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Understanding India's Copyright Act: Challenges, Protections and Amendments

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ABSTRACT: This article includes the intricacies of the Copyright Act 1957, exploring its evolution, key amendments and the impact it has on various creative sectors. This examines the different types of works protected under copyright law in India, including literary, audiovisual and architectural works, providing real world legal cases to illustrate the practical challenges of enforcing copyright. The article also highlights the legal implications of copyright infringement, including the distinction between primary and secondary infringement, and how modern challenges such as digital content sharing have complicated copyright protection. Furthermore, the article analyses the government initiatives, particularly the Copyright Amendment Act of 2012, which addresses emerging issues like internet piracy and future technologies. By reviewing past cases and current trends, the article offers critical insights into how businesses, especially small enterprises, navigate copyright registration, infringement risks and legal battles and it provides a forward-looking perspective on balancing protection and creativity in a digital world.

I. INTRODUCTION

The Copyright Act, 1957 initiated in January 1958. Since then, it has undergone five modifications, namely in 1983, 1984, 1992, 1994, 1999, and 2012. Copyright serves as a type of legal safeguard for ideas and creations, giving the author exclusive permission to make copies of their work for a certain period. The rights to copyright are automatic and begin the moment the work is produced and becomes a physical object.

"Copyright serves as a type of safeguard offered by the Indian government to creators and proprietors of unique creations of authorship, starting from the moment the works are made and put into a physical form."

It can be understood from the definition of Copyright Protection in India that a bunch of rights includes the right of reproduction, adaptation, translation, and communication of the work. Basic ideas, knowledge or concepts are not copyrightable. It is commonly believed that copyright safeguards the unique presentation of information and concepts. Copyright can be asserted by either the author or the individual who has acquired the ownership rights from the initial author, or an agent who is permitted to represent the author.

II. TYPES OF COPYRIGHT IN INDIA

- **Literary Works:** This encompasses novels, essays, verses, and various written materials. For instance: The Telugu movie Srimanthudu, featuring Mahesh Babu as the main character, was launched in 2015. Directed by Korala Siva, it falls under the genre of action drama. The film has been embroiled in a legal dispute for the last seven years. A lawsuit was filed by Sarath Chandra, alleging that it infringed upon copyright. The Supreme Court has confirmed the decision of the High Court, and the producers maintain that Srimanthudu is a unique film.
- **Audiovisual Works:** Movies, TV shows, online videos, recordings of music, spoken word, or other sounds, compositions, including any accompanying words. Example: In a recent legal battle between famous veteran Indian classical singer Ustad Faiyaz Wasifuddin Dagar and AR Rahman. Mr. Ustad Faiyaz has filed a copyright infringement suit in the Delhi High Court against renowned music composer AR Rahman and the producers of the Tamil film 'Ponniyan Selvan 2' and the music label Tips Industries.
- **Dramatic Works:** Plays, scripts, any accompanying music, dance routines and mime performances. Example: YRF filed a lawsuit against Sri Sai Ganesh Productions for copyright infringement, saying that SSG Movie Jabardasth was copied most important parts of the YRF movie 'Band Baaja Baaraat'. After looking at the things like the main idea of the movie the Court has decided that SSG Productions are indeed copied too much and they were guilty of copyright infringement.
- **Pictorial, Graphic, and Sculptural Works:** Artworks, sketches, three-dimensional pieces, and images captured on film. Example: Anil Kapoor vs. Furniture Company: In this instance, the actor took legal action against a furniture firm for exploiting his likeness for business gain without his permission. The Delhi High Court sided with Kapoor, acknowledging the entitlement of celebrities to regulate the commercial exploitation of their personas.

- **Architectural works:** Designs of Buildings and structures. Example: The Halls of Nations and the Industrial Hall, both renowned edifices, were built by Mr. Raj Rewal and Mr. Mahendra Raj in 1972. However, in 2017, they were torn down for redevelopment purposes. The legal dispute, Raj Rewal v. Union of India & Ors, concerns the violation of the author's moral rights concerning the artistic creation.

III.OBJECTIVES OF THE STUDY

- To know the Copyright impacts various businesses in Multiple ways.
- Copyright Infringement and its Legal Implications
- Government initiative towards protecting businesses from getting copyrighted.

IV. COPYRIGHT IMPACTS VARIOUS BUSINESSES IN MULTIPLE WAYS

Copyright affects different businesses such as Literary, Musical, Artistic, Cinematograph films and Sound recordings. This was the data of the work registered under the copyright act, 1957 from the past seven years (2017-2023). Most of the registered works are related to sound recordings, literary and some graphic designs or computer works.

