

Copyright And Related Rights

**Introduction, Registration, Assignments,
License of Copyrights,
Copyright Piracy,
Different Related Rights**

What is Copyright

- Copyright is an intellectual property right.
- Like other intellectual property rights such as patents and trademarks, it is a creation of law.
- It is provided to the creators of literary, dramatic, musical and artistic works.
- **Objective:** ensure that creators of original works which contribute to the advancement of learning and culture gain from their intellectual productivity.

Rationale of Copyright

- **The principle of natural justice:**

- Since an author is the creator of a work he/she has the natural right to decide who should use it.
- The creator is also entitled to get economic returns for his/her efforts.

- **The economic argument:**

- Creation of many works, e.g. a cinema, requires considerable investment. Even literary works require considerable investment if they are to be published and distributed.
- In order to attract investments, it is necessary to guarantee the investors from poaching on the works they publish by others.

Rationale of Copyright

- **The cultural argument:**

- Creative works are assets to national culture.
- Encouragement and rewarding of creation of works, contributes to the national culture.

- **The social argument:**

- Dissemination of works contributes to advancement of society and in creating links between different classes, and groups. Such dissemination without undermining the interests of the creators is possible through copyright protection.

Nature of Copyright

- Like other intellectual property rights it is a property right, but **the right is in intangible property**. It is the right of the author in the creations of his mind expressed in a **tangible format**.
 - **Example:** in a book of essays, the right of the author is not in the physical copy of the book in which the essays have been printed, but in his creative expressions which are the essays.
- Copyright, being a property right, can be transferred or assigned to another person.
- It can also be inherited by the legal heirs of the author or the assignee.
- A copyright owner can also license specific uses, without transferring or assigning his rights. Such licenses are usually for specific purposes and specific periods

Nature of Copyright

- Copyrights are territorial in nature. (the rights are recognized and bound by the domestic legislations of the country in which the work is created)
- Copyright is not one right but a bundle of rights which extend to reproduction, distribution, communication to the 'public, translation, etc. of a work. These are not monopoly rights but exclusive rights.
- It is possible, though not very probable, for two authors to create two identical works independently. When both the works are original both can enjoy copyright.

Principle of Originality in Copyright

- **The principle of originality in copyright means:**
 - Only that the work should not be copied from another work. The rights covered by copyrights are negative rights.
 - They prevent the copying of physical material in the field of literature and arts so that the moral and material interests of the author are protected.
 - Copyright is in the expression and not in the ideas and facts. For example, the facts of history can be expressed by "different authors differently and each one will get protection for his expressions which form a work.

Works in which Copyright Subsists

- The products protected under copyright are referred to as 'works' just as products protected under the Patents Act are referred to as 'inventions'.
 - Works are the creative expressions of persons.
 - A work is a meaningful expression of an idea.
- There is no copyright in ideas but in the expressions of the ideas. These expressions, however, need to convey something. They ought to be in a tangible form, although in India, oral music is also protected. They could be any of the following:
 - A literary, dramatic, musical or artistic work
 - A cinematograph film, or
 - A sound recording.
- The above list broadly covers almost all forms of recordings of creative expressions.

Works in which Copyright Subsists

- The Copyright Act uses an inclusive definition of literary work.
 - It says literary work includes computer programmes, tables and compilations including computer databases. Therefore, **the scope of literary work is very broad.**
 - It includes all written or printed documents, such as stories, novels, poems, songs, screen plays, notes, speeches, essays, theses, dissertations, papers, affidavits, judgements, orders, registers, notices, written replies to communications and so on.

Works in which Copyright Subsists

- It does not require a high literary quality or style, but should be the result of considerable labour or skill.
- 'Literary' does not refer to any particular form of literature such as prose or poetry, but includes all. Even ordinary private letters which may not have any literary quality and may contain grammatical errors will also qualify as literary works.

Works in which Copyright Subsists

- Similarly, business letters and official letters also fall within the purview of literary works.
- A book of arithmetic is also a literary work.
- Even a compilation or catalogue of names of products or medicines or items if it is the result of expending of skill or labor will also come under the category of literary work.
- Another example is question papers. Answer papers are also literary works.

Works in which Copyright Subsists

- Another example is question papers. Answer papers are also literary works. Questionnaire prepared for undertaking a research is also literary work as per the copyright Act.
- In certain contexts, even meaning becomes irrelevant to qualify such as a telegraph code or shorthand. Of course, the codes should be intelligible to the persons skilled in that area.
- The definition further expands the scope of literary work by specifically stating that computer programmes, tables and databases are also literary works.

