



Meaning and Subject Matter of Copyright

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Copyright comes under Intellectual Property Rights; Intellectual property is classified into various types of assets, like trademarks, patents, industrial designs and geographical indications. Copyright is a right given on Intellectual creations. It is an exclusive right given by law to print, publish and sell copies of original work for a certain period. The objective of copyright is to safeguard the author or the creator from unauthorized reproduction of his creation. The domain of copyright is literary and artistic works, like writings, musicals and works of fine arts, such as paintings and sculptures, as well as technology-based works such as computer programs and electronic database

The Copyright Act, 1957 completely replicates the Berne Convention for Protection of Literary and Artistic Works, 1886 and the Universal Copyrights Convention after the amendments in 1999, 2002 and 2012 and India is a party to both the conventions. India has signed the Geneva Convention for the Protection of Rights of Producers of Phonograms and is an active member of the World Intellectual Property Organization (WIPO) and United Nations Educational, Scientific and Cultural Organization (UNESCO).

All subject matters protected by copyright are called protected works. Thus, according to Section 13 of the Copyright Act 1957, it may be subjected for the following works: Original Musical work, Original Literary Work, Original Dramatic work, Cinematography films, Original Artistic work and Sound recordings.

Original Musical work

- Musical work was defined as “a work consisting of music and includes any graphical notation of such work but does not include any work or any action intended to be sung, spoken or performed with the music”. In 2012 Amendment, there was a grant of statutory license for cover versions. A song typically contains both literary and musical work. Therefore, the tune and lyrics together forms the song. Lyric of a song is the literary part and it is protected as a literary work and the writer of the lyrics is the author of the work. Music accompanying the song is treated as a musical work and the author of the musical work is the composer of the musical work. So, in the song there can be two rights that are set of rights in the literary work and rights in the musical work and they are owned by different people. The author of this right is different people.

Original literary work

Literary work refers to works that are in writing. The Act does not classify literary work, but we understand that as work that are captured in writing. The act says that literary work includes computer programmes, tables, and compilations including computer databases. The literary work need not have any literary merit and it is not the job of the courts to look into the literary merit of copyright work.

So, courts have found that football fixture lists, mathematical tables, tombola tickets, etc. are capable of copyright protection. The number of words in a copyrighted material is not an indicator of quality and the author of copyrighted work is the author who makes the work or who creates the work. There are certain things that cannot be protected under a copyright. For instance, phrases, names, invented words and slogans cannot form a part of copyright protections. The names especially used in commerce or in trade are protected by trademarks and invented work and slogans, for example the slogan which Pepsi used a while ago “Yeh Dill Mange more”, which is an advertising slogan was held something that can not protected under the copyright Act.

Secondary or derivative works can also be protected. They can be prospected only if, it involves the right kind of labor, it should be of such a nature that the effort brings a material change in the work. Therefore, the work should get changed based on the effort that change should be of the right kind and the prior work should be different from the secondary work. When the author assigns the copyright to another person, the new work will be entitled to a copyright as well. Adaptations and abridgment of existing works can have a copyright; translations can also be entitled to a copyright. Compilations and collective works can have copyrights. A copyright can subsist in the individual item as well as in the collection as a whole. For computer programs the source code can be protected as a literary work.

Original dramatic work

It defined as “including any piece of recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting, form of which is fixed in writing or otherwise but does not include a cinematograph film”. The terms literary and dramatic are used together and the principle applicable to literary work will be applicable to dramatic work as well. The author of a dramatic work is the person who authors the work.

Cinematography films

It means any work of visual recording and includes a sound recording accompanying such visual recording and sound recording accompanying such visual recording and “cinematograph” shall be construed as including any work produced by any process analogous to cinematography including video films. The author of cinematography films is the producer of the films.

