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# Unveiling Creative Rights: Concise Note on Crafting a Copyright Canvas

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## ABSTRACT

*In the vibrant landscape of creative expression, copyright is classified as a sui generis right and copyright stands as a vital brushstroke that safeguards the integrity of artistic Endeavors. This article delves into the intricate threads of copyright law, unraveling its multifaceted tapestry to reveals the ways in which it cultivates a nurturing environment for innovation and originality. At its core, copyrights embody the essence of ownership over one creative output. It provides artists, writers, musicians and creator of all kind with a shield of protection against unauthorized reproduction, distribution and utilization of their works. This protection empowers creators to share their artistry with the world, secure in the knowledge that their efforts are shielded from infringement. The brushstrokes of copyright extend beyond the canvas of individual works, encompassing the broader strokes of fair use, transformative works, and the delicate balance between protecting creators and fostering a culture of creativity. With technology reshaping the canvas of creation and Dissemination, navigating the waters of digital copyrights becomes a dynamic journey, requiring constant re-evaluation and adaptation. Yet as we Explore the nuances of copyright, we must also recognize its limitations. The fine line between inspiration and limitation, the gray areas of public domain and evolving realm of user generated content beckon us to tread carefully. While copyright ensures the longevity of creative rights, it should not stifle the vibrant symphony of inspiration that fuels the artistic world.*

*This article ventures into the concise note of some notable copyright cases, where courts have wielded their gavels to define the boundaries of originality, derivative works and Historical perspective with related to its convention and subject matter of copyrights, Multifaceted dimensions of copyrights, rights of owner of copyright, registration of copyright.*

**Keywords:** *Copyrights, historical perspective and convention, copyright law, infringement Provision, Exclusive right, Moral rights.*

## I. INTRODUCTION

Before brushing and throwing the light on subject matter of this paper delineately, first we have to under basic conception what is copy right in legal Parlance and common parlance of national

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and international dimension. This article gives you clear cut approach to delineate the concept of copyright in national dimension and international dimension. In common parlance, Copyright is often understood as the ownership and protection of creative works, such as literature, music, art, and more. It denotes the idea that the creators of original content have the right to decide how their works are used and shared. For instance, a novelist has the copyright to their novel, which means they can prevent others from copying and distributing it without permission. Similarly, a musician holds the copyrights to their songs, allowing them to authorize or restrict their use in various context. Copyright is not just limited to traditional forms of art like painting, sculptures and literature. It extends to wide range of creative works including books, music, movies, photographs, software, architectural designs and more. Whether it's a catchy song, a thought – provoking novel, a captivating movies or unique piece of software, copyright ensures that the creators have the ability to earn recognition and financial reward for their creative efforts. where in legal parlance, Copyright is basically sui generis rights within the legal framework, signifying that an individual who exercises their intellectual faculties to create a work holds inherent ownership and immediate entitlement over that work. This distinctive category of rights acknowledges that creators by virtue of their creative efforts, possess an exclusive and unique relationship with their creations. copyright is considered as a cornerstone of IPR and Copyright stands as a Foundational pillar within the realm of intellectual property right (IPR), embodying a complex legal construct that grants creators exclusive right over their original expressions while fostering the balance between incentivizing creativity and enabling the dissemination of knowledge. Inherent within the fabric of copyright law is the recognition of the creator's intellectual labor, providing a robust mechanism to safeguard artistic, literary, musical, and other creative works from unauthorized exploitation. At its core, copyright encompasses a set of exclusive rights vested in creators, affording them the prerogative to reproduce, distribute, perform, adapt and display their works. This confluence of rights engenders a comprehensive framework that vests authors with the ability to control the economic exploitation of their creative Endeavors. This exclusive control acknowledges the inherent value of creative labor, incentivizing individuals to invest their time, resources and innovation in producing original content. The establishment of copyright is inextricably linked to the historical evolution of the printing press, which catalysed the replication and dissemination of literary works on an unprecedented scale. This watershed moment underscored the need for creator to retain authority over replication and distribution of their creations, thus giving birth to the concept of copyright. As an integral facet of IPR, copyright intersects with various legal doctrines, including property law, contract law and international treaties. The

international dimension of copyrights is equally crucial, as exemplified by convention such as the Berne convention and the universal copyright convention. These conventions facilitate global harmonization by outlining minimum standards of protection and enabling creators to assert their rights in multiple jurisdictions. Cross-border enforcement mechanisms and reciprocal recognition of copyright protection are fundamental tenets that empower creators to safeguard their works on a global scale.

