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An essential thing of intellectual assets rights: Copyright

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Abstract

Intellectual Property Rights (IPR) has its own economic value when it enters any market place. IPR grants exclusive rights to the founder or creator through his or her unique creation or invention. The main purpose of the IPR is to protect the invention and to reward his creative work. IPR encourages and encourages the creation of talented creators.

Intellectual Property is any invention, unique name, logo, logo or design used for various reasons, such as branding and marketing, as well as to protect assets that give a competitive advantage.

Copyright is one of the most important type of Intellectual Property. Copyright Act 1957 provides for copyright protection in India and provides for copyright protection in two ways such as the Economic Rights of the Author and the moral rights of the author. This article describes the division of Intellectual Property, copyright and related rights, length of copyright and a number of copyright infringement cases.

Introduction:

In a world of globalization, it is crucial for us to be at the forefront of innovation, technology and trade. India is well known for its expertise in various fields such as software engineering, satellite technology, Moon, Mars, Jupiter deployment and other technological fields.

In view of Intellectual Property Right, India took a major step forward in 1995 and signed the WTO³ Trade Related Intellectual Property Rights (TRIPS) Agreement. The TRIPS agreement has emerged as a fundamental framework for intellectual property rights worldwide. The TRIPS Agreement plays an important role in resolving disputes over the intellectual environment. Each

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³ World Trade Organization (WTO)

WTO member must incorporate TRIPS provisions into their local Intellectual Property laws, as mentioned⁴:

All WTO agreements (with the exception of a few “plurilateral” agreements) apply to all WTO members. Each member has accepted all agreements as a single package with one signature - making, in jargon, a "single function".

The TRIPS agreement is part of that package. We therefore apply to all members of the WTO.

But the treaty allows countries at different times to delay using its provisions. This delay refers to the transition from before the agreement came into effect (before 1 January 1995) to the member state. The key moments of change are:

- Developed countries have been given a one-year transition period following the commencement of the WTO Agreement, which is until 1 January 1996.
- Developing countries are allowed for another four-year period (i.e. until 1 January 2000) to apply the provisions of the treaty other than Articles 3, 4 and 5 which deal with common principles such as non-discrimination.
- Transforming economies, i.e. members in the transition from a medium to a market economy, can also benefit from similar delays (again until 1 January 2000) if they meet certain additional conditions.
- Slowly developed countries have been given a long transition period of a total of 11 years (until 1 January 2006), which is likely to be extended. The transition period has been extended three times, and now continues until 1 July 2034, or until the member ceases to be a LDC, whichever comes first.

As a result of this multilateral agreement, India has strengthened its participation in the international patent system over the past fifteen years⁵. India submitted 1583 international patent applications in 2018 to the World Intellectual Property Organization (WIPO) and registered the highest growth rate (27%) among countries applying for patents.

⁴ https://www.wto.org/english/tratop_e/trips_e/tripfq_e.htm#Who'sSigned

⁵ https://www.wto.org/english/tratop_e/trips_e/intel2_e.htm

Intellectual Property and Their Separation

The term Intellectual Property gained momentum after the founding of the World Intellectual Property Organization (WIPO) in 1967⁶. In addition, WIPO became one of the United Nations agencies in 1974. The main objective of WIPO is to develop an equitable and accessible international Intellectual Property system and to regulate various IPR-related policies around the world.

According to WIPO, Intellectual Property (IP) refers to recognition of the concept, such as invention, writing and art, designs, symbols, words and pictures'. IP laws protect people to gain recognition and gain financial benefits from what they create or want to create.

Intellectual Property is divided into six categories:

Patent

A patent is an one of a kind proper granted for an invention, that is a product or a technique that offers, in popular, a new manner of doing something, or gives a brand new technical technique to a hassle. To get a patent, technical information about the discovery must be disclosed to the general public in a patent application.

In precept, the patent proprietor has the one of a kind right to prevent or stop others from commercially exploiting the patented invention. In different words, patent safety approach that the discovery cannot be commercially made, used, distributed, imported or offered by others without the patent owner's consent. Patents are territorial rights. In popular, the one-of-a-kind rights are simplest applicable in the us of a or location wherein a patent has been filed and granted, according with the law of that U.S.A. or location.

