

**ORIGIN OF COPYRIGHT LAW IN INDIA**

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**Introduction:**

Generally the word “property” is known to the public at large in the form of ‘tangible property’ and in the legal language it is known as movable and immovable property. Earlier to the 17<sup>th</sup> century the idea was developed to identify the intellectual property of a person which is in the nature of intangible property such as patents, industrial designs, copyright and trade marks. In the last few years the law of intellectual property has gained importance in India and other countries in the world. With the changing needs of the society the importance of the subject has further enhanced and it has been considered as one of the most important subject in the field of law.

The intellectual property can be divided in to two main sectors namely:-

1. Industrial property
2. Copyright Law

Industrial property means it is a kind of intellectual property and that relates to Creations of the human mind i.e., (i) Inventions (ii)Industrial designs (iii) Trade Marks (iv) Service Marks (v) Commercial names (vi) Trade names (vii) Indication of source (ix) Applications of origin and (x) Repression of unfair competition.

Copyright means the exclusive right to do or authorize to do certain acts in relation to (i) Literary, dramatic, musical and artistic works (ii) Cinematograph film and (iii) Sound recordings.

## **2. OBJECT OF COPYRIGHT LAW:**

Copyright is a kind of intellectual property and has gained importance in recent times due to the development of the society and civilization. The scope of copyright law also broadened coping with the innovations in the field of science and technology as a subject matter of copyright. The copyright law has spread from the field of literary, dramatic or musical works but also artists, dress designers, architects, publishers, cinematographic firm, sound recordings and entertainment industries. In the last few years it has further extended with the development and access to the computer programmes, audio-video recordings, reprography, cable television programmes were drawn in to the copyright law.

## **3. COPYRIGHT LAW – INTERNATIONAL CONVENTIONS:-**

There are several important conventions evolved at the global level regarding protection of copyrights. At the international level in England in 1707 the first copyright legislation was enacted with a view to protect the copyright. The evolution of intellectual property law started with adoption of Paris convention in the year 1883. Popularly known as Paris convention. This convention was revised several times and finally it was revised in 1967 at Stockholm to deal with the industrial property law.

The first international convention on the law of copyright was the ‘Barne convention’ for the protection of literary and artistic works with the object to protect the literary and Artistic works with the object to protect the literary and Artistic works. This convention also revised several times and it was revised lastly on 24<sup>th</sup> July, 1971. In the year 1952 the another important treaty was adopted in this field in the Universal copyright convention, this was signed at Geneva on 6<sup>th</sup> September, 1952 and revised in the year 1971 at Paris.

Another important international convention called Rome convention was passed in the in the year 1961, it provides protection for t.e neighboring rights in relation to performers, producers of programmes and broadcasting organizations. This convention was followed by two treaties signed in Geneva in the year 1996.

- (i) WIPO copyright treaty, 1996 with regards to digital technology and internet and
- (ii) WIPO performance and programmes Treaty, 1996.

The above two treaties was adopted in Geneva by the WIPO Diplomatic conference on copyright and Neighbouring Rights Questions

The main objects of world Intellectual property organization (WIPO) are

- (i) To promote protection of intellectual property through out the world through co-operation among states and with collaboration with international organizations like ILO and UNESCO.
- (ii) To ensure administrative co-operation among intellectual property unions.

In the year 1970 the WIPO became a specialized agency of the united agency system of organization, with mandate to administer intellectual property matters reorganized by the member States of United Organisation. The most important international organization responsible for development of intellectual property rights is the W.T.O created in the year 1995. The WTO is the successor to the General Agreement to Tariff and Trade (GATT). This was established to create a new international economic order in the changed liberal economy. Another important International Agreement between the members of WTO is Agreement of Trade Related Aspects of Intellectual property Rights, 1994 (TRIPS). This agreement binds on all the members of WTO. The main object of the agreement is to reduce distortions and impediments to international trade. Art. 9 to 14 of the Agreement deal with copyright and

related rights. TRIPS include time frame by which WTO member countries have to give effect to its provisions:

(i) Developed countries were required to implement TRIPS complaint legislation by 1st January, 1996.

(ii) Developing countries were required to implement the TRIPS agreement provisions by 1<sup>st</sup> January, 2000.

(iii) Undeveloped countries have to implement the TRIPS agreement provisions by 1<sup>st</sup> January, 2006.

The Government of India is bound by the conditionality's of the TRIPS agreement and Indian parliament has taken steps in making law in conformity with TRIPS agreement. The amendments which have been made in various intellectual property laws like trademarks, copyright, law of design, semi-conductor and integrated circuits, trade secrets, patents, Geographical indications and plant varieties.

### **COPYRIGHT LAW IN INDIA**

Prior to the independence we have several legislations on of copyright. After independence a separate law exclusively on the copyright was enacted in the year 1957 namely copyright law act, 1957 repeating the applicability of copyright act, 1911 and 1914. In the year 1971 a Universal copyright convention was signed at Paris and as a result thereof the copyright act, 1957 was amended in the year 1983 for the following specific purposes:

(i) Incorporating the provisions of compulsory licenses for translation and reproduction of foreign works required for instructional purposes

(ii) Providing adequate protection of author's rights.

(iii) Removing administrative draw backs and other lacunae experienced in administration of copyright act, 1957.

India developed in the field of technology; new problems arose and started infringement of copyright. To overcome the evils of piracy the copyright act was again amended in the year 1984.

