

# Copyright Under The IPR: Infringement and Protection

## ABSTRACT

The judiciary has granted the inventor of a creation an exclusive legal right known as copyright, which is a subset of intellectual property rights. As the creator, he, she, or the group has the legal right to receive financial and other benefits related to the creation. A violation of copyright laws could result in a number of legal repercussions. However, libraries are legally allowed to utilise copyrighted content for research and scholarly purposes without the copyright holder's consent. Additionally, the Copyright Act makes any infringement or violation of fair use of library resources illegal. Here, an effort has been made to comprehend copyright concerns as they relate to library resources, with a focus on protection, infringement, fair dealing, and limits under the Indian Copyright Act of 1957. Additionally, highlights the obligations of librarians in relation to copyright laws.

Keywords: Indian Copyright Act, IPR, Infringement, Copyright exceptions, Libraries.

## INTRODUCTION

A component of intellectual property rights (IPR) is copyright. IPR is described by the World Intellectual Property Organisation (WIPO) as "the legal rights that result from intellectual activity in the industrial, scientific, literary, and artistic fields." There are two primary justifications for national legislation protecting intellectual property. The first is to formally recognise both the public's access rights to these works of art as well as the moral and financial rights of authors to their works. The second is to actively stimulate creativity, its transmission and application, as well as fair dealing, which would support both economic and social development.<sup>1</sup>

## MEANING OF THE COPYRIGHT:

The term copyright is the combination of the concepts copy and right. In more precise terms, copyright is the right to copy, which stipulates that only the author of a work or someone with their express permission may reproduce it. A copyright is, to put it simply, a legal privilege that belongs to the owner of intellectual property.

The following elements must be present in the work for it to be protected by copyright laws:<sup>2</sup>

- a) The contribution must be original. (To be original, a work must have been inspired and not plagiarised from any previously published materials. The creation of the piece must be original.)
- b) It must be secured in any concrete manner.
- c) The work must be original and must be published for the first time.

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<sup>1</sup> <http://www.wipo.int/portal/en/index.html>

<sup>2</sup> Indian copyright act,1957, Act of parliament ,1957(India)

d) When an author's work is published after their passing, they must have Indian citizenship at the time.

In order to better understand the concept of copyright, the elaboration must be taken into account. When someone creates something distinctive, it is seen as original since the maker applied significant mental or intellectual resources to it. Examples of original inventions include websites, computer programmes, song lyrics, artwork, books, graphic designs, musical compositions, novels, inventive architectural ideas, films, etc. A copyright is also a measure of defence against the copying of an original work.

An original work of authorship (OWA) is a piece of writing that is wholly unique and contains no plagiarised material. Anyone who is the original creator of any work inherently has a right over it and has the power to forbid others from using, duplicating, or otherwise reproducing it for their own purposes.

A creator may voluntarily register for copyright if they want to be protected and have an advantage in the legal system. By registering this, the author is able to file a lawsuit against anyone who uses his work without permission.

Theories, discoveries, catchphrases, brand names, logos, brand concepts, domain names, and tiles are all examples of concepts that are not protected by copyright and instead fall under the purview of trademarks and patents. To be covered by a copyright, any idea, invention, speech, etc. must be physically recorded.

This idea encourages authors and artists to labour bravely and produce unique works that are shielded against copying by others.

## **CONCEPT OF COPYRIGHT EVOLVE IN INDIA:**

### **Pre-independence**

The East India Company's regime in 1847 is where India's copyright laws first emerged. In order to enforce the copyright at the time, registration with the Home Office was required as work was not automated. The duration of the copyright was the author's lifetime plus seven years posthumously. In 1914 a new copyright legislation was passed in India with a few modifications which are as follows<sup>3</sup>:

1. Introduction of criminal sanctions in the case of infringement of copyright.
2. It broadened the term copyright and modified it as a 'sole right' wherein the author has the right to reproduce, change, produce or publish a translation of work.