Trademark

Trademark may be a trademark⁷ logo that distinguishes the goods or services of one business from another. The trademark helps the company to gain its recognition, a reputation among the customers. In many cases, customers rely on the brand and buy products without checking their

⁶ WIPO Manual: What is Intellectual Property? http://www.wipo.int/edocs/pubdocs/en/intproperty/450/wipo_pu_b_450.pdf.

⁷ Section 2 (zb) of the Trademarks Act, 1999

quality⁸. According to the Indian trademark law, any trademark that is unique and capable of distinguishing goods and services may be registered as a trademark⁹. In India, the first period of registration of trademarks is 10 years, after residency, which must be renewed from time to time.

Geographical Index (GI)

Agricultural products also have special properties that are influenced by the local climate or soil. Such products may register under the GI. WIPO defines a GI term that encompasses all outgoing methods to protect names, symbols or location as a product origin¹⁰. Well-known examples are GI Havana, Darjeeling tea, Arabian horses, Alphonso mango, Nagpur orange, Basmati rice etc. In India, GI can be registered under the 1999 Act and the 2001 Act in Chennai. The duration of GI is 10 years, after which renewal is required.

Industrial Designs

According to WIPO, The design of the industry is related to the "title look" i.e. what the product looks like? and its design. Does it not protect its technical or operational features i.e. how the product works? Industrial designs are used in a variety of industrial products and handicrafts. The industry design has two-dimensional figures such as lines, color, article patterns and contains three-dimensional figures such as the layout of the article. For example, two-dimensional figures - a textile pattern, a three-dimensional figure - a round bike tail. There are various examples of industrial designs such as luxury items such as jewelry, medical equipment such as oximeters, electrical appliances, furniture, household items, building designs, fabric designs, recreational items such as toys, graphical user interface such as navigation systems, etc.

Trade Secrets

Trade secrets of intellectual property rights to confidential information that may be sold or licensed. Any invention that is not patented but useful to the business and provides financial benefits can be kept as a trade secret. Information technology or process such as recipe, vision, software, formulas, maps, or any commercial information or in any way encrypted data or data

⁸ Melissa R , Something old, something new, something borrowed, something blue: A new tradition in non-traditional mark registrations, *Cardozo Law Review*, 27 (2005) 457. And *Vennootschap onder Firma Senta Aromatic Marketing's application*, Case R ETMR, 429 (1999).

⁹ www.ipophil.gov.ph/images/Design/republicactno9150.pdf.

¹⁰ www.commerce.nic.in/trade/international_trade_ip_trips1.asp

bases, financial information may be kept as a trade secret¹¹. However, the process of disclosing trade secrets takes years of research and skills. The Coca-Cola formula is a very popular example of a trade secret. TRIPS recognize trade secrets under common law¹².

Copyright

Copyright protects the rights of creators of their literary and artistic works. The term copyright refers to the Copyright 'which is available only to the author or creator. Therefore, any other person who copies the original work is considered to be in violation of the copyright law. Copyright protects the expression of an idea and not the content or opinion as such. Copyright is protected under the Copyright Act not under Patent law.

Under Copyright, the following literary and artistic works are covered¹³:

Copyright (or copyright) is an official term used to describe the rights that creators have over their works of art and crafts. Copyrighted works range from books, music, paintings, photographs, and films, to computer programs, websites, advertisements, maps, and digital graphics. A complete list of copyrighted works is usually not available in law. However, to put it bluntly, activities that are generally protected by copyright worldwide include:

- literary works such as novels, poems, plays, references, newspaper articles;
- computer programs, website;
- films, musical compositions, and choreography;
- works of art such as paintings, drawings, photographs, and illustrations;
- buildings; and
- ads, maps, and technical drawings.

Copyright protection extends only to discourses, not to ideas, processes, methods or mathematical concepts as such. Copyright may or may not be available at most items such as titles, slogans, or logos, depending on the content.

¹¹ Nomani M Z M & Rahman F, Intellectual of trade secret and innovation laws in India. Journal of Intellectual Property Rights, 16 (2011) 341-350.