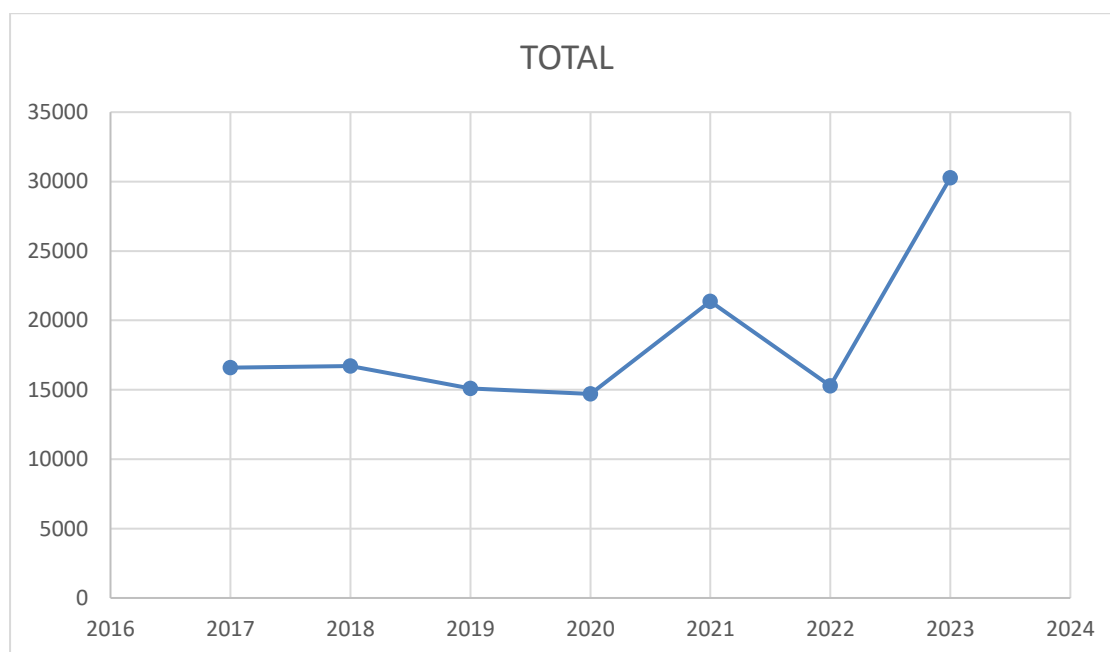


Figure 1: Past 7 years record of copyright registrations (2017-2023)

Copyright grants companies the ability to safeguard their artistic creations, fostering a culture of innovation and securing a market advantage. Nonetheless, the risk of infringement, legal issues, and the necessity for adherence can present obstacles.

Fees and Registration: Businesses must file their creations and goods with the Indian Copyright office to pursue legal action for any unauthorized use and seek compensation. The registration process at the Indian Copyright office involves a payment that can range from 500 to 5000 rupees. This procedure is costly and time-consuming for small enterprises.

Expensive for Small Firms: Small companies and individuals lack awareness related to copyright rules and regulations, they might think it is costly and such processes may require legal representations as well. Also, during the appeals such copyright owners may not have the suitable means to fight a legal battle that caused due to copyright infringement.

Ambiguous Nature: Copyright Protection act in India is pretty straightforward, but there are few ambiguous areas. The individual need to be aware of those ambiguous areas to interpret the various law process easily such concept like the fair use of doctrine is something that is not clearly defined in the works of the original creator and such cases need to be decided by the judge on a case-by-case basis.

Limitations on Creativity: The strict copyright laws can sometimes may creators hesitant to innovate their fear accidentally copying someone else work. This fear can limit creativity and slowdown the natural growth of art and culture. Instead of building on existing ideas, creators might hold back, which can constraint new ideas and daring artistic expressions.

Monopolistic control: The copyright laws give creators temporary control over their work, which is meant to protect their efforts. However, this can sometimes lead to a few people having too much power over creative content. This control can limit how widely creative works are shared and make it harder for different voices to be heard. Balancing protection and fair access to creative works is a challenge.

Digital challenges: The digital age makes it easy to copy and share content online, which is both good and bad. While it allows more people to access content, it also leads to a lot of piracy and unauthorized sharing. This makes it very hard to enforce copyright laws because digital content is easy to copy and distribute. Traditional copyright protection struggles to keep up with these new challenges.

