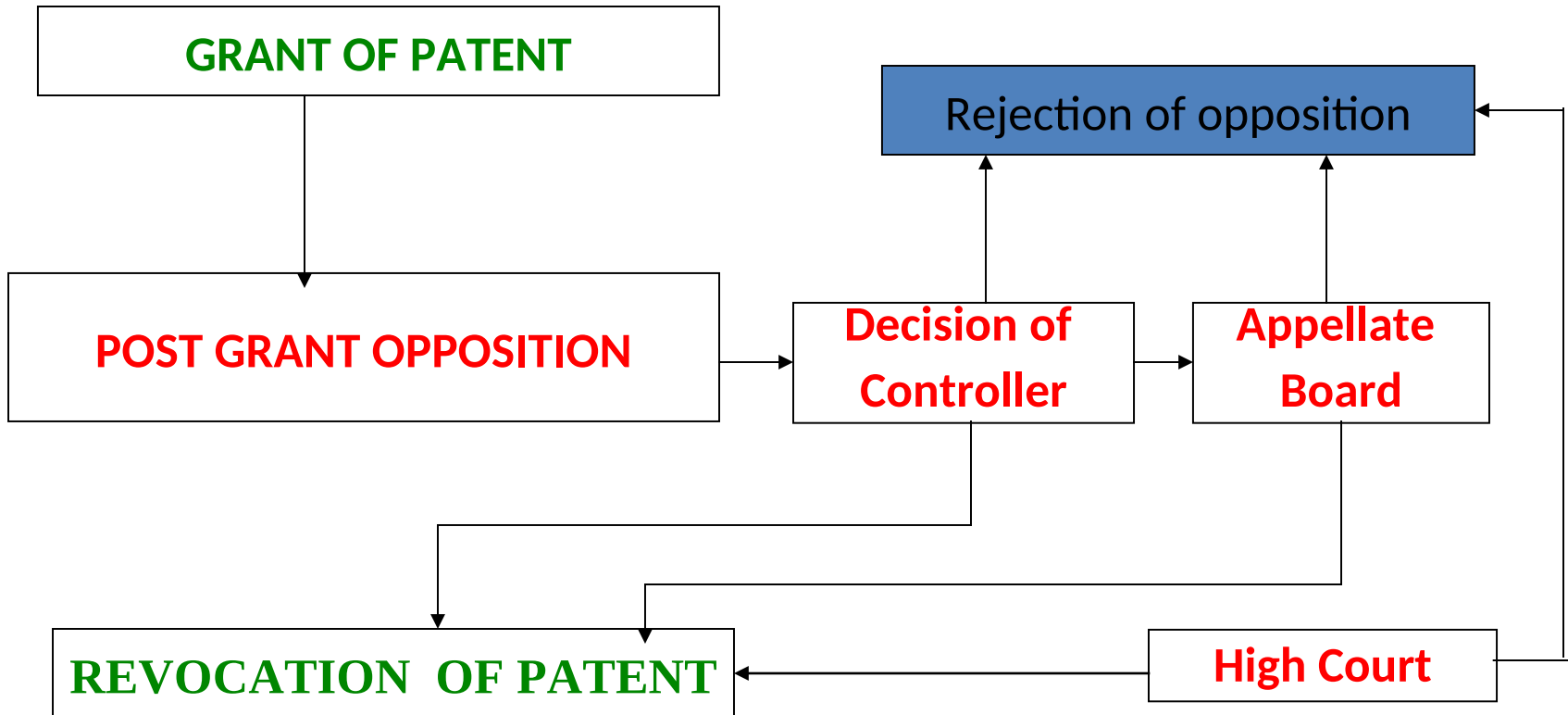


Publication and Examination

Rule 24-B: Examination of application (contd.)