¹² Harshwardhan & Keshri S, Trade secrets: a secret still to unveil, Journal of Intellectual Property Rights, 13 (2008) 208-17.

¹³ www.bipa.gov.na/intellectual-property/copyright/

History of the Copyright Act in India

Copyright law was distributed in India in three stages. This law was introduced during the British rule of 1911. The second phase of the ordinance began in 1914. It was similar to the British Copy Act of 1911. A major change in this practice was the criminal conviction for breaking the law. Then the law was constantly being amended and the third phase of the law was introduced by an independent India in 1957 with provisions of the Berne Convention. India has followed this copyright law of 1957 to this day.

According to the Indian Copyright Act 1957¹⁴, copyright applies only within the borders of India. In order to protect foreign security, India has become a member of international copyright treaties and has signed an agreement with the Berne Convention for the Protection of Literary and Artistic works, the Universal Copyright Convention, the Multilateral Convention for the Prevention of Copyright Taxes and Travel. India has undergone many changes in the Intellectual Property government since 1995.

After completing a good quality work, one can get its copyright on that work. It is therefore not mandatory to register copyright. However, copyright registration offers many benefits to the creator. Copyright can provide evidence and prove that copyright exists and the creator is its true owner¹⁵.

The Copyright Owner has the following rights:

Copyright

A Copyright Owner may have the right to reproduce his or her work. No one other than the author will make copies of the work or part of the work of any kind without the permission of the copyright owner.

Right to Communication

The right to interact with writing, drama, music or art, film or audio recordings is the exclusive right of the copyright holder. Interpreting whether something violates copyright law or not by transferring work to the public is difficult to work with. The Court of Justice of the European Union (CJEU) has rendered a number of initial decisions regarding whether public relations have

¹⁴ <http://www.copyright.gov.in/Documents/CopyrightRules1957.pdf>

¹⁵ Intellectual Property Rights, a Manual, BITS Pilani (2007).

[Online].http://www.bitspilani.ac.in/uploads/Patent_ManualOct_25th_07.pdf and copyright gov in

taken place in certain circumstances.¹⁵ Many of these transfers are related to Internet communications. When public communication takes place online, courts need to limit the copyright holder against the right to free speech and access to the Internet. Any work for example a film cannot be made public without the author's permission if it is registered under copyright law.

The Right to Change

Copyright law defines the right to indulge in an obscene work of non-drama work, the transformation of a literary or artistic work into a dramatic work, the editing of a writing or drama work, the writing of a musical work or any other. An action that involves reorganizing or modifying an existing task. According to this right, only the concept is considered and changes are made according to needs. For example, films produced on the basis of five points by a man or a Half girlfriend written by Chetan Bhagat. Here, the concept from the book is taken not by every copied expression.

Right to Translate

The owner has the full right to translate his work into another language. Any other person doing so without the consent of the owner is a violation of that right. Anyone wishing to translate a copyrighted work must obtain the owner's permission prior to translating.

Moral Rights

Moral rights are granted only to individual authors and in many countries related to economic rights. Moral rights include the right to seek employment authorization and the right to oppose any distortion or alteration of work. Moral rights remain with him even after the grant of a copyright. In terms of the Indian Copyright Act 1957, other copyrights related to different types of copyright are mentioned in the following handbook¹⁶:

¹⁵ <https://doi.org/10.1093/jiplp/jpaa038>

¹⁶ <http://copyright.gov.in/Documents/handbook.html>

Rights in the work of drama and art

Copyrighted work of art or art means special rights to reproduce work, to communicate with work in public or to perform work in public, to publish copies of work to the public, to include work in any cinematograph film, to make any editing work.

Rights in the music industry

Copyright for a work of music means the exclusive rights to reproduce the work, to produce copies to the public, to submit work to any cinematic film or audio recording in relation to the work, to make any modifications and translations of the work.

Rights to audio recording

Copyright of audio means to make any other audio recordings that you compose, sell or rent or copy any audio recording, to communicate with.

Duration of copyright

According to general law, the duration of Copyright is 60 years. In the case of the original works of writing, drama, music and art the period of 60 years is calculated from the year following the death of the author. In the case of cinematograph films, audio recordings, photographs, postmortem publications, anonymous and anonymous publications, government activities and activities of international organizations, a period of 60 years is calculated from the date of publication.