In 1994 India signed on GATT Agreement. The copyright act, 1957 was amended by copyright amendment Act, 1994 with a view to put our country at par with other developed countries in the field of law relating to intellectual property and copyright in particular. Again the act was amended in the year 1999 and amendments were made in the definition of literary work the meaning of copyright in respect of computer programmes and increased the term of copyright in respect of computer programmes and increased the term of copyright of performers from 25 to 50 years besides other

#### **REMEDIES FOR INFRINGEMENT OF COPY RIGHT:**

Infringement of copyright is defined in section 51 of the copyright act. A person infringes a copyright if he, without a license does an act which only owner has exclusive right to do. Infringing a copyright not only gives rise to civil remedies but also imposes criminal liability on the offender. Civil remedies are available under chapter xii of copyright act and affected person can obtain injunction, damages for the infringements.

#### **APPLICATION OF COPYRIGHT PROTECTION TO COMPUTER PROGRAMMES:**

Computer programmes are also included in 'literary works' under section 2 of the act. Computer software including many items like the programmed manuals and papers, punch cards and magnetic tapes and disks required for computer operation. As per the definition "Computer Programme" means a set of instructions expressed in (i) words (ii) codes (iii) Scheme or (iv) if

any form including a machine readable medium capable of causing a computer (a)to perform a particular task or (b)achieve a particular result As per this definition “Computer includes any electronic or similar device having information processing capabilities. The act also recognizes a person who created any literary, musical or artistic work through computer as an ‘author’ for the purpose of copyright protection.

The inclusion of computer and computer programmes under the Indian copyright act conferred copyright on computer programme and other works by virtue of the act. Such rights, inter-alia, include the right to reproduce the work on any material form including the storing of it in any medium of electronic means, issue copies of the work to the public etc., In addition, the right in the case of computer programme regard less of such copy as been sold or given on hire or earlier occasions.

#### **INFRINGEMENT OF COPYRIGHT OF COMPUTER PROGRAMMES:**

The rights of the owner of the computer programme is infringed when (a) any Person (i) without a licence granted by the owner or (ii) the registrar of copyrights or (iii) in the contravention of the licence so granted does any act leading to violation or encroachment of their exclusive right conferred upon the owner of the copyright of (b) Permits any place for profits to be used for the communication of the work to the public etc., if such acts amounted to infringement of the owner rights knowledge on the subject. However, a computer programme cannot be treated as an infringement of copies are made or adoption of computer programme by lawful possessor of such programme from such copy (i) in order to use the computer programme for the purpose for which it was supplied or (ii) to make back up copies purely as a temporary protection against loss, destruction or damage only to utilize the computer programme for the purpose for which it was supplied.

Computer related works, inter-alia

- (a) feeding the information in to computers
- (b) copying in floppies
- (c) Manipulating the information (Modification, codification, indexing, storing, editing)
- (d) Storing in floppy, hard disk, cd's, magnetic tapes.
- (e) Retrieving
- (f) Sharing using, the same information by more than one person at one or different locations. Simultaneously through internet.
- (g) Printing
- (h) Backups
- (i) Handling other devices
- (j) Xerox through computer etc.,

Copying the original work by any person other than the owner than the owner without the consent and knowledge of the owner in the normal course may amount to infringement very often the computer related works are protected through passwords. However these days breaking the password without the knowledge, consent and permission of the original users is the over of the day the other devises is (i) paving way for copyright infringement is through computer hacking (ii) copying illegally from one hard disk to another without the consent of the original user (iii) source of infringement would be copying from the venders. In case where the software work so obtained by hiring the services of computer specialists for writing software's, there is a danger that the vendor may sell the same to the another person without the knowledge of the real owner who wrote the software (iv) leading to infringement of copyright of computer programme would be through purchase of software with coding for further modification. Now a day's most

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of the companies are doing the same for further modification. In such cases, there is a scope to infringement of the right of the real owner without making real and original contribution to the subject matter by the vendor. (v) To infringe the copyright of the owner of computer programme I through coding and decoding as the experts are well trained to decode the programmes protected already.

### **CONCLUSION:**

The law of intellectual property has become an integral part of the economic life in the world at large. The use of ideas and information that are of commercial value are being protected under this law. The revolution taken place in the field of information technology has posed challenges particularly in the area of copyright law. Though the copyright act, 1957 has incorporated adequate measures to protect the right of owners of copyright in general and authors of literary work in particular (the computer programme also defined in literary work). It is an undisputable prevailing fact that the authors of literary works are being exploited by publishers in many ways such as not paying remuneration or paying inadequate remuneration or paying inadequate remuneration or royalties and non-disclosure of total number of copies sold in the market etc.,

The video piracy has become an integral part of day-to-day life style in most of the metropolitan cities and our copyright law failed to provide relief to the authors of original work, The copyright confers a long lasting right in literary or artistic creation. In case of infringement of such rights law provided certain remedies to the owner. But our experience with the existing law shows that we have not succeeded in this direction and still a lot is left to be achieved. New technology is certainly bound to pose new problems in the field of video piracy, information technology, computer programmes, literary, dramatic musical and artistic creation etc.,



The need is arisen for enforceability of copyright act in fullest extent for copyright owners in India and international community of the world. Our India would stand by the expectations of the world at large for protecting the intellectual property rights and consequently benefiting all people of our nation and the world.

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