

Copyright Laws in India

Mr. Anjum Naeem Dakhwe and Surve Fatima

Anjuman Islam Janjira Degree College of Science, Murud-Janjira, Raigad, Maharashtra, India

Abstract: *Intellectual property includes Patents, Designs, Trade Marks, Copyright, Confidential Information, Trade Secrets plays crucial role in the development of industry, commerce and trade. The socio-economic development of a country depends on the creative work of the people and creative works cannot be encouraged without effective administration of copyright laws. Librarians as the custodians of most of the intellectual property cannot be left out in the successful implementation of copyright laws. Violation of copyright laws can easily be carried out in the library. In order to have books, author and creators of literary and artistic works, there should be adequate reward commensurate with the work. This article states that what is copyright and its restrictions and issues, the understanding of copyright law and fair use dealings would direct us to use copyrighted content for academic and research purpose in a secure manner.*

Keywords: Intellectual property rights, copyright laws

I. INTRODUCTION

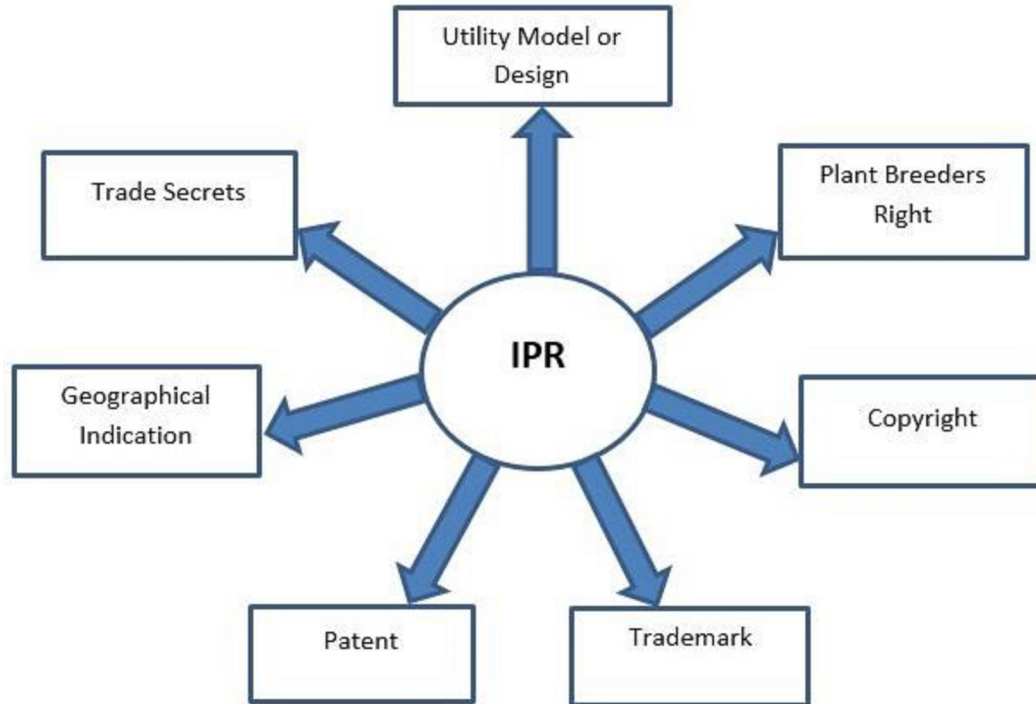
Intellectual property includes Patents, Designs, Trade Marks, Copyright, Confidential Information, Trade Secrets and know-how. It plays crucial role in the development of industry, commerce and trade and in the growth of creative effort in almost every field of human endeavour. The scope of intellectual property is expanding very fast and attempts are being made by persons who create new creative ideas to seek protection under the umbrella of intellectual property rights. In case of Copyright, in ancient times authors, painters, musicians, scientists, etc. (creators of intellectual property) i.e. people involved in intellectual exercises were state sponsored; i.e. they worked and prospered under the patronage of the King (Matthews, 2003). Their honour, valour and property depended upon the king. All the products of their intellectual cultivation were the property of the state. In a modern welfare democratic state, as they say, the common man is the king. So the need for all creative persons to fend for themselves arose. Since they were no longer sponsored by anybody, logically the rights in the produce of their intellectual exercise now vest in them rather than with the State. It was to protect this right that the need for a law of copyright arose. This need for the law of Copyright became more pressing after the invention of the printing press which made mass reproduction of the original content easily possible.

