granted on an author of a work by section 57(1).

PROTECTION TO FOREIGN WORKS IN INDIA

The International Copyright Order, 1999 protects the copyright of "works" of foreign citizens whose nations are members of Convention Countries to which India is a party against any infringement of their "works" in India. The Indian courts have also been proactive in protecting foreign writers' and owners' copyright, which covers software, motion pictures, including screenplays, and databases.

The Indian government is also working with industry players to combat piracy in the software, film, and music industries through trade associations and organizations such as *NASSCOM (National Association of Software and Service Companies)*¹, *NIAPC (National Initiative Against Piracy and Counterfeiting)*², and others.

DURATION/TERM OF COPYRIGHT

The length of copyright in the case of original literary, dramatic, musical, and artistic works is the author's or artist's lifetime, plus 60 years from the year of the author's death.

Cinematograph films, sound recordings, posthumous publications, anonymous and pseudonymous publications, works of government, and works of international organizations are all protected for 60 years, beginning the year after the date of publication.

CASE LAWS REGARDING COPYRIGHTS IN INDIA

EASTERN BOOK COMPANY v NAVIN JAIN

Issue: if there is any copyright in the publication of a court's decision. (Ownership of copyright).

¹ nasscom.in

² ia.nato.int

The Delhi High Court stated, “It is not contested that a work created or published under the supervision or control of any Court, tribunal, or other judicial authority in India is a Government work under section 2(k) of the Copyright Act”.³The replication or publishing of any decision or order of a court, tribunal, or other judicial body shall not constitute a violation of the government's copyright in these works, according to section 52(q). As a result, it is obvious that anybody can duplicate and disseminate government work, including court judgments and orders. However, if a person has made specific statements on judgement or written a commentary on it based on substantial reading, thorough research and comparison, and the exercise of taste and judgement, such a comment and commentary may be protected under the Copyright Act.

GODREJ SOAPS (P) LTD v DORA COSMETICS CO.⁴

Issue: Ownership of copyright

Delhi High Court held that the plaintiff is the assignee and legal owner of copyright in the carton, including the logo, when the carton was developed for valued consideration by a person in the course of his work for and on behalf of the plaintiff and the defendant had led no evidence in his favor.

R.G. ANAND v M/S DELUX FILMS

Issue: Infringement of copyright

The Court said “Where the same concept is being developed in a different way, it is evident that the source is common, parallels are sure to arise.”⁵ In such a situation, the courts should decide whether the parallels are on basic or substantial features of the copyrighted work's method of expression, with some changes here and there. To put it another way, for a copy to be actionable, it must be a substantial and material copy that leads to the judgement that the defendant is guilty of piracy right away.

HINDUSTAN PENCILS LTD v ALPNA COTTAGE INDUSTRIES⁶

Issue: Infringement of copyright

The Copyright Board of Goa ruled that where the similarities between the parties' artistic works are basic and substantial in material respects, it is a copyright violation, and the defendant's copyright may be deleted from the copyright register.

CATERPILLAR INC v KAILASH NICHANI⁷

Issue: Foreign jurisdiction aspect

Through its Indian distributors and collaborators, a foreign corporation was conducting business in various locations in India, including Delhi. The plaintiff sought an ad-interim injunction to prohibit the defendant from infringing on its copyright, notwithstanding the fact

³ Eastern Book Company & Others vs Navin J. Desai & Another, D.B. ... on 17 January, 2001

⁴ IPR Delhi HC Judgment- Godrej Soaps Pvt. Ltd. Vs. Dora Cosmetics

⁵ R.G Anand vs M/S. Delux Films & Ors on 18 August, 1978

⁶ Hindustan Pencils Limited v Alpna Cottage Industries and Others on 03 January 2001 - Judgement - LawyerServices

⁷ Caterpillar Inc. vs Kailash Nichani And Ors. on 21 December, 2001

that the defendant dealt in other commodities. The Delhi high court ruled that it was not required to establish that the plaintiff's business in Delhi was only in footwear and clothes. It is sufficient if the plaintiff conducted business in Delhi and if the plaintiff's copyright was infringed on particular items sold by the defendant in Delhi. The court went on to say that section 62 of the Copyright Act is an apparent and significant deviation from the standard that the defendant's convenience should guide his or her choice of jurisdiction. The legislature, in its wisdom, enacted this clause, which establishes an entirely different standard from that set forth in section 20 CPC. Instead, then forcing the victim to go after the transgressor, the goal is to inconvenience the transgressor.

CONCLUSION

The provisions of India's copyright protection are strong and effective enough to safeguard the concerned person's copyright. The protection is extended not just to Copyright in the old sense, but also to Copyright in its contemporary sense. As a result, online copyright concerns are effectively safeguarded, but not in a clear and explicit manner.