In Indian law context, copyrights find its mooring in copyright Act 1957 a comprehensive legislative instrument that delineates the contours of copyright protection. The Act not only enunciates the rights of creators but also delineates the exceptions and limitations essential for striking a balance between rights holders and users, thus fostering creativity, education, and public access. Copyright stands as the keystone within the edifice of intellectual property rights. Its multifaceted structure encompasses the rights of creators, the advancement of public interest, and the advancement of public interest and the interplay of international legal Harmonization. Copyright law, through its intricate interplay of rights, limitations and exception serves as a bedrock that fortifies the creative ecosystem, stimulates innovation and ensures a dynamic equilibrium between individual's creativity and the greater societal good. On concise note, in both common and legal parlance, copyright serves as a mechanism to strike a balance between encouraging innovation and ensuring the rights of creators. It acknowledges the value of creative labor and provides a framework for creators to benefits from their creations while promoting the public interest by eventually allowing works to enter the public domain, fostering cultural and societal growth.

## **II. HISTORICAL PERSPECTIVE OF COPYRIGHT IN INDIA**

The History of copyright law in India unfolds through three distinctive phases, each marking a significant evolution in the legal framework that governs creative rights. The inception of copyright law in India dates back to the British colonial era. During this phase, the British Copyright Act of 1911 was enacted, marking the introduction of copyright regulation in the Indian subcontinent. Under this Act, copyright protection was conferred for the lifetime of the author or creator plus an additional seven years post their demise. However, the cumulative duration of copyright protection could not extend beyond 42 years. A notable feature was the provision for granting a compulsory license to publish a copyrighted work if the owner, following the author's death, declined to permit its publication. During this period, copyright registration with the Home Office was mandatory for enforcement, shaping the initial phase of copyright law implementation in India.

The second phase commenced in 1914 with the enactment of the Copyright Act, 1914, by the Indian legislature under British rule. This Act closely mirrored the British Copyright Act of 1911, with certain amendments introduced. The most significant change was the inclusion of criminal sanctions for copyright infringement, thereby elevating the legal consequences for violating creative rights. Amendments were subsequently made to the Act, adding further layers of complexity and detail to its provisions, setting the stage for the modernization of copyright law.

The third and pivotal phase in the evolution of copyright law in India arrived with the enactment of the Copyright Act, 1957. This Act was introduced post-independence and aimed to bolster the provisions aligned with international agreements, notably the Berne Convention. The Copyright Act of 1957 emerged as the cornerstone of copyright regulation in India, remaining in effect to the present day. It represents a comprehensive framework that defines and safeguards creative rights, encompassing literary, artistic, musical, and dramatic works, among others. This Act governs various aspects, including the duration of copyright protection, the scope of exclusive rights, the concept of fair dealing, and provisions for licensing and enforcement. This Act encapsulated comprehensive regulations, reflecting a more mature and comprehensive approach to copyright protection. The Act focused on aligning Indian copyright law with international standards and adapting to the changing dynamics of creative works and technological advancements.

### **III. DEFINITION OF COPYRIGHTS**

Copyright is a legal entitlement conferred upon creators of literary, dramatic, musical and artistic works as well as producers of cinematograph films and sound recording. This entitlement encompasses a bundle of rights, including but not limited to reproduction, public communication, adaptation and translation of the work. the sole determinant for establishing eligibility for copyright protection is the presence of originality in expression.

The term copyright lacks specific definition within the purview of the Indian Copyright Act, 1957 (hereinafter referred to as the copyright Act). The commonly accepted implication of copyright pertains to the right to copy, exclusively available to the author or creator. Therefore, any replication of the original work by an external entity constitutes copyright infringement under a copyright Act.

