

COPYRIGHT AS A INTELLECTUAL PROPERTY

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Abstract:

Intellectual Property Rights (IPR) related to new ideas, new technology, new products, and the evolution of knowledge. IPR serve as a foundation for protecting creative works and fostering innovation. Copyright is a type of Intellectual Property Rights. Copyright is basically the right to copy and make use of literary, dramatic, musical, and artistic works, cinematographic films and records, and to broadcast. Copyright is a property right and comes into effect as soon as the work is created. This paper highlights the concept of intellectual property rights (IPR) and copyright laws in India.

Keywords: Copyright, Intellectual Property, Intellectual Property Rights, Copyright Act, IPR

Introduction :

Intellectual property (IP) refers to creations of the mind, such as inventions, literary and artistic works, designs, symbols, names, and images used in commerce. IP is protected in law by, for example, patents, copyright and trademarks, which enable people to earn recognition or financial benefit from what they invent or create. By striking the right balance between the interests of innovators and the wider public interest, the IP system aims to foster an environment in which creativity and innovation can develop.

Intellectual Property Rights:

Intellectual Property Rights as a collective term include several independent intellectual property rights, namely: Patents, trademarks, Industrial design, copyright, geographical indications, and protection of undisclosed information.

Types of Intellectual Property Rights :

- **Copyrights :** Protect original works of authors, including Literary, artistic, and scientific works, books, musical, and digital creations.
- **Industrial Designs :** Protect the aesthetic aspects of functional objects.
- **Patent :** Protect inventions that offer new and useful processes, machines or compositions.
- **Trademarks:** Protect symbols, names, and slogans used to distinguish goods and services.
- **Trade Secrets :** protect confidential business information that provides a competitive advantage.
- **Geographical Indications:** Protect the name or sign of a product linked to a specific geographical location, ensuring that only producers in that area, adhering to specific



standards, can use that name, and preventing others from exploiting the reputation and quality associated with the region.

- **Copyright Concepts:** When a person creates a literary, musical or artistic work, he or she is the owner of that work and is free to decide on its use. That person (called the “creator,” or the “author,” or the “owner of rights”) can control the destiny of the work.

Definition of Copyright:

World Intellectual Property Organisation (WIPO), defined Copyright as “a legal term describing rights given to creators for their literary and artistic works”.

In Colliers’ Encyclopaedia (1956 Edition) Copyright is defined as a privilege or franchise granted by the government to authors, composers and artists, which entitles them to the exclusive right of printing or otherwise multiplying, publishing and vending copies of the copyrighted literary or artistic production.

According to Black’s Law Dictionary, Copyright is the right in literary property as recognized and sanctioned by positive law. An intangible incorporeal right granted to the author or the originator of certain literary or artistic production whereby he is invested for a specified period with the sole and exclusive privilege of multiplying copies of the same and publishing and selling them.

Copyright, meaning, acts as a protection to legally safeguard that original creation. As per the copyright definition, the work must be in a tangible form so it can be copyrighted. You will have to write down the speech, idea, discovery, etc., in a physical form to make it eligible for protection by copyright.

Works covered by Copyright:

- Literary works (books, articles, poems, brochures, pamphlets and other writings)
- Artistic Works (Paintings, drawings, sculptures)
- Musical Works (Songs, Compositions)
- Cinematographic Works (films, videos)
- Software and databases

Ideas cannot be copyrighted; only the expression of ideas fixed in a tangible medium can get copyright protection. That is it can be written/printed or recorded on a CD or DVD or stored in a computer hard drive etc. Copyright protection is automatic in that it comes into existence as soon as a work is created.

Indian Copyright Law :

- The Copyright Act, 1914
- The Copyright Act, 1957
- The Copyright (Amendment) Act, 1983
- The Copyright (Amendment) Act, 1984
- Copyright Cess Bill, 1992
- The Copyright (Amendment) Act, 1992



- The Copyright (Amendment) Act, 1994
- The Copyright (Amendment) Act, 1999
- The Copyright (Amendment) Act, 2012

The Copyright Act, 1957 came into force in 1958. Since then, it has been amended six times- i.e. in 1983, 1984, 1992, 1994, 1999 and 2012 (Copyright Office). The Copyright (Amendment) Act, 2012 is the most substantial. The main reasons for amendments to the Copyright Act, 1957 include to bring the Act in conformity with two WIPO internet treaties concluded in 1996 namely, the WIPO Copyright Treaty (“WCT”) and WIPO Performances and Phonograms Treaty (“WPPT”); to protect the Music and Film Industry and address its concerns; to address the concerns of the physically disabled and to protect the interests of the author of any work; Incidental changes; to remove operational facilities; and enforcement of rights.

Some of the important amendments to the Copyright Act in 2012 are extension of copyright protection in the digital environment such as penalties for circumvention of technological protection measures and rights management information, and liability of internet service provider and introduction of statutory licenses for cover versions and broadcasting organizations; ensuring right to receive royalties for authors, and music composers, exclusive economic and moral rights to performers, equal membership rights in copyright societies for authors and other right owners and exception of copyrights for physically disabled to access any works.

Term of Copyright protection in India :

The duration of the copyright is very important because it indicates when the copyrighted work would enter into public domain. Expiry of copyright duration will make works free from the restrictions of copyright law and allow public to use freely.

The term of the copyright protection in relation to literary, dramatic, musical and artistic works is lifetime of the author plus sixty years from the death of author.

In case of joint authorship, the term of copyright is sixty from the death of the last author.

Copyright protection in relation to photographs, cinematograph films, and sound recordings is for sixty years from the date of publication.

Broadcast reproduction right shall subsist until 25 years from the calendar year next following the year in which the broadcast is made.

Infringement of Copyright :

Violation of a copyright law by any person without a licence or permission by the owner of the creation is called as infringement of copyright. Copyright Law provides exclusive legal rights to an author to get all kinds of benefits on his creation.

Enforcement of Copyright and IPR :



- Legal Remedies for Copyright Infringement
- Copyright owners can pursue legal action to enforce their rights and seek remedies for infringement. Legal remedies include,
- Injunctions – Court orders that prohibit further infringement.
- Monetary Damages – Compensation for losses suffered due to infringement.
- Statutory Damages - Fixed compensation awarded regardless of actual damages.

Fair Use /Fair Dealing & Limitations of Copyright :

Fair use: Fair use is a legal doctrine that permits the limited use of copyrighted material without obtaining permission from the copyright owner. It allows the use of copyrighted works for purposes such as criticism, commentary, news reporting, teaching and research.

Factors Determining Fair Use :

1. **Purpose and Character of Use** – Non-commercial, educational, and transformative use are more likely to be considered fair use.
2. **Nature of the Copyrighted Work** – Factual works have a higher chance of being subject to fair use than highly creative works.
3. **Amount and Substantiality** – Using a small portion of a work is more likely to be fair use than using the entirety.
4. **Effect on the Market** – If the use negatively impacts the market for the original work, it is less likely to be considered fair use.

Conclusion:

Intellectual Property rights and Copyright hold importance in almost all walks of life. copyrights are mainly concerned with authors, publishers, librarians, persons related to the film industry, and the music industry. Patents, Trademarks, Information sources, movies, gramophone records, cassettes, and computer software are directly related to intellectual products. Only the preparation of laws for the protection of intellectual property rights does not full the aim. Execution of laws effectively and Awareness of these laws among society play an important role in its success.

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