The legislation of 1914 continued till the coming of new legislation in 1957 i.e. the post-independence era.

### **Post-independence**

In 1957 a new Copyright law was enacted. Before the Act of 1957, the Act of 1914 was prevalent, which was an extension of the British Copyright Act, of 1911<sup>4</sup>. Further in May, 2012 the Parliament of India unanimously passed a bill named Copyright Amendment Bill,

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<sup>3</sup> V K Ahuja, Law relating to intellectual property rights (3<sup>rd</sup> ed. 2017).

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2012. This Bill aimed to bring Indian copyright laws at the international level and in compliance with the World Intellectual Property Organisation treaties such as the WIPO Copyright Treaty (WCT) and the WIPO Performance and Programme Treaty (WPPT). Further, the main highlights of the Amendment bill are<sup>5</sup>:

1. the right to artistic work such as cinematograph films and sound recordings.
2. accordance with WCT and WPPT.
3. the mode of grant of license and assignments.
4. Protection against internet piracy.

## **SCOPE OF COPYRIGHT**

There are many forms of expression that are protected by copyright, including music, film, literary works, and artistic creations. Literary works include novels, books, newspaper articles, journals, research papers, magazines, and instruction manuals. Artistic work includes painting, sculpture, diagrammatic representation, and drawing. Original compositions and a particular arrangement of melody and harmony are both considered to be musical elements. Cinematography includes movies, TV shows, documentaries, and television recordings of events. It is offered for labour, not for creative concepts.

## **COPYRIGHT AUTHORITIES**

The term copyright office is given under section 9 of the Copyright Act, 1957 makes it compulsory to have a copyright office. The Union government appoints the registrar of copyright, who is in charge of managing the copyright office and operating under its direction and supervision. and orders of the Union government. The major objective of the registration office, which is run by registrars, is to offer facilities for registration. The intellectual property office (IPO) in New Delhi is where the copyright office is situated. The entire country of India is within the purview of this office. The copyright office performs the following copyright tasks:

Literary work, Artistic work, Story themes, Lyric books, Story books, Software, Cinematograph films, Music and Sound recordings.

## **RIGHTS OF AUTHOR:**

Copyright is a bundle of rights given to the author by the judiciary. As per the Indian Copyright Act Section 14<sup>6</sup> of Chapter III and Section 57<sup>7</sup> of Chapter XI, Some unique and special rights have been granted to the author; these rights can be categorised into the following three groups;

**1. Statutory Rights or Negative Rights:** Under copyright law, the original creator of a work is granted an exclusive legal or statutory right with respect to that work. It places a "negative duty" on others, forbidding them from making use of or profiting from the work without the author's permission.

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<sup>5</sup> Copyright Amendment Bill ,2012, Act of parliament ,2012(India)

<sup>6</sup> Indian Copyright Act ,1957, Section 14, Act of parliament ,1957(India)

<sup>7</sup> Indian Copyright Act ,1957, Section 57, Act of parliament ,1957(India)

2. **Economic Rights** - The economic right allows the author to enjoy the financial benefits. By wholly or partially transferring ownership of the rights to third parties, the inventor can get royalties. According to international agreements, each country copyright statute typically grants the copyright holder the following exclusive rights. Adaption rights, Distribution rights, Public performance rights, Public display of works rights, Rental rights, Reproduction rights and Translation rights

3. **Moral Rights**- Copyright law always protects the creator even after the assignment of the copyright work to others either fully or partially. Moral rights grant an author the right to have his name kept on the work forever and protect from any distortion or modification of the work, or other offensive conduct that might harm the author's reputation in respect to the work.

## **INFRINGEMENT OF COPYRIGHT**

Anyone who violates copyright laws without the creator's consent or a licence is said to be infringing on their rights. Authors are granted unique legal rights under copyright laws to receive numerous rewards for their works.