V. IMPORTANCE OF REGISTERING UNDER COPYRIGHT ACT 1957

- Registering a work under copyright law helps to prove that the author owns it. This registration provides legal protection, making it easier to defend the work in court. Section 48 of the copyright act 1957, states that the registration certificate is considered valid evidence of ownership.
- A copyright certificate helps the owner market their work and build a brand. It shows customers that the work is original and of high quality, creating a positive impact and trust.
- Copyright protects the owners work from being used or copied without permission. If someone uses the work without permission or authorization, the owner can take legal action against them for copyright infringement.
- Registered copyright becomes an intellectual property, which is a valuable, intangible asset. This means it can be sold, licensed or used in business deals to generate incomes.
- Copyright allows the owner to earn money when their work is translated, adapted or edited. For example, in the music industry and on YouTube, if someone uses a song to make a remix or a video, the original owner can claim a payment or royalty for that use.
- Copyright registration includes the date when the work was published. This date is important in infringement cases because it help to determine if someone copied the work after it was published.
- The copyright register keeps a record of who owns the work. This way, anyone can trace the work back to its original creator
- Registering a copyright makes it easier to import and export a work. It allows the creator to display or sell their artistic work more easily.

VI. COPYRIGHT INFRINGEMENT

When an individual utilizes or creates content that is covered by copyright without obtaining the rights from the owner of the copyright, it is considered a violation of the exclusive rights that the owner has been given for a specific duration. Works such as music and films are especially at risk of copyright infringement. Such instances can lead to potential liabilities, which are financial reserves prepared for possible legal actions.

One of the famous cases of R.G. Anand vs Deluxe films and Ors (1978), R.G. Anand, In 1953, a theater producer named Anand penned a play titled “Hum Hindustani”. This production gained widespread acclaim, leading the defendant, Anand, to think about adapting it into a film. However, in September 1956, the defendant decided to use the title “New Delhi” for their movie. Following the release of the film, Anand took legal action against the defendant, alleging that the movie had copied his play without permission. The defendant denied the allegations, arguing that both the play and the movie were based on the idea of “Provincialism” which cannot be copyrighted and highlighted significant differences between the two works. The main issue before the Supreme Court was whether the defendants had infringed upon Anand’s copyright by making the film “New Delhi”. The Court found that both the play and the movie were based on the idea of “Provincialism” which is not protected by copyright law. They determined that the resemblances were a result of the common concept, not because the film replicated the play. The Supreme Court, in support of the plaintiffs (Deluxe Films and Others), declared that there was no violation of copyright.

The purpose of copyright law is to promote creativity, encourage people to create innovative works and guarantee them exclusive rights over there work for a specific period. People take pride in their possessions and like to show their skills and proficiency through them. The Copyright Amendment Bill of 2012 also aim to protect against internet piracy. The

protection of copyright owners against the theft of the work is rooted in Berne Convention. The danger to copyrighted works has consistently recognised in various laws making it an important subject of deliberation.

VII. IMPORTANCE OF REGISTERING UNDER COPYRIGHT ACT 1957

Copyright violation can occur through two distinct methods: Primary or direct violation and Secondary or indirect violation.

- **Primary violation** involves the direct copying act, such as making a copy of a film and posting it online without permission from the copyright owner.
- **Secondary violation** takes place when an individual indirectly aids in copyright violation. This could be through selling or distributing copies that violate copyright, or by bringing in copies that violate copyright into a country.

Legal Implications

Both primary and secondary infringement are taken seriously under copyright law. Primary infringers are directly liable for their actions, while secondary infringers can be held responsible for facilitating or contributing to the infringement. This ensures that not only the direct violators but also those who support or profit from the infringement are held accountable. Understanding these distinctions help in recognising the various ways copyrighted can be violated and the broad scope of protection that copyright laws provides to creators and rights holder.

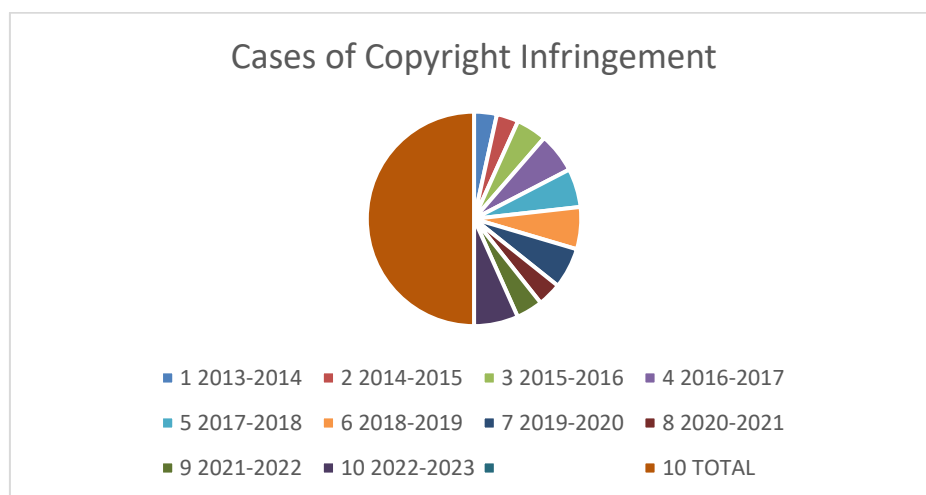


Figure 2: Past 10 years data of Infringement (2013-2023)