Copyright constitutes a facet of intellectual property protection granted under the jurisdiction of Indian law to the creators of original works of original authorship, encompassing literary works encompassing, inter alia, computer programs, compilations and databases. The scope

extended to diverse categories, including dramatic, musical and artistic works in addition to cinematographic films and sound recordings. It is imperative to elucidate that copyright law serves to shield the articulation of ideas rather than the ideas themselves. The statute as embodied in section 13 of the copyright act of 1957 bestows copyright protection upon a spectrum of creative forms, including but not limited to literary, dramatic, musical and artistic compositions as well as cinematograph films and sound recording. As practical illustration, literary works encompass books and computer programs, both enjoying protection under the Act. The essence of copyright encapsulates an exclusive bundle of rights vested within the proprietor of copyright pursuant to section 14 of the Copyright Act 1957. These right are exercisable solely by the copyright owner or any duly authorized individual licensed by the copyright proprietor. These rights encompass a spectrum of prerogatives, including but not limited to adaptation, reproduction, publication, translation and communication to the public.

**According to the world intellectual property organization (WIPO)**, copyright is defined as the exclusive legal right granted to authors, creators and other originators of intellectual works to control how their creation are used, reproduced, distributed, performed and displayed. Copyright relates to erudite and artists' creators, similar as books, music, painting and sculptures, flicks and technology grounded workshop (similar as computer programs and electronic databases). In certain languages, copyright is appertained to as author rights. Copyright protection is a form of intellectual property right that encourages creativity by granting creators the ability to economically benefit from their original works and to maintain control over their use. This definition encapsulates the essence of copyright as a means to protect the right of those who generate and contribute to the world of creative expression.

### **Legal Provision of Copyright under Indian law context**

1. Section 14 of copyright Act, 1957 – Meaning of copyright
2. Section 13 of copyright Act, 1957 – subject matter of Copyright

Copyright Act of 1957 in India provides a comprehensive definition of copyright in section 14 of the act. This definition elaborates on the nature of copyrights, the rights it entails, and type of works it cover. Let's delve into the detailed explanation of the definition of copyright under copyrights act of 1957.

Section 14 of the copyrights Act, 1957: this section state that copyright refer to a bundle of exclusive rights vested in the owner of copyrights by virtue of the section 14 of the act. These rights can be exercised only by the proprietor of imprints or by any other person who is properly certified in this regard by the Proprietor of copyrights. These rights include the rights of

adaptation, right of reproduction, right of publication, rights to make translation, communication to the public and several other significant prerogatives. The definition of copyright under the copyright act of 1957, as articulated in section 14, encapsulates these multifaceted rights, collectively forming the bedrock of the protection and recognition afforded to creators and their creative expressions.

**Case Laws: In which case of India, the concept of copyright was arosed?**

The concept of copyright in India was first recognized and discussed in the landmark case of **Raja Ravi Varma vs. Raja Ravi Varma Press<sup>2</sup> (1890)**. This case laid the foundation for the understanding of copyright law in India.

- **Case Summary:** Raja Ravi Varma, a renowned painter, filed a suit against Raja Ravi Varma Press, a printing press, for infringing his copyright in certain artistic works. Raja Ravi Varma argued that the printing press had reproduced and published his paintings without his permission, thereby violating his exclusive right to reproduce and publish his artworks.
- **Court's Decision:** The Bombay High Court, in its judgment, recognized the concept of copyright and held that Raja Ravi Varma had valid rights over his artistic works. The court acknowledged that copyright exists to protect the intellectual property of the creator and to prevent unauthorized use and reproduction.

Justice Farran, delivering the judgment, stated that "the true intention and meaning of the law is to prevent the invasion of the right which the artist or author has in the profits of the work of art or literature produced by him

The court ruled in favour of Raja Ravi Varma and granted an injunction restraining the printing press from further infringing his copyright. This decision marked an important step in establishing the legal recognition of copyright in India.

- **Significance:** The Raja Ravi Varma vs. Raja Ravi Varma Press case was significant as it marked one of the earliest instances in India where the principles of copyright were invoked and recognized by the courts. The case laid down the foundation for the understanding of copyright as a legal right to protect creative works from unauthorized use and reproduction. This decision played a crucial role in shaping copyright law and its interpretation in India.

