

Copyright is a legal right, existing in many countries, that grants the creator of an original work exclusive rights to determine whether, and under what conditions, this original work may be used by others.<sup>1</sup> Copyright laws protect a variety of works such as paintings, literary works, live performance, photographs, movies and software. These are fixed in tangible forms whether published or unpublished. An important thing to understand here is that copyright law covers “material forms of expression” i.e. the ideas, concepts, techniques of the creator’s work should be presented in tangible form. For example, stories in a newspaper or a painting on canvas. Copyrights are, however, confined to a particular territory as they do not extend beyond specific jurisdiction, in this case of inconsistency, many countries or a large group of countries come into an agreement for the applicability of procedures, that’s why they are called “territorial rights”. Generally, the duration of copyright expires within 50-100 years when the creator dies depending on the jurisdiction. Copyright laws are enforced as a civil matter but some countries can count it under criminal sanction jurisdiction too. In 1996 two treaties were negotiated to provide protection of the rights of copyright holders, performers and producers of phonograms in the internet and digital era, under the protection of World Intellectual Property Rights (WIPO) called “WIPO Copyrights Treaty (WCT)” and “WIPO Performances and Phonograms Treaty (WPPT)”

Copyright law of India is governed by the act of 1957; the act got amended five times since then i.e. in 1983, 1984, 1992, 1994, 1999 and 2012. Prior to this act Copyright law in India was governed by 1914 copyright act which was an extension of British Copyrights Act 1911 and also India had borrowed extensively from United Kingdom Copyright act 1956. Amendments were made to Copyright Act, 1957 so as to bring the Act in conformity with WCT and 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.<sup>2</sup> India is unable to provide protection in digital area because it’s not the part of any of the above treaties and hence amendments are being mooted to make an act which would be in compliance with the same. However, India’s Copyright Act 1957 is in full compliance with Rome Convention provisions ( India is not a member of Rome Convention 1961) and also its provisions are also harmonized with new WIPO treaties:

- 1) The Beijing Audio Visual Performers treaty 2012
- 2) Marrakesh Treaty to Facilitate Access to Published Works by Visually Impaired or Otherwise Print Disabled Persons, 2013.

In a 2016 copyright lawsuit, the Delhi High Court states that copyright is "not an inevitable, divine, or natural right that confers on authors the absolute ownership of their creations. It is designed rather to stimulate activity and progress in the arts for the intellectual enrichment of the

---

<sup>1</sup> Ann Marie Sullivan, Cultural Heritage & New Media: A Future for the Past, 15 J. MARSHALL REV. INTELL. PROP. L. 604 (2016)

<sup>2</sup> Copyright.gov.in. (2018). *Copyright Office*. [online] Available at: <http://copyright.gov.in/>.

public. Copyright is intended to increase and not to impede the harvest of knowledge. It is intended to motivate the creative activity of authors and inventors in order to benefit the public”<sup>3</sup>

### **Procedure for Copyrights law in India:**

To obtain Copyright registration in India one has to follow procedures but before following procedures there some requisites for filing copyright application.

#### Following are the requisites:

- 1-Name, address and nationality of the applicant
- 2- Name, address and nationality of the author of the work
- 3- Nature of applicant’s interest in the copyright i.e. OWNER / LICENSEE etc.
- 4- Title of the work
- 5- A declaration signed by the author (if different from the applicant)
- 6- Language of the work
- 7- Whether the work is published or unpublished
- 8- If the work is published, year and country of first publication and name, address and nationality of the publisher
- 9- Year and countries of subsequent publications, if any
- 10- Name, address and nationality of any other person authorized to assign or license the rights in the copyright
- 11- Power of attorney for the firm
- 12- Six hard copies of the work and three soft copies
- 13- (For computer programs – 3 copies of the program on CD ROMs.)

