

Copyright

Copyright is a legal right that gives the **creator of original work** (like books, music, movies, art, or software) the **exclusive right to use, share, or sell** their work. Others **cannot copy, distribute, or use** the work **without permission** from the owner. It protects the creator's efforts and helps them get credit and benefits from their work.

Subject Matter of Copyright

Practically all national copyright laws provide for the protection of the following types of work:

1. **Literary works** (novels, poems, articles, even oral works)
2. **Musical works** (songs, operas, instrumentals)
3. **Artistic works** (paintings, sculpture, architecture)
4. **Maps and technical drawings**
5. **Photographs**
6. **Cinematographic works** (films, documentaries etc.)
7. **Computer programs**, and
8. **Works of applied art and choreography** (some laws also extend protection to phonograph records, tapes and broadcast)

In Bangladesh, the subject matter of copyright is mentioned in section 2(7) of the Copyright Act, 2023.

Limitations of Copyright

Time

Copyright protection has certain **limitations** in terms of time, geography, and permitted use. **Copyright does not last forever**; it exists for a specific period, usually covering the author's lifetime plus a set number of years (at least 50 years after death in most countries). Under the Copyright Act 2023 of Bangladesh, copyright lasts for the lifetime of the author plus 60 years for literary, dramatic, musical, and artistic works, and 60 years from first publication for cinematographic films, sound recordings, photographs, digital works, and databases.

Geography

Geographically, copyright is enforced within a country's legal framework, meaning protection in one country does not automatically apply in another unless both are part of international copyright agreements.

Fair Use

Fair use is a legal exception that allows limited use of copyrighted material without permission from the rights holder, primarily for purposes such as criticism, comment, news reporting, teaching, scholarship, or research. Under the Copyright Act 2023 of Bangladesh, fair use is determined by factors like the purpose and character of the use, the nature of the copyrighted work, the amount used, and the effect on the market value of the original work. It serves to balance the rights of creators with the public interest in accessing information and ideas. However, not all educational or non-commercial use automatically qualifies as fair use—it must meet the specific legal criteria.

Piracy and Copyright infringement

Copyright is infringed when someone copies or commercially distributes copyrighted material without the owner's consent. This unauthorized reproduction and sale for profit is known as **piracy**.

What is Piracy?

Piracy involves copying and distributing copyrighted works without permission, primarily for commercial gain. It often operates through organized networks, making pirated products available to consumers at lower prices but without legal authorization.

Why Has Piracy Increased?

Technological advancements have made copying and distributing intellectual works easier. Key factors include:

- Digital technology enabling fast and widespread reproduction.
- Improved printing, photocopying, and recording methods.
- The rise of compact discs, video recorders, and online file-sharing.

Since pirates do not bear the original production costs, they sell copies cheaply, reducing revenues for creators and legal distributors.

Effects of Piracy

- **For Consumers:** Poor quality products and limited future content due to lost incentives for creators.
- **For Creators & Businesses:** Loss of income, discouraging investment in new works.
- **For Governments:** Loss of tax revenue, reducing funding for the arts and cultural development.

Piracy undermines copyright laws, discourages creativity, and weakens cultural industries.

In Bangladesh, infringement of Copyright Laws, is governed by section 69 of the Copyright Act, 2023.

Copyright Infringement in the IT Sector

Copyright infringement in the IT sector refers to using software, code, digital content, or other creative works without the copyright owner's permission. This issue has become more complex with the growth of AI and software development. The following landmark cases show how courts have addressed these challenges:

1. Google LLC v. Oracle America, Inc.

Google LLC v. Oracle America, Inc., 593 U.S., 141 S. Ct. 1183 (2021)

Oracle sued Google for copying parts of Java's API code while developing the Android operating system. Oracle claimed this was copyright infringement. However, the U.S. Supreme Court ruled in favor of Google, saying its use was "fair use" because it transformed the original code for a new purpose and helped developers and users.

2. Oracle USA, Inc. v. Rimini Street, Inc.

Oracle USA, Inc. v. Rimini Street, Inc., No. 2:10-cv-00106-LRH-VCF, U.S. District Court for the District of Nevada (2010–present)

Oracle sued Rimini Street, a company that provided third-party support for Oracle's software. Oracle said Rimini used its copyrighted software without proper licenses. Courts found Rimini liable and awarded damages to Oracle. As of 2025, Rimini is appealing a \$58 million legal fee award.

3. Thomson Reuters Enterprise Centre GmbH v. Ross Intelligence Inc.

Thomson Reuters v. Ross Intelligence, No. 1:20-cv-00613, U.S. District Court for the District of Delaware (2020–2024)

Thomson Reuters, the owner of Westlaw, sued Ross Intelligence for using Westlaw's copyrighted legal materials to train an AI research tool. Ross claimed it was fair use, but the court disagreed, saying Ross should have obtained proper licenses.