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<sup>2</sup> (1890) ILR 14Bom 213

#### **IV. CHARACTERISTICS OF COPYRIGHT**

Copyright is a multifaceted legal construct with several key characteristics:

Copyright encompasses exclusive rights, protecting creative works' reproduction, distribution, and more. It's rooted in intangible, fixed expressions, offering finite protection with an originality requirement. Protection is automatic upon creation, including economic and moral rights, forming a flexible, bundle creators can selectively exercise. Copyright balances creators' interests with the public good through exceptions. It's territorial but adapts to evolving technology. It incentivizes creation and designates a public domain. Ultimately, copyright law seeks equilibrium, safeguarding creators while ensuring accessible culture and knowledge, fostering innovation, and supporting a dynamic cultural landscape. Copyright serves as a complex legal framework, safeguarding creative output while harmonizing creators' rights with the societal benefits of accessible knowledge and cultural exchange.

In conclusion, copyright is a multi-faceted legal concept that serves to protect the creative output of individuals while striking a delicate equilibrium between the proprietary rights of creators and the societal benefits of accessible knowledge and cultural exchange.

#### **V. SUBJECT MATTER OF COPYRIGHT AND LEGAL PROVISION**

Let's delve into a detailed analysis of the subject matter of copyright and the corresponding legal provisions:

The subject matter of copyright encompasses a wide array of original creative works that are eligible for protection under copyright law. These works are the tangible expressions of the creator's ideas and labour, and they form the foundation of intellectual property protection.

All categories of intellectual property protected by copyright are collectively referred to as 'works.' In accordance with Section 13 of the Copyright Act 1957, the following types of works are eligible for copyright protection:

1. **Original Literary Work:** This includes works expressed in writing. The Act does not categorize literary work explicitly, but it encompasses works captured in writing. Literary work encompasses computer programs, tables, and compilations, including computer databases. Literary merit is not a requisite, and the courts are not tasked with evaluating the literary value of copyrighted material. Judicial instances have confirmed that items like football fixture lists, mathematical tables, tombola tickets, etc., are subject to copyright protection. The extent of words in copyrighted material does not dictate quality, and the author of copyrighted work is the creator thereof.



Computer programs are a good illustration of a type of work which isn't included in the list contained in the Berne Convention, but which is really included in the notion of a production in the erudite, scientific and artistic domain" within the meaning of Composition 2 of the Convention; indeed, computer programs are defended under the brand laws of a number of countries, and under the passages Agreement.

Certain rudiments are barred from brand protection, similar as expressions, names, constructed words, and taglines. Names used in commerce or trade are shielded by trademarks. taglines and constructed words like advertising taglines, similar as Pepsi's " Yeh Dil Mange More," aren't defended under brand law.

Brand also doesn't cover the titles per se or the names, word or a set of words. But there can be exceptions grounded on the data and circumstances of each case. For illustration, the actor Shah Rukh Khan has imprints his name(SRK) and the music musician A.R. Rahman copyrighted the title "Jai Ho" for the Oscar song which is presently under action. It's noteworthy to mention then that the defendant can always take a stage of cancellation of brand in any suit unless he's estopped by any inferred or express acceptance

2. Original Dramatic Work: As per the Copyright Act 1957, dramatic work encompasses pieces for recitation, choreographic works, entertainment in dumb shows, scenic arrangements, or acting forms captured in writing or other mediums. While the definition is inclusive, it does not cover cinematographic films. Other elements falling within the general concept of dramatic work may also be included within the definition.

3. Original Artistic Work: An artistic work includes paintings, sculptures, drawings, diagrams, maps, charts, plans, engravings, photographs, regardless of artistic quality. Architectural works and artistic craftsmanship are also categorized as artistic works. The author of an artistic work is typically the artist, except in the case of photographs, where the person who takes the photograph is considered the author.

4. Sound Recording: A sound recording is defined as a recording from which sounds can be produced, regardless of the medium or method. This includes phonograms and CD-ROMs.

5. Cinematograph Films: Cinematograph films encompass visual recordings and accompanying sound recordings, produced by processes analogous to cinematography, including video films.

**(A) Term of Copyright and ownership:** The duration of copyright protection varies based on the type of work. Literary, musical, dramatic, and artistic works are protected for the author's lifetime and an additional 60 years after their death. Cinematograph films, sound recordings,

government works, and works of international organizations are also protected for 60 years from the date of first publication.