About Copyright

World Intellectual Property Organisation (WIPO), defined Copyright as “a legal term describing rights given to creators for their literary and artistic works”. Copyright is the legal protection extended to the owner of the rights in an original work that he has created. It comprises two main sets of rights: the economic rights and the moral rights. Copyright essentially relates to those acts which the creator reserves to himself or his near and dear ones in his creative works. These include right to reproduce, right to modify, right to commit for translation, right to transmutation, right to commit to other forms like cinematographic reproduction, etc.

An important thing about copyright is that, though designed in part to protect authors, the control it was designed to create was never to be perfect. Copyright protection has never accorded the copyright owner complete control over all possible uses of his work. Almost since the inception of copyright regulation, there have always been limitations to copyright (Lessig, 1999). Perfect control is not the control that law has given owners of intellectual property. Historically, the copyright has been focused mainly on commercial life, i.e. it has laid down the rules according to which for profit exploitation of intellectual property is permissible and doable. Most exceptions to the rules for commercial exploitation of intellectual property, namely the restrictions to intellectual property regulation are triggered by the idea of copyright's commercial use. Most of these restrictions make provisions for permissible non-commercial

use of intellectual property in the sense that all other non-commercial uses of intellectual property aside from these provided and allowed by law, are not permissible without the prior consent of the intellectual property right-holder.



The Indian Laws

Only original works are entitled for protection under the Act. Copyright is not concerned with literary quality, or artistic merit or originality of thought in the work. Ideas are not protected by copyright; only the material form of their expression is protected provided sufficient labour, skill and judgment has been exercised. Two authors writing independently on the same theme would produce two independent works and copyright in each work would belong to the respective author.

Subject Matter of Copyright

The copyright shall subsist in the following classes of work:

- Original literary, dramatic, musical and artistic works;
 - Cinematograph films
 - Sound recording
- a) *Literary work* includes computer programmes and compilations including databases.
 - b) *Dramatic work* includes any piece for recitation, choreographic work or entertainment in a dumb show, scenic arrangement or acting, the form of which is fixed in writing or otherwise.
 - c) *Musical work* includes graphical notation of music; it does not include any work or action intended to be sung, spoken or performed with the music.
 - d) *Artistic work* means a painting, a sculpture, a drawing (including a diagram, map, chart, plan); an engraving; a photograph; a work of architecture having an artistic character or design, including its model; any other work of craftsmanship.
 - e) *Cinematograph film* means any work of visual recording on any medium produced **India** through a process from which a moving image may be produced by any means and includes a sound recording accompanying such visual recording.

f) *Sound recording* means recording of sounds on any medium, from which the original sound may be reproduced regardless of the medium of record or of the method used to reproduce the sounds.

The Copyright Piracy in India

Copyright piracy is a global phenomenon prevalent worldwide. Piracy means unauthorized reproduction, importing or distribution either of the whole or of a substantial part of works protected by copyright. The author of a copyrighted work, being the owner, enjoys certain exclusive rights with respect to his or her works. These include right to reproduce, to publish, to adopt, to translate and to perform in public. The owner can also sell, assign, license or bequeath the copyright to another party if he wishes so. If any person other than the copyright owner or his authorized party undertakes any of the above mentioned activities with respect to a copyrighted product, it amounts to infringement of the copyright. Copyright piracy is thus like any other theft which leads to loss to the owners of the property. Besides economic loss, piracy also adversely affects the creative potential of a society as it denies creative people such as authors and artists their legitimate dues.

The Indian Copyright Act, 1957

The copyright in India has travelled a long way since it was introduced during the British rule. The Copyright Act, 1957, as amended in 1999 governs the copyright law in India. It came into force on January 15, 2000. It has established a copyright office, under the immediate control of the Registrar of Copyrights, to facilitate registration of copyright. It has also established a Copyright Board with Registrar of copyrights as its Secretary under the Act. The Act defines various categories of works in which copyright subsists, and has internal provisions for determination of first ownership of copyright, the scope of rights conferred; assignment and licensing of copyright; compulsory licensing and the circumstances in which it could be granted; performing rights of societies broadcasting rights; authors special rights; international copyrights. The Act sets out in detail what constitutes infringement and what does not; civil and criminal remedies against infringement and remedies against threat of legal proceedings without any ground.

The Indian copyright law is in conformity with the provisions of the TRIPS Agreement of the WTO. It is also in line with the provisions of the Berne Convention for the Protection of Literary and Artistic Works (Brussels Text, 1948). The act has been amended five times in the years 1983, 1984, 1992, 1993, and 1999 to meet the national and international requirement (Thomas, 2012).

The Copyright (Amendment) Act, 2012

made to strengthen the rights of the authors, streamline the process of assignment and grant of licence, facilitate better access to works, and extend the fair use provisions, in general and particular to the Internet. There are some changes made in the provision of the assignment and licensing and copyright societies are exempted to streamline business practices but has an underlying concern about protecting authors' interest. The reforms made in the administration of the copyright societies and the copyright board. Overall amendments have the signature of a reformist approach.

