

Copyright

Copyright

Copyright is a legal right which grants the creator of an original work the exclusive rights to its use and distribution, usually for a limited time.

It is a legal term used to describe the rights that creators have over their literary and artistic works. Works covered by copyright range from books, music, paintings, sculpture, films, computer programs, databases, advertisements, maps, and technical drawings.

- **According to Black's Law Dictionary:**

Copyright is the exclusive right of the owner of an intellectual production to multiply and dispose of copies; the sole right to the copy, or to copy it.

It is an incorporeal right, being the exclusive privilege of printing, reprinting, selling, and publishing his own original work, which the law allows an author.

- **According to Oxford Dictionary:**

“Copyright means the exclusive and assignable legal right, given to the originator for a fixed number of years, to print, publish, perform, film or record literary, artistic, or musical material.”

Ownership of Copyright

Author is the person who does the creative work. In the narrow sense, an author is the originator of any written work. Author is broadly defined as the person who originates or gives existence to anything.

Under Section 2(24) “author” means-

- a) regarding a **literary or dramatic work**, the **author of the work**
- b) regarding a **musical work**, the **composer**
- c) regarding an **artistic work**, except photograph, the artist

Under Section 2(36) “artistic work” means

- (a) a painting, a sculpture, a drawing (including a diagram, map, chart or plan), an engraving or a photograph whether or not any such work possesses artistic quality
- (b) a work of architecture; and
- (c) any other work of artistic craftsmanship
- d) regarding a **photograph**, the **person taking the photograph**
- e) regarding a **cinematograph film or a sound recording**, the **producer**, and
- f) regarding any literary, dramatic, musical or artistic work which is **computer generated**, the **person or institution who causes the work to be created**

First owner of copyright (Section 17)

- ✓ The author of a work shall be the first owner of the copyright.
- ✓ In the case of a literary, dramatic or artistic work made by the author under course of employment/contract of service/Apprenticeship; the employer shall be the first owner of copyright.
- ✓ In case of a photograph taken or a painting or a portrait drawn, or an engraving or a cinematograph film made by a person under anyone's personal initiative or exchange of money, the person shall be the first owner of the copyright therein.
- ✓ In the case of an address or speech delivered in public, the person who has delivered such address or speech, shall be the first owner of it, if such person has delivered such address or speech on behalf of any other person, such other person shall be the first owner of the copyright.
- ✓ In the case of a Government work, the Government shall be the first owner of the copyright therein, if there is no other agreement.
- ✓ In the case of a computer programme, the person or persons or institution appointed for creating the programme, shall be the first owner of copyright, if there is no other agreement.

“Owner of the copyright” shall include- (Section 75)

- (a) an exclusive licensee
- (b) in case of an anonymous or pseudonymous literary, dramatic, musical or artistic work, the publisher of the work

Fair use

Fair use is the necessary exception to copyright protection. It allows someone other than the copyright holder to copy, display, perform, and distribute copyrighted material under certain conditions without first obtaining permission.

Fair use is a doctrine under copyright law. It outlines the legal boundaries of utilizing copyrighted material without the copyright holder's permission. Fair use is a contradiction of the basic concept of copyright. Fair use provides the privilege of using an author's work without permission or payment.

Copyright Infringement

When copyright infringed (Section 71)

When any person, without a license granted by the owner of the copyright or the Registrar under this Act---

- does anything
- makes for sale or hire, or sells or lets for hire, or by way of trade displays or offers for sale or hire
- distributes for the purpose of trade
- by way of trade exhibits in public
- imports into Bangladesh, any infringing copies of the work

The above-mentioned acts will be treated as infringement of copyright.

Essential ingredients of Infringement of Copyright

Depending upon the nature of copyright work, infringement involves one or more of the following acts without the authorization of copyright owner:

- a) Reproduction of the work in any material form
- b) Publication of the work
- c) Communication of the work to the public
- d) Performance of the work in public, and
- e) Making of adaptations and translations of the work and doing any of the above acts in relation to a substantial part of the work.

Remedies of Copyright

Civil remedies for infringement of copyright (Section 76)

Where copyright in respect of any work or any other right conferred by this Act has been infringed, the owner of the copyright or such other right, as the case may be, shall, except as otherwise provided by this Act, be entitled to all such remedies *by way of injunction, damages, accounts and otherwise as are or may be conferred by law for the infringement of a right.*

Offences of infringement of copyright or other rights conferred by this Act (Section 82)

Any person who willingly infringes or abets the infringement of the copyright in a work, or any other right conferred by this Act, except the right conferred by section 23, other than in the case of cinematograph film, shall be punished with imprisonment for a term which may extend to four years but *not less than six months and with fine which may extend to taka two lakh but not less than taka 50,000 (fifty) thousand.*

Any person who willingly infringes or abets the infringement of copyright in a cinematograph film, shall be punished with imprisonment which may *extend to five years but not less than one year and with a fine of not exceeding five lakhs but not less than one lakh.*

Duration of Copyright protection in Bangladesh

In Bangladesh the term of copyright varies according to the nature of the work and whether the author is a natural person or a legal person e.g., a corporation, Government Institution, etc., or whether the work is anonymous or pseudonymous.

Sections 24-38 of the 2000 Act deal with the term of protection as follows:

- 1) in cases of **literary, artistic, musical, dramatic works**, the terms are 60 years from the beginning of the calendar years next following the year in which the author dies (**Life + 60 years**)
- 2) in case of **joint authorship of a work**, the term will be 60 years from the death of last surviving author (**60 years from death of the last surviving author**)
- 3) in case of **cinematographic film**, the term is 60 years following the year in which the film is published (**60 years from publication**)
- 4) in case of **sound recordings**, it is 60 years from publication (**60 years from publications**)
- 5) in cases of **photograph**, the term is 60 years from the beginning of calendar year next following the year in which the photograph is published (**60 years from publication**)
- 6) in cases of **Govt. works**, it is 60 years from first publication (**60 years from first publication**)
- 7) in cases of **local authority**, the term is 60 years from first publication (**60 years from first publication**)
- 8) in case of **works of international organizations**, the term is 60 years from first publication (**60 years from first publication**)
- 9) in case of **broadcasting**, the term is 25 years from the beginning of the calendar year next following the year in which the broadcasting is made (**25 years from broadcasting**)
- 10) in case of **performance**, it is 50 years from the beginning of the year next following the year in which the performance is made (**50 years from the first performance is made**)
- 11) in case of **published edition** (typographical arrangement), the term is 25 years from the beginning of the calendar year next following the year in which the edition is first published (**25 years from the first publication**)

Copyright Act also provides for the protection of **broadcast reproduction rights for a term of twenty years** from the beginning of the calendar year next following the year in which the broadcast is made and **protection of performer's rights**, which extends to **fifty years** from the beginning of the calendar year next following the year in which the performance is made.