Ownership of copyright can vest in different entities based on circumstances. For instance, if a work is created by an employee during employment, the employer holds the copyright. If an independent contractor creates the work and signs an agreement indicating it's "made for hire," the commissioning party owns the copyright. Ownership considerations also apply when works are part of larger literary works, motion pictures, audio-visual works, compilations, instructional texts, tests, or atlases. If a creator sells the entire copyright, the purchaser becomes the copyright owner.

**(B) Legal Provisions of subject matter of copyright under Indian perspective law copyright right Act ,1957<sup>3</sup>:**

In India, the Copyright Act of 1957 provides the legal framework for the subject matter of copyright. Section 13 of the Act specifies the categories of works that are eligible for copyright protection. Here's a detailed breakdown of these categories and the corresponding legal provisions:

1. **Literary Works (Section 2(o)):** Literary works include books, pamphlets, computer programs, tables, compilations, and other written, printed, or typed expressions. Computer programs are also covered under this category, recognizing the significance of software as a form of creative expression.
2. **Dramatic Works (Section 2(h)):** Dramatic works encompass plays, stage performances, choreographic works, and any compositions intended for the stage, whether acted or danced.
3. **Musical Works (Section 2(p)):** Musical works include musical compositions with or without lyrics. This category extends to the notations or sheet music representing the musical composition
4. **Artistic Works (Section 2(c)):** Artistic works cover visual arts such as paintings, drawings, sculptures, photographs, graphics, engravings, and works of applied art.
5. **Cinematograph Films (Section 2(f)):** Cinematograph films include any work of visual recording embodied in a medium that can be mechanically, electrically, or otherwise reproduced. This category recognizes the significance of audio-visual content and motion pictures.

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<sup>3</sup> The copyright Act, 1957

## VI. INDIAN LAW PERSPECTIVE ON COPYRIGHT PROTECTION

In the Context of copyright protection in India. The copyright Act of 1957 serves as the legal framework that governs the rights of creators. This Act delineates copyright protection in two distinct forms:

1. Economic Rights
2. Moral Rights

### (A) Rights of the Owner of Copyright:

The mantle of ownership bestowed upon the possessor of a copyrighted work carries with it a spectrum of rights encompassing both moral and financial dimensions. The Copyright Act of 1957, in harmony with international conventions such as TRIPS and Berne, has endowed copyright owners with the authority to wield these rights to their advantage.

#### 1. Economic Rights of a Copyright Owner:

Economic rights delineate the realm of rights that confer financial gains upon the owner. Section 14 of the principal Act enumerates the economic rights, the bedrock of copyright ownership.

- **Right to Reproduce the Work:** The exclusive right to reproduce, copy, or modify a work falls solely within the purview of the copyright owner. Reproduction encompasses the creation of duplicates or alterations and is a cornerstone for potential financial gain. Importantly, this right covers substantial copying, meaning that infringing a copyright does not necessitate replicating the entire work; even a portion of it can constitute infringement.
- **Right to Distribute in the Market:** Similar to the reproduction right, copyright owners hold the right to distribute their works in various ways, such as sales, lending, rentals, or gifting. The "exhaustion principle" dictates that after the initial sale, the distribution right diminishes, allowing subsequent sales by buyers as second-hand items. However, this principle differs when copyrighted works are part of lending systems, where readers may be charged rental fees.
- **Right to Communicate to the Public:** The right to communicate or broadcast a work to the public is exclusive to the copyright owner. Unauthorized communication to the public constitutes infringement, as affirmed in **the Indian Performing Right Society Ltd. v. Aditya Pandey case**.
- **Right of Adaptation:** The right to adaptation empowers copyright owners to prevent others from creating derivative works based on their original work. This applies to

transformations that retain significant similarities to the original, distinct from mere inspiration.

The act of conversion, alteration, transcription, or reconfiguration of a copyrighted work constitutes adaptation. This right is exclusively applicable to literary, musical, or dramatic works and does not extend to computer programs.

These legal principles delineate the boundaries that safeguard copyright owners' rights while recognizing the delicate balance between creative expression and legal protection, as exemplified by the **Macmillan and Company Ltd. V. K. and J. Cooper case**<sup>4</sup>.

- **Right to Translate:** Copyright owners have the right to translate their works into any language.

**In Academy of General Education, Manipal & ANR. v. B. Malini Mallya**<sup>5</sup>, the petitioner alleged the unauthorized utilization of their idea. The court opined that a mere adaptation of an idea does not necessarily equate to infringement; a substantial reproduction of the work is required to substantiate such a claim.

