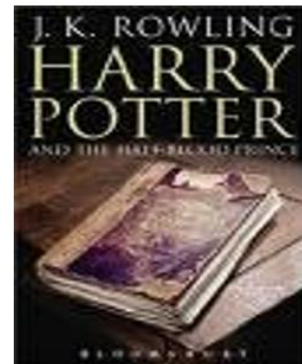


UNIT – III

COPYRIGHTS

Copyrights:

Copyright comes under Intellectual Property Rights; Intellectual property is classified into various types of assets, like trademarks, patents, industrial designs and geographical indications. Copyright is a right given on Intellectual creations. It is an exclusive right given by law to print, publish and sell copies of original work for a certain period. The objective of copyright is to safeguard the author or the creator from unauthorized reproduction of his creation. The domain of copyright is literary and artistic works, like writings, musicals and works of fine arts, such as paintings and sculptures, as well as technology-based works such as computer programs and electronic database.



Rights of performers - They include a live performance of a pre-existing artistic, dramatic or musical work, or a live recitation or reading of a pre-existing literary work. The work performed need not be previously fixed in any medium or form and may be in the public domain or protected by copyright. The performance may also be an improvised one, whether original or based on a pre-existing work. (Ex: actors, musicians)

Rights of producers of sound recordings (or “phonograms”) in their recordings

Ex. Compact discs.

Rights of broadcasting organizations in their radio and television programs transmitted over the air and

Nature of Copyright:

The nature of copyright refers to the legal rights granted to creators of original works to control the use and distribution of their creations. Copyright provides creators with exclusive rights to their works for a limited period, granting them the ability to reproduce, distribute, perform, display, and create derivative works based on their original creations.

Here are some key aspects of the nature of copyright:

1. **Ownership:** Copyright automatically vests in the creator of an original work as soon as it is fixed in a tangible form, such as writing, recording, or drawing. In some cases,

copyright ownership may be transferred to another party through assignment or licensing agreements.

2. **Scope of Protection:** Copyright protects original works of authorship, including literary works, musical compositions, artistic creations, architectural designs, software code, and other creative expressions. It does not protect ideas, facts, or methods of operation.
3. **Duration:** The duration of copyright protection varies depending on factors such as the type of work and the jurisdiction. In many countries, copyright protection typically lasts for the life of the author plus a certain number of years after their death (e.g., 70 years in many jurisdictions). For works created by corporations or anonymous authors, copyright protection may last for a fixed term from the date of creation or publication.
4. **Exclusive Rights:** Copyright grants creators several exclusive rights, including the right to reproduce the work, distribute copies, publicly perform or display the work, and create derivative works based on the original. These exclusive rights enable creators to control how their works are used and to derive economic benefits from their creations.
5. **Fair Use and Exceptions:** Copyright law typically includes provisions for fair use or fair dealing, which allow limited use of copyrighted works without permission for purposes such as criticism, commentary, news reporting, teaching, scholarship, or research. Additionally, copyright laws may include specific exceptions for activities such as library archiving, educational use, or disability accommodations.
6. **Enforcement:** Copyright owners have the right to enforce their exclusive rights against unauthorized use or infringement of their works. Remedies for copyright infringement may include injunctions, damages, and attorney's fees, depending on the jurisdiction.
7. **International Protection:** Copyright protection is governed by international treaties such as the Berne Convention and the TRIPS Agreement, which establish minimum standards of protection for copyrighted works among member countries. These treaties facilitate the recognition and enforcement of copyright across borders.

Subject matter of Copyright:

All subject matters protected by copyright are called protected works. Thus, according to Section 13 of the Copyright Act 1957, it may be subjected for the following works: Original Musical work, Original Literary Work, Original Dramatic work, Cinematography films, Original Artistic work and Sound recordings.

1. Original literary work:

Literary work refers to works that are in writing. The Act does not classify literary work, but we understand that as work that are captured in writing. The act says that literary work includes computer programmes, tables, and compilations including computer databases. The literary work need not have any literary merit and it is not the job of the courts to look into the literary merit of copyright work.