Patent

A patent is an exclusive legal right granted by a government or regional authority to an inventor for a novel technological invention, which may be a product or process. It allows the inventor to prevent others from making, using, selling, or importing the invention without permission, typically for 20 years

Under the Bangladesh Patent Act, 2023, a patent is defined as the right to lawfully stop others from using an invention **for personal gain commercial purposes**. (The Act grants patent holders the exclusive right to prevent others from exploiting the invention commercially – for example, by manufacturing, selling or importing it without consent – rather than any right over non-commercial private use.)

A patent does not grant the right to use the invention, but rather the right to exclude others (i.e. to stop anyone else from practicing the patented invention without permission). It encourages innovation by disclosing technical knowledge to the public (patent documents are published, disseminating the invention's details and enabling further technological progress). Enforcement is not automatic; the patent owner must initiate legal action to protect their rights (patents are private rights, so the owner must go to court or relevant authorities to stop infringement)

Subject Matter of Patent

Most national patent laws protect the following subject matter:

1. **Inventions** that are new, involve an inventive step, and are industrially applicable;
2. **Products** such as machines, tools, chemical compounds, pharmaceuticals, and manufactured goods;
3. **Processes or methods** for producing a product or achieving a technical result (e.g., manufacturing methods, chemical processes);
4. **Biotechnological inventions**, including genetically modified organisms and microbiological processes;
5. **Computer-related inventions**, if they produce a technical effect or solve a technical problem.

However, abstract ideas, scientific theories, mathematical methods, and discoveries of natural substances are generally *not* patentable.

Conditions of Patentability

For an invention to qualify for a patent, it must meet several important requirements. These are-

- Consist of Patentable subject matter
- Industrially applicable (Usefulness)
- New (Novelty)
- Exhibit a sufficient 'inventive step' (Non Obviousness)

Patentable Subject Matter

The invention must fall within a category eligible for patent protection. Typically, this includes **physical products and processes** and others as mentioned earlier. However, most jurisdictions exclude the following:

- **Laws of nature, natural phenomena, and abstract ideas**
- **Scientific theories and mathematical methods**
- **Methods of medical treatment or surgery**
- **Business methods, mental processes, and games**

This requirement determines whether the subject matter is the type of innovation that can be protected under patent law.

In Bangladesh, the subject matter of patent is mentioned in section 3 of the Patent Act, 2023.

Industrial Applicability (Usefulness)

The invention must have **practical utility**—it must be **operable**, and **capable of use** in any kind of industry or commerce. Whether it is a product or a process, it must **work as described**. **Purely theoretical or speculative concepts are not patentable.**

Novelty

The invention must be **new**—it must **not have been publicly disclosed anywhere in the world** before the filing date of the patent application.

Inventive Step (Non-Obviousness)

The invention must involve an **inventive step**—it must **not be obvious** to a person having ordinary skill in the art (PHOSITA) at the time the application is filed. The assessment considers:

- The **technical problem** addressed
- The **proposed solution**

- Whether the improvement is **technically significant or unexpected**

If the invention merely combines existing ideas in a way that is **predictable or routine**, it will **fail this requirement**.

Elements to prove infringement

To prove infringement, the patent owner must show that all of the following conditions are met:

- A **prohibited act** was carried out. Prohibited act means:
 - **Making, using, selling, or importing a patented product.**
 - **Using a patented process.**
 - **Making, using, selling, or importing a product directly obtained from a patented process.**
- The act occurred **after the patent application was published** or **after the patent was officially granted** if there was no early publication.
- The act took place in the **country where the patent is legally recognized**.
- The act involved a **product or process that falls within the claims of the patent**.

Patent Infringement in the IT Sector

Patent infringement occurs when a person or company uses a patented invention without the patent holder's permission. In the IT sector, this often involves technology like smartphones, software, or computer chips. The following cases show how courts have handled these disputes:

1. Apple Inc. v. Samsung Electronics Co.

Apple Inc. v. Samsung Electronics Co., 678 F.3d 1314 (Fed. Cir. 2012)

In this famous case, Apple accused Samsung of copying the design and features of the iPhone, such as its rectangular shape with rounded corners, and the “bounce-back” feature when scrolling. The U.S. District Court for the Northern District of California originally awarded Apple over \$1 billion in damages, though the amount was later reduced after appeals.

2. Microsoft Corp. v. Motorola, Inc.

Microsoft Corp. v. Motorola, Inc., 696 F.3d 872 (9th Cir. 2012)

Microsoft filed a lawsuit against Motorola for demanding unreasonably high fees to license patents essential for video and Wi-Fi standards. These types of patents are supposed to be licensed under fair, reasonable, and non-discriminatory (FRAND) terms. The court supported Microsoft, and the case helped clarify FRAND obligations for standard-essential patents.

3. VLSI Technology LLC v. Intel Corp.

VLSI Technology LLC v. Intel Corp., No. 6:21-cv-00057, U.S. District Court for the Western District of Texas (2021)

VLSI sued Intel, claiming it used patented technologies related to saving power in computer chips without permission. In 2021, a Texas jury awarded VLSI over \$2.1 billion in damages. Intel denied the allegations and has been appealing the verdict.