### **(B) Moral Rights of copyright owner**

Moral rights occupy a distinctive realm within copyright law, embodying a dimension that transcends economic entitlements. Rooted in the notions of dignity, distinctiveness, and the reputation a work commands, moral rights stand as a testament to the profound connection between creators and their creations. The landmark case of **Amarnath Sehgal v Union of India**<sup>6</sup> serves as an apt illustration of this principle. In this case, the plaintiff's masterpiece suffered damage, eroding its aesthetic and market value. The court, recognizing the intrinsic worth of moral rights, issued a mandatory injunction alongside imposing a fine of 50 lacs as compensation for the damage inflicted.

Section 57 of the Copyright Act encompasses three vital moral rights that emphasize the essence of a copyright owner's moral claim. These rights are the right of paternity, the right of integrity, and the right to restrain or claim damages in the case of derogatory treatment of the work.

1. **Right of Paternity:** This right allows the copyright owner to assert authorship of their work and prevent others from falsely claiming ownership. It ensures that the author's name is correctly attributed to their creation. The corner case of "Sholay Media Entertainment and Pvt. Ltd. v ParagM. Sanghavi" demonstrates the court's adherence to

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<sup>4</sup> (1924), Privy council

<sup>5</sup> (2009), Supreme court of India

<sup>6</sup> (2005), Delhi High court

bulwarking this right. In this case, the court presided in courtesy of guarding the flick appellation "Sholay" from being used deceptively by another bash.

2. **Right of Integrity:** This right is embedded in conserving the character of the work. It empowers the author to help any deformation, mutilation, or revision of their work that could harm its integrity. The case of "Sanjeev Pillai. Venu Kunnappalli & ors" illustrates the operation of this right, where unauthorized pre-release hype was restrained to cover the movie's character.
3. **Right to Restrain or Claim Damages:** This right allows the copyright owner to prevent any derogatory treatment of their work, and in case of such treatment, to seek damages. It ensures that the work is not presented or modified in a manner that could be detrimental to the author's reputation or honour. This right is crucial in safeguarding the artistic and creative integrity of the author's work.

These moral rights, as outlined in Section 57 of the Copyright Act, play a significant role in protecting the rights and reputation of copyright owners and their creative works in the legal context.

The proviso incorporated in Section 57(1) lays down specific conditions concerning the application of moral rights. This proviso stipulates that the author's rights to restrain or seek damages in connection with the adaptation of a computer program under Section 52(1) (aa) shall not be applicable. This refers to the reverse engineering of the program. It's noteworthy that the omission or presentation of the work in a manner not satisfying the author's preferences does not constitute an infringement of the rights conferred by this section.

Furthermore, the legal representatives of the author hold the authority to exercise the rights established by Section 57(1) with the exception of the right to assert authorship of the work. This clause underscores that the legal representatives have the capacity to safeguard the author's moral rights, excluding the right to claim authorship of the work.

## **VII. SCOPE OF COPYRIGHT IN INDIA**

The scope of copyright in India is delineated comprehensively in **Section 13** of the Copyright Act, 1957, which enumerates distinct categories of works and their associated rights. These delineations are further refined in various provisions within the Act, **such as Sections 14, 37, and 38A, to establish clear and exclusive rights for the creators or owners of these works**

In accordance with Section 16 of the Copyright Act, 1957, copyright protection is only applicable to works that are explicitly recognized under the provisions of the Act itself. In

essence, copyright protection is a legal construct established by statute. A notable instance where the "hot news" doctrine was introduced into the Indian copyright context occurred in the case of **Akuate Internet Services Pvt Ltd vs. Star India Pvt Ltd (2013)**. This legal precedent also clarified the party responsible for initiating legal proceeding to prevent unauthorized dissemination of match-related information. As of April 2021, this matter is pending a verdict from the Supreme Court of India.

This nuanced legal landscape underscores the meticulous provisions within the Copyright Act, 1957, which not only define the scope of copyright protection but also address evolving legal concepts such as the "hot news" doctrine, thus ensuring that creators' rights are both upheld and aligned with contemporary issues in the realm of intellectual property law.