The number of words in a copyrighted material is not an indicator of quality and the author of copyrighted work is the author who makes the work or who creates the work. There are certain things that cannot be protected under a copyright.

For instance, phrases, names, invented words and slogans cannot form a part of copyright protections. The names especially used in commerce or in trade are protected by trademarks and invented work and slogans.

Example: The slogan which Pepsi used a while ago “Yeh Dill Mange more”, which is an advertising slogan was held something that can not protected under the copyright Act.

2.Original dramatic work:

It defined as “including any piece of recitation, choreographic work or entertainment in dumb show, the scenic arrangement or acting, form of which is fixed in writing or otherwise but does not include a cinematograph film”. The terms literary and dramatic are used together and the principle applicable to literary work will be applicable to dramatic work as well. The author of a dramatic work is the person who authors the work.

3.Original Musical work:

Musical work was defined as a work consisting of music and includes any graphical notation of such work but does not include any work or any action intended to be sung, spoken or performed with the music. In 2012 Amendment, there was a grant of statutory license for cover versions. A song typically contains both literary and musical work.

Therefore, the tune and lyrics together forms the song. Lyric of a song is the literary part and it is protected as a literary work and the writer of the lyrics is the author of the work. Music accompanying the song is treated as a musical work and the author of the musical work is the composer of the musical work. So, in the song there can be two rights that are set of rights in the literary work and rights in the musical work and they are owned by different people. The author of this right is different people.

4. Original Artistic work:

Artistic work is original, creative and expressive. In India, copyright for artistic work is governed by the Copyright Act, 1957. Artistic work includes paintings, sculptures, drawings, photographs, prints, lithographs, architectural plans, maps and sketches. Copyright for artistic work in India gives the owner of the copyright exclusive rights to reproduce the work, make derivative works, distribute copies of the work and publicly display the work. The copyright owner can also authorise others to do these things.

Cinematography Films:

The term “Cinematograph films” refers to any visual work or video recording on any medium generated using a method that might result in the creation of an image in motion. As said, it is composed of both a sound recording and a visual recording and can be created using any technique. video films and other works created using a technique resembling a cinematograph must be considered “cinematography” in legal terms. In a nutshell, a cinematograph film is defined as any realistic system work with moving pictures or visuals.

Copyright in cinematographic films is a protection one of its own kind where the producer has the exclusive right to protect his work and enjoy the right to do or authorize someone to do the following under section 17 of the Copyright Act, 1957:

Making the copy of the film or of a photograph of any image which forms the part of the film and also storing the work in any medium by electronic or other means.

1. Selling or giving on commercial rental or offer for sale.
2. Communicating the film to the public.

Sound Recording:

Sound-on-film processes can either record an analog sound track or digital sound track, and may record the signal either optically or magnetically.

Copyright Protection for Sound Recording:

An audio-visual composition called a sound recording depends on a variety of sounds but does not replicate them. Copyright for sound recordings, which is somewhat more constrained than copyright for other works, pertains to the freedom to perform a work in public using only “a digital sound recording.” Sound recordings can be shown to the public in a variety of ways without violating their copyright.

A musical work is engaged in a variety of uses of a sound recording when it is dependent on the musical work. If a license is required in such circumstances, it must be sought from the person who has the legal right to the job.

Section 52A of Copyright Act

Unless the following information is printed on the sound recording and any associated containers, no one may disseminate a sound recording in relation to any work.

A person’s name and address are listed in-

- (a) the record maker’s information.
- (b) the title and address of the copyright holder for such a work; and
- (c) the year it was initially published.

Copyright Registration:

Copyright registration can be obtained by applying to the copyright office for registration of work under copyright laws in the prescribed form along with the necessary fee. Application for copyright registration must be made on “Form IV” along with the “Statement of Particulars and Statement of Further Particulars”.

Along with the application, three copies of published work should be sent. If the work to be registered is unpublished, a copy of the manuscript has to be sent along with the application for affixing the stamp of the Copyright Office in proof of the work having been registered. In case two copies of the manuscript are sent, one copy of the same duly stamped will be returned, while the other will be retained, as far as possible, in the Copyright Office for record and will be kept confidential.