Works in which Copyright Subsists

- Dramatic works include any piece for recitation, choreographic work or even entertainment in dumb show, the scenic arrangement or acting, form of which is fixed in writing or otherwise.
- Musical work is defined as meaning a work consisting of music and includes any graphical notation of such work but does not include any words or any action intended to be sung, spoken or performed with the music, thus clearly excluding from its purview the lyrics.

Works in which Copyright Subsists

- Artistic work, again, has a wide scope.
 - It includes a painting, a sculpture, a drawing, an engraving or a photograph, whether or not any such work possesses artistic quality.
 - Drawing includes a diagram, map, chart or plan. It also means a work of architecture and any other work of artistic craftsmanship.

Works in which Copyright Subsists

- The Copyright Act has put cinematograph-films as a separate category of works.
- The definition of cinematograph film is also very broad. It includes any work of visual recording on any medium produced through a process from which a moving image may be produced by any means and, includes a sound recording accompanying such visual recording and 'cinematograph' shall be construed as including any work produced by any process analogous to cinematography including video films.
- Video tapes and digital formats fall under the definition of cinematograph films.

Works in which Copyright Subsists

- Indian Copyright Act also extends copyrights to sound recordings.
- In many countries, rights over sound recordings fall under the category of related rights and not copyrights. But in India they are treated on par with cinematograph films.
- Sound Recordings include phonograms, CDs, LPRs and any other device on which sound is recorded except those which come under the ambit of cinematograph films.

Originality in Copyright

- Originality refers to the creation of work that is independently created and not copied from existing works. It's a fundamental requirement for copyright protection.
 - **Threshold of Originality:** The work doesn't have to be novel or unique but must bear the personal touch of the creator.
 - **Independent Creation:** The work must originate from the author, showcasing their skill and judgment.
 - **Example:** A photograph taken by a photographer. (The photograph is original because the photographer chose the subject, framing, lighting, and angle, showcasing their personal creative choices.)

Originality in Copyright

- Originality applies to various forms of works like literary, artistic, and musical works.
 - **Artistic Works:** Includes paintings, drawings, where originality lies in expression, not the idea.
 - **Literary Works:** Originality in choice, arrangement, or expression of words.
 - **Musical Works:** Originality in melody, harmony, or rhythm.
 - **Example:** A novel written by an author. (The novel's originality lies in how the plot is developed, character creation, and the narrative style, even if it's a common genre or theme.)

Types of Copyright

- **Literary Works Copyright:** Protection for written works
- Subtypes:
 - Books, Articles, Poems
 - Software Code
 - Databases
 - Example: A novel (The copyright protects the text of the novel, not the ideas or plot.)

Types of Copyright

- **Artistic Works:** Protection for visual artistic creations
- **Subtypes:**
 - Paintings, Drawings
 - Sculptures
 - Photographs
 - **Example:** A photograph taken by a professional photographer. (The copyright protects the specific visual expression captured in the photograph.)

Types of Copyright

- **Musical Works:** Protection for musical compositions
- **Subtypes:**
 - Song lyrics
 - Musical scores
 - Sound recordings (sometimes categorized separately)
 - **Example:** A song's music score. (The copyright protects the written music, not the genre or style.)

Types of Copyright

- **Dramatic Works:** Protection for works intended for performance
- **Subtypes:**
 - Plays
 - Screenplays
 - Choreography
 - **Example:** A script for a play. (The copyright protects the script's text and stage directions)

Types of Copyright

- **Derivative Works:** Protection for works based on or derived from another copyrighted work
- **Subtypes:**
 - Translations
 - Adaptations (e.g., novel to film)
 - Arrangements of music
 - **Example:** A film adaptation of a novel. (The copyright protects the unique elements added in the film, separate from the original novel.)

