

Intellectual Property Rights
(B.Com.LL.B. VIII Sem.)

Pundreek Sharma

Institute of Law

Mob. 97539389786

Intellectual Property Rights

Copyright:

Copyright is a right given by the law to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. Unlike the case with patents, copyright protects the expressions and not the ideas. There is no copyright in an idea. Just as you would want to protect anything that you own, creators want to protect their works. Copyright ensures certain minimum safeguards of the rights of authors over their creations, thereby protecting and rewarding creativity.

Introduction:

The idea of Copyright protection only began to emerge with the invention of printing, which made it for literary works to be duplicated by mechanical processes instead of being copied by hand. This led to the grant of privileges, by authorities and kings, entitling beneficiaries exclusive rights of reproduction and distribution, for limited period, with remedies in the form of fines, seizure, confiscation of infringing copies and possibly damages.

Meaning:

Copyright is a right given by the law to creators of literary, dramatic, musical and artistic works and producers of cinematograph films and sound recordings. In fact, it is a bundle of rights including, inter alia, rights of reproduction, communication to the public, adaptation and translation of the work. It means the sole right to produce or reproduce the work or any substantial part thereof in any material form whatsoever.

Works in which copyright Subsists:

Section 13 of the Copyright Act provides that copyright shall subsist throughout India in certain classes of works which are enumerated in the section. Copyright subsists throughout India in the following classes of works:

- Original literary, dramatic, musical and artistic works;
- Cinematograph films; and
- Sound recordings.

‘Original work’ meaning:

The word ‘original’ does not mean that the work must be the expression of original or inventive thought. Copyright Acts are not concerned with the origin of ideas, but with the expression of thought; and in the case of ‘literary work, with the expression of thought in print or writing. The originality which is required relates to the expression of the thought; but the Act does not require that the expression must be in an original or novel form, but that the work must not be copied from another work—that it should originate from the author.

What is the precise amount of the knowledge, labour, judgement or literary skill or taste which the author of any book or other compilation must bestow upon its composition in order to acquire copyright in it within the meaning of the Copyright Act cannot be defined in precise terms. In every case it must depend largely on the special facts of that case, and must in each case be very much a question of degree.

The word ‘original’ does not demand original or inventive thought, but only that the work should not be copied but should originate from author. An ‘original’ must be a “product of an exercise of skill and judgment”, where ‘skill’ is “the use of one's knowledge, developed aptitude or practiced ability in producing the work” and ‘judgment’ is “the use of one's capacity for discernment or ability to form an opinion or evaluation by comparing different possible options in producing the work”.

Literary work:

The Act states that copyright subsists in original literary work, and Section 2(o) of the Act provides that- “literary work” includes computer programmes, tables and compilations including computer databases.” Irrespective of the quality, style or literary merit, a work may be considered as literary, if it is expressed in print or writing or in some form of notation or symbols. A literary work is something which is intended to afford either information or instruction, in the form of literary enjoyment. The term ‘literary’ in copyright law is to be used in a sense somewhat similar to the use of word literature in political or electioneering literature and refers to written or printed matter. Literary works includes:

- textbooks,
- poem,
- magazine,
- catalogue,
- letters,
- novel,
- dissertation,
- lyrics of song etc.

References:

1. Practice and Procedure Manual, 2018, Copyright Office, Government of India.
2. Intellectual Property Rights- law and practice, The Institute of Company Secretaries of India.