Original artistic work

An artistic work as mentioned in the Act, a painting, a sculpture, a drawing includes a diagram, map, chart or plan, an engraving or a photograph, and whether or not any such work possesses artistic quality. A work of architecture is included as an artistic work and any work of artistic craftsmanship can also come under the ambit of an artistic work. The author of an artistic work is the artist of the artistic work other than photograph. The photograph is a person who takes the photograph, who is regarded as the author. Recently there was an issue with regard to a selfie taken by a monkey. The Court has held that, the person has to be a human being and so far intellectual property rights have only covered Intellectual work of humans.

Sound recordings

It means a recording of sound from which such sounds may be produced regardless of the medium on which such recording is made or the method by which the sounds are produced. The author of sound recording is the producer of the sound recording. The sound recording may involve musicians, it may involve singers, but the author is the producer.

The term of copyright varies depending on the kind of work that is protected. Literary, musical, dramatic and artistic works are protected for the life of the author and after the death for a period of 60 years. For posthumous work published after the death of the author. It is 60 years from the time the work is first published. Therefore, cinematograph films sound recording, government works, works of international organizations all are prospected for 60 years from the work first published.

- here the ownership in copyright may vest in different persons under different circumstances. Like of a work is created by an employee in the course of his or her employment, the employer owns the copyright. If the work is created by an independent contractor and the independent contractor signs a written agreement stating that the work shall be “made for hire,” the commission person or organization owns the copyright only if the work is a part of the larger literary work, such as an article in a magazine or a poem or story in anthology; part of a motion picture or other audiovisual work, such as screenplay, a translation, a supplementary work, such as an afterword, an introduction, chart, editorial note, bibliography, appendix or index; a compilation; an instructional text; a test or answer material for a test; or an atlas. Works that do not fall within one of these eight classifications constitute works made for hire only if created by an employee within the scope of his or her employment. If the creator has sold the entire copyright, the purchasing business or person becomes the copyright owner.

Eastern Book company v/s Navin J. desai

The question involved was whether there is any copyright in the reporting of the judgment of a court. The Delhi High court held that it is not denied that under section 2(k) of the Copyright Act, a work which is made or published under the direction or control of any Court, tribunal or other judicial authority in India is a Government work. Under section 52(q), the reproduction or publication of any judgment or order of a court, tribunal or other judicial authority shall not constitute infringement of copyright of the government in these works. It is thus clear that it is open to everybody to reproduce and publish the government work including the judgment/ order of a court. However, in case, a person by extensive reading, careful study and comparison and with the exercise of taste and judgment has made certain comments about judgment or has written a commentary thereon, may be such a comment and commentary is entitled to protection under the Copyright Act. The court further observed: In terms of section 52(1)(q) of the Act, reproduction of a judgment of the court is an exception to the infringement of the Copyright. The orders and judgments of the court are in the public domain and anyone can publish them. Not only that being a Government work, no-copyright exists in these orders and judgments. No one can claim copyright in these judgments and orders of the court merely on the ground that he had first published them in his book. Changes consisting of elimination, changes of spelling, elimination or addition of quotations and corrections of typographical mistakes are trivial and hence no copyright exists therein.

Godrej Soaps (P) Ltd v/s Dora Cosmetics Co.

The Delhi High Court held that where the carton was designed for valuable consideration by a person in the course of his employment for and on behalf of the plaintiff and the defendant had led no evidence in his favor; the plaintiff is the assignee and the legal owner of copyright in the carton including the logo.

Conclusion

Intellectual Property Rights have been present for a very long time. These are the rights that are given to people for their creative work. These rights are in the form of patents, copyrights, and trademarks. They form the intellectual property laws to protect these rights of the people over their creativity. Even though the intellectual property laws have developed over time, the intent of the laws remains the same i.e., that the laws encourage the creativity shown by people and for them to reap benefits from their ideas. The society is never static; it keeps on changing with change in time. The globalization of the society has led to the advancement in technology. With the advancement in technology, the copyright infringement has become more easy now-a-days. Therefore, the legislative amendments made in copyright Act all these years' help in protecting the authors from any copyright infringement. The higher level of protection is given to literary, dramatic, musical or artistic work in any country.