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Copyright Law in India: A Comprehensive Guide

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Introduction

Copyright can be better understood as the legal protection granted to original works created through intellectual or creative efforts. These works encompass a wide range of creations, such as websites, computer software, music, art, literature, poetry, graphic designs, architectural designs, films, and more.

It serves as a shield against unauthorised duplication of these original creations. In essence, copyright safeguards the rights of creators and ensures their work remains protected from unauthorised copying or use. Depending on the type of work, copyright protection in India lasts for a different amount of time.

The copyright for musical, theatrical, musical, and creative works lasts for 60 years after the author's passing. If there are numerous writers, it continues for 60 years following the passing of the final author still living.

Copyright Law in India

The **Copyright Act of 1957**, along with Copyright Rules, governs copyright protection in India, focusing on the original expression of ideas and information rather than mere concepts. Copyright can be claimed by the creator, their inheritors, or authorised agents.

The Act grants authors economic rights, including reproduction, issuing copies, public performance or communication, making films or sound recordings, and creating adaptations or translations.

Moral rights, such as authorship claim and protection of honour and reputation, remain with the author even after copyright assignment. Previously handled by the Copyright Board and later the

IPAB, enforcement now falls under Commercial Courts, a division of High Courts.

On March 30, 2021, the **Copyright (Amendment) Rules, 2021** came into effect with the aim of aligning the existing rules with relevant legislation and ensuring accountability and transparency.

The amendments focus on adopting electronic communication and streamlining operations in the Copyright Office. Notably, a new provision introduces the publication of a copyrights journal on the official Copyright Office website.

Additionally, Copyright Societies are now required to prepare an Annual Transparency Report, providing information on licence refusals, royalties collected and distributed, transactions with foreign societies, and more, to enhance accountability and transparency.

Registration of Copyright in India

As a signatory to the Berne Convention, India is obligated to provide equal protection to works originating both within and outside the country. Registration of copyright is not mandatory under Indian law, in line with the principles of the Berne Convention.

Although there have been inconsistent judicial decisions on registration, recent court rulings align with the convention, emphasising that registration is not a requirement for copyright protection. However, registering a copyright offers certain advantages, such as the ability to record the registration with Indian Customs for protection against infringing imports and establishing a public record of ownership.

Registered owners also gain the benefit of statutory damages in case of infringement. To register a copyright, the creator must submit an application with the Copyright Office, undergo scrutiny, and address any objections before the registration process concludes with the entry of details in the Register of Copyrights.

The Registrar of Copyrights has been granted an extended time limit of 180 days to conduct a comprehensive examination and either accept or reject an application for registration of a copyright society.

Regarding software registration, the updated rules now require applicants to submit only the first 10 and last 10 pages of the source code, or the entire code if it is less than 20 pages, without any blocked out or redacted sections. This revision eliminates the previous requirement of submitting

the entire “source and object code.”

Rights granted to Copyright Holders

1. Economic Rights – Economic rights are those that allow the author to profit financially. Different rights for works are recognised according to Section 14 of the Copyright Act of 1957, depending on the nature of the work. According to the section, the author has the sole authority to carry out or approve the performance of the acts stipulated therein.
2. Right of Reproduction – According to Section 14(a)(i) of the Copyright Act of 1957, copyright owners of literary, dramatic, musical, artistic, cinematograph films, and sound recordings have the exclusive right to reproduce their works or authorise reproduction in any tangible form. Furthermore, the author of an artistic work holds the exclusive right to reproduce the work, including its conversion between two-dimensional and three-dimensional formats. This interpretation was discussed in the case of Escorts Construction Equipment Ltd & Anr vs Action Construction Equipment Pvt Ltd & Anr by the Delhi High Court.
3. Right of Distribution – In addition to the right to reproduce the work, the creator also has the authority to share it with others. It refers to the control over the distribution of actual physical copies of the work and is the right to place copies of the copyrighted work into the commercial market. The breadth and depth of this right vary depending on the work and are not constant. Once copies are distributed, the right is exhausted and ceases to exist.
4. Moral Rights – Moral rights, derived from “Droit moral,” are intrinsic to copyright protection in India. Section 57 of the Copyright Act grants authors exclusive rights to claim authorship and prevent any distortion, mutilation, or modification that could harm their honour or reputation. These rights, independent of economic rights, remain with authors even after copyright transfer and are seen as the soul of their works. While modifications are allowed, they should not fundamentally alter the work’s original form. Recent court rulings emphasise that moral rights can be waived voluntarily, as long as it aligns with the author’s intent. Moral rights protect the personal and reputational interests of authors, ensuring the integrity and recognition of their creations.
5. Neighbouring Rights – Neighbouring rights in India cover the rights of performing artists and broadcasting organisations. Broadcasting organisations have rights such as reproducing broadcasts, charging for access, making recordings, and selling them. Violating these rights without a licence is copyright infringement, with exceptions for private use, research,

reporting of current events, and general exceptions. In the Super Cassettes Industries Ltd. v. Entertainment Network (India) Ltd, the Copyright Board refused to grant a compulsory licence to a radio broadcaster for unauthorised broadcasting. Cable TV rights and satellite broadcasting rights are separate. Neighbouring rights also protect performing artists, giving them control over their performances, recognition of their names, and preventing modifications that harm their integrity.

Conclusion

The original owner or creator of any work of intellectual property is granted copyright, which is a legal shield that allows them to be protected from the entire world. Access to information and knowledge is essential for full participation in public life and a better quality of life. Copyright law plays a crucial role in striking a balance between disseminating knowledge and protecting intellectual labour.