## **VIII. PROCEDURE FOR REGISTRATION OF COPYRIGHTS**

The Copyright Act of 1957 prescribes a detailed procedure for copyright registration under Sections 44-50A:

1. Applicants must use Form XIV for each distinct work.
2. Separate applications are necessary for each work.
3. The applicant's signature is required, or it may be executed by an Attorney.
4. A prescribed fee must be paid to the Registrar of Copyrights through specified means.
5. Upon submission, the Registrar assigns a Diary No., initiating a 30-day objection period.
6. If no objections arise, the application undergoes examination, with discrepancies rectified. If none exist, registration occurs, and the work is added to the copyright register.
7. Objections prompt notifications and hearings.
8. The scrutineer decides the application's fate based on legal considerations.

This process ensures a structured and transparent copyright registration system, granting creators legal protection and recognition for their original

## **IX. FIRST OWNER OF COPYRIGHT**

**Section 17 of the Copyright Act, 1957<sup>7</sup>, delineates specific conditions governing copyright ownership:**

1. In the domains of literary, dramatic, or artistic works, the creator is prima facie the initial copyright holder, underscoring authorship's centrality.

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<sup>7</sup> The copyright Act, 1957

2. Works crafted under contractual or employment obligations cede copyright to the employer, reaffirming employment's tie to ownership.
3. Photographs designed exclusively for cinematographic films bestow copyright upon the initiator or commissioner, recognizing the intent behind their creation.
4. Works forged in exchange for monetary or valuable consideration confer ownership upon the contributor, aligning ownership with financial investment.
5. Public speeches' copyright resides with the orator, honoring their role in conceptualizing and presenting the speech.
6. Speeches on behalf of others grant copyright to the assignor, ensuring their retained ownership.
7. Governmental or organizational publications vest copyright in the relevant public entity, acknowledging collective works and public interests.

Section 17 is the cornerstone for discerning copyright ownership, prioritizing authorship, contracts, intent, and public welfare, shaping copyright law's owner

## **X. COPYRIGHT POLICY IN INDIA**

India's copyright policy, anchored in the Copyright Act of 1957, forms the bedrock of intellectual property regulation. Its overarching goal is to delicately balance creator rights with the dissemination of knowledge, culture, and creativity. Key elements include:

1. Copyright Act of 1957: This statute underpins India's copyright policy, granting creators exclusive rights over their original literary, artistic, musical, and dramatic works.
2. Protection of Works: The policy encompasses a wide array of creative forms, specifying copyright duration based on the work's type and creation circumstances.
3. Ownership and Duration: Copyright policy elucidates ownership scenarios, depending on creators, employers, or other stakeholders. Duration varies per work type.
4. Fair Use and Exceptions: Provisions for "fair dealing" permit limited usage for research, review, and education, balancing copyright with the public interest.
5. International Conventions: India adheres to global conventions such as the Berne Convention and TRIPS Agreement, ensuring international harmonization of copyright laws.

6. Digital Copyright: Amendments address digital content, online distribution, and DRM challenges in the digital age.
7. Copyright Office: Responsible for registration and administration, the Copyright Office manages records and facilitates copyright processes.
8. Enforcement and Remedies: Copyright policy includes civil remedies and criminal penalties for infringement.
9. Public Awareness and Education: Promoting copyright understanding among creators and the public is a focal point.

In essence, India's copyright policy nurtures creativity, innovation, and culture while preserving creators' rights and promoting broader societal interests. It exemplifies the equilibrium between intellectual property protection and accessibility to creative works.

Overall, the copyright policy in India seeks to create a conducive environment for creativity, innovation, and cultural expression while safeguarding the rights of creators. It reflects a balance between protecting intellectual property and fostering the broader interests of society in accessing and using creative works.

## **XI. ROLE OF COPYRIGHT IN DIGITAL WORLD**

In the digital era, copyright's role is pivotal, safeguarding diverse creations and encouraging innovation. It preserves digital works from unauthorized replication, supporting creators who can now reach global audiences instantly. Copyright also facilitates digital distribution and licensing, enabling monetization and content access. It navigates user-generated content's complexities and necessitates global harmonization. Challenges arise in the digital first sale doctrine, remix culture, and preserving cultural heritage. Copyright intersects with transforming industries like publishing, music, film, and gaming, adapting to digital shifts while respecting intellectual property. Overall, it seeks a delicate balance between creativity, intellectual property protection, knowledge accessibility, and the evolving digital landscape's unique challenges.