- 4) The period within which the Controller shall **dispose off** the report of the examiner shall ordinarily be **one month** from the date of the receipt of the such report by the Controller.
- 5) **First Examination Report (FER)** along with application and specification is sent to applicant or his agent ordinarily within **6 months** from date of **request of examination** or within 6 months from **date of publication** whichever is later. In case other interested person files the request, an intimation is sent to such person.
- 6) Applicant shall comply with the requirement within **12 months** from the date on which first statement of objection was issued. (section 21)

A PROCEDURE FROM FILING TO GRANT OF PATENT (Cont.)



IMPORTANT FEES IN DIFFERENT PROCEEDINGS

(Amount in Rupees)

	<u>Individual</u>	<u>Legal Entity</u>
➤ Application for Grant of Patent	1000	4000
➤ Request for Examination of Application	2500	10000
➤ Request for Publication	2500	10000
➤ Substitution of Applicant	500	2000
➤ Notice of Opposition	1500	6000
➤ Restoration of Lapsed Patent	1500	6000
➤ Renewal Fees (for 20 years)	48000	192000

PS. Professional help Patent Drafting costs around 30000



DUTIES OF PATENTEE

- Maintenance of the patent
 - ❖ Pay renewal fees
 - ❖ Every year till the end of the term
 - ❖ Time limit: before end of the preceeding year (6 months extn. Available)
- Working of the patents:
 - ❖ Inventions are to be worked in India on commercial scale
 - ❖ Failing which compulsory licence may be issued

Patent Infringement

1. Demand the infringer stop & pay damages for past infringement
2. Offer a “Royalty”
3. Ignore the infringement or postpone action
4. File a patent infringement lawsuit in federal court

Litigation vs Licensing

If the objective is to stop a competitor from offering a product that infringes one's patent.

If the objective is to obtain royalty for the use of one's invention.

Alternatives To Litigation



- Litigations are costly, timely, & disruptive
- Alternative dispute resolutions (ADR) include **Mediation** & **Arbitration**

Trade-Related Aspects of Intellectual Property Rights (TRIPS) in the World Trade Organization **Compliance**

- Agreement enhanced the protection and enforcement of IPRs to the level of solemn international commitment.
- India is a signatory of TRIPs Agreement in the Uruguay Round agreement of 1995 and hence, the government has initiated action to bring in the requisite changes.
- In the last few years, India has enacted fully TRIPs-compliant Trademarks Act, Copyright Act, Designs Registration Act, Geographical Indications Act and Protection of Layouts for Integrated Circuits Act.

Basic Facts about WIPO



WIPO's Mission:

To promote the protection of IP rights worldwide and extend the benefits of the international IP system to all member States

Status: An int'l intergovernmental organization

Member States: 183

Staff: 915 from 94 countries

Treaties Administered: 24

Decisions by: GA, CC, WIPO Conference

Guiding Principles: Transparency,
Accountability,

Consensus

Copyrights



An intellectual property right granted by a government to the author of an original literary, dramatic, musical, artistic, or other eligible creative work to an author, composer etc. (or his assignee) to print, publish and sell copies of his original work”

Statute-based, no registration **necessary**

Why Copyright?

- *Fair Play*: Reward creative efforts.
“Thou shall not steal”
- Exclusive rights for limited time → *Negative right*:
prevent copying/reproduction
- Copyright is **necessary** →
encourage dissemination of
copyrighted works = public interest



Copyright Subject Matter

The work concerned has to be

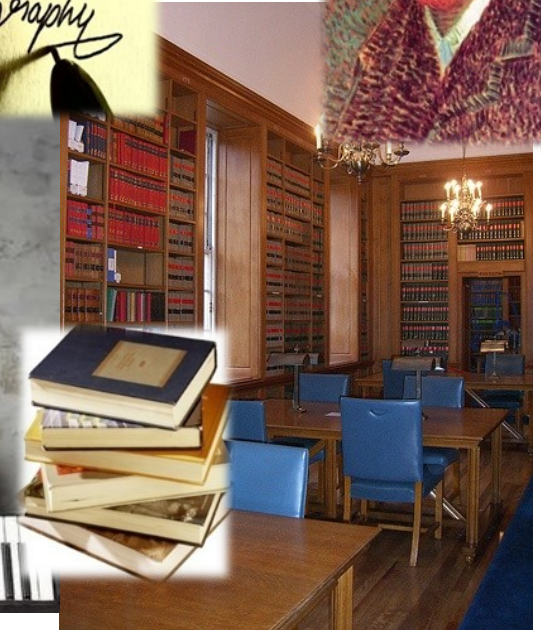
- ***Original***
- ***Work of authorship***
- ***Fixed***

