

MEANING AND PRACTICAL ASPECTS OF REGISTRATION OF COPYRIGHTS IN INDIA

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Abstract Copyright, is a bundle of rights, which grants protection to the unique expression of ideas. Ideas per se cannot be protected; it is the expression of ideas in a material medium that is the subject matter of copyright protection. Copyright is a negative right and the owner of a copyright gets the right to prevent others from copying his work without his consent towards a commercial end. However, at the same time it gives to the author an exclusive right for the commercial exploitation of his work. Copyright in India is recognized virtually worldwide under the Berne Convention and the applicable law of its member nations. Registering your work with the Registrar of Copyright Office is basically a copyright protection insurance policy. Copyright protection arises automatically the moment the author fixes the work in a tangible form (i.e. when a writer writes her story), without the author having to do anything. Legal service India was designed by copyright attorneys to offer creative people complete yet affordable copyright protection services, right from the comfort of your home saving your time, energy and thousands of rupees in legal fees. This paper provides the complete information about copyright registration in India.

Keywords: Copyright, Infringement, Registrar, Protection

INTRODUCTION

The domain of copyright includes original literary (which includes computer programmes). Copyright assumes supreme importance for computer programmers and designers. An author, or a designer looks forward to the commercial benefits accruing from his work, apart from the intellectual satisfaction derived from creating the work. List of Creative Works Protected by the Copyright law in India are:

- Literary Work which includes Computer Program and Computer Databases apart from book.
- Sound Recording or Audio Recorded Files which could include Songs, Dialogues Recorded Etc.
- Cinematograph Film includes Films, Videos, Cartoon Films. It is advisable to include creative rights in the various agreements between Parties in the initial stage itself.
- Artistic Work Including a Painting, a Sculpture, a Drawing such as a Map, Chart or Diagram, an Engraving, a Photograph, Architecture / Artistic Craftsmanship and Dramatic Work.
- Musical Work meaning Staff Notations and Written Music.

Copyright Subsists only in certain works. The term work means any of the following namely:

- A Literary, Dramatic, Musical or Artistic Work,
- A Cinematograph Film
- A Sound Recording,

Government work means a work which is made or published by or under The Direction or Control of:

- The Government or Any Department of Government,
- Any Legislature in India,
- Any Court, Tribunal or Other Judicial Authority In India.

Things that cannot be Copyrighted in India are:

Ideas, Methods, or Systems: Ideas, methods, and systems are not covered by copyright protection, this includes making, or building things; scientific or technical methods or discoveries; business operations or procedures; mathematical principles; formulas, algorithms; or any other concept, process, or method of operation.

Commonly Known Information: This category includes items that are considered common property and with no known authorship. Examples include standard calendars, height and weight charts, telephone directories, tape measures and rulers, and lists or tables taken from public documents.

Choreographic Works: A choreographic work, whether original or not, is not subject to copyright protection unless it has been videotaped or notated. The same applies to

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speeches that have not been transcribed before or after they are given, as well as any other types of performances.

Names, Titles, Short Phrases, or Expressions: Also exempt: names, titles, short phrases, or expressions—such as that catchy slogan you came up with for your business—product descriptions, pseudonyms, titles of works, and business names. The good news is that while they are not protected by copyright, if they pertain to your business (for example, goods and services) they can be protected with a trademark.

Fashion: Fashion that is, a shirt, dress, or other article of clothing is not protected by copyright law. Despite the fact that copyright law protects such things as architectural design works or works of the visual arts, fashion is all about clothing and accessories, which under copyright law are considered “useful articles.” It is possible however, to copyright a specific fabric pattern, but not the actual dress. And, it should be noted that while designs can be copyrighted in a particular format in India.