#### Procedures for Filling Copyright Application:

- 1- Application for registration has to filed up as per the rules mention in first schedule.
  - > After filling of the application, applicant (author or rightful owner) has to wait for mandatory 30days to see whether any objection has been raised or filed in copyright office e against the claim that concerned work is created by the applicant. If there is any objection than another it will be stretched to another one month, to decide whether the work could be registered by the Registrar of Copyrights after hearing the matter from both parties.
  - > If there is no objection within 30 days, the application is formally examined by the Examiner, and examiner can raise objections if there is any or he/she request for any extra documents. Response to the objections/ examination report has to be filed within 30 days.
  - > The certificate is issued by the copyright office after the objections, if any, are removed to the

---

<sup>3</sup> "Indian Court Says 'Copyright Is Not An Inevitable, Divine, Or Natural Right' And Photocopying Textbooks Is Fair Use"

satisfaction of the Copyright Registry

2- Separate applications should be made for registration of each work

3- Each application should be accompanied by the requisite fee prescribed in the second schedule to the Rules

4- The applications should be signed by the applicant or the advocate in whose favor a Vakalatnama or Power of Attorney has been executed. The Power of Attorney signed by the party and accepted by the advocate should also be enclosed.

### **Copyrights Law in India:**

Copyright Act, 1957 under chapter IV talks about Assignment of Copyright and the Mode of Assignment of Copyright.

To protect from infringement of rights, Indian laws has provided remedies accordingly. There are Civil Remedy and Criminal Remedy. Under former copyright owner take legal action against the person who had infringed the copyright in the work. Remedies entitled to copyright owner are through by injunctions, damages and accounts against the Infringer and under later copyright infringement becomes criminal offence under Section 63 of the Copyright Act, if person knowingly infringes or support the infringement of copyright in work will be punished. He would be liable to pay fine i.e. more than fifty thousand rupees up to two lakh rupees as well as he/she would be imprisoned for a term more than 6months up to three years.

There is also Author's right to relinquish copyright which comes under Section 21 of the Copyright Act, 1957. It states that author of work can relinquish all or any of the rights compromised in the work by giving notice in the prescribed form to the Registrar of Copyrights.

### **Copyright Judgments in India:**

1-. Neetu Singh v. Rajiv Saumitra :

This Judgment sheds light on untouched part of section 17(c) of Copyright act. it clears that whenever there is a dispute between in an ownership of copyright between an employer and an employee, it is terms of employee which will be looked into and also court has tried to make it clear what all term to be looked so as to determine terms of employment. Here in this case, Neetu singh is Plaintiff who was working as a Director of the Defendant No.2 company from 2012-2014. Court held that Defendants failed to prove that literary literary work was authored as part of her duties and obligations as a Director and granted an injunction in favour of the Plaintiff.

2- Zee Entertainment Enterprises Ltd (ZEEL) vs. Sony Pictures Networks India Pvt Ltd:

ZEEL had filed a case against Sony for Copyright Infringement before Bombay High court that

it's former's popular show, "India's Best Dramebaaz", a televised talent hunt for child actors between 5-12 years age group has been illicitly copied by later. According to ZEEL, Sony has infringed its copyright in its concept note and 'production bible'. However, court has dismissed the pleas on the basis that evidences submitted by ZEEL fails to prove any similarities between both the shows and also stated that ambit of the shows are quite distinguishable.

3- Dashrath B. Rathod & Ors. v. Fox Star Studios India Pvt. Ltd. & Ors:

The judgment laid down in no uncertain words that the attempts to snatch last minute injunctions at the cost of putting both the opposite party and the court machinery under undue pressure should in no way be tolerated, especially when not even a *prima facie* case of copyright infringement was made out by the Plaintiff in the instant case. In a double whammy to the Plaintiff, who sought injunction against the release of the Defendant's movie Phillauri, Justice Patel, relying on the provisions of the Commercial Courts Act, 2015, imposed a cost of Rs. 5,00,000 lakhs on the Plaintiff.

By looking at laws and judgments carried by Indian Copyright Act it can be said that Copyright protection is strong and effective enough to take care of the copyright of concerned person. India is set to be amended with introduction of provision for anti-circumvention and Rights Management Information in the Indian copyright regime even though India is not a signatory to WCT and WPPT. To meet the challenges posed by changing circumstance and latest technology existing laws need to be interpreted in modern aspects such that all facets of copyright are adequately covered or the existing laws should be supplemented with newer ones which would be specific to the contemporary issues and problems.