Ownership of Rights

- Literary – author
- Drama – Dramatist
- Music – Composer
- Artistic work – Artist e.g. Painter, sculptor, architect
- Photograph – Photographer
- Author of Computer Programme – Person who causes the work to be created
- Cinematograph film – producer
- Sound Recording - producer

Author as Owner of Rights: Exceptions

- In the course of employment – employer
- Employment by newspaper, magazine – employer has publishing right; other rights with author
- Photograph, painting, cinema for valuable consideration – person who pays money
- Lecture delivered in public – Person delivering
- Government Work – Government
- Public Undertaking Work – public undertaking
- Work of International Organization – International Organization

Author as Owner of Rights: Exceptions

- Question Papers – Paper setter
- Encyclopedia, dictionary – editor for collection
- Music under contract by film producer – film producer

Securing Copyright

- Formality free protection
- Voluntary Registration
- Registration does not as a matter of law establish that what is registered is in fact and in law copyrightable subject matter

Duration of Copyright

- Literary, dramatic, Musical and Artistic Works published during life time of author: Life + 60 years
- All Other Works: 60 years from date of publication
 - Posthumous, Anonymous Works
 - Works of Government and Organizations
 - Cinema and Sound Recording
- Photograph

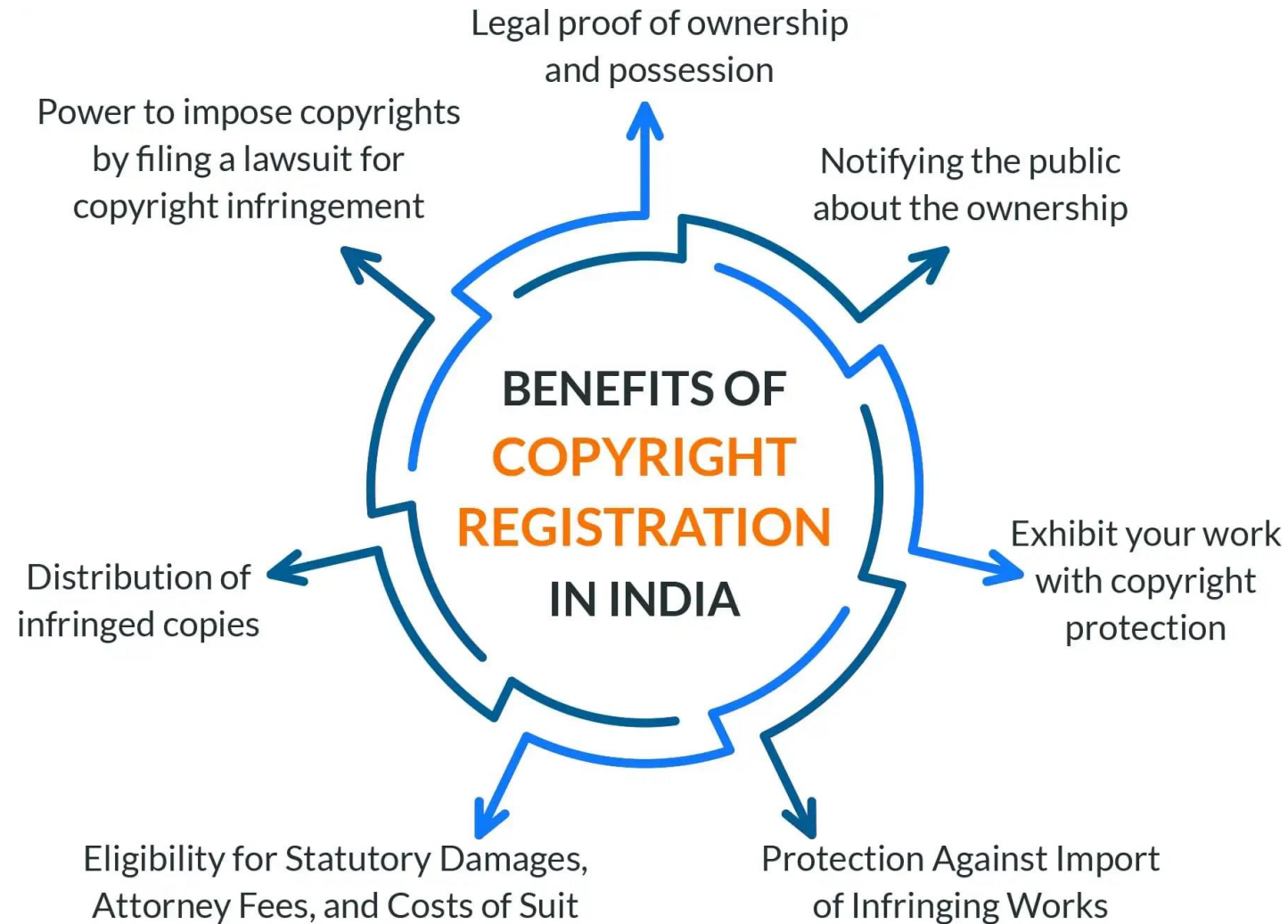
Copyright Registration

- **Official record of the date and details of a work's creation.**
 - **Purpose:** To establish a public record and legal claim to copyright.
 - **Legal Proof:** Serves as prima facie evidence in court.
 - **Public Record:** Details become accessible to the public, deterring infringement.
- **Benefits of Registration**
 - **Legal Advantage:** Strengthens your position in infringement cases.
 - **Monetary Remedies:** Enables eligibility for statutory damages and attorney fees in the US.
 - **Deterrence:** Public record can deter potential infringement.
 - **Licensing:** Facilitates licensing agreements with clear ownership.

Copyright Registration

- **Timing of Registration:**
 - **At Creation:** Recommended immediately after creation.
 - **Pre-Infringement:** Before any infringement occurs for maximum protection.
 - **Statutory Period:** Be aware of any specific deadlines for registration.
- **Key Considerations in Copyright Registration**
 - **Accuracy:** Ensure all details are correct.
 - **Updates:** Update registration if significant changes are made to the work.
 - **Renewal:** Understand renewal requirements, if any.
 - **International Protection:** Consider registering in other countries for global protection.

Copyright Registration



Copyright Assignment

- Copyright assignment is a legal transfer of rights from the original copyright holder to another party. It's not a temporary arrangement like licensing but a permanent transfer.
 - **Scope:** This can include rights to reproduce, distribute, perform, or display the copyrighted work.
 - **Legal Standing:** The assignment must be in writing and signed by the assignor. This agreement acts as a legal document, binding both parties to its terms.

Copyright Assignment

- **Reasons for Copyright Assignment**
 - **Financial Gain:** Copyright holders often assign their rights for monetary compensation, such as selling the rights to a book to a publisher.