As per Chapter XI<sup>8</sup>, using any copyrighted work without the permission of a copyright owner is an infringement of copyright law and the following instances could be considered as infringement of copyright. Any individual who violates a copyright is held totally accountable for his actions.

Performing publicly without any consent of the owner, using copyrighted work for any kind of business which brings financial benefit, distributing for the purpose of trade or import, reproducing a substantial part of copyrighted work in any material form, circulating among unauthorized persons, adopting or translation of copyrighted work without any permission and Resale or renting of copyrighted material to others.

## **COPYRIGHT MATERIAL AND LIBRARIAN**

Libraries are the primary information intermediaries for users, and librarians are in charge of managing the distribution of various information resources via various channels. Information can be divided into printed, non-printed, published, and unpublished works. The librarian has established connections with authors, publishers, aggregators, distributors, vendors, users, and so forth in her capacity as a facilitator. The most difficult responsibility for a librarian is to strike a balance between copyright and legal usage of materials protected by copyright. By raising an understanding of copyright regulations, the librarian may protect an organization's reputation and prevent its stakeholders from using protected content improperly. According to the law, only the person who violated the content is accountable for his actions. Legal issues between copyright holders, publishers, distributors, vendors, aggregators, and users or stakeholders of the underserved institution might result from violating copyright laws.

The purchase of any kind of electronic resource should be done with the utmost caution, and it is best to consult a legal professional during the process. While allowing the public access to the library, librarians must ensure copyright protection.

## **FAIR USE OR FAIR DEALING**

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<sup>8</sup> Indian Copyright Act ,1957, Section 51, Act of parliament ,1957(India)

The fair use doctrine is a broad concept with a broad scope. Fair use agreements have been established by the courts in a number of cases throughout their rulings. The United States Code's four guiding principles<sup>9</sup> are as;

The market value of copyrighted works is diminished, Public access, unpublished, and copyright-expired are the characteristics of the copyrighted work. whether it is being used for business, education, research, or any other social good, or its intended use. significant use of the work.

A crucial component of copyright law is fair use, which authorises the reproduction of a work protected by the law in a way that can only be used for the following purposes and is not regarded to be an infringement<sup>10</sup>. A major component that promotes knowledge expansion and inspires fair utilitarianism is fair usage.

- In order to protect against harm or loss of work, copyrighted work may be archived. Reporting of current events and news in newspapers, magazines, or other privately published publications. To critique or review the work of others. For any type of court proceeding.
- Using class instructions by a teacher to his students
- Using for examination and as part of questions, work can be used for writing answers
- Public libraries making no more than three copies of a book that is not for sale in India under the direction of the person in charge. Both staff and students can perform or use it in course activities at an educational institution. The institution's personnel and students must be the only audience in this situation.
- Copyrighted works can be reproduced for disabled people for non-profit purposes, but the institution must make sure that they can only access the copies. • Unpublished works stored in libraries or other institutions can be duplicated for research or private study.

## CONCLUSION

Even if there are many copyright limits and problems, a good understanding of copyright law and fair use practises would guide us in how to use copyrighted content for academic and research purposes. Before purchasing or subscribing to any resources, there needs to be a sufficient level of understanding of copyright issues. The protection of copyright holders at this point would mostly depend on an agreement/contract/terms and conditions between the parties involved in the procurement of resources. The librarian must frequently inform his users about copyright issues in his capacity as a facilitator. This might end up being one of the key elements that significantly contribute to a decrease in copyright infringement among library customers. According to the Indian Copyright Act of 1957, it is very clear that the person who engages in the activity of infringement is exclusively liable for his act of misconduct and neither the publisher nor the facilitator is responsible for any infringement of copyrighted content.

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<sup>9</sup> <http://copyright.gov/title17/circ92.pdf>

<sup>10</sup> Indian Copyright Act ,1957 Chapter 11, Section 52, Act of parliament ,1957(India)

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