

## COPYRIGHT LAW

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### ABSTRACT

*In today's world new innovation, and creation, emerges daily to help human life or for making human life smooth. The Copyright Act, 1957 is a law protecting literary, dramatic or musical works, artists, cinematography, film and sound records. This process was first time seen in 1662 during the era of the British Empire in the form of Licensing of press act 1662. As we know, in today's world there are a lot of new creations and unique publications of anything done to know the actual name of the person who is the owner of that particular creation the act comes from which is later known as the copyright act, 1957. It's been challenging nowadays in the field of research publications, thesis and patents. In this paper, we deal with the copyright act, 1957 and contain the introduction, history, administration, types, remedies, etc.*

### INTRODUCTION

Our god has given us the power of thinking and the power of observation that drives humans to do something to discover physical and biological resources on the earth. By the use of thinking, creativity, and imagination human has replaced the production of many arts, products, or maybe interest, convenience and also comfort which is important to the economy. Intellectual property includes patents, trademarks, copyright, and some confidential information and industry for the development of the country. The copyright starts from the formation of any new work or creation or publication for the first time. The current study makes an effort to discuss copyright law.

### HISTORY

During the British Empire in 1662, the Licensing of press act was passed in British Parliament. The development and campus of printing press and machines use to spread this all over the world gradually. And like this in other countries, the law makes on the same. But these laws can only protect the creator and businessmen only in their own country, but now it is worldwide acceptable. In India starting of this law was the India copyright act, 1914.

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Which was at that time in England under the English copyright act, 1911, this law was made in the U.K. with minor modifications. After the independence of India citizens and government feels the need for complete and free law on this. For broadcasting, lithography, and some other communications mediums and international liabilities, which were approved by the government of India the parliament passed the Copyright Act, 1957 later which was amended from time to time according to need. The copyright should start from the beginning of any new work or from the first publication of any work. There is no need for registration, but for proof of which person has the right to the particular creation, there is the arrangement of a copyright office under the copyright law which was established in New Delhi. The copyright symbol was introduced in 1952 by the Universal copyright convention. The copyright act, 1957 came into effect on 21st January 1958. This act was amended six times, the first was in 1983, the second was in 1984, the third was in 1991, the fourth was in 1994, the fifth was in 1999 and the last sixth was in 2012. The last amendment was in 2012. The copyright act is valid for 60 years, the calculation of the time is different according to the creation.

### **INDIAN COPYRIGHT LAW FROM BEFORE THE INDEPENDENCE**

The British province of India passed the Copyright Law, which, like other laws at the time, was a copy of English law. In 1847, under the rule of the East India Company, India passed its first copyright law. According to the statute, the copyright was valid for either 42 years or the author's lifetime plus 7 years. If the copyright holder declined, the government had the authority to give the publishing licence after the author's passing. The highest municipal civil court has jurisdiction over all lawsuits and instances of copyright infringement. The copyright statute of 1914 took the place of the previous law. The first 'modern' copyright legislation in India was established by the Act of 1914. It was the first statute to extend copyright protection to all literary and artistic creations. It was an exact duplicate of the 1911 English law. The British took this action to facilitate the spread of literature across the colonial subcontinent.

### **INDIAN COPYRIGHT LAW AFTER THE INDEPENDENCE**

On January 21, 1958, the Copyright Legislation of 1957 took effect, superseding the 1911 legislation. Along with making significant revisions to the copyright legislation, the act also established provisions for the establishment of a copyright office under the supervision of the

Registrar of Copyright for the registration of books and other works of art. In order to resolve copyright issues, a copyright board was also established.

## LICENSING ACT

**Act of 1661:** The first licencing law was enacted in 1661. Later, copyright was used to refer to the members of the stationary company's publishing rights. The members, however, were not the legal owners of the book they had written. They received the right as part of a business agreement.

**Act of 1662:** The licencing legislation of 1662 gave the business the authority to pursue legal action against rights infringement. The ability to search and seize unauthorised books was granted to a select group of members, and a record of licenced books was maintained. This was the initial step in stopping piracy<sup>1</sup>. However, the Licencing Act didn't stand the test of time. The prohibition against unlicensed printing was lifted as the system aged, which allowed independent printers to enter the market. Intellectual and mechanical piracy could not be distinguished under the Licencing Act. In the end, it was revoked in 1681<sup>2</sup>.

## EXCEPTIONS TO THE COPYRIGHT INFRINGEMENT IN INDIA

Certain actions are not considered copyright infringements under the Copyright Act of 1957. While the phrase<sup>3</sup> "fair use" is frequently used to refer to copyright exceptions in India, this usage is factually incorrect. India has a different policy regarding copyright exceptions than the US and some other nations, which adhere to the broad fair use exception<sup>4</sup>. Fair handling of any copyrighted work for the expressly stated reasons and for the expressly listed actions listed in the statute. The phrase "fair dealing" is not defined anywhere in the Copyright Act of 1957, but it has been discussed in a number of court decisions, including *Academy of General Education v. B. Malini Mallya* (2009) and *Civic Chandran v. Ammini Amma* by the High Court of Kerala<sup>5</sup>.