What Copyright Protects

- Original Literary, Dramatic, Musical and Artistic Works
- Cinematograph Films
- Sound Recordings

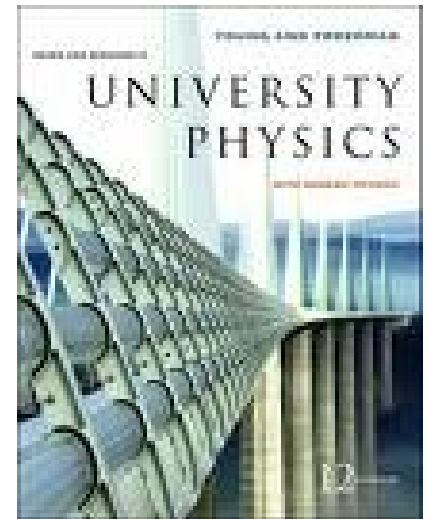


Photographs



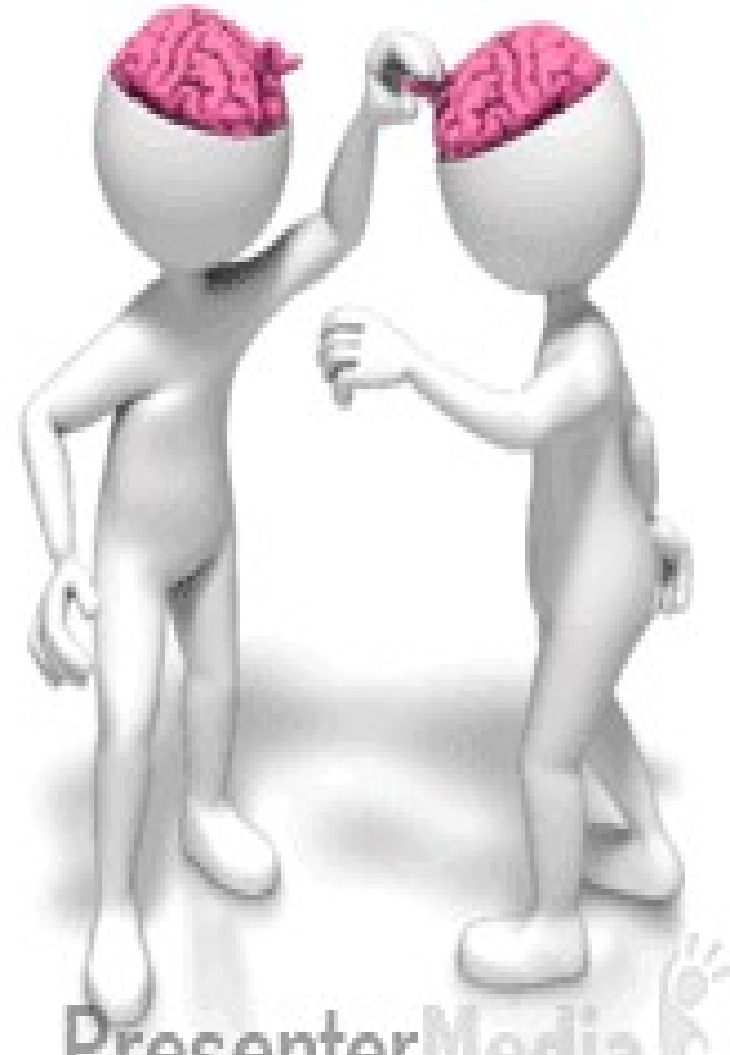
Literary Works

- Novels, poems, short stories
- Books on any subject
- Computer programmes, tables, computer databases
- Song lyrics



Copyright Registration - Mandatory?

