**Indian Copyright Laws**

**Introduction**

Fundamentally, copyright is a law that gives you ownership over the things you create. Be it a painting, a photograph, a poem or a novel, if you created it, you own it and it’s the copyright law itself that assures that ownership. The ownership that copyright law grants comes with several rights that you, as the owner, have exclusively. Those rights include:

* The right to reproduce the work
* to prepare derivative works
* to distribute copies
* to perform the work
* and to display the work publicly

These are your rights and your rights alone. Unless you willingly give them up, no one can violate them legally. This means that, unless you say otherwise, no one can perform a piece written by you or make copies of it, even with attribution, unless you give the OK.

A Copyright may be indicated by the word "Copyright", or a “C” surrounded by a circle (©), followed by the date of when the work was published, and the owner of the copyright. E.g.  **Copyright 2017 All India Institute of Speech and Hearing** OR **© 2017 All India Institute of Speech and Hearing**

**Indian Copyright Act, 1957**

The Indian Copyright Act, 1957 is the governing law for copyright protection in India. The law was primarily enacted to provide protection to the copyright of the authors and creators of original literary, dramatic, artistic and cinematographic work. It contains 79 sections and it is supplemented by the copyright rules of 1958. The History of Copyright dates back to 1914, when the Indian Copyright Act 1914 was enacted, which was primarily based on the U.K. Copyright Act. Since the UK laws did not fit into the changed constitutional status of India, the copyright Bill 1957 was introduced in Indian Parliament. The Copyright Act, 1957 received assent of the President of India on 4th June 1957 and came into effect from 21st January 1958. The Act has been amended many times since then. The Indian Copyright Act today is in conformity with most international conventions and treaties including Berne Convention of 1886 (as modified at Paris in 1971), the Universal Copyright Convention of 1951 and the Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS) Agreement of 1995. The Copyright Act, 1957 is also in conformity with the provisions of the Rome Convention of 1961 (Though India is not a member of the Rome Convention).

#### ****Kinds of Intellectual Properties Covered by the Indian Copyright Act****

The Indian copyright laws serve to protect a variety of intellectual property ranging from songs and jingles to computer software and proprietary databases. The intellectual property protected under copyright laws can be classified as follows:

1. **Literary Works:** These cover published works including books, articles, journals, and periodicals, as well as manuscripts. Even adaptations, translations, and abridgements are taken as original works and are protected under copyright law. Very importantly, these also cover computer programs and computer databases.
2. **Dramatic Works:** A dramatic work is a work capable of being physically performed. It need not be fixed in writing or otherwise. Some examples of dramatic works are a piece of recitation, choreographic work, elements of a dance or ballet, costumes, and scenery associated with a drama, etc.
3. **Musical Works:** A musical work means a work consisting of music and it includes graphical notation of such a work. The words in a song and the music have separate rights and the rights cannot be merged.
4. **Artistic Works:** Artistic works are works such as paintings, sculptures, drawings, engravings, photographs, and architectural works, irrespective of judgements on their artistic quality.
5. **Cinematographic Films and Sound Recordings:** Cinematography covers any method used to record moving images, including video recording and recordings of short clips using webcams and cell-phones. Soundtracks of movies also come under cinematography. Similarly, stand-alone sound recordings are also protected under copyright laws.

**Copyright Protection**

There are four basic concepts central to the idea of copyright protection as discussed here.

1. **Idea vs. Expression:** The India copyright protects the expressions and not the ideas. An idea is a formulation of thought on a particular subject whereas an expression constitutes the implementation of the said idea. While many persons may individually arrive at the same idea, they can claim copyright only in the form of an expression to this idea.
2. **Originality**: To get protection under copyright laws, it is important to establish that the work originates from the author and is not a copied work.
3. **Fixation**: Copyright can exist only if the work is represented in a material form. It is only if the book is written, the sound is recorded, or the painting or sculpture is executed, that the work is eligible for protection under copyright laws.
4. **Fair Use**: Copyright holders are deemed to consent to fair use of their work by others. Fair use is not defined but can include use in the course of news reporting, commenting, scientific research, education, class notes etc.

**Copyright Term**

In most cases, the term of copyright is the lifetime of the author plus 60 years thereafter.

**Registration of Copyright**

A Copyright Office has been set up to provide registration facilities to all types of works under the Indian Copyright Act at New Delhi. The office is headed by a Registrar of Copyrights. However, registration is not mandatory for acquiring a copyright in India. In Indian laws, a copyright is created when the original work is created and unlike laws in the US, registering it does not confer any special rights.

**Infringement / Violation of Copyright**

A copyright grants protection to the creator of an original work and prevents such work from being copied or reproduced without consent. The creator of a work can prohibit anyone from:

1. Reproducing the work in any form, such as print, sound, video, etc.,
2. Recording the work in compact disks, cassettes, etc.,
3. Broadcasting it in any form,
4. Translating it into other languages, and
5. Using the work for a public performance, such as a stage drama or musical performance.

A copyright is infringed when someone, without the permission of the copyright holder, does any of the above, which only the copyright holder has the exclusive right to do. The Copyright Act provides for both civil and criminal remedies for infringements of copyrights. On proving an infringement, the copyright owner is entitled to remedy by way of injunctions and order for seizure and destruction of infringing articles. The offending parties may also be asked to pay damages.

**Copyright Protection for Computer Programs**: In 1994, the definition of the term literary work in the Copyright Act was amended to include ‘computer programs, tables and compilations, including computer databases.’ Owners of computer programs get protection under copyright laws. A computer program can be registered with the Registrar of Copyrights by giving the first 25 and the last 25 lines of the source code. Making copies of legally obtained computer programs for purposes of making back-up copies as a temporary protection against damage or destruction is permitted. Knowingly making use of an infringing copy of a computer program is a punishable offence.

**Penalty**: The penalty for an offence is imprisonment (minimum of seven days and maximum of three years) and a fine (Rs. 50,000 to Rs. 2, 00,000). If the offender pleads and proves that he/she used the infringing copy for personal use and not in the course of trade, court is likely to take a lenient view of the matter and impose the minimum fine of Rs. 50,000.

**The Copyright Rules, 2013**

The Copyright Rules, 2013 was notified by the Ministry of Human Resources and Development on 14th March 2013. These new rules are pursuant to the amendments and new provisions introduced to the Copyright Act, 1958 through The Copyright Act (Amendment) Bill, 2012. The Copyright Rules, 2013 provides new rules for:

1. Statutory licence for cover versions and broadcasting of literary and musical works and sound recording
2. Compulsory licences for works withheld from public, unpublished and published works, for benefit of disabled
3. Registration of Copyright Societies and Performer’s Right Societies
4. Storage of transient or incidental copies of woks
5. Making or adapting the work by organisations working for the benefit of persons with disabilities