Violation of the law

It should be noted that Copyright does not protect youth but only the original. Copyright only protects speech and not the mind. Therefore, if it is the only way to produce a job, you cannot be protected. Copyright infringement means taking financial benefits of a copyrighted work without the owner's permission.

Some of the most notorious acts involving copyright infringement are:

- making illegal copies for sale,
- which allows any place to do public works

- distributing illegal copies for commercial purposes
- a public exhibition of illegal copies in the form of commercials □importation of illegal copies into India.

The key to initiating any infringement case is to prove Copyright ownership or to prove that the infringement copied the copyrighted work. If the owner proves that the employee already has copyright under this act the minimum penalty for breaking the law is imprisonment for 6 months and a small fine of Rs. 50,000. If a person proves that this was done innocently or by mistake he or she may be charged under the Copyright Act. The intent of the offender can be considered in determining the amount of damages that will be inflicted on the alleged offense. As defined under copyright act¹⁷:

Section 52. Certain actions should not be copyright infringement. -

(1) The following actions may not include copyright infringement, that is, -

(a) Co-operate with any employee, other than a computer program, for the purposes of—

(i) Private or personal use, including research;

(ii) Criticism or review, whether of that employee or of any other employee;

(iii) Reporting on current events and current affairs, including reporting on a course presented to the public.

The two highest Indian criminal offenses in 2019 are discussed below:

Case 1: Sajeev Pillai v. VenuKunnappalli & Anr

Issue: That the author of the work even after being assigned a job will have the exclusive right to claim ownership of his or her work provided under Section 57 (1) of the Copyright Act?

Fact: The plaintiff, Sajeev Pillai, film director and scriptwriter said he researched the history of the great festival Mamankam and prepared a movie script based on the same history. He met VenuKunnappalli and signed the MoU with Kavva Film Company which was affiliated with Kunnappalli. Sajeev was initially appointed director but his job was terminated and replaced. The shooting of the movie was completed after what Sajeev had done by cutting, distorting and editing his text. Sajeev therefore filed a lawsuit seeking various assistance. An interim order was

¹⁷ Copy Right Act 1957

also filed to restrain the respondents from releasing, publishing, distributing and exploiting the film and issuing pre-release notice without granting sufficient patent credits to Pillai in accordance with the film industry standards.

Judgment: In determining the case, the court noted that the first clause of Section 57 (1) provides for the author to block third parties and subsection authorizes the author to apply for compensation by that third party for any distortion, subjugation or other modification of his work or any other act, related and that which could damage his reputation or reputation. This has given the plaintiff an unparalleled advantage in the case and that his assignment will not complete the legal right to claim ownership over it.

Case 2: Tips Industrial v Wynk Music¹⁸

Problem: Is there a legal license scheme under the Copyright Act for live streaming services?

Fact: Tips Industries Ltd (Complainant) Indian music label exercising a patent on a major music repository, in 2016, granted Wynk Music Ltd (Defendant) a license to access this music venue. At the end of the said license both parties tried to negotiate the terms of the license but failed to do so and that is why Wynk fled in terms of Section 31D of the Copyright Act. Tips challenged Wynk's Section 31D appeal, and prosecuted Wynk in terms of Section 14 (1) (e) for violating their exclusive rights to audio recordings.

Judgment: After hearing the arguments of both parties the Bombay High Court concluded that Wynk was guilty of direct violation of two counts

1. Providing copyrighted work under section 14 (1) (e) (ii) allowing users to download and listen to plaintiff's work offline and
2. Under section 14 (1) (e) (iii) of communicating the plaintiff's activities to users through their broadcast service.

Conclusions

In a developing country like India, Intellectual Property Rights are very important and play an important role in the development of society. In order to develop and compete with developed countries, an additional number of patents, copyrights, trademarks, GIs must be registered

¹⁸ Notice of Motion (L) No. 197 of 2018 IN Commercial Suit IP (L) No. 114 of 2018, decided on 23-04-2019

nationally or internationally. Therefore, it is very important to spread awareness about IPR among the people.