**Copyright ownership under the Copyright Act 1957:** According to the Copyright Act of 1957, the original owner of a work's copyright is typically believed to be the author.[14]

<sup>1</sup> <https://www.wipo.int/copyright/en/>

<sup>2</sup> <https://www.mondaq.com/india/copyright/978858/historical-development-of-law-of-copyright>

<sup>3</sup> Sec. 52(1)(a) of the copyright Act 1957

<sup>4</sup> Sec. 52 (1)(aa) to (zc) of the copyright Act 1957

<sup>5</sup> Gopalakrishnan, N. S.; Agitha, T. G. (2014). *Principles of Intellectual Property*. Eastern Book Company. pp. 369–393

However, in the absence of a contrary agreement, the employer is taken into account as the first owner of the copyright for works created during an author's employment under a "contract of service" or apprenticeship<sup>6</sup>. The Act's Section 2(z), states that "a work produced by the collaboration of two or more authors in which the contribution of one author is not distinct from the contribution of the other author or authors" is a work of joint authorship, recognises the notion of joint authorship. In cases like *Najma Heptulla v. Orient Longman Ltd. and Ors.*, this idea has been clarified.

### **ADMINISTRATION OF THE COPYRIGHT ACT IN INDIA**

- **Copyright Office**
- **Copyright Board**
- **Copyright society**

**Copyright Office:** Section 9 of the copyright act, 1957 defines the establishment of the copyright office. The copyright office shall be controlled by the registrar directly which is appointed by the central government, this is currently situated in New Delhi. The registrar works under the guidance and superintendence, or we can say that the under the supervision of the central government. Section 10 of the copyright act defines the appointment of registrar & deputy registrar. The central government should appoint the registrar and deputy registrar, and they work under the guidance and supervision of the Registrar.

**Copyright Board:** Section 11 of the Copyright Act defines the constitution of the copyright board. The copyright board shall be constituted by the central government. This board includes one chairman and a minimum of 2 members & maximum of 12 members. All the members of the copyright board shall be holding their office for a tenure of five years.

### **WORK OF COPYRIGHT BOARD**

- This board shall work on settling the disputes which are related to the assignment of copyright U/S 19-A.
- Also, this board provides a compulsory license for Indian work.
- This board provides the license for the publication of unpublished work.
- This board determines the royalties which are payable to the owner of the copyright.

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<sup>6</sup> Sec. 22-29 of the copyright Act 1957

## **COPYRIGHT SOCIETIES**

Section 33 of the copyright act defines the formation of copyright societies. Under this section, the authors and other copyright owners should be able to form a society by following the rules and laws of the act. This society is called the voluntary association of owners of the copyright which is legally registered under the copyright act by following the whole process.

### **For the establishment of the copyright society office:**

- Registration is compulsory for the establishment of a copyright society.
- After the registration of their office, they are able to grant the license.
- For the formation of this society, they need at least seven people who act as an owner of the copyright.
- Copyright society must give the application to the registrar's office of the copyright, after that all the inspections done by the registrar, the registrar shall forward the application to the central government for approval. If society fulfills the whole conditions related to registration and the government finds this relevant, then the government should approve the application for registration.

Section 14 of the copyright act, 1957 defines the meaning of copyright. Copyright means the exclusive right to do any act with respect to the work.

## **TYPES OF THE COPYRIGHT**

### **There are two types mentioned under the copyright act, 1957:**

**Economic right:** The economic right can be the sale or transfer for the purpose of money.

**Moral right:** Moral rights can be sold but the owner of the right is not replaced, it was sold for economic purpose, but the right of the owner or the name of the owner cannot be replaced.

## **REMEDIES FOR THE VIOLATION OF COPYRIGHT LAWS**

### **There are some remedies for the violation of copyright laws are:**

- Criminal remedies;
- Civil remedies;

- Administrative remedies.<sup>7</sup>

## CRIMINAL REMEDIES

Criminal remedies are defined under sections 63 to 69 of the copyright act, 1957. In which the punishment should define as for the first-time committed offence is punishable by six months imprisonment or it may be extended to 3 years, or with a fine of rupees 50 thousand which may be extended to 2 lakh rupees, or with both. For the subsequent conviction offence, it is punishable for one year which may be extended to three years, or with fine rupees one lakh which may be extended to 3 lakhs rupees, or with both.

**Civil Remedies:** Civil remedies are defined under Sections 54 to 62 of the copyright act, 1957. It is defined by different aspects such as

a) Interlocutory Injunctions

b) Mareva Injunctions

**Administrative Remedies:** The remedies under the copyright act, 1957 defines the administrative measures include moving the registrar of copyrights to ban the importation of infringing copies into India when the infringement occurs through such import and demand for the delivery of the confiscated infringing copies to the copyright owner it occurs.

## CONCLUSION

As we all know that copyright is helpful for developing or encouraging new creations in the country as well as in the world by someone. By getting the copyright on the creation of the product every person should try to invent new creativity. Due to copyright, we can easily differentiate the authors of the products and others. Every country has its own copyright office and there are different types of copyright according to their needs. And it is applicable all over the World.

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<sup>7</sup>[https://www.advocatekhoj.com/library/lawareas/copyright/remedies.php?Title=Copyright&STitle=Remedies20a gainst%20Infringement](https://www.advocatekhoj.com/library/lawareas/copyright/remedies.php?Title=Copyright&STitle=Remedies20a%20gainst%20Infringement)