Necessity of Copyright Registration : The object of copyright law is to encourage authors composers and artists to create original works by rewarding them with the exclusive right for a limited period to reproduce the works for the benefit of the public. Other objects are;

- Copyright Registration is necessary to protect the creators, creative work such as music, books, manuscripts, software's, films, fashion designs, website etc from being copied and used for commercial purposes without the creators permission thus causing tremendous loss to the creator. Copyrights operates against unauthorized copying, the taking of another's creation, without paying for it.
- Copyright is essentially a creation of statute, the copyright act makes it clear that no person shall be entitled to copyright or any similar rights, in any work whether published or unpublished, otherwise than in accordance with the provisions of the Act.
- Copyright Registration of creative work protects your creativity from being stolen or duplicated, and gives you a confirmed legal right over your creation.
- Copyright Registration gives your creative work a legal status, thereby making it an intellectual property, giving you exclusive legal right over your creation.
- You cannot Sue anyone for copyright infringement until you have filed for copyright protection with the Registrar of Copyright Office.

Form of Register of Copyrights

The Register of Copyrights as per the Act to be kept both in physical and electronic form in six parts, namely-

- Part I Literary works other than computer programmes, tables and compilations including computer databases

and dramatic work

- Part II Musical works
- Part III Artistic works
- Part IV Cinematograph films
- Part V Sound recordings
- Part VI Computer programmes, tables and compilations including computer databases

As specified in Form XIII of The Register of Copyrights shall contain these particulars:

Application for Registration of Copyright:

- All Application for registration of copyright shall be made in Form XIV and In Form XV every application for registration of changes in the particulars of copyright entered in the Register of copyright shall be made.
- Each application has to be separately submitted and must be accompanied by the fee specified in the Second Schedule in this regard.
- The application must be signed by the applicant only. i.e. An author or owner of right. If the application is submitted by the owner of Copyright, than no objection certificate issued by the author is mandatory.
- An application for registration of an unpublished work must be submitted along with two copies of the work.
- In respect of an artistic work which is capable of being registered as a design under the Designs Act, 2000, such application, shall be accompanied by a statement in the form of an affidavit containing the following, namely-
 - (i) The Artistic work has not been registered under the Designs Act, 2000; and
 - (ii) The Artistic work has not been applied to an article through industrial process and reproduced more than fifty times.
- Registration application can be filed in the Copyright Office in person or by post or by online filing facility as provided on the website of the Copyright Office.
- It is mandatory that the person applying for registration has to give notice of his application to every such person who claims or has any interest in the subject-matter of the copyright or disputes the rights of the applicant to it.
- If within thirty days of filling the application, no objection to such registration is received by the Registrar of Copyrights, the Registrar of Copyrights shall if satisfied that the particulars given in the application are correct and, enter such particulars in the Register of Copyrights.
- If the Registrar of Copyrights receives any objections for such registration within the time specified in [sub-

rule (10)], or, if he or she is not satisfied about the correctness of the particulars given in the application, he or she may, after holding such inquiry as he or she deems fit, enter such particulars of the work in the Register of Copyrights as he or she considers necessary.

- The Registrar of Copyrights shall give an opportunity of hearing before rejecting any application filed for registration of any work.
- The process of registration is completed only after a copy of the entries made in the Register of Copyrights is signed and issued by Registrar of Copyrights or by Deputy Registrar of Copyrights, to whom such authority is delegated.
- The Registrar of Copyrights shall, send, wherever practicable, a copy of the entries made in the Register of Copyrights to the parties Concerned.

Rectification and Correction of entries in the Register of Copyrights

- For the entries specified in section 49 the Registrar of Copyrights may, either suo motu or on application of any interested person amend, or alter the Register of Copyrights, after giving, wherever practicable, to the person affected by such amendment or alteration, and communicate to such person the amendment or alteration so made.
- The Registrar of Copyrights shall rectify the entries made in the Register of Copyrights after an order is being passed by the Board on an application made by Registrar of the Copyrights in this behalf under section 50.

Copyright Indexes:

- Copyright Office keeps the following Indexes both in physical and electronic form for each and every part of the Register of Copyrights, namely;
 - (i) A general Author Index;
 - (ii) A general Title Index
 - (iii) An Author Index of works in each language; and
 - (iv) A Title Index of works in each language
- Every Index shall be arranged alphabetically in the form of cards.