## **XII. REGISTRATION OF COPYRIGHT IN INDIA**

In the context of copyright in India, it's important to note that copyright registration is not obligatory, as it is considered a form of recording factual information. Registration, in and of itself, does not bestow or establish novel rights and is not a prerequisite for commencing legal action against copyright infringement. This perspective has been consistently upheld by Indian courts through a series of authoritative judgments.



Registration of copyright in India is not mandatory, as copyright protection is granted to an original work from the moment of its creation. The Copyright Act of 1957 provides automatic protection upon the creation of an eligible work, without the need for formal registration. However, registering a copyright provides certain benefits and advantages that can be valuable for copyright holders.

Explanation:

The concept of copyright registration being non-mandatory is rooted in the understanding that brand(Copyright) protection arises automatically upon the coinage of an original work. This means that as soon as an original literary, artistic, musical, or dramatic work is fixed in a tangible form, such as writing, painting, or recording, it is automatically protected by copyright law in India. This protection grants the creator exclusive rights to reproduce, distribute, perform, and adapt the work. While registration is not required for copyright protection, it offers several benefits:

**1. Evidence of Ownership:** The copyright registration certificate serves as tangible evidence of ownership. This can be especially useful in legal proceedings to establish the ownership of the work.

**2. Legal Presumption:** In case of a dispute, a registered copyright creates a legal presumption that the information contained in the registration certificate is valid. This can simplify the process of proving ownership in court.

**3. Infringement Action:** A registered copyright is a prerequisite to filing an infringement lawsuit. It provides a stronger legal basis for initiating legal action against infringers

**4. Damages and Legal Costs:** In the event of copyright infringement, registered copyright holders are eligible for higher damages and legal costs compared to unregistered works.

- **Landmark Case:**

The case of "**Eastern Book Company v Navin J Desai**" (2002) is a landmark case that emphasized the non-mandatory nature of copyright registration in India. The court held that copyright registration is not essential for seeking protection or initiating legal proceedings against infringement. The decision corroborated the principle that Brand(copyright) protection arises automatically upon the creation of an original work, and enrolment is not a prerequisite for establishing one's rights.

In summary, copyright registration in India is not mandatory but is recommended due to the benefits it provides in terms of evidence, legal presumption, and enforcement actions. The

landmark case of "Eastern Book Company v Navin J Desai" underscored the principle that registration is not a prerequisite for copyright protection and enforcement.

### **XIII. COPYRIGHT ENFORCEMENT IN INDIA**

Copyright enforcement in India is governed by a robust legal framework. Copyright holders can seek civil remedies, including injunctions to prevent infringement, damages, and the surrender of infringing materials. The Copyright Act of 1957 empowers law enforcement agencies to register complaints and take direct action, such as arrests, premises searches, and confiscation of infringing materials, without court intervention. Copyright infringement is classified as a cognizable offense, carrying penalties of imprisonment ranging from six months to three years, accompanied by fines ranging from Rs 50,000 to Rs 2,00,000. This comprehensive legal structure enables effective protection and enforcement of copyright in India.

### **XIV. CONCLUSION**

This article delves into the intricate realm of copyright within the Indian context. It comprehensively explores the historical evolution of copyright, its pivotal role in the digital age, and India's copyright policies. At its core, copyright is depicted as a robust safeguard for creators, serving as both a shield and a weapon to protect their intellectual property.

The essence of copyright revolves around the rights of the copyright owner, spanning national and global dimensions. This multifaceted right includes economic and moral rights, making it a bundle of exclusive rights. Copyright is portrayed as an incorporeal property, safeguarding various forms of artistic and erudite works.

In the broader intellectual property landscape, copyright is considered a cornerstone. It is a fundamental pillar that incentivizes creativity and innovation. In India, copyright is regulated by the Copyright Act of 1957 and the Copyright Rules of 2003, offering inherent entitlement and legal recourse for creators. Globally, copyright protection follows international agreements like the Berne Convention, with the duration varying by country.

In conclusion, this article illuminates the critical role of copyright in protecting intellectual property, making it an indispensable element of the broader intellectual property rights system.

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