- ✓ No. Automatic Acquisition of copyright
- ✓ Comes into existence- On Creation
- ✓ Certificate of registration -Prima facie evidence in dispute relating to ownership.



DURATION AND TERMS OF COPYRIGHT



Copyright protection lasts for 60-year from the year following the:

- Literary work
- Dramatic work
- Musical work
- Artistic work
- Sound Recording
- Cinematograph work

Death of
Author

Date of
Publication

PERFORMER'S AND BROADCASTER'S RIGHTS

25 Years

- Rights of a performer in a cinematograph film

- Cessation of Rights after Consent
Broadcast:

Communication to the public by any means of:

Wireless diffusion or by wire.

Instruction for Filing copyright registration form Online:

1. Enter your valid User ID and Password to login.
2. Click onto **NewUser Registration**, if you have not yet registered.
3. Note down User ID and Password for future use.
4. After login, click on to link “**Click for online Copyright Registration**”.

Instruction for Filing copyright registration form Online:

5.The online “**Copyright Registration Form**” is to be filled up in four steps

- 1.**Complete the Form XIV**, then press SAVE button to Save entered details, and press Step 2 to move to Next Step.
- 2.**Fillup the Statement of Particulars**, and then press SAVE button to Save entered details, and press Step 3/4 to move to Next step
- 3.**Fillup the Statement of Further particulars**. This form is applicable for “LITERARY/ DRAMATIC, MUSICAL AND ARTISTIC” works, and then press SAVE button to Save entered details, and press Step 4 to move to Next Step.
- 4.**Make the payment through Internet Payment gateway**

Instruction for Filing copyright registration form Online:

6.After successful submission of the form, Diary Number will be generated (Please note it for future reference).

7.Please take hard copy(print) of “Acknowledgement Slip” and “Copyright Registration Report”, and send it by post to

Copyright Division

**Department of Industrial Policy & Promotion, Ministry of
Commerce and Industry**

Boudhik Sampada Bhawan,

Plot No. 32, Sector 14, Dwarka, New Delhi-110075

Email Address: copyright@nic.in

Telephone No.: 011-25301202

**FEE CAN BE PAID BY POSTAL ORDER /DEMAND DRAFT/ONLINE PAYMENT
PAYABLE TO “REGISTRAR OF COPYRIGHTS, NEW DELHI”:**

- | | | |
|---|--|--|
| 1. | For a license to republish a Literary, Dramatic, Musical or Artistic work (Sections 31, 31A, 31B* and 32A) | Rs. 5,000/- per work |
| 2. | For a license to communicate an any work to the public by Broadcast (Section 31(1)(b)) | Rs. 40,000/- per applicant/per sataton |
| For an application for registration or copyright in a: | | |
| | (a) Literary, Dramatic, Musical or Artistic work | Rs. 500/- per work |
| 3. | (b) Provided that in respect of a Literary or Artistic work which is used or is capable of being used in relation to any goods or services (Section 45) | Rs. 2,000/- per work |
| For an application for change in particulars of copyright entered in the Register of Copyrights in respect of a: | | |
| 4. | (a) Literary, Dramatic, Musical or Artistic work | Rs. 200/- per work |
| | (b) Provided that in respect of a literary or Artistic work which is used or is capable of being used in relation to any goods or services (Section 45) | Rs. 1,000/- per work |
| 5. | For an application for registration of Copyright in a Cinematograph Film (Section 45) | Rs. 5,000/- per work |
| 6. | For an application for registration of copyright in a Sound Recording (Section 45) | Rs. 2,000/- per work |
| 7. | For taking extracts from the indexes (Section 47) | Rs. 500/- per work |

General Principles for Use



- for the purpose of research or private study,
- for criticism or review,
- for reporting current events,
- in connection with judicial proceeding,
- performance by an amateur club or society if the performance is given to a non-paying audience, and
- the making of sound recordings of literary, dramatic or musical works under certain conditions.