Inspection of the Register of Copyrights and Indexes: The Register of Copyrights and Indexes thereof shall at all reasonable time be open to inspection any person in such manner and subject to such conditions as the Registrar of Copyrights may specify. The online search or inspection of the Register of Copyrights and indexes can be utilised by making online payment of fee as specified in the Schedule.

Copies and extracts of the Register of Copyrights and Indexes:

Any one shall be entitled to take copies of, or make extracts from, the Register of Copyrights or Indexes on payment of the fee as specified in the Second Schedule subject to supervision as the Registrar of Copyrights may arrange.

To furnish a certified copy of entries made in the Register of Copyrights and Indexes thereof, An application to The Registrar of Copyrights has to be made along with payment of the fee specified in the Second Schedule.

Copyright Filing Requirements in India

Applicant's particulars: Name, Address, Citizenship

For corporate entities: Country of incorporation, Nature of entity (e.g. private limited company, public listed company)

Clear specimen of the Work (5 Copies of the Work)

Electronic Form or Physical Form

Steps Involved in Making a Registration of Copyright

- Application in triplicate with prescribed fee.
- Application to serve notice of his application to every person who has any interest in the subject-matter.
- If the Registrar receives no objection for registration within 30 days of receipt of application by him, he shall, is satisfied about the correctness of particulars, enter such particulars in objection, he may, after holding such inquiry as he deems fit, enter such particulars of the work in the Register of Copy rights which he considered proper.
- Registrar then sends copies of the entries made in the Register to the parties concerned.
- Appeal: Any person aggrieved by the decision or order of Registrar of Copyright, may, within three months from the date of the order or decision, appeal to the Copyright Board.

Time for Processing Application: From the date of submission to certification it has its own time duration.

- First 30 days is the cooling period, during this period if anyone wants to make an objection can do so.
- If none makes an Objection than it goes in the process of scrutiny.
- If there is any error or suspicion in the application, it will get into Objection.

- If no Objection is found then it goes into Copyright Registration Clearance.
- A permanent Copyright Registration number will be assigned.
- Finally after nearly six months You will receive the Certificate via Indian Postal.

Copyright Certificate issued by Government of India: The certificate of registration under the copyright Act will only prima facie show that the particulars mentioned therein

are entered in the copyright register. The mere fact that something is entered in the copyright register, does not, as a matter of law, establish that what is registered is in fact and in law copyrightable subject-matter. This is so because the sine quida non to the existence of copyright, is the expenditure of skill and labour on any work which originated from its author and unless the original work on which skill and labour has been expended by its author is produced in court to prima facie show that the work has originated from the author, it cannot be said that there is copyright in the work.



Scope and Extent of Copyright Registration: These Days the Copyright Law has become Global India being a member of Berne Convention has Made the validity of your certificate to over 177 countries.

Process to get Copyright of a Song: A Song contains a bundle of additional copyrights involved i.e. Song has Musicians, Lyricist, Singer, Sound Recorder, Composer and Producer, in most cases each aspect is done by various individuals, it is their sum total contribution, that leads to the creation of an audio recorded Song, hence to register such a creative work, NOC from each has to be obtained, only then can a Song be copyrighted, If even a single one of those involved rejects to give NOC copyright registration for a song will fail.

Protection of Copyright in Film, Script, Translation and Dubbing: A script is a written text of a movie. Therefore, it is different from story and the screenplay though there is an element of overlapping. Similarly, the dubbing is different from translation. A film with a sound track with dubbing is meant to provide a film with a sound track with a different language from the original. In dubbing, what is important is

the lip movement. Thus no verbatim translation is possible in an activity of dubbing. Under the Copyright Act of 1957, both a literary work and a cinematograph film would come under its purview thus, entitled for protection. They both operate on different fields. They are not meant to be seen in conflict with each other. A copyright of cinematograph film shall not affect the separate copyright of a work, which forms part of it.

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