Copyright Protection Validity:

copyright protection is valid for 60 years. In the case of original literary, dramatic, musical and artistic works the 60-year period is counted from the year following the death of the author. In the case of cinematograph films, sound recordings, photographs, posthumous publications, anonymous and pseudonymous publications, works of government and works of international organisations, the 60-year period is counted from the date of publication.

Benefits of Copyright Registration:

There are many benefits of Copyright Registration some of these given below:

1. **Legal Protection:** Copyright Registration provides legal protection to a creator's original work. It serves as an official record that establishes a public claim to the work,

confirming the creator's rights. This process involves obtaining legal documentation for the work and enhancing its protection. With this, if an infringement occurs, the creator has stronger legal grounds for their claim. This way, Copyright Registration fortifies the security of creative works, safeguarding creators' interests and rights.

2. **Exclusive Rights:** Copyright Registration grants the creator several exclusive rights that protect the uniqueness of their work. By registering their copyright, the creator becomes the sole authority with the rights to reproduce, distribute, display, and perform their creation. This legal process ensures that no one else can use, copy, or profit from their work without obtaining proper authorization. It empowers the creator to control how their work is used and provides a strong foundation for enforcing their rights in case of infringement.
3. **Public Notice:** Copyright Registration serves as a public declaration of a creator's ownership over their original work, asserting their rights under copyright law. This process deters unauthorized use of their intellectual property. Essentially, registration notifies the public about the copyright holder's claim, offering a layer of security against infringement. It provides a legal foundation for protecting the creator's work, ensuring their rights are respected and any unlawful uses can be legally contested and possibly penalized.
4. **Infringement Lawsuit:** The registration of a copyright is a crucial legal requirement for initiating a lawsuit against an infringer in many jurisdictions. This step solidifies your claim of ownership, strengthening your legal standing. Without copyright registration, your rights remain limited, meaning enforcement of your copyright in court may be hindered. In essence, registering your copyright provides you with robust protection, bolstering your ability to fight against unauthorized use of your work and seek just compensation.
5. **Enhanced Marketability:** Copyright Registration offers a significant advantage of enhanced marketability for creators. By obtaining copyright protection, a work gains increased value and stands out among others in the market. This legal recognition adds credibility and attracts potential buyers, investors, or licensees. Moreover, registered copyright enables



Ownership of copyright:

In case of a literary, dramatic or artistic work made by the author in the course of his employment by the proprietor of a newspaper, magazine or similar periodical under a contract of service or apprenticeship – in the absence of the agreement to the contract, the proprietor is the first owner of the copyright.

- In the case of photograph taken, painting or portrait drawn or engraving or cinematograph film made for valuable consideration at the instance of any person – in the absence of any agreement to the contrary the person who commissioned it is the first owner.
- In the case of a work made in the course of the authors' employment under a contract of service or apprenticeship – in the absence of any agreement to the contrary, the employer is the first owner.
- In the case of any address or speech delivered in public – the person who delivered address or speech is the first owner.
- In the case of a government work in the absence of any agreement to the contrary, the governments is the first owner of the copyright.
- In the case of a work made or first published by or under the direction or control of any public undertaking – in the absence of any agreement to the contrary, the public undertaking is the first owner of the copyright.

Duration of Copyright:

The copyright term varies according to the nature of the work (60 years from the death of author in case of literary, dramatic, musical or artistic work & 60 years after publication of a photograph, film or sound recording.

STATUTORY EXCEPTION UNDER SECTION 17 OF THE COPYRIGHT ACT, 1957

Section 17 of the Copyright Act, 1957 is an exception to the fundamental or general rule of the author being the first owner of the copyright. This section Simply elaborates consideration paid by the person for the work to be done shall become the first owner of the copyright. Let's see this section in more detail.

Section 17 (a) of Copyright Act, 1957: literary, dramatic and artistic works:

Section 17 (a) deals with literary, dramatic, and artistic work. This section states that whoever such type of work is done by the author during the tenure of employment or service to the owner of the newspaper, book, magazines, etc. under the contract or obligation to publish such work under such circumstances the owner of that newspaper or magazine shall become to the owner of the copyright.