VIII. GOVERNMENT INITIATIVES

The government of India has brought new changes in The Copyright Act 1957 and introduced The Copyright Amendment Act 2012. These amendments aim to modernize the law and address new challenges in the digital age: Under new sections

- Section 2(xxa) defines a visual recording as the recording of moving images or their representations by any method, including electronic storage. These recordings can be viewed, reproduce or share by any method.
- Section 65A makes it illegal to bypass technological protection measures used to protect copyright, if done with intent to infringe. However exceptions exist for lawful investigations or national security measures.
- The section 18 prevents the assignment of copyright for exploitation through future technologies that were not in existence or commercial use at the time of assignment. This ensures that creators retain control over how their work is used in new and emerging mediums.
- Section 19A now only applies to assignment, not licenses. Disputes under this section are usually resolved within six months of filing a complaint with the Copyright Board. The Boards also issue temporary order to ensures the terms of the assignment are followed, including any payments due for the assigned rights.
- The section 21 has been updated to permit the relinquishment of copyright through both a notice to the registrar of copyright and a public notice. This change provides more flexibility for copyright holders to give up their rights.
- Section 30 has been updated to remove the need for a licensor's signature on a license. Now, licenses only need to be in writing to be valid.
- Sections 31 and 31A have been broadened to include any type of work, not solely Indian work, and both unpublished and published works, rather than just unpublished Indian works. This expansion significantly

increases their range. Moreover, the Copyright Board is now authorized to issue a section 31 compulsory license to any eligible individual, not just the person filing the complaint.

- Section 57 has been updated to ensure that the right to integrity continues even after the copyright expires. Additionally, the right to paternity can now be exercised not only by the author but also by their legal representative. This means that legal representatives can take legal action if the author is not properly credited for their work.
- Section 52(1)(a) has been revised to permit fair dealing with any work, except computer programs. Previously, fair dealing was limited to literary, dramatic, musical or artistic works (excluding computer programs). Although the purpose for fair dealing have been expanded, this change may not significantly impact practical applications.
- The new section 33A mandates that each copyright society must publish its Tariff schemes. Both the authors and owners can now join copyright society. Several amendments have been made to protect their interest and prevent mismanagement of the society.
- Section 53 has been completely restructured. It now allows owners of work or performances to request, via written notice to the Commissioner of Custom, that infringing copies be treated as prohibited goods for up to one year. This request must meet certain conditions and follow the specified procedure outlined in the section.
- Section 55(1) now assumed that the person named as the author or publisher of a literary, dramatic, musical or artistic work, as well as non-infringing film or sound recording, is indeed the actual author or publisher.
- The new section 52(1)(n) permits non-commercial public libraries to store a work electronically for preservation if they already have a non-digital copy. Section 52(1)(o) has been limited to allow only non-commercial public library to make up to three copies of books that are not available for a sale in India, for their own use. This change excludes other public libraries from this provision.

These amendments were designed to make the copyright law more relevant and fairer in the context of modern technology and international standards. They aimed to balance the interests of creators, performers and the public, ensuring that the law kept pace with technological advancements and global practices.

IX. CONCLUSION

The Copyright Act of 1957 is a fundamental piece of intellectual property law in India, offering strong protection for various creative works, including literary, audiovisuals and artistic forms. It defines the rights of creators and provides a legal frame work to protect their works from infringement. Over the years, amendments have modernized the Act to address digital challenges and global content sharing changes. This balance between protection and innovation fosters creativity while addressing ambiguities that might limit artistic expressions. The Act empowers businesses and individual to save guard their works through registration and legal enforcement, though it can be costly and complex for smaller firms. As digital content grows, the Act remains crucial in protecting author's rights, ensuring creativity is valued and rewarded. Understanding the protective power and limitations of copyright is essential for navigating this complex legal landscape. While it allows creators to control and monetize their work, it also raises questions about fair use and monopolistic control. Despite the challenges, protecting creative assets is invaluable in a competitive market and the need for intellectual property protection will only increase as the world becomes more digitally interconnected.

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