Role of Librarians in Copyright Protection

In any educational institute librarian plays a key role in many spheres, including copyright. The main role of librarian is to make available of library collections to students and faculty in support of teaching, learning, research and scholarship. Libraries are creatures of the historical and statutory balance in copyright law. Libraries lend materials based on the First Sale doctrine. Libraries share materials and preserve works under specific provisions for libraries in the Act. Libraries are often the only entities that provide access to the vast majority of copyrighted works that lose market vitality long before the expiration of the copyrights, and are often the only entities that preserve public domain materials.

II. CONCLUSION

Intellectual property includes Patents, Designs, Trade Marks, Copyright, Confidential Information, Trade Secrets plays crucial role in the development of industry, commerce and trade. The socio-economic development of a country

depends on the creative work of the people and creative works cannot be encouraged without effective administration of copyright laws. Librarians as the custodians of most of the intellectual property cannot be left out in the successful implementation of copyright laws. Violation of copyright laws can easily be carried out in the library. In order to have books, author and creators of literary and artistic works, there should be adequate reward commensurate with the work. This article states that what is copyright and its restrictions and issues, the understanding of copyright law and fair use dealings would direct us to use copyrighted content for academic and research purpose in a secure manner.

REFERENCES

- [1]. The Law of copyright in India by R Dhiraj, Advocate, SAPR Advocates
- [2]. Indian Copyright Law and Digital Technologies by T C James, Journal of Intellectual Property Rights Vol 7, September 2002, pp 423-435
- [3]. Copyright Act, 1957: A Study with Reference to Selected Cases in India Vishwasrao S Mane, Namita Khot, Journal of Advancements in Library Sciences ISSN: 2349-4352 (Online) Volume 6, Issue 1 (Special) www.stmjournals.com
- [4]. Intellectual Rights in India. [Internet]. [cited 11 February 2019]. Available from: https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/627956/IP-Rights-in-India.pdf
- [5]. RG Anand v. Deluxe Films [Internet]. En.wikipedia.org. 2019 [cited 6 February 2019]. Available from: https://en.wikipedia.org/wiki/RG_Anand_v._Deluxe_Films
- [6]. Garware Plastics and Polyester ... vs Telelink And Ors. Etc. on 31 January, 1989 [Internet]. Indiankanoon.org. 2019 [cited 6 February 2019]. Available from: <https://indiankanoon.org/doc/858705>
- [7]. [Internet]. Ssce.ac.in. 2019 [cited 6 February 2019]. Available from: http://scee.ac.in/notic_eboard/10550_05022016IPR_COPYRIGHT_STUDY_MATERIAL.doc
- [8]. Bookwindow.in. (2019). Central Law Publication an Introduction to Intellectual Property Rights By J PMishra online@ Best Price. [Online] Available at: <https://bookwindow.in/product.php/intellectual-property-rights-mishra-english> [Accessed 7 Feb. 2019].
- [9]. Super Cassetts Industries Ltd vs Music Broadcast Pvt. Ltd on 3 May, 2012 [Internet]. Indiankanoon.org. 2019 [cited 7 February 2019]. Available from: <https://indiankanoon.org/doc/119540048>
- [10]. Understanding Copyright Laws: Infringement, Protection and Exceptions Anjaneya Reddy N M; Lalitha Aswath, International Journal of Research in Library Science ISSN: 2455-104X Indexed in: IJIF, ijindex, SJIF Volume 2, Issue 1 (January-June) 2016, 48-53 Received: 11 April 2016 ; Accepted: 23 April 2016 ; Published: 30 April 2016 ; Paper ID : IJRLS-1137
- [11]. Prakash, Pranesh (2012). Exhaustion: Imports, Exports, and the Doctrine of First Sale in Indian Copyright Law. NUJS Law Review, Vol 5, Iss. 4, p635-664
- [12]. Uppaluri, Ujwala (2012). The Libraries Exception: What the Amended Copyright Act does (and should do) for Preserving and Sharing Knowledge in the Digital Era. NUJS Law Review, Vol 5, Iss. 4, p665-685
- [13]. Crews, Kenneth D (2013). Copyright Law for Librarians and educators. American Library Association. Chicago, ISBN: 97881840882470.
- [14]. Alka Chawla (2013). Law of Copyright. Lexis Nexis India. Gurgaon, ISBN: 9788180388354.
- [15]. <http://www.wipo.int/portal/en/index.html>
- [16]. <http://copyright.gov.in/documents/handbook.html>
- [17]. <http://copyright.gov/title17/circ92.pdf>
- [18].