 - **Business Operations:** Companies frequently assign copyrights during mergers, acquisitions, or restructuring, transferring rights of software, literary works, or media content.
- **Assignment vs. Licensing:** Contrary to licensing, which grants permission under specific conditions, assignment is a full transfer, relinquishing the original owner's rights.

Copyright Assignment

- Process of Copyright Assignment
 - **Drafting the Agreement:** It involves creating a legal document detailing the terms of the transfer. This document should clearly state the rights being transferred and any terms related to the transfer.
 - **Legal Formalities:** The agreement must include clear identification of the involved parties, the specific rights being assigned, any limitations, and the duration of the assignment, if not perpetual.
 - **Completion of Transfer:** The assignment is completed once the agreement is signed by both parties, making it legally binding.

Copyright Assignment

- Key Clauses in Assignment Agreements - What to Include
 - **Exact Rights:** Clearly define what rights are being transferred. This could include rights to adapt, distribute, or display the work.
 - **Duration and Territory:** Specify the time period and geographical scope of the assignment. This is crucial in global operations.
 - **Revocation Terms:** Conditions under which the assignment might be reversed or altered, if such terms are agreed upon.
 - **Dispute Resolution:** Include clauses on how disputes, if they arise, will be handled legally.

Copyright Assignment

- Copyright Assignment in Digital Works - Modern Considerations
 - **Digital Challenges:** Addressing rights for digital content, like eBooks or software, can be complex due to the nature of digital distribution and replication.
 - **Managing Future Rights:** Consider potential future technologies and how they affect the use of the copyrighted material.
- **Example:** For instance, a software developer assigning their rights to a software company would need to specify the scope of rights, including updates, modifications, and online distribution

Copyright Licensing

- **What is Copyright Licensing?**

- A legal agreement where the copyright holder grants permission to use their work under specific conditions.
- **Purpose:** Allows broader use of the work while protecting the copyright owner's interests.

- **Types of Copyright Licenses:**

- **Exclusive License:** Grants rights to a single entity, excluding others, including the copyright owner.
- **Non-exclusive License:** Permits multiple entities to use the work.
- **Compulsory License:** Issued by authorities under specific conditions, often in the public interest.

Copyright Licensing

- **Key Elements of a Copyright License Agreement**
- **Crafting a License Agreement**
 - **Scope of Rights:** Clearly define what rights are being licensed (e.g., reproduction, distribution).
 - **Duration and Territory:** Specify the time period and geographical area covered.
 - **Royalties and Payment Terms:** Outline financial arrangements, including royalty rates.
- **Licensing Digital Works: Considerations for Digital Content**
 - **Online Distribution:** Address rights for web-based sharing and streaming.
 - **Digital Rights Management (DRM):** Include terms related to copy-protection mechanisms.

Sound Recording Copyright

- Protects the original recording of a sound, not the underlying work (e.g., song, performance).
- **Rights Included:**
 - **Reproduction:** Right to make copies of the sound recording.
 - **Distribution:** Right to sell or distribute copies.
 - **Public Performance:** Right to play the recording in public, such as radio broadcasts.

Sound Recording Copyright

- **Exclusive Rights and Limitations:**
- **Exclusive Rights:**
 - **Adaptation and Derivative Works:** Right to create remixes or other derivatives.
 - **Digital Performance:** Right to stream the recording online.
- **Limitations:**
 - **Fair Use:** Use for criticism, comment, news reporting, teaching, scholarship, or research.
 - **Compulsory License:** For non-digital public performances, subject to royalty payments

Copyright for Producers

- Copyright for producers of sound recordings protects their investment in the recording.
- **Rights Included:**
 - **Reproduction:** The right to copy the recordings.
 - **Distribution:** The right to sell or distribute copies.
 - **Rental:** The right to rent out the recordings.
 - **Digital Transmission:** The right to make the recording available online.
- **Enforcing Producer Rights & Remuneration:** Protecting and Monetizing Sound Recording Copyright
 - **Enforcement:** Producers can take legal action against unauthorized use of their recordings.
 - **Licensing:** Producers can license recordings for use in various media, earning royalties.
 - **Performance Rights:** Collect royalties when recordings are played publicly, e.g., radio, TV

Broadcasting Organizations

- Protection for broadcast signals against unauthorized recording, rebroadcasting, or distribution.
- Covers radio, television, and digital broadcasts.
 - **Duration of Protection:** Generally shorter than other copyrights.
 - **Duration:** 25 Years
 - **Rights Included:** The right to authorize or prohibit rebroadcasting, fixation, and reproduction of broadcasts.
- **Global Perspective on Broadcasters' Rights**
 - **International Agreements:** Rome Convention, WIPO treaties on broadcasters' rights.
 - **Challenges:** Adapting to new technologies like streaming, internet broadcasting.
 - **Digital Age Issues:** Addressing issues like signal piracy, and digital retransmission.
 - **Future Developments:** Ongoing discussions for enhanced international protection under WIPO

Performers' Rights in Copyright

- **Performers' Rights in Copyright:** Rights granted to performers for their performances.
 - **Coverage:** Applies to musicians, actors, singers, dancers, etc.
 - **Right to Record:** Control over the recording of performances.
 - **Moral Rights:** Including the right to be credited and to object to derogatory treatment.
- **Protection and Enforcement of Performers' Rights**
- **Duration:** 50 years
- **Legal Protections and Remedies**
 - **Copyright in Performances:** Legal basis for protecting performances.
 - **Enforcement:** Mechanisms for safeguarding these rights.
 - **Infringement Scenarios:** Examples include unauthorized recording and distribution.
 - **Remedies:** Legal actions performers can take against infringement

Copyright Piracy

- Unauthorized use or reproduction of copyrighted material.
 - **Impact:** Damages the creative industry and artists.
 - **Global Issue:** Affects all forms of media worldwide.
 - **Forms of Piracy:** Includes physical and digital piracy.
- **Methods of Copyright Piracy**
 - **Online Piracy:** Illegal downloading and streaming.
 - **Physical Piracy:** Unauthorized duplication and sale of media.
- **Peer-to-Peer (P2P) Networks:** Platforms for sharing copyrighted files.
- **Bootlegging:** Sale of unauthorized recordings of live performances.

Copyright Piracy

- **Consequences of Copyright Piracy**
- **Legal and Economic Impacts**
 - **Legal Ramifications:** Penalties and legal prosecution.
 - **Economic Damage:** Loss of revenue for creators and industries.
- **Impact on Creativity:** Discourages creators due to lack of financial incentive.
- **Job Losses:** Affects employment in creative industries.
- **Prevention and Enforcement Strategies**
 - **Anti-Piracy Laws:** Legislation to protect copyrights.
 - **Digital Rights Management (DRM):** Technology to prevent unauthorized use.
 - **Public Awareness Campaigns:** Educating about the impacts of piracy.
 - **International Cooperation:** Cross-border efforts to tackle piracy.

End of Lecture_05